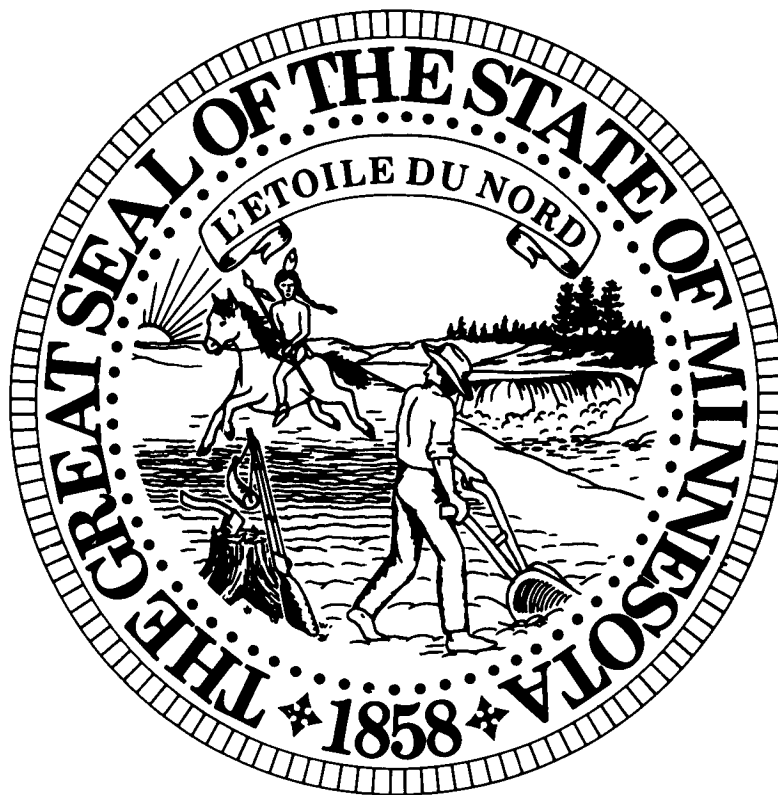


State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

14 May 1990

Volume 14, Number 46

Pages 2611-2674

STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the State Register

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
46	Monday 30 April	Monday 7 May	Monday 14 May
47	Monday 7 May	Monday 14 May	Monday 21 May
48	Monday 14 May	Monday 21 May	Tuesday 29 May
49	Monday 21 May	Tuesday 29 May	Monday 4 June

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *STATE REGISTER* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs \$130.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the *STATE REGISTER* circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Rudy Perpich, Governor
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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

Contents

Minnesota Rules: Amendments & Additions

Issues 40-46 inclusive (issues #1-39 appeared in #39) 2614

Proposed Rules

Housing Finance Agency

Receivership revolving loan fund 2616

Labor & Industry Department

Occupational safety and health standard 2619

Transportation Department

Bridge construction and reconstruction 2625

Bridge inspection and inventory 2629

Adopted Rules

Commerce Department

Franchises 2631

Housing Finance Agency

Home ownership assistance fund 2632

Rural and urban homesteading 2632

Human Services Department

Periodic redetermination of medical assistance eligibility 2632

Public Service Department

Insulation standards 2633

Commissioner's Orders

Natural Resources Department

Order #2368: Regulations for the taking and possession of fish from the Minnesota-Canada boundary waters 2634

Order #2370: Regulations for the taking of fish from the Minnesota-North Dakota Boundary Waters 2637

Order #2367: Regulations for the taking of fish from Lake Superior 2638

Order #2366: Regulations for the taking and possession of certain species of fish in inland waters 2640

Order #2372: Regulations for the taking of fish from the Minnesota-Wisconsin boundary waters and the transporting of such fish in Minnesota by holders of Wisconsin licenses 2644

Order #2373: Regulation removing designated trout stream status for Shakopee, Mill Pond, Scott County 2649

Order #2374: Removal of experimental regulations for the taking and possession of fish in Trout Run Creek, Winona County 2649

Transportation Department

Order #75949: Amended uniform traffic control device manual 2649

Official Notices

Agriculture Department

Restriction on the general use of biosynthetic bovine somatotropin (BST) 2650

Health Care Access Commission

Meeting of the commission 2650

Health Department

Cost-sharing for use in services for children with handicaps 2650

Opinion sought for rules on lead abatement 2651

Higher Education Facilities Authority

Public hearing on proposal to issue revenue bonds on behalf of Northwestern College of Chiropractic 2652

Human Services Department

Payments for inpatient hospital services under MA & GAMC 2652

Legislative Coordinating Commission

Nominations accepted for positions on the University of Minnesota's Board of Regents 2653

Natural Resources Department

Intent to hold state metallic minerals lease sale; state lands to be offered for metallic minerals exploration 2654

Pollution Control Agency

Opinion sought on rules for hazardous waste recycling, reuse, and reclamation facilities 2654

Opinion sought on rules for the removal of lead paint from residences, bridges and water towers 2655

Opinion sought on rules for small quantity generators of hazardous waste 2655

Teaching Board

Opinion sought on rules for teacher licensure in secondary trade and industrial occupations 2656

Transportation Department

City of Maplewood petitions for variance of street width 2656

City of Mendota Heights petitions for a variance of design speed and use of state aid funds 2656

City of New Brighton petitions for variance of use of state aid funds 2657

City of St. Cloud petitions for variance of street width 2657

City of White Bear Lake petitions for variance of maintenance monies 2657

Brown County petitions for variance of design speed 2658

Winona County petitions for variance of design speed 2658

Contents

Water & Soil Resources Board
 Monthly meeting of the board 2658

State Contracts & Advertised Bids

Administration Department
Materials Management Division: Commodities and requisitions open for bid 2659
Print Communications Division: Printing, typesetting, keylining, design and mailing services open for bid 2660

Professional, Technical & Consulting Contracts

State Designer Selection Board
 Proposals sought for two projects: St. Cloud University and Camp Ripley, Little Falls 2662

Higher Education Coordinating Board
 Proposals sought for graphic arts and design services 2665

Pollution Control Agency
 Proposals sought for consultant services to assist in evaluating air and ash emissions from medical waste incinerators in Minnesota 2665

Public Safety Department
 Proposals sought for roadside survey of drinking and driving in Minnesota 2666

Vocational Technical Education Board
 Proposals sought for adult education in consumer and homemaking education 2666

State Grants

Jobs & Training Department
 Availability of funds for extended employment programs 2667

Tax Court

C. Bruce Solomonson, appellant, vs. Commissioner of Revenue, appellee 2667

Supreme Court Decisions, Opinions and Rules

Decisions, opinions and orders filed Monday 7 May and Friday 11 May 1990 2669

Announcements 2670

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

Rules Index for issues 40-46 (Issues 1-39 appeared in #39)

Agriculture Department	Animal Health Board
1511.0100-.0170 (adopted) 2432	1700.2800; .2850; .2900 (proposed) 2347
1562.0100; .0700 (adopted) 2583	1705.2400; .2430; .2434; .2440; .2460; .2472; .2474; .2476;

Minnesota Rules: Amendments & Additions

.2480; .2500 (proposed)	2347	5600.0600 s.3 (proposed repealer)	2453
Architecture Board		5600.2500 (proposed)	2414
1800.0500 (proposed)	2404	5601.0100;.0300;.0400;.0700;.0800;.1200;.1700;.1800; .1900;.2000;.2100;.2200;.2300;.2400;.2500;.2600; .2700;.2800;.2900 (proposed)	2415
Architecture, Engineering, Land Surveying and Landscape Architecture Board		5601.1000;.1100 (proposed repealer)	2419
1800.1000;.1100;.1200;.2500;.2600;.2700;.2800;.2805; .2900 (proposed)	2406	Natural Resources Department	
1800.1000 s.2,3,4;.1200 s.2,3,4;.3000 (proposed repealer) ..	2411	6100.0100;.0200;.0300;.0400;.0500;.0600;.0700;.0800; .0900;.1000;.1100;.1200;.1300;.1400;.1500;.1600; .1700;.1710;.1800;.1910;.1920;.2000;.2100;.2200; .2300;.2400 (adopted)	2497
Chiropractic Examiners Board		Nursing Home Administration Licensure Board	
2500.0100;.1400;.2020;.2030;.2040 (proposed)	2527	6400.0600 (proposed)	2581
2500.1100 (proposed)	2530	Pollution Control Agency	
Commerce Department		7001.0520 (proposed)	2489
2860.0200;.2500;.3800;.4200;.4400;.4500;.5500;.5600 (adopted)	2631	7035.9100-.9150 (proposed)	2421
2860.3400 s.2;.6100;.6200;.6300;.6400;.6500 (repealed) ..	2631	7045.0020;.0120;.0310 (proposed)	2489
Vocational Technical Education Board		7047.0010-.0070 (adopted)	2497
3700.0258 (adopted)	2360	Public Safety Department	
3709.0200 becomes 3700.0705; 3709.0220 becomes becomes 3700.0760 (renumbered)	2360	7411.0100;.0200;.0300;.0400;.0510;.0550;.0610; .0700;.0800 (adopted)	2583
3700.0305;.0310;.0315;.0320;.0325;.0330;.0335;.0340; .0350;.0360;.0370;.0375;.0376;.0377;.0378; .0379 (adopted)	2360	7411.0100 s.2,3;.0500;.0600;.0800 s.4,6;.2100; .2200;.2300;.2400;.2500;.2600;.2700 (repealed)	2583
3700.0355 (repealed)	2360	Public Service Department	
Electricity Board		7640.0120;.0130;.0140;.0150;.0160;.0180 (adopted)	2633
3800.2650 (proposed)	2451	Minnesota State Lottery	
Ethical Practices Board		7857.2000-.7000 (adopted) .l. b.	2354
4500.0100;.0600;.1200;.1600;.2500; (adopted)	2583	Minnesota Racing Commission	
4505.0100;.0600;.0800;.0900 (adopted)	2583	7873.0185;.0186 (adopted)	2454
4505.0100 s.5 (repealed)	2583	7877.0120;.0170 (adopted)	2454
Health Department		Secretary of State	
4656.0250-.0330 (withdrawn)	2501	8250.0350;.1400 (adopted)	2355
4745.0010-.0060 (adopted)	2493	Transportation Department	
4750.0010-.0700 (proposed)	2563	8810.8000;.8100;.8110;.8200;.8300;.8400;.8500 (proposed)	2625
Housing Finance Agency		8810.9000;.9100;.9200;.9300;.9400;.9500 (proposed)	2629
4900.0010 (adopted)	2354	8810.9800 (proposed repealer)	2629
4900.0010;.2900-.2907 (proposed)	2616	Veterans Affairs Department	
4900.0010;.2200-.2270 (adopted)	2354	9050.0010-.9000 (adopted)	2355 and 2533
4900.0010;.2200-.2270 (adopted)	2432	Human Services Department	
4900.0010;.2300-.2340 (adopted)	2432	9503.0015;.0075;.0170 (adopted)	2533
4900.1300;.1315;.1331;.1345;.1359;.1375;.1390 (adopted)	2632	9505.0115 (adopted)	2632
4900.1310;.1320;.1330;.1340;.1350;.1360;.1361; .1362 (repealed)	2632	9510.1020;.1040;.1050;.1070;.1110 (adopted)	2354
4900.1520;.1574;.1580 (adopted)	2354	9520.0300;.0310;.0320; (proposed repealer)	2580
4900.2400-.2600 (adopted)	2632	9530.6655;.7000;.7012;.7015;.7020;.7022;.7024 (proposed)	2483 and 2579
Labor & Industry Department		9530.7020 s.3,4 (proposed repealer)	2483 and 2579
5205.0010 (proposed)	2619	9553.0010;.0020;.0035;.0036;.0040;.0050;.0052; .0053;.0054;.0056;.0057;.0061;.0070;.0075; .0079 (withdrawn)	2501
5220.2645 (proposed)	2531	9553.0051;.0020 s.43 (proposed renumbering withdrawn) ..	2501
5221.0100;.2250 (proposed)	2412	9580.0100;.0200;.0300;.0400;.0500;.0600 (proposed repealer)	2579
5222.0100;.0200;.0300;.0400;.0500;.0600;.0700;.0800; .0900;.1000 (proposed repealer)	2532		
Medical Examiners Board			
5600.0400;.0600 (proposed)	2452		

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Receivership Revolving Loan Fund

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, Subd. 4 and 11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Susan K. Noren
Legal Division
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, Minnesota 55101-1998
Telephone: (612) 296-9794

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule, must submit the written request to Susan K. Noren.

Dated: 11 May 1990

James J. Solem
Commissioner

Rules as Proposed**4900.0010 DEFINITIONS.**

[For text of subs 1 to 22, see M.R.]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

[For text of items A to G, see M.R.]

H. With respect to parts 4900.2900 to 4900.2907, those persons whose income is at or below 50 percent of the median income adjusted for family size of the standard metropolitan statistical area.

Rules as Proposed (all new material)**4900.2900 SCOPE.**

Parts 4900.2900 to 4900.2907 govern the implementation of the receivership revolving loan fund authorized under *Minnesota Statutes*, section 566.291.

4900.2901 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.2900 to 4900.2907, the following terms have the meanings given.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Receiver.** "Receiver" means a person appointed by the court under *Minnesota Statutes*, section 566.29, to receive and preserve the property referred to in part 4900.2902, subpart 3, according to the powers contained in *Minnesota Statutes*, section 566.29.

4900.2902 ELIGIBILITY REQUIREMENTS.

Subpart 1. **Receiver.** A receiver is eligible for a loan under the receivership revolving loan fund if the receiver meets the prequalification requirements for the specific project under this part and presents a certified copy of a court order in an action under *Minnesota Statutes*, section 566.25 or 566.34. The order must state that the prequalified receiver has been appointed to act in the case and must contain a finding that the appointment of a receiver with the power to collect funds is consistent with the statutory factors relating to the long-term economic viability of the dwelling as provided in *Minnesota Statutes*, section 566.29.

Subp. 2. **Low and moderate income.** In the property subject to the order, at least 50 percent of the occupied rental units must be occupied by persons and families of low and moderate income as defined in part 4900.0010, subpart 23, item H.

Subp. 3. **Prequalification requirements.** A person or entity seeking prequalification status under this part must submit an application on a form prescribed by the agency. The agency shall review the application applying the standards in parts 4900.2901 to 4900.2907 and shall promptly notify the applicant of a decision on the application. Prequalification approval shall be for a maximum of two years. A rejection of the application must set forth the reasons for the denial. The applicant may qualify for any one or more of the following categories:

- A. single family or duplex dwelling;
- B. fewer than ten housing units;
- C. ten to 24 housing units; or
- D. 24 or more housing units.

Subp. 4. **Qualification requirements.** For an applicant to qualify as a receiver, the applicant must:

- A. have at least two years experience or demonstrated proficiency in residential property management;
- B. be able to obtain a fidelity and forgery bond or insurance coverage in an amount at least equal to two months' gross potential income of the property;
- C. comply with Minnesota real estate licensing statutes and rules;
- D. have adequate financial controls;
- E. have a history of managing properties according to applicable federal, state, and local laws, statutes, ordinances, rules, and regulations;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

- F. complete the forms and enter into agreements as the agency may reasonably require;
- G. demonstrate the ability to obtain liability insurance; and
- H. have experience or demonstrated proficiency in managing properties which have undergone significant repairs and improvements.

Subp. 5. **Properties.** Receivers shall be awarded receivership revolving loans subject to the property considerations in items A to D:

- A. probability of loan repayment;
- B. availability of funding for necessary repairs, alterations, improvements, and operation;
- C. probable success of retention as low-income housing; and
- D. if items A to C have been considered, then an additional consideration may be other neighborhood revitalization factors.

4900.2903 APPLICATION PROCESS.

Subpart 1. **With prequalification.** Applicants who intend to apply as prequalified receivers must follow the procedures in items A to E:

- A. become prequalified as an eligible receiver according to the selection criteria in part 4900.2902, subparts 3 and 4, for a specified line of credit amount subject to fund availability and court appointment;
- B. submit to the agency a project approval application that includes information on scope of work, estimate of funds needed, and evidence that funding needed for repairs has been secured;
- C. the project must be approved by the agency according to the selection criteria under part 4900.2902, subpart 3;
- D. submit a court order; and
- E. complete and submit a loan commitment agreement to the agency.

Subp. 2. **Without prequalification.** Applicants who do not intend to apply as prequalified receivers must follow the procedures in items A to E:

- A. submit a loan application;
- B. submit to the agency a project approval application that includes information on scope of work, estimate of funds needed, and evidence that funding needed for repairs has been secured;
- C. the project and receiver must be approved by the agency according to the selection criteria under part 4900.2902;
- D. submit a court order; and
- E. complete and submit a loan commitment agreement to the agency.

4900.2904 FEES.

Subpart 1. **Property management fees.** Property management fees may be disbursed at the greater or \$150 per building or a rate of:

- A. \$40 per unit per month for buildings containing ten or fewer units;
- B. \$30 per unit per month for buildings containing 11 to 20 units; or
- C. \$25 per unit per month for buildings containing 21 or more units.

Subp. 2. **Supplemental management fees.** Supplemental management fees for coordination of repairs and bids may be disbursed in an amount equal to the greater of \$1,000 or:

- A. ten percent of repairs totaling \$50,000 or less; plus
- B. eight percent of repairs over \$50,000 and up to \$100,000; plus
- C. six percent of repairs over \$100,000 and up to \$250,000; plus
- D. four percent of repairs over \$250,000.

The schedule in items A to D reflects maximum loan amounts. Administrators are not precluded from expending additional fees from rent, other loans, or revenues from the property.

In the event there is no progress in the court-ordered repairs, improvements, or alterations for any six-month period, the agency may, in its sole option and discretion, terminate any future disbursements of any and all remaining undisbursed loan proceeds.

4900.2905 ADMINISTRATIVE EXPENSES.

Administrative expenses that are eligible for payment under parts 4900.2901 to 4900.2907 include both property management and repair coordination expenses. Property management expenses are the cost of operating the premises including, but not limited to, personnel, rent collection, ongoing tenant management, court costs, and transportation.

Repair coordination expenses funded by a supplemental management fee include, but are not limited to, personnel and costs of posting bonds, legal fees, financial record keeping, operating statement, audits, construction consultants' fees, transportation, and permits.

In addition, eligible administrative expenses include such other expenses as are approved by the court supervising the tenant remedy action.

4900.2906 DISBURSEMENT OF FUNDS.

The agency shall disburse loan proceeds monthly within 14 days of submission of invoices consistent with the approved application.

4900.2907 REPAYMENT.

The loan shall be a personal obligation of the property owners and a loan repayment agreement with terms acceptable to the agency for a maximum term of ten years must be executed before the termination of the receivership; or, an assignment of rents shall be executed in an amount sufficient to repay the debt within a maximum term of ten years; or, a lien shall be placed against the property. Any one or a combination of the above may be used at the request of the agency to secure repayment of the loan.

Department of Labor and Industry

Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standard and Request for Comments

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* 182.655 (1988). This revision proposes the adoption by reference of Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

A complete copy of the federal standards proposed for adoption is available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the described standards. Any interested person may file with the Commissioner written objections to the proposed standard stating the grounds for those objections. Such person may request a public hearing on those objections. Written comments or requests for hearing should be sent to the above address and must include the name and address of the person submitting the comment or request, define the reason for the comment or request, and discuss any proposed changes.

Ken Peterson, Commissioner
Department of Labor and Industry

Standards as Proposed**5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.**

Subpart 1. [Unchanged.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978 and corrected in Volume 43, No. 216, November 7, 1979 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes prior to ~~December 6, 1989~~ May 1, 1990:

A. to K. [Unchanged.]

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Proposed Rules

L. *Federal Register*, Volume 54:

(1) to (4) [Unchanged.]

(4a) *Federal Register*, Vol. 54, No. 133, dated July 13, 1989: "Occupational Exposure to Formaldehyde (1910.1048); Corrections and Technical Amendments to Final Rule."

(4b) *Federal Register*, Vol. 54, No. 133, dated July 13, 1989: "Occupational Exposure to Asbestos (1910.1001); Approval of Collection of Information Requirements."

(5) to (16) [Unchanged.]

(17) *Federal Register*, Vol. 54, No. 243, dated December 20, 1989: "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite (1910.1001); Partial Response to Court Remand."

M. *Federal Register*, Vol. 55

(1) *Federal Register*, Vol. 55, No. 20, dated January 30, 1990: "Occupational Exposure to Lead (1910.1025); Statement of Reasons."

(2) *Federal Register*, Vol. 55, No. 21, dated January 31, 1990: "Occupational Exposure to Hazardous Chemicals in Laboratories (1910.1450); Final Rule."

(3) *Federal Register*, Vol. 55, No. 24, dated February 5, 1990: "Air Contaminants (1910.1000); Partial Stay of Effective Date for Two Substances."

(4) *Federal Register*, Vol. 55, No. 24, dated February 5, 1990: "Occupational Exposure to Asbestos (1910.1001); Partial Response to Court Remand."

(5) *Federal Register*, Vol. 55, No. 30, dated February 13, 1990: "Occupational Exposure to Lead; Corrections to Final Rule."

(6) *Federal Register*, Vol. 55, No. 44, dated March 6, 1990: "Occupational Exposures to Hazardous Chemicals in Laboratories (1910.1450); Corrections."

(7) *Federal Register*, Vol. 55, No. 67, dated April 6, 1990: "Air Contaminants; Partial Stay of Effective Date for Two Substances."

(8) *Federal Register*, Vol. 55, No. 70, dated April 11, 1990: "Safety and Health Standards: Welding, Cutting and Brazing; Redesignation and Other Non-substantive Revisions."

(9) *Federal Register*, Vol. 55, No. 72, dated April 13, 1990: "Hazardous Waste Operations and Emergency Response (1910.120); Corrections to Final Rule."

Subp. 3 to 5. [Unchanged.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29, of the *Federal Register* on February 9, 1979 which incorporates changes, additions, deletions and corrections made up to October 17, 1978 and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~December 6, 1989~~ May 1, 1990:

A. to D. [Unchanged.]

E. *Federal Register*, Volume 54

(1) to (4) [Unchanged.]

(5) *Federal Register*, Vol. 54, No. 243, dated December 20, 1989: "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite (1926.58); Partial Response to Court Remand."

F. *Federal Register*, Volume 55

(1) *Federal Register*, Vol. 55, No. 24, dated February 5, 1990: "Occupational Exposure to Asbestos (1926.58); Partial Response to Court Remand."

Summary of Standards: The following summary of each standard proposed for adoption is very brief; persons interested in reviewing any of these standards in their entirety, along with the preamble discussion published by Federal OSHA, may obtain a copy as noted above.

A) "Occupational Exposure to Formaldehyde; Corrections and Technical Amendments to Final Rule." On July 13, 1989, Federal OSHA published a notice correcting typographical errors, adding some information which had inadvertently been omitted in the original standard publication, and correcting some inconsistencies in the preamble and regulatory text of the standard which was originally published on December 4, 1987. The following corrections were made:

A few typographical errors and omissions in Table 1: "Minimum Requirements for Respiratory Protection Against Formaldehyde" require a technical amendment of the final rule. The Table 1 entry for Type C respirators must be modified to indicate that "pressure" demand type respirators must be used; the original publication omitted the word "pressure" from the table thus making it appear that the use of negative pressure respirators operated in the demand mode were approved for use with formaldehyde.

Paragraph (g)(2)(ii) requires employers to make powered air purifying respirators meeting the specifications of Table 1 available to employees who experience difficulty wearing a negative pressure respirator to reduce exposure to formaldehyde; however, Table 1 does not list any such respirators. To avoid confusion, the words "meeting the specifications in Table 1" are deleted from the table and a requirement that any powered air purifying respirator used must provide adequate protection is substituted. This clarification is intended to remind employers substituting powered air purifying respirators for negative pressure respirators that they must consider whether the protection factor that the powered air purifying respirator supplies is adequate to protect a worker under the conditions of the exposure.

Table 1 has also been amended to reflect that chin style respirators are approved for protection against formaldehyde in atmospheres up to 100 ppm and for emergency escape.

Lastly, the recordkeeping requirements were amended to reference 1910.20 "Employee Access to Exposure and Medical Records."

Minnesota OSHA adopted the Occupational Exposure to Formaldehyde Standard on May 30, 1988. By this notice, Minnesota OSHA proposes adopting the corrections and amendments as published in the *Federal Register* on July 13, 1989.

B) "Occupational Exposure to Asbestos; Approval of Collection of Information Requirements." Revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite in general industry and construction were published on June 20, 1986 by Federal OSHA; Minnesota OSHA adopted the revised standards on November 10, 1986. The standard was legally challenged and, as a result, the Court of Appeals for the District of Columbia upheld the standard except that the Court held that OSHA must reconsider several of the standard's provisions to determine if more protective regulatory provisions are available to reduce risk. One issue reconsidered was the need for an excursion limit, which was adopted on September 14, 1988. At the time the new excursion limit was published, the Office of Management and Budget (OMB) had not approved the information requirements that applied to the new excursion limit. That approval was received in July 1989 and notice published on July 13, 1989. Sections affected by this approval include 1910.1001(d)(2), (d)(3), (d)(5), (d)(7), (f)(2), (f)(3)(i), (j)(5), (l), and (m) and 1926.58(f)(2), (f)(3), (f)(6), (h)(3)(i), (k)(3), (k)(4), (m), and (n) as they apply to the excursion limit.

By this notice, Minnesota OSHA announces approval of the information requirements contained in 1910.1001 as noted above; these requirements will become effective upon publication of the adoption notice in the *State Register*.

C) "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Partial Response to Court Remand." On June 20, 1986, Federal OSHA published revised standards governing occupational exposure to asbestos in general industry (1910.1001) and construction (1926.58). OSHA reduced the 8-hour time weighted average permissible exposure limit to 0.2 f/cc, and adopted provisions for medical surveillance, exposure monitoring, methods of compliance, respirators and recordkeeping, among others.

On February 2, 1988, the U.S. Court of Appeals for the District of Columbia Circuit upheld the standard in most respects but remanded the case to OSHA on several issues. In response to the decision, OSHA issued a short-term exposure limit (STEL) for asbestos of 1 f/cc averaged over a sampling period of 30 minutes.

On October 30, 1989, the Court ordered OSHA to take action on three of the nine remand issues by December 14, 1989 and the remaining issues by January and February 1990.

On December 20, 1989, OSHA published its response to the first three remand issues including: 1) removing the ban on the spraying of asbestos-containing materials; 2) changing the regulatory text to clarify when construction employers must resume periodic monitoring; and 3) explaining why the regulatory text is not being amended at this time to clarify the limited exemption for "small-scale, short-duration operations" in the construction industry standard.

1) The 1986 standard banned the application of asbestos-containing products through spray techniques; the Court of Appeals reviewed OSHA's findings and concluded that: "The support for the ban plainly fails to meet the substantial evidence standard imposed by the Act. . . The ban cannot stand." As a result, OSHA amended the regulatory text of the final asbestos standard by deleting the prohibition regarding the spray application of asbestos-containing products. This change should not significantly increase the risk to employees since many asbestos-containing products have been banned by the EPA and the remaining ones are formulated by encapsulating any asbestos content which limits releases to undetectable amounts.

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Proposed Rules

2) The second remand issue ordered OSHA to add to the construction standard (1926.58) the resumption of monitoring requirement found in the general industry standard. OSHA did not originally intend to exclude this provision from the construction standard. Requiring monitoring to be resumed when changed conditions indicate increased exposure ensures that workplace exposures are accurately assessed. Especially in construction, where work processes change often, allowing monitoring to be terminated based on the results of one monitoring event showing exposures below the action level and excursion limit would defeat an exposure monitoring scheme and would be outside the intent of this standard. The requirement for additional monitoring includes the same exemption which currently applies to periodic monitoring; namely, employers are exempt from resuming daily monitoring if all employees in the regulated area are equipped with supplied-air respirators operated in the positive-pressure mode.

3) The third issue remanded by the Court required OSHA to clarify the exemption for "small-scale, short-duration operations" by limiting it to operations where it is impractical to construct a negative pressure enclosure because of the configuration of the work environment. OSHA is not making this change to the regulatory text at this time, but will institute rulemaking on this issue. Areas of concern include the fact that the record contains no data concerning whether employees who work inside the negative pressure enclosures benefit from reduced exposure, whether working inside enclosures may increase exposures, and whether enclosures may introduce other potential work hazards such as heat stress. In addition, OSHA has received numerous suggestions on how to clarify or amend the definition of small-scale, short-term operations and is collecting information on experience with negative pressure enclosures and on alternatives which may provide the same degree of protection to employees removing asbestos and to bystander employees. The subsequent rulemaking will discuss the effectiveness and drawbacks of negative pressure enclosures, glove bags, and alternative control systems; and specify more clearly under what circumstances various control systems may be used.

On February 5, 1990, Federal OSHA published its response to the second group of remand issues; a) expanding its ban on workplace smoking and adding training requirements covering the availability of smoking control programs; b) explaining how and why OSHA's respirator requirements will result in employee risk being reduced below that remaining at the PEL; and c) adding a requirement that employers assure that employees working in or contiguous to regulated areas comprehend required warning signs, and requiring that training programs specifically instruct employees about the content and presence of signs and labels.

a) OSHA included certain smoking related requirements in the standard in response to the substantial record evidence that smoking multiplies the lung cancer risk of asbestos-exposed workers; the mandated training program must include information concerning the relationship between smoking and exposure to asbestos in producing lung cancer and smoking is prohibited in regulated areas. OSHA rejected requests for greater smoking controls; the Court was petitioned for review. In its decision, the Court found record evidence showing that smoking cessation programs can reduce a significant risk and are feasible to implement and determined that OSHA must justify its non-adoption of a requirement to offer smoking cessation programs. Upon review, OSHA concluded that the response most consistent with its statutory authority, relevant policy considerations (detailed in the February 5, 1990 *Federal Register* notice), and the rulemaking record developed in support of the 1986 standards is to add regulatory provisions which will ban smoking in work areas where occupational exposure to asbestos exists; to expand the required training programs to include information concerning available smoking cessation programs and to distribute self-help smoking cessation program material; and to require that during mandated medical examinations physicians inform employees of the combined effect of asbestos and smoking in producing lung cancer. Other suggested provisions (including banning the workplace sale of tobacco products and banning the hiring of asbestos workers who are smokers) were reevaluated by OSHA but not adopted based on policy considerations and the lack of evidence concerning their feasibility and effectiveness.

b) The respirator provisions of the standard were challenged in two areas. First, objection was made to OSHA's supplemental respirator policy as allowing "the use of any respirator that can protect employees to the degree that they would be protected at 0.2f/cc" rather than mandating the use of the most protective respirator feasible. OSHA responded that the most protective respirator, i.e., a supplied-air respirator, had safety hazards of its own and therefore should not be mandated in every case. Secondly, objection was raised to the protection factors assigned by OSHA to various respirator classes, contending they are contrary to the record evidence. OSHA responded that it used protection factors common to other standards and that the asbestos record did not provide sufficient evidence to warrant changing this uniform approach at this time. The Court found that OSHA's judgment about supplied air respirators was within the Agency's discretion. However, the Court was troubled by the fact that OSHA's respirator requirements appeared to require only that the combined effect of engineering and work practice controls and respirators limit exposure to the PEL, where that limit was based on the technological limitations of engineering and work practice controls and where the PEL is conceded to leave a significant health risk. The Court ordered OSHA to justify this policy. Upon review, OSHA reaffirmed its previous position concerning effectiveness levels. However, the agency expanded its explanation to demonstrate the correctness of its decision and the limitations of the protection factor concept itself; that explanation was published in the *Federal Register* on February 5, 1990.

c) Lastly, the Court ordered OSHA to reconsider its determination not to require signs and labels to be in languages other than English. OSHA responded, following reconsideration of the rulemaking record, by adding a new element to the training program specifically covering the content and placement of warning labels and signs, and a new requirement that the employer assure that employees comprehend warning signs required in regulated areas. Such understanding may be obtained by utilizing English, if workers are trained accordingly, or by symbols, graphics, or foreign languages. OSHA is not, however, requiring similar assurances for warning

labels since the benefit of mandating warning signs and labels in languages other than English has not been proven and the hazard communication program for asbestos will ensure that all exposed employees are effectively warned of the presence and hazards of asbestos-containing materials on worksites.

Amendments to the standard, along with OSHA's response to the remanded items, was published in two separate documents in *Federal Registers* dated December 20, 1989, and February 5, 1990. By this notice, Minnesota OSHA proposes to adopt the amendments to the asbestos standard as published in the noted *Federal Registers*.

D) "Occupational Exposure to Lead; Final Rule Statement of Reasons." On January 30, 1990, Federal OSHA published a statement of reasons which sets forth OSHA's determinations with regard to the economic feasibility of meeting a permissible exposure limit (PEL) between 50 and 200 micrograms ($\mu\text{g}/\text{m}^3$) of lead per cubic meter of air through engineering and work practice controls in nonferrous foundries. This determination was made in response to an order of the U.S. Court of Appeals for the District of Columbia Circuit, which remanded the record to OSHA for reconsideration of the question of economic feasibility for this industry sector.

Based on the record, OSHA determined that an engineering control level of 50 $\mu\text{g}/\text{m}^3$ would contribute to the closing of more than one-half of the small nonferrous foundries in this country. The departure of these small foundries would have a particularly severe impact on this sector because small foundries constitute 60 percent of all nonferrous foundries. OSHA also found that an engineering control level of 50 $\mu\text{g}/\text{m}^3$ was not overly burdensome for large foundries. Recent reanalysis of the data confirms that conclusion, which OSHA reaffirmed on January 30, 1990. Further, OSHA noted that, although achieving the PEL of 50 $\mu\text{g}/\text{m}^3$ through engineering and work practice controls alone was overly burdensome for small nonferrous foundries, OSHA had not determined whether an engineering control level above 50 $\mu\text{g}/\text{m}^3$ but below 200 $\mu\text{g}/\text{m}^3$ (the prevailing engineering control level for this sector) for small foundries would be economically achievable.

On January 30, 1990, OSHA published its determination that, at an engineering control level of 50 $\mu\text{g}/\text{m}^3$ for large foundries (20 or more employees) and 75 $\mu\text{g}/\text{m}^3$ for small foundries (fewer than 20 employees), OSHA's standard for occupational exposure to airborne lead is economically feasible for nonferrous foundries. OSHA will, however, proceed with a survey to further assess the impact of the 75 $\mu\text{g}/\text{m}^3$ engineering control level on the economic viability of the small nonferrous foundries. As part of this survey, OSHA will accept information from the public regarding the economic feasibility of 75 $\mu\text{g}/\text{m}^3$ or alternative levels for this industry. A decision is expected within three years.

By this notice, Minnesota OSHA proposes to adopt the revised PEL for small nonferrous foundries as described above and published in the *Federal Register* on January 30, 1990. This proposal includes the adoption of corrections to the January 30, 1990 publication that were published in the *Federal Register* on February 13, 1990.

E) "Occupational Exposures to Hazardous Chemicals in Laboratories; Final Rule." On January 31, 1990, Federal OSHA published its final rule governing exposures to hazardous chemicals in laboratories (1910.1450). The final standard applies to all laboratories that use hazardous chemicals in accordance with the definition of "laboratory use" and "laboratory scale" provided in the standard. Generally, where this standard applies it supersedes the provisions of all other health standards of the general industry standards except for permissible exposure limits currently in effect for the approximately 600 air contaminants and 23 substances with specific standards in Subpart Z of Part 1910. The standard does not establish exposure limits but sets other performance provisions designed to protect laboratory workers from potential hazards in their work environment. The standard does not apply to uses of hazardous chemicals which do not meet the definition of laboratory use, and in such cases, the employer must comply with the relevant standard even though use occurs in a laboratory nor does it apply for laboratory use of hazardous chemicals which provide no potential for employee exposure such as procedures using chemically-impregnated test media and commercially prepared test kits.

The standard requires employers to measure the employee's exposure periodically to any substance regulated by a standard which requires monitoring if there is reason to believe that exposure levels for that substance routinely exceed the action level (or in the absence of an action level, the PEL). The employer must notify the employee of the results within 15 working days after receipt of the monitoring results.

Where hazardous chemicals are used in the workplace, the employer must develop and carry out the provisions of a written Chemical Hygiene Plan (CHP). The CHP must include the necessary work practices, procedures and policies to ensure that employees are protected from all potentially hazardous chemicals in use in their work area. The plan must be available to employees, employee representatives, and to OSHA.

Employers must provide employees with information and training to ensure that they are aware of the hazards of the chemicals present in their work area. This information must be provided at the time of an employee's initial assignment to a work area where

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Proposed Rules

hazardous chemicals are present and prior to assignments involving new exposure situations. Employees must be informed of the contents of this standard and its appendices must be available to them; the location and availability of the employer's Chemical Hygiene Plan; the permissible exposure limits for OSHA regulated substances or recommended exposure limits for other hazardous chemicals where there is no applicable OSHA standard; signs and symptoms associated with exposures to hazardous chemicals used in the laboratory; and the location and availability of known reference material on the hazards, safe handling, storage and disposal of hazardous chemicals found in the laboratory including, but not limited to material safety data sheets received from chemical suppliers. Employee training must include methods and observations that may be used to detect the presence or release of a hazardous chemical; the physical and health hazards of chemicals in the work area; and the measures they can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures and personal protective equipment to be used. Employees must also be trained on the applicable details of the employer's written Chemical Hygiene Plan.

All employees who work with hazardous chemicals must be given the opportunity to receive medical attention, including any follow-up examinations which the examining licensed physician determines to be necessary under certain circumstances. Medical examinations and consultations must be provided without cost to the employee, without loss of pay and at a reasonable time and place. The employer must provide certain information to the physician, including the identity of the hazardous chemicals, a description of the conditions under which the exposure occurred, and a description of the signs and symptoms of exposure that the employee is experiencing.

Labels on incoming containers of hazardous chemicals must not be removed or defaced. Material safety data sheets on incoming hazardous chemicals must be retained and made available to lab employees.

Where the use of respirators is necessary to maintain exposure below permissible exposure limits, the employer must provide, at no cost to the employee, the proper respiratory equipment. The employer must also establish and maintain for each employee an accurate record of any measurements taken to monitor employee exposure and any medical consultation and examination including tests or written opinions.

This final rule is effective May 1, 1990 at the federal level; an appropriate Chemical Hygiene Plan must be in effect by January 31, 1991.

By this notice, Minnesota OSHA proposes to adopt the Occupational Exposures to Hazardous Chemicals in Laboratories standard (1910.1450) as published in the *Federal Register* on January 31, 1990. The standard will become effective five days after publication of the adoption notice in the *State Register*; the effective date for Chemical Hygiene Plans will remain January 31, 1991. This proposal includes adoption of corrections to the January 31, 1990, notice as published in the *Federal Register* on March 6, 1990.

F) On January 9, 1989, OSHA issued a final standard setting new or more protective exposure limits for 375 substances. The new limits are to be achieved with any reasonable combination of controls including engineering controls and respirators by September 1, 1989 with a preference for engineering controls by December 31, 1992. The start-up date for compliance with the new exposure limits for nitroglycerin and ethylene glycol dinitrate for the explosives industry was stayed until February 12, 1990, pending settlement of negotiations between OSHA and the Institute of Makers of Explosives. Settlement negotiations are continuing and OSHA has extended the start-up date for these two substances in the explosives industry. On February 5, 1990 the date was extended to April 1, 1990. On April 6, 1990, the date was extended to April 27, 1990, since settlement had not yet been reached.

By this notice, Minnesota OSHA proposes to adopt the extended date for the explosives industry to meet the new exposure limits for nitroglycerin and ethylene glycol dinitrate as last published in the *Federal Register* on April 6, 1990.

G) "Safety and Health Standards: Welding, Cutting and Brazing; Final Rule—Redesignation and Other Non-Substantive Revisions." On April 11, 1990, Federal OSHA published a reorganization to existing Part 1910 standards pertaining to welding, cutting, and brazing (Subpart Q) as a first step in an effort to comprehensively revise these standards. The existing standard is long and not well organized, with paragraphs covering specific operations, such as arc welding, appearing ahead of more useful general provisions, such as fire protection. This reorganization will facilitate the standard's use by employers and other users, and will also facilitate the substantive revision of the standards planned for the future. Also included in the reorganization action are some minor non-substantive changes, such as the addition of metric equivalent units where various measurements were formerly given only in non-metric units; changes to reflect the transfer of functions among Federal agencies; the deletion of six formerly "reserved" provisions; the deletion of one non-substantive provision adopted in error; the correction of one provision's erroneous internal reference; and the updating of the mailing addresses of the organizations that published the source standards.

By this notice, Minnesota OSHA proposes to adopt the renumber/reorganized "Welding, Cutting, and Brazing" standard (Subpart Q, Part 1910) as published in the *Federal Register* on April 11, 1990.

H) "Hazardous Waste Operations and Emergency Response; Correction of Final Rule." On April 13, 1990, Federal OSHA published corrections to the preamble and final rule on Hazardous Waste Operations and Emergency Response (1910.120) which was originally published on March 6, 1989. Corrections included typographical errors, incorrect citations and certain ambiguities in the preamble which may prove to be misleading and are in need of clarification. Included in the corrections notice are the following:

1) The definition of "hazardous substance" is amended to directly include the relevant language of CERCLA Section 101(33) rather than incorporating it by reference.

2) Paragraph (f)(3)(i)(D) makes clear the intent that medical surveillance be provided to employees who develop signs or symptoms due to possible over exposure from hazardous substances whether the employee is engaged in hazardous waste operations or emergency response.

3) The exception subparagraph of (a)(2)(iii) and the introductory language of paragraph (p) are clarified.

4) In several provisions covering emergency response evacuation, the term "workplace" has been corrected to "danger area." When an emergency occurs it is not always necessary to evacuate the entire workplace. It is necessary to evacuate the danger area.

5) Some information omitted from the non-mandatory appendices has been inserted because it may be useful even though it is not mandatory.

6) References have been added to Appendix C which may be useful for developing training materials. In addition, information on new technologies available to control hazardous waste spills has also been added to Appendix C.

By this notice, Minnesota OSHA proposes to adopt the corrections to the Hazardous Waste Operations and Emergency Response standard as published in the *Federal Register* on April 13, 1990.

Department of Transportation

Proposed Permanent Rules Relating to Bridge Construction and Reconstruction

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Transportation intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is found in *Minnesota Statutes*, Chapter 174.50 Subd. 6.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make written request for a public hearing on rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Gordon M. Fay, Director
Office of State Aid
420 Transportation Building
St. Paul, MN 55155

[A copy of the proposed rules is attached to this notice.]

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Office of State Aid, Room 420, Transportation Building, St. Paul, Minnesota 55155 upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of

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Proposed Rules

submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the Office of State Aid.

Dated: 23 April 1990

Leonard W. Levine
Commissioner

Rules as Proposed

8810.8000 DEFINITIONS.

Subpart 1. **Abandonment.** "Abandonment" means the abandoning of an existing bridge.

Subp. 1a. **Agency.** "Agency" means a county, municipality, or township.

Subp. 2. **Bridge.** "Bridge" means is defined as a structure including supports erected over a depression or an obstruction such as water, highway, or railway and, having a track or passageway for carrying traffic or other moving loads, and having an opening measured horizontally along the center of the roadway of ten feet or more between undercopings of abutments, between spring line of arches, or between extreme ends of openings for multiple boxes. Bridge also includes multiple pipes where the clear distance between openings is less than half of the smaller contiguous opening. Illustrations of measurements are shown as Figures 1 to 4. This definition of a bridge describes all railroad bridges includes, but for application of these rules all railroad bridges are excluded except for parts 8810.8000 to 8810.8500, only those railroad bridges over or under a public highway or street.

FIGURE 1: MEASUREMENT OF BRIDGE BETWEEN UNDERCOPINGS

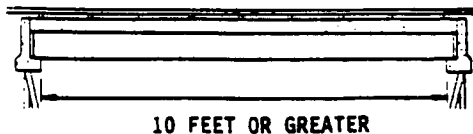
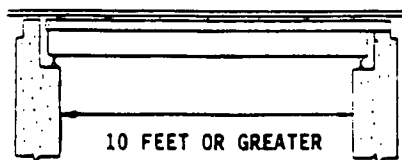


FIGURE 2: MEASUREMENT OF STRUCTURE BETWEEN SPRING LINES

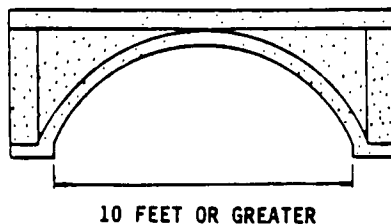


FIGURE 3: MEASUREMENT OF BOX CULVERTS

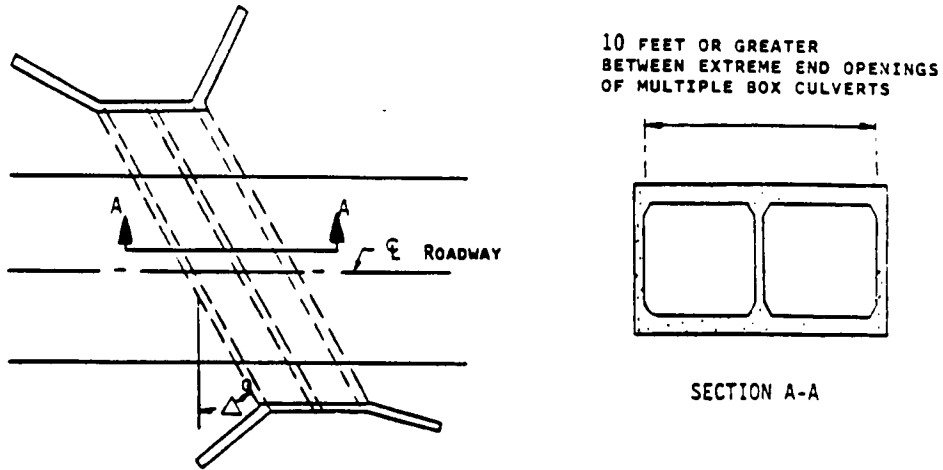
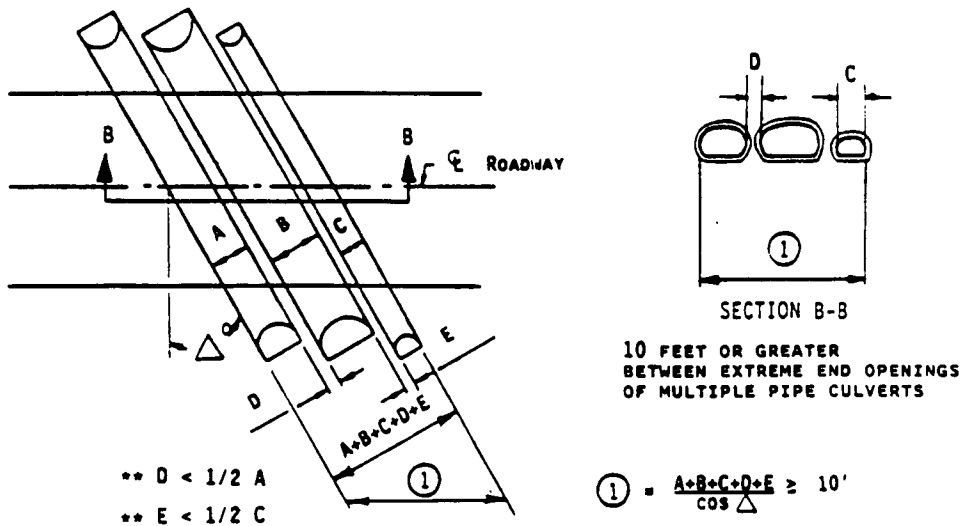


FIGURE 4: MEASUREMENT OF MULTIPLE CULVERTS



- ** D < 1/2 A
- ** E < 1/2 C

** THE SPACE BETWEEN ADJACENT PIPE CULVERTS OPENINGS MUST BE LESS THAN ONE HALF THE SMALLER CONTIGUOUS OPENING

[For text of subp 3, see M.R.]

Subp. 4. **Construction.** "Construction" means the construction of a road, street, or bridge to replace an existing deficient bridge or a bridge that has been destroyed.

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Proposed Rules

[For text of subps 5 to 7, see M.R.]

Subp. 8. **Road systems defined.** "Other roads or streets" means those local roads and streets, not on the state-aid system, under the jurisdiction of the counties, municipalities, and townships.

"State-aid" means the system of roads and streets established and designated by the commissioner under the jurisdiction of a county or urban municipality.

"Trunk highway" means the system of routes established by law, the location of which has been established by the commissioner under the jurisdiction of the state of Minnesota.

[For text of subp 9, see M.R.]

8810.8100 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of ~~these rules parts 8810.8000 to 8810.8500~~ is to carry out the mandate of the legislature and to implement that mandate as set forth in ~~Laws of Minnesota 1976 Statutes, chapter 339 section 174.50.~~

Subp. 2. **Scope.** The scope of ~~these rules parts 8810.8000 to 8810.8500~~ is intended to be confined within the framework of and consistent with ~~Laws of Minnesota 1976 Statutes, chapter 339 section 174.50.~~

8810.8110 ELIGIBILITY; RESTRICTION.

For purposes of eligibility for funding under parts 8810.8000 to 8810.8500, some restrictions apply as follows:

A. Railroad bridges are eligible only if they are under the jurisdiction of a local unit of government. The replacement of a private bridge owned by a railroad company is not eligible.

B. A bridge to be constructed where no previous bridge exists is not eligible.

8810.8200 APPLICATION FOR CONSTRUCTION OR RECONSTRUCTION GRANTS.

Subpart 1. **Counties.** The county board in cooperation with other local units of government within the county, other than urban municipalities, shall determine a proposed program for the construction ~~and/or~~ or reconstruction of key bridges within the county other than urban municipal or trunk highway bridges.

This county board by resolution shall request of the commissioner authorization to construct or reconstruct specific bridges or remove an abandoned bridge within the county and request funding.

~~In the event that~~ When local units of government cannot reach agreement with the county board, the local units of government may ~~make applications apply~~ independently. Then ~~and in that event~~ the local unit of government by resolution shall request of the commissioner authorization to construct or reconstruct specific bridges or remove an abandoned bridge and request funding.

Subp. 2. **Urban municipalities.** The city council by resolution shall request of the commissioner authorization to construct or reconstruct specific bridges or remove an abandoned bridge within the municipality and request funding.

[For text of subp 3, see M.R.]

8810.8300 REVIEW BY REGIONAL DEVELOPMENT ~~COUNCIL~~ COMMISSION OR METROPOLITAN COUNCIL.

The commissioner shall submit the application of the agencies to the proper regional development commission or metropolitan council, as the case may be, for review of consistency with long-term comprehensive development plans and guides for which the agencies are responsible. ~~In any case, the regional development commission or the metropolitan council will have 30 days after receipt of the applications to inform the commissioner that there is or is not an interest in the applications. No response within the specified period shall be construed to mean approval of the applications.~~

8810.8400 ESTABLISHMENT OF PRIORITIES.

The commissioner, using information furnished by the local units of governments from the statewide bridge inventory, shall establish a statewide priority of bridge construction ~~and/or~~ or reconstruction.

This priority ~~shall~~ must be based on the relative seriousness of each bridge's deficiencies as determined from the inventory and appraisal after considering the following criteria established in ~~Laws of Minnesota 1976 Statutes, chapter 339 section 174.50, subdivision 6:~~

A. effectiveness of the project in eliminating a deficiency in the transportation system;

B. number of persons affected by the deficiency;

C. economic feasibility;

- D. effect on optimum land use and other concerns of state and regional planning;
- E. availability of other financing capability; and
- E. adequacy of provision for proper operation and maintenance after construction.

~~Upon establishment of~~ When the required documentation has been completed, construction plans are complete, and priorities have been established, the commissioner shall notify the local units of government, as to ~~priority rank and funding availability for those bridges submitted for approval from the Minnesota state transportation fund or federal funds.~~

The local unit of government shall by resolution agree to the terms and conditions as specified in the notification by the commissioner consistent with ~~Laws of Minnesota 1976 Statutes, chapter 339 section 174.50, subdivision 5, clause (3).~~

8810.8500 BRIDGE AND ROADWAY SPECIFICATIONS.

The minimum geometric standards for bridge construction and roadway construction are as described in chapter 8820.

Department of Transportation

Proposed Permanent Rules Relating to Bridge Inspection and Inventory

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Transportation intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is found in *Minnesota Statutes*, Chapter 165.03 Subd. 2.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make written request for a public hearing on rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Donald J. Flemming
State Bridge Engineer
Office of Bridges and Structures
Minnesota Department of Transportation
610 Transportation Building
St. Paul, MN 55155

[A copy of the proposed rules is attached to this notice.]

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Office of Bridges and Structures, Room 610, Transportation Building, St. Paul, Minnesota 55155 upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the Office of Bridges and Structures.

Dated: 23 April 1990

Leonard W. Levine
Commissioner

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

Rules as Proposed

8810.9000 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 2. **Bridge.** "Bridge" means a bridge is defined as a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured horizontally along the center of the roadway of ten feet or more than 20 feet between undercopings of abutments, or more than 20 feet between spring line of arches, or between extreme ends of openings for multiple boxes; it. Bridge also includes multiple pipes where the clear distance between openings is less than half of the smaller contiguous opening. Illustrations of measurements are shown in part 8810.8000, subpart 2, figures 1 to 4. This definition of a bridge ~~describes all railroad bridges includes, but for application of these rules all railroad bridges are excluded except for parts 8810.9000 to 8810.9700, only those~~ railroad bridges over or under a public highway or street.

Subp. 3. **Bridge inspector's training manual.** The Bridge Inspector's Training Manual referred to in ~~these rules parts 8810.9000 to 8810.9700 is the training manual published by the Federal Highway Administration.~~ It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Subp. 4. **Inspection.** The term "inspection" ~~shall mean~~ means examining a structure, evaluating the physical condition observed, and reporting the observations and evaluations on the bridge inspection report form as adopted by the commissioner.

[For text of subs 5 to 7, see M.R.]

8810.9100 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of ~~these rules parts 8810.9000 to 8810.9700~~ is to carry out the mandate of the legislature and to implement that mandate as set forth in *Minnesota Statutes*, chapter 165, ~~as amended by the legislature in 1973,~~ with reference to the inspection and inventory of bridges in the state of Minnesota.

Subp. 2. **Scope.** The scope of parts 8810.9000 to ~~8810.9800~~ 8810.9700 is confined to and consistent with *Minnesota Statutes*, section 165.03, ~~as amended.~~

8810.9200 APPLICATION OF INSPECTION AND INVENTORY STANDARDS.

These bridge inspection and inventory standards apply to ~~all structures defined in part 8810.9000~~ as bridges which either that:

A. lie within or cross the borders of the state of Minnesota, and which are located wholly or partially within or over the right-of-way of ~~any a~~ state trunk highway, ~~or which;~~

B. are located wholly or partially within or over the right-of-way of ~~any a~~ county or ~~township town~~ road, ~~or which;~~

C. are located wholly or partially within or over the ~~rights~~ right-of-way of ~~any a~~ street located within or along municipal limits, ~~or which;~~

D. are toll bridges used by the general public; ~~or which~~

E. are located on state, county, or home rule charter or statutory city lands and exist for the use of the general public. ~~All~~

Railroad bridges are excluded from ~~these rules parts 8810.9000 to 8810.9700~~ except for railroad bridges over or under a public highway or street.

Bridges on recreation trails used only by pedestrians, bicycles, and recreational vehicles are ~~not included in these rules~~ excluded from parts 8810.9000 to 8810.9700, except for those bridges over or under a public highway or street.

8810.9300 PERSONNEL RESPONSIBILITY AND QUALIFICATIONS.

[For text of subpart 1, see M.R.]

Subp. 2. **Qualifications.** The individual in charge of the bridge inspection and inventory for each organizational unit described ~~above shall in subpart 1 must~~ be registered in the state of Minnesota as a professional engineer.

The individual in charge of the inspection team ~~shall must~~ have one of the following qualifications: be registered in the state of Minnesota as a professional engineer; ~~or~~ have a minimum of five years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the Bridge Inspector's Training Manual ~~which has been~~ developed by a joint federal-state task force; have current certification as a Level III or IV Bridge Safety Inspector under the National Society of Professional Engineer's program for National Certification in Engineering Technologies; or, be certified by the commissioner of transportation as a Bridge Safety Inspector.

8810.9400 FREQUENCY OF INSPECTIONS AND INVENTORY.

Subpart 1. **Inspection.** Each bridge ~~shall must~~ be inspected annually. Interim inspections at intervals of less than one year may be

necessary on bridges that are posted, bridges subjected to extreme scour conditions, bridges subject to significant substructure movement or settlement, and for other reasons as specified or inferred in ~~section 2-3~~ of the AASHTO manual.

The thoroughness of each inspection ~~will depend~~ depends on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The evaluation of these factors ~~will be~~ is the responsibility of the engineer assigned the responsibility for inspection as defined in part ~~8810.9000~~ 8810.9300, subpart 1.

[For text of subp 2, see M.R.]

8810.9500 INSPECTION REPORT AND RATINGS.

Subpart 1. **Inspection.** The items to be inspected and reported on the bridge inspection report form ~~shall~~ must include but not be limited to those items specified in ~~section 2-5~~ of the AASHTO manual. The Bridge Inspector's Training Manual ~~shall~~ must be used as a guide to additional items to be inspected for special cases.

Subp. 2. **Ratings.** Each structure required to be inspected under ~~these rules shall~~ parts 8810.9000 to 8810.9700 must be rated to determine its safe load carrying capacity and the rating ~~shall~~ must be reported on a structure inventory sheet form provided by the commissioner of transportation. A structure ~~shall~~ must be rerated when it is determined that a significant change has occurred in the condition of the structure. Ratings ~~shall~~ must be reviewed and the structure rerated if necessary when the allowable legal load using the structure ~~is~~ is increased. Changes in the rating of a bridge ~~shall~~ must be indicated on the structure inventory sheet form.

REPEALER. Minnesota Rules, part 8810.9800, is repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Commerce

Adopted Permanent Rules Relating to Franchises

The rules proposed and published at *State Register*, Volume 14, Number 25, pages 1411-1413, December 18, 1989 (14 S.R. 1411) are adopted with the following modifications:

Rules as Adopted

2860.2500 ANNUAL REPORT.

Subp. 2. **Public offering statement.** The proposed public offering statement filed in connection with the annual report shall contain all data current as of the ~~anniversary date~~ end of the franchisor's fiscal year including audited financial statements in accordance with parts 2860.1200 to 2860.1600. All alterations in the text of the public offering statement previously filed as a part of registration shall be indicated by means of underscoring.

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Adopted Rules

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Home Ownership Assistance Fund

The rules proposed and published at *State Register*, Volume 14, Number 30, pages 1870-1873, January 22, 1990 (14 S.R. 1870) are adopted with the following modifications:

Rules as Adopted

4900.1345 RECIPIENTS HOME OWNERSHIP ASSISTANCE FUND.

Subp. 2. **Income limits.** In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with mortgage revenue bond funds, the maximum adjusted income for a recipient of home ownership assistance fund money must not exceed 60 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with funds other than mortgage revenue bond funds, the maximum adjusted income for a recipient must not exceed 75 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. For purposes of this subpart, adjusted income is as defined in part 4900.0010, subpart 3.

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Rural and Urban Homesteading

The rules proposed and published at *State Register*, Volume 14, Number 28, pages 1751-1755, January 8, 1990 (14 S.R. 1751) are adopted with the following modifications:

Rules as Adopted

4900.2420 DEFINITIONS.

Subp. 8. **Eligible property.** "Eligible property" means a single family ~~detached~~ residential property, located within a designated area, that is vacant, condemned, abandoned, or identified as desirable for purchase and rehabilitation by the eligible organization for appropriate reasons cited by the eligible organization which, if rehabilitated, may prevent or arrest the spread of blight.

4900.2440 THE RURAL AND URBAN HOMESTEADING PROGRAM.

Subpart 1. **Purpose of program.** The rural and urban homesteading program provides grants to eligible organizations to acquire and rehabilitate existing single family ~~detached~~ residences and sell them through contracts for deed to eligible homebuyers who are considered to be at risk and are willing to strengthen the neighborhood by adhering to a good neighbor policy reference.

4900.2460 APPLICATION BY ELIGIBLE ORGANIZATION.

Subpart 1. **Preliminary eligibility.** The applicant must be a political subdivision, or a nonprofit entity as defined in part ~~4900.0100~~ 4900.0010, subpart 21, that has as a primary purpose the provision or development of affordable housing to low and moderate income homebuyers.

4900.2520 ELIGIBLE PROPERTIES.

Subpart 1. **General.** Eligible properties are to be acquired by the eligible organization for rehabilitation and sale to at-risk homebuyers with the consent of the local neighborhood advisory board for the designated area. The eligible organization may initially acquire up to five properties in a designated area with funds appropriated for the program or may acquire more than five properties if funds other than appropriated funds are used. Mobile homes, townhomes in planned unit developments, and condominium units are not eligible under the program. Upon sale of the property, clear and marketable title subject to the contract for deed described in part 4900.2560

Department of Human Services

Adopted Permanent Rules Relating to Periodic Redetermination of Medical Assistance Eligibility

The rule proposed and published at *State Register*, Volume 14, Number 30, pages 1859-1860, January 22, 1990 (14 S.R. 1859) is adopted as proposed.

Department of Public Service

Adopted Permanent Rules Relating to Insulation Standards

The rules proposed and published at *State Register*, Volume 14, Number 35, pages 2122-2130, February 26, 1990 (14 S.R. 2122) are adopted with the following modifications:

Rules as Adopted

7640.0120 DEFINITIONS.

Subp. 17. **Manufacturer of insulation.** "Manufacturer of insulation" means:

C. an installer of an insulation product the manufacture of which is completed at the jobsite who prepares or modifies the product's installation instructions.

An applicator, contractor, or fabricator of insulation materials who installs, applies, or uses insulation materials for their intended uses and follows the manufacturer's installation instructions, without changing the thermal or physical properties of the insulation material is not a manufacturer of insulation.

7640.0130 INSULATION MATERIALS STANDARDS.

Subp. 2. **General testing requirements.** General testing requirements for regulated thermal insulation materials in this part are as follows:

C. All thermal performance tests must be conducted in accordance with this item, unless additional requirements are imposed within the body of a materials standard. Insulation's thermal performance must be stated in R-value.

(1) One of the following test methods must be used: ASTM C 177, ASTM C 236, ASTM C 518, ~~or~~ ASTM C 976, or ASTM C 1114. Manufacturers shall select the appropriate test method for the material unless a specific method or procedure is referenced within a materials specification. Thermal conductivity ~~must only be measured~~ measurements at a mean temperature of temperatures other than 75 degrees Fahrenheit are not required.

Subp. 3. **Cellulose insulation.**

B. Cellulose fiber spray-applied must meet the following requirements:

(5) Critical radiant flux and smoldering combustion must be in accordance with ASTM C 739, or the CPSC Interim Safety Standard for Cellulose Insulation, Code of Federal Regulations, title 16, part 1209. ~~If the product in loose-fill form meets the criteria for critical radiant flux, then a test of the product in spray-applied form for critical radiant flux is unnecessary.~~

Subp. 4. **Mineral fiber insulation.**

C. Mineral fiber in board form must ~~comply with ASTM C 612, Standard Specification for Mineral Fiber Block and Board Thermal Insulation.~~ meet the following requirements:

(1) The basic material must be made from mineral substances such as rock, slag, or glass processed from a molten state into a fibrous form. Insulation must be composed of mineral fibers with water resistant binder added and formed into flat rectangular units. Insulation boards must be uniform in quality and free from defects, such as broken edges, splits, or loose materials which would impair the intended use.

(2) Thermal performance and surface burning characteristics must be determined in accordance with subpart 2.

Subp. 7. **Reflective foil insulation.**

B. Reflective insulation systems with more than one sheet must be tested according to ASTM C 976 or ASTM C 236 to determine the thermal performance for heat flow in horizontal, upward, and downward directions. The tested thermal performance in the heat-flow direction or directions of the intended application must be labeled on the material. The manufacturer shall test once in each direction of intended application; except that, for products labeled with only one heat-flow direction, the manufacturer shall test two samples in that direction. The tests must be done at a mean temperature of 75 degrees Fahrenheit, with a temperature differential of 30 degrees Fahrenheit.

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Adopted Rules

7640.0140 REQUIREMENTS FOR INSULATION FOR SPECIAL APPLICATIONS.

Subpart 1. **Physical requirements for insulation materials designed for exterior, underground use.**

B. The manufacturer shall demonstrate that the product will exhibit less than a ten percent loss in R-value contained in the FTC fact sheet filed under part 7640.0150, subpart 2, item E, when installed underground and the combined effect of assumed conditions on the following physical characteristics are considered:

7640.0180 INCORPORATIONS BY REFERENCE AND CITATIONS.

Subp. 2. **ASTM.** The following ASTM standards are incorporated by reference:

~~K.~~ ASTM C 612-83, Standard Specification for Mineral Fiber Block and Board Thermal Insulation.

~~L.~~ K. ASTM C 665-88, Standard Specification for Mineral Fiber Blanket Thermal Insulation for Light Frame Construction and Manufactured Housing.

~~M.~~ L. ASTM C 727-72 (reapproved 1978), Standard Recommended Practice for Use of Reflective Insulation in Building Constructions.

~~N.~~ M. ASTM C 739-88, Standard Specification for Cellulosic Fiber (wood-base) Loose-Fill Thermal Insulation.

~~O.~~ N. ASTM C 764-88, Standard Specification for Mineral Fiber Loose-Fill Thermal Insulation.

~~P.~~ O. ASTM C 951-83, Standard Specification for Urea-Formaldehyde-Based, Foam in Place Insulation.

~~Q.~~ P. ASTM C 976-82, Standard Test Method for Thermal Performance of Building Assemblies by Means of a Calibrated Hot Box.

~~R.~~ Q. ASTM C 1014-88, Standard Specification for Spray-Applied Mineral Fiber Thermal or Acoustical Insulation.

~~S.~~ R. ASTM C 1015-84, Standard Practice for Installation of Cellulosic and Mineral Fiber Loose-Fill Thermal Insulation.

~~T.~~ S. ASTM C 1029-85, Standard Specification for Spray-Applied Rigid Cellular Polyurethane Thermal Insulation.

T. ASTM C 1114-89, Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Thin-Heater Apparatus.

Commissioners' Orders

Department of Natural Resources

Commissioner's Order No. 2368: Regulations for the Taking and Possession of Fish from the Minnesota-Canada Boundary Waters; Superseding Commissioner's Orders Nos. 2205 and 2268

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97C.395, 97C.401 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking and possession of fish from the Minnesota-Canada boundary waters.

Section 1. The provisions of this order apply to all those portions of the following named Minnesota-Canada boundary waters lying within the State of Minnesota, which portions lie generally within the Townships (T.) and Ranges (R.) specified for each:

COOK COUNTY

North Fowl Lake, T. 65, R. 3E

South Fowl Lake, T. 64, 65, R. 3E

Granite River, T. 66, R. 4W

Gunflint Lake, T. 65, R. 2, 3, 4W

Little Gunflint Lake, T. 65, R. 2W

Lily Lakes, T. 65, R. 2E

Magnetic Lake, T. 65, R. 3, 4W

Maraboeuf Lake, T. 66, R. 4W

Moose Lake, T. 65, R. 3E

Mountain Lake, T. 65, R. 1, 2E

North Lake, T. 65, R. 2W
Little North Lake, T. 65, R. 2W
Pigeon River, T. 64, R. 3, 4, 5, 6, 7E
Pine Lake, T. 65, R. 4W
Pine River, T. 65, R. 3, 4W
Rat Lake, T. 65, R. 1W
Rose Lake, T. 65, R. 1W
Round Lake, T. 66, R. 4W
Saganaga Lake, T. 66, R. 4, 5W; T. 67, R. 4, 5W
South Lake, T. 65, R. 1, 2W
Watab Lake, T. 65, R. 1E

KOOCHICHING & LAKE OF THE WOODS COUNTIES

Rainy River, T. 70-71 and T. 158-162, R. 24-32

KOOCHICHING & ST. LOUIS COUNTIES

Rainy Lake (including Black Bay), T. 69, R. 18, 19; T. 70, R. 18, 19, 20, 21, 22; T. 71, R. 20, 21, 22, 23, 24

LAKE COUNTY

Basswood Lake (except Jackfish, Pipestone, Hoist and Back Bays), T. 64, R. 9, 10; T. 65, R. 9, 10
Basswood River, T. 65, R. 10, 11
Birch Lake, T. 64, R. 8, 9; T. 65, R. 8, 9
Carp Lake, T. 65, R. 8
Cypress Lake, T. 66, R. 6
Knife Lake (except South Arm of Knife Lake), T. 64, R. 8; T. 65, R. 6, 7, 8; T. 66, R. 6
Little Knife Lake, T. 65, R. 6, 7; T. 66, R. 6
Knife River, T. 65, R. 8
Melon Lake, T. 65, R. 8
Seed Lake, T. 65, R. 8
Sucker Lake, T. 64, R. 8, 9
Swamp Lake, T. 66, R. 6

LAKE & ST. LOUIS COUNTIES

Crooked Lake, T. 66, R. 11, 12

LAKE OF THE WOODS & ROSEAU COUNTIES

Lake of the Woods

ST. LOUIS COUNTY

Bottle Lake, T. 67, R. 13
Iron Lake, T. 66, R. 12, 13; T. 67, R. 13
Lac La Croix Lake, T. 67, R. 13, 14, 15; T. 68, R. 13, 14, 15; T. 66, R. 13
Loon Lake, T. 66, 67, R. 15
Loon River, T. 66, R. 15, 16; T. 67, R. 15, 16
Namakan Lake, T. 68, R. 17, 18; T. 69, R. 17, 18, 19
Sand Point Lake, T. 67, R. 16, 17; T. 68, R. 16, 17; T. 69, R. 17
Little Vermilion Lake, T. 67, R. 16

Sec. 2. (a) Subject to all applicable laws and regulations not inconsistent with the provisions of this order, the species of fish named below may be taken in all Minnesota-Canada boundary waters by angling during the times specified for each species, all dates inclusive. The number of each species which may be taken in any one day and which may be possessed at any one time shall be as specified:

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Commissioners' Orders

Species	Open Season	Daily and Possession Limits
Walleye and Sauger	Saturday two weeks prior to Saturday of Memorial Day weekend to April 14.	6 in the aggregate, except Lake of the Woods where 20 in the aggregate, of which not more than 10 may be walleye. Except Rainy Lake where 12 in the aggregate, of which not more than 6 may be walleye and only 1 walleye over 19.5 inches. Except Rainy River where 6 in aggregate with not more than 1 walleye over 19.5 inches except no walleye over 19.5 inches March 1 through April 14. Except Saganaga Lake including Sea Gull River and Gull Lake where 6 walleye with 1 walleye over 19.5 inches. Dressed sauger shall be counted as walleye.
Sturgeon (minimum size 45 inches total length)	June 30 to May 15.	1
Lake Trout	In all bodies of water outside or partly outside of the Boundary Waters Canoe Area Wilderness and exceptions from the Saturday nearest January 15 to March 15; lakes partially within and exceptions including Saganaga Lake; in all bodies of water lying entirely within the Boundary Waters Canoe Area Wilderness from the Saturday nearest January 1 to March 31; and in all waters from the Saturday two weeks prior to Saturday of Memorial Day weekend to September 30.	Same as inland limits.
Trout (except Lake Trout)	Saturday nearest May 1 to September 30.	Same as inland limits.
Northern Pike	No closed season.	6, except three on Rainy Lake with only one over 28 inches.
Muskellunge (minimum size 40 inches total length)	Third Saturday in June to November 30.	Same as inland limits.
Large and Small Mouthed Bass	No closed season.	Same as inland limits.
Crappie	No closed season.	30 except 15 Black Bay of Rainy Lake.
All Other Species	No closed season.	Same as inland limits.

(b) While trolling from a boat on the waters of Lake of the Woods, two lines may be used.

(c) Fish with length limits may not be possessed as fillets on the water while angling.

(d) Any fish that is hooked or snagged in any part of the body except the mouth shall be immediately unhooked and returned to the water, whether dead or alive.

Sec. 3. (a) While on any Minnesota portion of the Minnesota-Canada boundary waters described above, no person who possesses both a Minnesota angling license and an angling license from the Canadian provinces of Ontario and/or Manitoba shall possess or transport more than the daily limit of fish allowed under any one but not more than one of his or her licenses.

(b) While in the State of Minnesota, no person who possesses both a Minnesota angling license and an angling license from the Canadian provinces of Ontario and/or Manitoba shall possess fish taken from the Minnesota-Canada boundary waters described above in excess of the daily limit of fish allowed under any one but not more than one of his or her licenses.

(c) While in the State of Minnesota, no person who possesses both a Minnesota angling license and an angling license from the Canadian provinces of Ontario and/or Manitoba shall possess fish taken from the inland waters of Ontario and/or Manitoba in excess of the daily limit of fish allowed under any one but not more than one of his or her licenses unless such excess fish are accompanied by proof of taking from inland Canadian waters. When accompanied by such proof, one Canadian limit and one Minnesota limit may be possessed simultaneously. The following shall be considered sufficient proof for a period of seven days after date of issuance:

(1) Written verification issued by United States Customs of having entered the United States at a time consistent with the alleged time of having taken fish in inland Canadian waters.

(2) A receipt from a resort, campground or place of lodging located on inland Canadian waters issued at a time consistent with the alleged time of having taken fish in inland Canadian waters.

(d) While in the State of Minnesota, no person shall possess fish taken from the Minnesota portions of Lake of the Woods or Rainy Lake in excess of the Minnesota inland limits but within the special limits prescribed for Lake of the Woods and Rainy Lake by this order, unless in possession of proof that such excess fish were taken from the Minnesota portions of Lake of the Woods or Rainy Lake. A dated receipt from a resort, campground, place of lodging, gas station, grocery store, bait store or restaurant located on Lake of the Woods or Rainy Lake issued at a time consistent with the alleged time of having taken fish from such waters shall be considered sufficient proof.

Sec. 4. On Minnesota-Canadian boundary waters, a dark house, fish house or shelter may remain on the ice no later than March 31. Portable shelters may be used after March 31 by persons actively engaged in angling, but such shelters shall be removed daily when not in use.

Sec. 5. Commissioner's Orders Nos. 2205 and 2268 are hereby superseded.

Dated at Saint Paul, Minnesota, this 7th day of May, 1990.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2370: Regulations for the Taking of Fish from the Minnesota-North Dakota Boundary Waters; Superseding Commissioner's Order No. 2332

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97C.395, 97C.401 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of fish from the Minnesota-North Dakota boundary waters.

Section 1. The provisions of this order shall apply to all those parts of the Bois de Sioux River and the Red River of the North which constitute the Minnesota-North Dakota boundary waters. The taking and possession of fish of any species covered by this order from said waters is prohibited except as herein permitted or as otherwise expressly authorized pursuant to law.

Sec. 2. The species of fish listed below may be taken in the Minnesota-North Dakota boundary waters by angling during the time specified for each species in the following table, except that whenever a prescribed closing date falls on a Saturday, the season shall be extended through the following Sunday. All dates are inclusive. The number of each species which may be taken in any one day and which may be possessed at any one time shall be as specified.

Species	Open Season	Daily and Possession Limits
Walleye and sauger	First Saturday in May to last day in February	6 (In aggregate)
Northern pike	First Saturday in May to last day in February	3
Large and small mouth bass	First Saturday in May to last day in February	6 (In aggregate)
Crappies	Continuous	30
Sunfish and bluegill	Continuous	30

Commissioners' Orders

Species	Open Season	Daily and Possession Limits
Rock bass	Continuous	20
Bullhead	Continuous	100
Perch	Continuous	50
Catfish	Continuous	5 with only 1 over 24 inches
Sturgeon	Closed	-0-
Carp, buffalofish, sheepshead, suckers, redhorse, dogfish, eelpout, garfish and white bass (striped)	Continuous	No Limits

Sec. 3. The taking of fish by spearing or archery is prohibited. No person shall have in possession in a shelter house on the ice any spear, spring gaff, bow and arrow, or dip net.

Sec. 4. No person shall permit a shelter house to remain on the ice after March 5. Portable shelters may be used after March 5 by persons actively engaged in angling, but such shelters shall be removed daily when not in use.

Sec. 5. The taking of fish by means of a set or unattended line is prohibited.

Sec. 6. No person shall use or operate in angling more than two lines, nor more than one hook on each line.

Sec. 7. Residents of Minnesota or North Dakota holding valid resident angling licenses from their respective states and residents of other states holding nonresident Minnesota or North Dakota angling licenses may fish in any of the boundary waters covered by this order. This reciprocity only applies to the Minnesota angling license requirement. All other applicable Minnesota laws apply on the Minnesota portion of the boundary waters. Only one license and the legal limits allowed for that license are valid on Minnesota-North Dakota boundary waters.

Sec. 8. All anglers on the boundary waters covered by this order shall comply with the regulations of the state in which they are angling, except that all fish caught anywhere on such waters by anglers holding Minnesota resident or nonresident licenses must comply with Minnesota law and regulations concerning size, transportation, and possession limits when possessed in this state.

Sec. 9. Fish taken in the Minnesota-North Dakota boundary waters may be transported by the most convenient route back to the state in which they are licensed. This transportation restriction also applies to all persons who are not required to have a license.

Sec. 10. Fish house licenses issued by Minnesota or North Dakota may be used on all boundary waters covered by this order. Persons angling from a fish house must comply with the licensing and identification regulations of the state in which they hold an angling license.

Sec. 11. This order shall not apply to the taking of minnows. Minnows shall be governed by the laws and regulations of the state in which the minnows are taken.

Sec. 12. Regulations for the taking of fish by angling on inland waters shall, to the extent they are not inconsistent with the provisions of this order, apply to the taking of fish on the boundary waters covered by this order.

Sec. 13. Commissioner's Order No. 2332 is hereby superseded.

Dated at Saint Paul, Minnesota, this 7th day of May, 1990.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

Department Natural Resources

Commissioner's Order No. 2367: Regulations for the Taking of Fish from Lake Superior; Superseding Commissioner's Order No. 2178

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97C.395, 97C.401, 97C.835 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of fish from the Minnesota waters of Lake Superior.

Section 1. No fish shall be taken in Lake Superior except as provided in this order or under permit.

Sec. 2. Angling season and daily and possession limits:

Species	Open Season	Daily and Possession Limits
Trout, including Splake (except Lake Trout)	Continuous	5 In aggregate. Minimum size, 10 inches in length. Not more than 3 may be 16 inches or more except only 1 rainbow trout or steelhead over 16 inches with unclipped fins, clipped fins must show healed scar.
Lake Trout	Dec. 1 - Sept. 30	3 10
Salmon	Continuous	In aggregate. Not more than 1 may be Atlantic salmon, minimum size 10 inches in length.

All other species may be taken by angling, spearing, and archery only in accordance with and subject to the provisions of the laws and regulations relating to the taking of such fish in the inland waters of the state.

Sec. 3. Any fish that is hooked or snagged in any part of the body except the mouth shall immediately be unhooked and returned to the water, whether dead or alive.

Sec. 4. All persons licensed to take fish from Lake Superior by angling are permitted to do so by the use of not more than two lines with one bait attached to each line, except that only one line shall be used within 100 yards of the mouth of any flowing stream.

Sec. 5. While on any portion of the Minnesota waters of Lake Superior, no person who possesses an angling license from Minnesota, Wisconsin, Michigan and/or the province of Ontario, shall possess or transport more than the daily limit of fish allowed under any one but not more than one of his or her licenses.

Sec. 6. Fish of the following species may be taken by licensed commercial fishermen in accordance with the following provisions:

(a) Ciscoes, chubs, alewives, whitefish, menominee whitefish, smelt and rough fish may be taken at any time.

(b) Herring may be taken between December 1 and October 30, both dates inclusive.

(c) Whitefish may be taken in pound or trap nets at any time but no whitefish less than twenty (20) inches total length may be possessed, bought or sold. Whitefish less than 20 inches total length shall be returned to the water immediately.

(d) Lake trout may not be taken by commercial fishing except by permit and no lake trout less than seventeen (17) inches total length may be possessed, bought or sold. Lake trout legally taken under permit shall be sealed with a tag furnished by the Department of Natural Resources, affixed through the mouth and out the gill. Such tag shall be affixed immediately upon removal from the water and before the boat is brought to shore, and no untagged lake trout may be possessed, bought or sold by licensed commercial fishermen.

(e) Incidental catch of legal sized lake trout taken by commercial fishing and dead when removed from the water may be possessed only if sealed with a tag furnished by the Department of Natural Resources, affixed through the mouth and out the gill. Such tag shall be affixed immediately upon removal from the water and before the boat, if one is used, is brought to shore, and no untagged incidentally caught lake trout may be possessed, bought or sold by licensed commercial fishermen. All incidentally caught live lake trout and all untagged dead lake trout shall be returned to the water immediately.

(f) All lake trout under the legal size limit and other species not provided for in this order taken incidental to any commercial fishing operations shall be returned to the water immediately.

(g) Commissioner's Order No. 1365 does not apply to the disposal of fish as specifically addressed by this order.

Sec. 7. Nets for commercial fishing operations are permitted as follows:

(a) Gill nets shall be of mesh size no less than two and one-fourth (2-1/4) inches and no more than two and three-fourths (2-3/4) inches. A metal or plastic tag which is not smaller than two and one-half (2-1/2) inches by five-eighths (5/8) inch bearing in the English language the owner's name and address, shall be attached to one end of the float line near the first float in accordance with Commissioner's Order No. 1473.

(1) Gill nets, when set, shall be attached at each end to fluorescent orange or fluorescent red marker buoys constructed such that a minimum of eighteen (18) inches of buoy surface is visible above water in the absence of current and/or weight of nets and lines. The number of the owner's Lake Superior commercial fishing license shall be plainly marked on each end marker buoy in black. Each end marker buoy shall be marked with a fluorescent orange or fluorescent red flag one foot square attached to the top of a flag staff at least five (5) feet long, and the buoy shall be constructed such that the flag staff is supported in a vertical position. In addition, the marker buoy attached to the shoreward (or westerly) end of each set shall have a one foot square white flag positioned

Commissioners' Orders

immediately below the fluorescent orange or fluorescent red flag. No other buoys employed in gill net sets shall be marked with fluorescent orange or fluorescent red flags. All buoys and floats used in gill net sets shall be constructed of styrofoam, plastic, rubber or other materials nonhazardous to navigation.

(2) Herring nets for purposes of these regulations are gill nets as described above which are weighted to fish in a floating or suspended position, off the bottom.

(3) Cisco or chub nets for purposes of these regulations are gill nets as described above which are weighted to fish on the bottom.

(4) No more than 100,000 feet of herring net shall be licensed in Minnesota waters of Lake Superior and no more than 2,000 feet of herring net shall be allocated to an individual licensee except as provided by *Minnesota Statutes* § 97C.835, subd. 7.

(5) No more than 120,000 feet of cisco or chub net shall be licensed in Minnesota waters of Lake Superior and no more than 12,000 feet of cisco or chub net shall be allocated to an individual licensee except as provided by *Minnesota Statutes* § 97C.835, subd. 7.

(b) Pound or trap nets may be of any dimensions or mesh size. Each pound or trap net must be marked with a metal or plastic tag which is not smaller than two and one-half (2-1/2) inches by five-eighths (5/8) inch bearing in the English language the owner's name and address and attached to the top rope of the backside of the pound or crib in accordance with Commissioner's Order No. 1473. Trap nets set with anchors shall have attached to the end farthest from shore one fluorescent orange or fluorescent red marker buoy constructed such that a minimum of eighteen (18) inches of buoy surface is visible above water in the absence of current and/or weight of nets and line. The number of the owner's Lake Superior commercial fishing license shall be plainly marked on the marker buoy in black. The marker buoy shall be marked with a fluorescent orange or fluorescent red flag one foot square attached to the top of a flag staff at least five (5) feet long, and the buoy constructed such that the flag staff is supported in a vertical position. All buoys and floats used in pound or trap net sets shall be constructed of styrofoam, plastic, rubber, or other materials nonhazardous to navigation.

(c) Mesh size for purposes of these regulations shall mean the interior distance between the extreme opposite knots or corners of a single mesh, taken between the thumbs and forefingers and applying enough pressure laterally to allow the opposite sides of the mesh to meet.

Sec. 8. The placement of nets shall conform to the following restrictions:

(a) No gill nets shall be set within one-quarter mile of the shore in the area extending from the Superior entrance to Pigeon River except under permit. Gill nets set on the bottom shall not be in water shallower than 40 fathoms except under permit.

(b) Pound and trap nets may be used for the taking of whitefish, menominee whitefish, herring, ciscoes, chubs, alewives, smelt and rough fish. Such nets may be set only in areas approved by the commissioner or his authorized agent.

Sec. 9. No licensed commercial fisherman or any member of the crew or any person in the boat shall have in possession any sport angling equipment while lifting or traveling to and from net sets.

Sec. 10. Each commercial fishing licensee shall submit to the Area Fisheries Manager, 10029 North Shore Drive, Duluth, Minnesota 55804, a record of their commercial fishing operations for each month of the calendar year. These reports shall be submitted within ten (10) days after the end of the month for which the report is made. Such reports shall be made on forms supplied by the Department of Natural Resources and shall be made regardless of whether fish are taken, and regardless of whether any fishing has been done.

Sec. 11. The Director of the Division of Fish and Wildlife may issue permits for experimental commercial fishing operations and assessment netting of fish populations.

Sec. 12. Any fish that is hooked (snagged) in any part of the body except the mouth shall immediately be unhooked and returned to the water, whether dead or alive.

Sec. 13. Commissioner's Order No. 2178 is hereby superseded.

Dated at Saint Paul, Minnesota, this 7th day of May, 1990.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2366: Regulations for the Taking and Possession of Certain Species of Fish in Inland Waters; Superseding Commissioner's Order No. 2270

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97C.395, 97C.401 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking and possession of certain species of fish in inland waters.

Section 1. The species of fish listed in this section may be taken by angling in the specified inland waters except for such of these waters as may otherwise be closed to the taking of fish. The taking and possession of such fish is subject to the seasons, limits, and other restrictions set forth herein or in other applicable laws, regulations, or orders. All dates are inclusive. Whenever the closing date of a season prescribed herein falls on a Saturday, the season shall extend through the following day.

Species and Open Season**Daily & Possession
Limits**

- | | |
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| <p>(a) Large and small mouthed bass.
In all waters lying east and north of U.S. Highway 53 from Duluth to International Falls and in Pelican and Ash Lakes, St. Louis County, Saturday two weeks prior to Memorial Day weekend. In all other waters, Saturday nearest May 29 to February 15.</p> <p>(b) Trout, including brook, brown and rainbow trout, splake and Atlantic salmon, but not including lake trout.</p> <p>(1) All streams and rivers from Lake Superior upstream to the posted boundaries are open continuously. In the posted areas of the Knife River in Lake County, trout may be taken only from June 1 to August 31, or as otherwise posted pursuant to experimental regulations. Except in the Pigeon River in Cook County and the St. Louis River in St. Louis County, a single hook only shall be used for angling.</p> <p>(2) In all streams of Lake Superior watershed in St. Louis, Lake and Cook counties, above the posted boundaries (noted in 1 above), except the St. Louis River and Estuary (that body of water lying inland of Minnesota Point) and their tributaries, Saturday nearest April 15 to September 30.</p> <p>(3) In all other streams of the state (not listed in 1 or 2 above): South of U.S. Highway 12, 10:00 a.m. on Saturday nearest April 15 to September 30; North of U.S. Highway 12, Saturday nearest April 15 to September 30.</p> <p>(4) In lakes only: statewide from Saturday two weeks prior to Saturday of Memorial Day weekend to October 31. In addition: on all lakes entirely within the</p> | <p>6
(In aggregate)</p> <p>5
(In aggregate. Not more than 3 may be over 16 inches in length except only 1 rainbow or steelhead over 16 inches with unclipped fins. Clipped fins must show healed scar. 1 may be Atlantic salmon. Minimum 10 inch length limit for all species.)</p> <p>10
(In aggregate. Not more than 1 may be 16 inches in length or over. Not more than 5 in aggregate may be rainbow trout or brown trout. Not more than 1 may be Atlantic salmon.</p> <p>5
(In aggregate. Not more than 1 may be 16 inches in length or over. No minimum length.)</p> <p>5
(In aggregate. Except not more than 3 may be 16 inches in length</p> |
|--|--|

Commissioners' Orders

Species and Open Season	Daily & Possession Limits
Boundary Waters Canoe Area Wilderness, from Saturday nearest January 1 to March 31; and on all lakes entirely or partly outside the Boundary Waters Canoe Area Wilderness. Lakes in Aitkin, Becker, Beltrami, Cass, Crow Wing and Hubbard Counties are closed for winter season, from Saturday nearest January 15 to March 15.	or over. Atlantic salmon 1 minimum 16 inches in length.)
(c) Lake trout. Statewide from Saturday two weeks prior to Saturday of Memorial Day weekend to September 30. In addition: on all waters lying entirely within the Boundary Waters Canoe Area Wilderness, from Saturday nearest January 1 to March 31; on all waters lying entirely or partly outside the Boundary Waters Canoe Area Wilderness and exceptions from Saturday nearest January 15 to March 15; lakes partly outside BWCAW and exceptions include Snowbank, Magnetic, Ram, Seagull, Clearwater, Saganaga and on all streams and rivers from Lake Superior upstream to posted boundaries, from Saturday nearest January 1 to September 30.	3
(d) Salmon, including chinook, coho, and pink salmon, except Atlantic salmon. Continuous in all waters.	10 (In aggregate).
(e) Walleye and sauger. In all waters from Saturday two weeks prior to Saturday of Memorial Day weekend to February 15.	6 (In aggregate).
(f) Northern pike. In all waters from Saturday two weeks prior to Saturday of Memorial Day weekend to February 15.	3
(g) Muskellunge (including hybrid). In all waters from the first Saturday in June to February 15. Minimum size limit: 36 inches in length, except in Cook, Lake, Rice, Yellow Medicine, Steele, and Lyon Counties and on Big Mantrap Lake, Hubbard County and Shoepac Lake, St. Louis County, where 30 inch minimum size limit applies.	1
(h) Rock bass. Continuous in all waters.	30

Species and Open Season	Daily & Possession Limits
(i) White bass. Continuous in all waters.	30
(j) Crappies. Continuous in all waters.	15
(k) Sunfish. Continuous in all waters.	30
(l) Catfish. Continuous in all waters.	5 With only 1 over 24 inches on tributaries to the Red River of the North.
(m) Perch. Continuous in all waters.	100
(n) Bullheads. Continuous in all waters.	100
(o) Sturgeon. May be taken in tributaries of the St. Croix River only. Saturday nearest July 1 to October 31.	1 (Minimum length 45 inches.)
(p) Carp, dogfish, redhorse, sheepshead, suckers, eelpout, garfish, whitefish, goldeyes, tullibees, buffalofish, smelt. Continuous in all waters.	No limits.

Sec. 2. The daily and possession limits on the taking of northern pike, as set forth in Section 1, shall also apply to the taking thereof by dark house spearing.

Sec. 3. Two lines may be used for angling through the ice in all waters of the state, except in designated trout lakes and designated trout streams where only one line may be used.

Sec. 4. Smelt may be taken in all waters at anytime by dip net, and minnow seines not more than 25 feet in length or four feet in depth, except seines may not be used in any stream, except the St. Louis River and in Lake Superior. Seines may not be used in Lake Superior within 100 feet of the mouth of any stream.

Sec. 5. ANGLING HOURS.

(a) Angling hours for trout on all streams and rivers from Lake Superior upstream to posted boundaries are from one hour before sunrise to one hour after sunset daily during the open season.

(b) Angling hours for trout on all other inland waters are from one hour before sunrise to 11 p.m. daily during the open season.

(c) Angling hours for all other species on all inland waters are continuous during the open season, except for certain waters which are subject to experimental or special regulations.

Sec. 6. Any fish that is hooked (snagged) in any part of the body except the mouth shall immediately be unhooked and returned to the water, whether dead or alive.

Sec. 7. Certain waters of the state are subject to experimental or special regulations for the taking and possession of fish. The provisions of this order shall apply to such waters only insofar as they are consistent with the experimental or special regulations pertaining thereto.

Commissioner's Order No. 2270 is hereby superseded.

Dated at Saint Paul, Minnesota, this 7th day of May, 1990.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2372: Regulations for the Taking of Fish from the Minnesota-Wisconsin Boundary Waters and the Transporting of Such Fish in Minnesota by Holders of Wisconsin Licenses; Superseding Commissioner's Order No. 2337

PURSUANT TO AUTHORITY vested in me by Minnesota Statutes §§ 97A.045, 97C.395, 97C.401 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of fish from the Minnesota-Wisconsin boundary waters hereinafter described, and the transporting of such fish in Minnesota by holders of Wisconsin licenses.

Section 1. Subdivision 1. For the purposes of this order, the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. "Boundary waters" means all those portions of the Mississippi River and Lake Pepin extending from the mouth of the St. Croix River to the southern boundary of the State of Minnesota and lying between the Burlington Northern main railroad tracks on the Wisconsin side and the Chicago, Milwaukee, St. Paul and Pacific railroad tracks on the Minnesota side, including all sloughs and backwaters, bays and newly extended water areas lying between said railroad tracks; all those portions of Lake St. Croix and the St. Croix River as far as the same lie along the boundary between the State of Minnesota and the State of Wisconsin; and all those portions of the St. Louis River, including St. Louis Bay and Superior Bay, as far as the same line along the boundary between said states downstream to an imaginary line drawn between the northwest bank of the Nemadji River where it forms a junction with Superior Bay and the southwest bank of the Superior entry channel where it forms a junction with Superior Bay.

Subd. 3. "Rough fish" includes carp, dogfish, redhorse, sheepshead, suckers, eelpout, garfish, buffalo fish, quillback, mooneyes, goldeyes, shad, eels, bullheads, amur carp and catfish, except that only catfish 15 inches or over in length when taken under commercial license with commercial fishing gear downstream from the Taylors Falls Dam shall be considered rough fish.

Subd. 4. "Minnows" shall include all members of the minnow family (Cyprinidae) except carp and goldfish; shad, mudminnows, willow cat and all members of the sucker family (Castostomidae) not over 12 inches in length; and bullheads, ciscoes, herring, whitefish, goldeyes and mooneyes not over 7 inches in length.

Subd. 5. "Game fish" means all species and size categories not included as rough fish and minnows, and catfish taken by angling.

Subd. 6. "Commercial operator" means any person properly licensed to take fish in the Minnesota-Wisconsin boundary waters by means of a net, set line, or other legal equipment for the purpose of sale.

Subd. 7. "Minimum length" means the length of a fish measured in a straight line from the tip of the nose to the end of the tail fin. When measuring turtles, it means the length of the dorsal surface of the carapace (top shell) measured from side to side across the shell at midpoint.

Sec. 2. The taking and possession of fish of any species covered by this order from the Minnesota-Wisconsin boundary waters is prohibited except as herein permitted or as otherwise expressly authorized pursuant to law.

Sec. 3. SPORT FISHING.

Subdivision 1. Subject to all applicable laws and regulations not inconsistent herewith, the species of fish hereinafter named may be taken in the Minnesota-Wisconsin boundary waters, or such portion thereof as is specified, by angling during the time specified for each species in the following table.

Species and Open Season

Daily & Possession Limits

Large and Small Mouthed

5 in aggregate

Bass

12 inch minimum size

St. Louis River and St. Croix River

limit St. Louis River

Saturday preceding Memorial Day to March 1

and St. Croix River

Mississippi River and Lake Pepin

upstream of Highway 70

Continuous

near Pine City.

14 inch minimum

downstream of

Highway 70 and

Mississippi River

including Lake Pepin.

Walleye and Sauger

6 of either or

St. Louis River and St. Croix River

both in aggregate.

Saturday nearest May 1 to March 1

except in St. Louis River

Species and Open Season

Daily & Possession Limits

Mississippi River and Lake Pepin Continuous	2 walleye. 15 inch minimum size limit for walleye on the St. Louis, St. Croix, Mississippi Rivers, and Lake Pepin except no size limit in Pool 3 of the Mississippi River between the Red Wing Dam and Hastings.
Northern Pike St. Louis River and St. Croix River Saturday nearest May 1 to March 1 Mississippi River and Lake Pepin Continuous	5, except St. Louis River 2 northern pike
Catfish Continuous	10
Sturgeon All waters above the Red Wing Dam (minimum size limit - 45 inches) Saturday nearest May 1 to October 31	1
All waters below the Red Wing Dam Rock (Lake) Sturgeon (minimum size limit - 45 inches) Saturday nearest May 1 to October 31	1
Shovelnose (Hackleback) Sturgeon (no minimum size limit) Continuous	10
White Bass and Yellow Bass Continuous	25
Crappies Continuous	25
Rock Bass Continuous	25
Sunfish and Bluegills Continuous	25
Perch Continuous	25
Bullheads Continuous	No limits
Paddlefish (Spoonbill Catfish)	No open season
Rough fish Continuous	No limits
Muskellunge (minimum size limit - 36 inches) Saturday nearest Memorial Day to March 1	1
All other species	Governed by inland regulations of state in which taken

Subd. 2. Any species of fish not specified in this order may be taken and possessed only as authorized for the inland waters of the state in which taken.

Commissioners' Orders

Subd. 3. Except as hereinafter provided, no person shall use or operate more than two lines or two poles with one line attached to each pole, one line or one pole with more than two baits, or a single treble hook, or fish with an unattended line, or take fish by snagging. Any fish hooked (snagged) in any part of the body except the mouth shall immediately be unhooked and returned to the water. It shall be lawful to take fish by trolling from a motor driven boat, sailboat or other boat while such boat is in motion and by use of two tip-ups not more than 400 feet from the angler.

Subd. 4. No person shall buy or sell or offer to buy or sell any fish taken by angling in the Minnesota-Wisconsin boundary waters, except that rough fish may be bought and sold at any time.

Subd. 5. No person shall fish from any point or from any boat within the area from the Taylors Falls (St. Croix Falls) dam on the St. Croix River to 50 feet downstream from the pier in the center of the river. Such closed areas shall be marked with suitable signs or buoys designating the closed areas.

Subd. 6. Buildings, vehicles, tents, fish houses or similar enclosures may be used on the ice for fishing purposes on the boundary waters. All such enclosures or shelters shall be removed from the ice on or before March 1 of each year. Portable shelters may be used after March 1 by persons actively engaged in fishing, but such shelters shall be removed daily when not in use. The door of any such enclosure or shelter shall be equipped with a latch which will permit the door to be readily opened from the outside at all times while the enclosure or shelter is occupied. Residents of Minnesota and Wisconsin may angle bank-to-bank from fish houses, shelters or enclosures and shall comply with the law and regulations of their respective states relating to licensing and identification of fish houses. Residents of other states shall comply with the law and regulations of the state in which they hold nonresident licenses.

Subd. 7. No person shall use a spear, dip net, or bow and arrow in any manner at any time for the purpose of taking any game fish, or have in possession or under control any fish spear, spring gaff, or similar device in a fish house. Rough fish may be taken by means of a spear, dip net not to exceed 24 inches in diameter, or bow and arrow except crossbow, from sunrise to sunset only, from the Saturday nearest May 1 to March 1. No person shall have in possession on the water or immediate banks of the water any spear except during the open season for spearing.

Subd. 8. Any fish taken and not released freely into the water immediately after capture shall be considered to be in possession and part of the bag limit, and may not be released after such possession.

Subd. 9. Any person permitted by law to take fish by angling may take, possess, and transport turtles and tortoises for personal use in any manner except by explosives, drugs, poisons, lime and other deleterious substances or by the use of traps, turtle hooks and nets other than landing nets, except that snapping turtles of the species *Chelydra serpentina* may not be possessed in excess of a limit of 3 nor of a size where the width including the curvature measured from side to side across the shell at the midpoint is less than 10 inches.

Subd. 10. No person shall fish in the St. Louis River from Fond du Lac Dam downstream approximately one-half mile to the Minnesota-Wisconsin boundary cable at any time. No person shall fish in the St. Louis River from the Minnesota-Wisconsin boundary cable downstream to the Highway 23 bridge from March 1 through May 18 each year.

Sec. 4. MINNOWS.

Subdivision 1. Subject to all other applicable laws and regulations not inconsistent herewith, minnows may be taken in the Minnesota-Wisconsin boundary waters except the St. Louis River by seine, dip net, cast net or trap, and may not be possessed in excess of 12 dozen, except that holders of a minnow dealer's license (*Minnesota Statutes* § 97A.475, subd. 26) may possess minnows without limit and holders of commercial set line licenses may possess dead minnows without limit for set line bait purposes. The taking of minnows for bait purposes is prohibited in the St. Louis River.

Subd. 2. No person shall take minnows with any seine exceeding 50 feet in length or 5 feet in depth, nor any seine which has mesh exceeding one-half inch, stretch measure, nor any cast net which exceeds 7 feet in diameter or has mesh exceeding one-half inch, stretch measure.

Subd. 3. No person shall take minnows with any dip net which has a frame exceeding 6 feet in diameter or 6 feet on each side, or which has a net more than 4 feet deep.

Subd. 4. No person shall take any minnows with any trap exceeding 24 inches in length or 16 inches in diameter, or with a trap which has an opening at its throat exceeding 1-1/2 inches in diameter. All traps used in taking minnows shall have securely attached thereto a metal label or tag bearing in the English language the name and address of the operator thereof. All minnow traps shall be raised and the minnows removed therefrom at least once every 24 hours.

Subd. 5. Carp minnows may be transported for sale or for bait only by boat or other floating conveyance and only on the boundary waters where taken.

Sec. 5. SET LINES.

Subdivision 1. Subject to all other applicable laws and regulations not inconsistent herewith, rough fish may be taken from April 1 to October 31, both dates inclusive, in the Mississippi River and Lake Pepin by licensed commercial operators with the use of set lines or trot lines.

Subd. 2. No person shall set or operate more than 4 set lines (trot lines), with not to exceed 100 hooks attached to each line or 400 hooks in the aggregate, nor set set lines in any manner which obstructs any type of boat travel in more than three-fourths the width of any bay, slough or channel.

Subd. 3. No person using set lines (trot lines) shall use any frogs, game fish, or bullheads of any size, or parts thereof, for bait.

Subd. 4. All set lines (trot lines) shall have attached the metal identification tag provided with the license. At one end of every set line (trot line) there shall be a white flag, not less than 16 inches square, the upper end of which shall extend at least two feet above the water, which shall be legibly numbered with figures at least 3 inches in height corresponding with the number of the license authorizing the use of such set line, or a non-metallic buoy of permanent buoyancy and of at least one gallon displacement of white or yellow color bearing the markings described above.

Subd. 5. Set lines shall be lifted and fish removed at least once every 24 hours and shall be set or lifted only between one hour before sunrise and one-half hour after sunset.

Sec. 6. **SEINES.**

Subdivision 1. Subject to all other applicable laws and regulations not inconsistent herewith, rough fish may be taken by commercial operators with the use of seines of any size, only in those portions of the Minnesota-Wisconsin boundary waters lying south of the U. S. Highway 8 bridge at St. Croix Falls.

Subd. 2. From October 1 to April 30, both dates inclusive, not more than 100 pounds of catfish of a length not less than 15 inches may be taken in any day with the use of seines.

Subd. 3. No seine haul shall be made without the operator first having notified the local conservation officer and area fisheries supervisor of the intent to do so.

Sec. 7. **GILL NETS.**

Subdivision 1. Subject to all other applicable laws and regulations not inconsistent herewith, rough fish may be taken in the Mississippi River and Lake Pepin by commercial operators with the use of gill nets having a mesh measuring 3-1/2 inches or larger, bar or square measure, measured while in use and inside the knots. No gill netting shall be used as a drag seine or drift net at any time.

Subd. 2. Every gill net shall be attached to an end stake, pole, or anchored buoy bearing a white flag, not less than 16 inches square, the upper end of which shall extend at least 2 feet above the water or ice at all times when the net is set or in operation, which shall be legibly numbered with figures at least 3 inches in height corresponding with the number of the license authorizing the use of such nets.

Subd. 3. All gill nets shall be lifted and emptied of fish at least once every 24 hours when set in open water and at least once every 48 hours when set under the ice, unless otherwise authorized by the Commissioner of Natural Resources or authorized agent.

Subd. 4. No gill net shall be set in such a manner as to obstruct any type of boat travel in more than three-fourths the width of any slough, bay or channel.

Sec. 8. All fish nets are subject to tagging requirements as set forth in Commissioner's Order No. 1473.

Sec. 9. No person other than the license holder or a licensed helper shall tend commercial fishing gear.

Sec. 10. No commercial net or set line may be used or operated in any waters within 900 feet below any dam on the Mississippi River.

Sec. 11. All game fish taken in any commercial fishing operation shall be returned to the water immediately when they appear in the fishing operation. The provisions of Commissioner's Order No. 1365 shall not apply.

Sec. 12. The Commissioner of Natural Resources or an authorized agent may require any operator of any seine, set line, or gill net to cease the fishing operations when it has been determined that such operations are detrimental to game fish or other protected wildlife. Commercial gear, unless otherwise specified, may not be used or operated in Pool 4 of the Mississippi River between Mile Post 780 and 797 from March 1 through May 31, both dates inclusive.

Sec. 13. The Director of the Division of Fish and Wildlife may authorize the use of such other nets under contract or permit as may be agreed upon between the States of Minnesota and Wisconsin.

Sec. 14. No net or set line shall be set, lifted, hauled or operated in any manner between one-half hour after sunset and one hour before sunrise of the following morning, except for the purpose of completing a seine haul with the permission of the Commissioner of Natural Resources or an authorized agent.

Sec. 15. No licensed commercial operator or any crew member or any person in the boat shall have in possession any game fish or sport angling equipment while operating licensed commercial gear or while traveling to or from the place of operation of such gear.

Sec. 16. No person shall have in possession or under control any unlicensed commercial fishing gear or a basket trap (slat net),

Commissioners' Orders

trammel net, or wooden trap which might be used for the purpose of taking, catching or killing fish in any of the counties bordering the boundary waters as specified in this order.

Sec. 17. All commercial operators required to make reports under the law shall report to the Commissioner of Natural Resources, on forms to be furnished by the Commissioner of Natural Resources, such information pertaining to the commercial fishing activities as may be required by the commissioner.

Sec. 18. TURTLES AND TORTOISES.

Turtles and tortoises taken incidental to licensed commercial fishing operations or by persons possessing traps as permitted by *Minnesota Statutes* § 97A.475, subd. 36 may be possessed and sold without limit subject to the following restrictions.

Subdivision 1. Snapping turtles (*Chelydra serpentina*) may not be possessed if the width including the curvature measured from side to side across the shell at the midpoint is less than 10 inches.

Subd. 2. Traps constructed of webbing shall be of mesh size not less than 3 inches bar measure or 6 inches extension measure. Traps constructed of wire mesh shall have at least one square opening in the top panel measuring at least 4 inches on a side and one of the same dimension near the bottom in each of the side panels.

Subd. 3. Traps must be set in water shallow enough to place the top no deeper than 3 inches below the water surface.

Subd. 4. Traps shall be checked and serviced at intervals not exceeding 48 hours.

Subd. 5. No licensee may operate more than 40 traps.

Subd. 6. When in use, each trap shall have affixed a metal or plastic tag, visible from above, bearing in the English language the name, address and license number of the operator. Such tags shall be of metal or plastic and shall be of dimensions no less than 2-1/2 inches in length by 5/8 inches in width.

Sec. 19. No carp or amur carp taken in commercial fishing shall be returned to the water.

Sec. 20. Commercial operators licensed in either Minnesota or Wisconsin may land their nets, set lines or turtle traps on either the Minnesota or Wisconsin banks of those parts of Lake Pepin, the Mississippi River, Lake St. Croix and the St. Croix River in which the particular nets or set lines landed are permitted under this order. No commercial operator shall operate in the bayous and sloughs beyond the banks of the Mississippi River, Lake Pepin, Lake St. Croix or the St. Croix River, except in the state of residence.

Sec. 21. Crayfish and mussels shall be taken from Minnesota-Wisconsin boundary waters in accordance with inland regulations.

Sec. 22. Subdivision 1. Residents of Minnesota and Wisconsin holding resident angling licenses from their respective states, and residents of states other than Minnesota and Wisconsin holding nonresident angling licenses from either state, may fish in the Minnesota-Wisconsin boundary waters. Only one angling license and the limits allowed on that license are valid on Minnesota-Wisconsin boundary waters. Commercial operators must have appropriate licenses as required by law.

Subd. 2. Where regulations differ between states, the exercise of the more liberal regulations is limited to persons licensed by the more liberal state and confined to the territorial waters of the more liberal state. The provisions of this subdivision do not apply to fish houses, which are subject to Sec. 3, subd. 6 of this order.

Sec. 23. Any lawful holder of a resident or nonresident angling license or commercial fishing license from the State of Wisconsin, having lawfully taken fish in the Minnesota-Wisconsin boundary waters, may land therewith on the Minnesota side of said waters, subject to the provisions of Sections 20 and 22 hereof, and may transport such fish to the State of Wisconsin by the most convenient, practicable route over the following described highways or roads in the State of Minnesota or any part thereof:

Beginning at the intersection of the south line of the state with State Trunk Highway (STH) 26; thence northerly on STH 26 to the junction thereof with U.S. Hwy. 16; thence northerly on U.S. Hwy. 16 to the junction thereof with U.S. Hwy. 61; thence northerly on U.S. Hwy. 61 to the junction thereof with STH 95; thence northerly on STH 95 to the junction thereof with U.S. Hwy. 8; thence easterly on U.S. Hwy. 8 to the St. Croix River at Taylors Falls; also all highways or roads lying between the above-described route and said boundary waters.

All highways or roads reaching any bridge, ferry or landing on the St. Croix River at or north of Taylors Falls or on the St. Louis River where said rivers, respectively, form part of said boundary waters, and lying within 2 miles of any part of said rivers.

Sec. 24. Commissioner's Order No. 2337 is hereby superseded.

Dated at St. Paul, Minnesota, this 7th day of May, 1990.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2373: Amending Commissioner's Order No. 2294 Regulation Removing Designated Trout Stream Status for Shakopee, Mill Pond, Scott County

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.015, subd. 15, 97C.001 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby remove the trout stream designation for the Shakopee Mill Pond.

Section 1. Shakopee Mill Pond is described as being located within Township 115, Range 22, Section 5 and 6 and Township 116, Range 22, Section 32, Scott County.

Sec. 2. This order shall not be construed to supersede any other portions of Commissioner Order No. 2294 other than the Shakopee Mill Pond or any other regulations pertaining to the taking and possession of fish.

Dated at St. Paul, Minnesota this 26th day of April, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2374: Revocation of Commissioner's Order No. 2171 Removal of Experimental Regulations for the Taking and Possession of Fish in Trout Run Creek, Winona County

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97C.001, 97C.021 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby revoke Commissioner's Order No. 2171 which prescribed experimental regulations for the taking and possession of fish in Trout Run Creek in Winona County.

Section 1. The provisions of this order shall apply only to Trout Run Creek, Winona County, Township 105 N, Range 10W, Sections 31 and 32, from the downstream side of the bridge at County Highway 43 in Section 31 downstream approximately 1.24 miles to the posted boundary.

Sec. 2. This order shall not be construed to supersede any other regulations pertaining to the taking and possession of fish except to the extent that such other regulations may be inconsistent with the provisions of this order.

Dated at Saint Paul, Minnesota this 26th day of April, 1990.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Transportation

Commissioner's Order No. 75949: Amended Uniform Traffic Control Device Manual

WHEREAS, the Commissioner of Transportation has adopted a manual (Minnesota Manual on Uniform Traffic Control Devices dated December 1986) establishing a uniform system of traffic control devices for streets and highways of the state of Minnesota as required by *Minnesota Statutes*, Section 169.06, Subdivision 1; and

WHEREAS, said manual is being revised, to be adopted and distributed during calendar year 1990, and

WHEREAS, said manual includes Appendix B, "Traffic Controls for Short Term Street or Highway Work Zones" dated September 1985, hereinafter referenced as Appendix B dated September 1985; and

WHEREAS, a new and revised Appendix B, "Traffic Controls for Short Term Street or Highway Work Zones" dated March 1990, hereinafter referenced as Appendix B dated March 1990, has been prepared for inclusion in the proposed 1990 manual; and

WHEREAS, Appendix B dated March 1990 is designed to improve traffic control plans and enhance traffic safety in short-term work zones on Minnesota streets and highways; and

WHEREAS, the Commissioner may authorize and adopt amendments and addenda to the Minnesota Manual on Uniform Traffic Control Devices.

Commissioners' Orders

NOW, THEREFORE, pursuant to the authority vested in my office, and as provided for in *Minnesota Statutes* Section 169.06, Subdivision 1, I do hereby adopt and prescribe Appendix B dated March 1990 as an amendment to the Manual on Uniform Traffic Control Devices of the State of Minnesota, dated December 1986. All governing road authorities in implementing the provisions of the new Appendix B dated March 1990 shall do so by developing a plan of implementation and executing said plan by January 1, 1991. Until the time that the provisions contained in the Appendix B dated March 1990 can be adhered to by a governing road authority, or January 1, 1991, whichever date occurs first, the provisions of Appendix B dated September 1985 shall remain in effect.

This order supplements Commissioner's Order No. 70797 dated December 20, 1985 and will remain in effect until the 1990 Minnesota Manual on Uniform Traffic Control Devices, which will include Appendix B dated March 1990, is adopted by subsequent Commissioner's Order.

Dated: 3 May 1990

Leonard W. Levine
Commissioner of Transportation

Official Notices

Pursuant to the provisions of Minnesota Statutes §14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture

Notice of Restriction on the General Use of Biosynthetic Bovine Somatotropin (BST)

NOTICE IS HEREBY GIVEN that Wisconsin has enacted a moratorium on the use of BST (Wisconsin Act Number 353). Therefore, in accordance with *Laws of Minnesota 1990*, Chapter 526, section 15, the general use of BST is restricted in Minnesota from June 13, 1990 until June 12, 1991 or until the restriction is no longer in effect in Wisconsin, whichever comes first.

Health Care Access Commission

Notice of Meeting of Health Care Access Commission

The next meeting of the Minnesota Health Care Access Commission will be Thursday, May 24, 1990 from 1:00 to 5:00 p.m. in Room 107 of the Capitol Building. Please call the Health Care Access Office, 297-5980, for further information.

Department of Health

Services for Children with Handicaps (SCH)

Notice of Cost-Sharing Schedule for use in Services for Children with Handicaps

NOTICE IS HEREBY GIVEN that the Cost-Sharing Schedule, prepared according to *Minnesota Rules*, Chapter 4705.0600 Subp. 3 and published here will be effective July 1, 1990

SCH Cost-Sharing Schedule

The applicant's share is one percent of cost for each \$1,000 or fraction of \$1,000 of income above 60 percent of the State gross median income for a household of the same size as the applicant's. The applicant's percent share is found on the schedule by looking under the number which is the number of members of applicant's household to find the income level which includes the applicant's annual household income. The applicant's percent share is shown on the far left of that income level. For each additional household member greater than 10, add 3% to 144% for each additional household member and multiply the new percentage by the State's dollar amount for 4-person households.

Percentage which eligible applicants share in the cost of treatment

Income Levels by Number of Members in Household

%	1	2	3	4	5
0	0 - 12,806	0 - 16,746	0 - 20,685	0 - 24,626	0 - 28,566
1	12,807 - 13,806	16,747 - 17,746	20,687 - 21,686	24,627 - 25,626	28,567 - 29,566
2	13,807 - 14,806	17,747 - 18,746	21,687 - 22,686	25,627 - 26,626	29,567 - 30,566
3	14,807 - 15,806	18,747 - 19,746	22,687 - 23,686	26,627 - 27,626	30,567 - 31,566
4	15,807 - 16,806	19,747 - 20,746	23,687 - 24,686	27,627 - 28,626	31,567 - 32,566
5	16,807 - 17,806	20,747 - 21,746	24,687 - 25,686	28,627 - 29,626	32,567 - 33,566
6	17,807 - 18,806	21,747 - 22,746	25,687 - 26,686	29,627 - 30,626	33,567 - 34,566
7	18,807 - 19,806	22,747 - 23,746	26,687 - 27,686	30,627 - 31,626	34,567 - 35,566
8	19,807 - 20,806	23,747 - 24,746	27,687 - 28,686	31,627 - 32,626	35,567 - 36,566
9	20,807 - 21,806	24,747 - 25,746	28,687 - 29,686	32,627 - 33,626	36,567 - 37,566
10	21,807 - 22,806	25,747 - 26,746	29,687 - 30,686	33,627 - 34,626	37,567 - 38,566
11	22,807 - 23,806	26,747 - 27,746	30,687 - 31,686	34,627 - 35,626	38,567 - 39,566
12	23,807 - 24,806	27,747 - 28,746	31,687 - 32,686	35,627 - 36,626	39,567 - 40,566
13	24,807 - 25,806	28,747 - 29,746	32,687 - 33,686	36,627 - 37,626	40,567 - 41,566
14	25,807 - 26,806	29,747 - 30,746	33,687 - 34,686	37,627 - 38,626	41,567 - 42,566
15	26,807 - 27,806	30,747 - 31,746	34,687 - 35,686	38,627 - 39,626	42,567 - 43,566
16	27,807 - 28,806	31,747 - 32,746	35,687 - 36,686	39,627 - 40,626	43,567 - 44,566
17	28,807 - 29,806	32,747 - 33,746	36,687 - 37,686	40,627 - 41,626	44,567 - 45,566
18	29,807 - 30,806	33,747 - 34,746	37,687 - 38,686	41,627 - 42,626	45,567 - 46,566
%	6	7	8	9	10
0	0 - 32,506	0 - 33,245	0 - 33,984	0 - 34,723	0 - 35,461
1	32,507 - 33,506	33,246 - 34,245	33,985 - 34,984	34,724 - 35,723	35,462 - 36,461
2	33,507 - 34,506	34,246 - 35,245	34,985 - 35,984	35,724 - 36,723	36,462 - 37,461
3	34,507 - 35,506	35,246 - 36,245	35,985 - 36,984	36,724 - 37,723	37,462 - 38,461
4	35,507 - 36,506	36,246 - 37,245	36,985 - 37,984	37,724 - 38,723	38,462 - 39,461
5	36,507 - 37,506	37,246 - 38,245	37,985 - 38,984	38,724 - 39,723	39,462 - 40,461
6	37,507 - 38,506	38,246 - 39,245	38,985 - 39,984	39,724 - 40,723	40,462 - 41,461
7	38,507 - 39,506	39,246 - 40,245	39,985 - 40,984	40,724 - 41,723	41,462 - 42,461
8	39,507 - 40,506	40,246 - 41,245	40,985 - 41,984	41,724 - 42,723	42,462 - 43,461
9	40,507 - 41,506	41,246 - 42,245	41,985 - 42,984	42,724 - 43,723	43,462 - 44,461
10	41,507 - 42,506	42,246 - 43,245	42,985 - 43,984	43,724 - 44,723	44,462 - 45,461
11	42,507 - 43,506	43,246 - 44,245	43,985 - 44,984	44,724 - 45,723	45,462 - 46,461
12	43,507 - 44,506	44,246 - 45,245	44,985 - 46,984	45,724 - 46,723	46,462 - 47,461
13	44,507 - 45,506	45,246 - 46,245	45,985 - 46,984	46,724 - 47,723	47,462 - 48,461
14	45,507 - 46,506	46,246 - 47,245	46,985 - 47,984	47,724 - 48,723	48,462 - 49,461
15	46,507 - 47,506	47,246 - 48,245	47,985 - 48,984	48,724 - 49,723	49,462 - 50,461
16	47,507 - 48,506	48,246 - 49,245	48,985 - 49,984	49,724 - 50,723	50,462 - 51,461
17	48,507 - 49,506	49,246 - 50,245	49,985 - 50,984	50,724 - 51,723	51,462 - 52,461
18	49,507 - 50,506	50,246 - 51,245	50,985 - 51,984	51,724 - 52,723	52,462 - 53,461

Department of Health

Division of Environmental Health

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Lead Abatement

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health is seeking information or opinions from sources outside the department in preparing to propose the adoption of new permanent rules governing lead assessments of certain residences and establishing standards for lead abatement. The adoption of the rules is authorized by *Minnesota Statutes*, sections 144.871 to 144.878 as adopted in *Laws of Minnesota 1990*, chapter 533. The Department of Health requests information and comment on the subject

Official Notices

matter of the rules. Interested or affected persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Douglas M. Benson
Minnesota Department of Health
Division of Environmental Health
925 Delaware Street Southeast
P.O. Box 59040
Minneapolis, Minnesota 55459-0040

Oral statements will be received during regular business hours over the telephone at (612) 627-5017.

All statements of information and opinions will be accepted until the permanent rules are formally proposed for adoption. Any written material received by the Department of Health will become part of the rulemaking record to be submitted to the Office of the Attorney General or the Office of Administrative Hearings in the event that a rule is adopted.

Dated: 3 May 1990

Jane A. Nelson, Rules Coordinator
Division of Environmental Health

Higher Education Facilities Authority

Notice of Public Hearing on Proposal to Issue Revenue Bonds

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to a proposal to issue revenue bonds on behalf of Northwestern College of Chiropractic, a Minnesota non-profit corporation and institution of higher education (the "College"), at the Authority's offices at Suite 450 Galtier Plaza, 175 East Fifth Street, St. Paul, Minnesota on May 23, 1990 at 2 o'clock p.m. Under the proposal, the Authority would issue its revenue bonds in an aggregate principal amount of up to approximately \$5,330,000, to provide financing for a Project generally described as (i) the purchase of the land and building constituting the campus of the College, at 2501 West 84th Street, Bloomington, Minnesota, 55431, pursuant to and for the purpose of refinancing a Contract for Deed between the College and Independent School District No. 271, dated August 5, 1983; (ii) the construction of an approximately 24,800 square foot facility for Chiropractic Clinical Research Studies, and improvement of the existing building, including the expansion, refurbishing and remodeling of the Library, the refurbishing and remodeling of the Auditorium and remodeling and refurbishing of existing administrative offices and expansion of the existing building and construction of additional administrative offices in the expanded area, and acquisition and installation of related furnishings and capital equipment, all located or to be located on the campus at such street address; (iii) the acquisition, improving, furnishing and equipping, including site acquisition and appurtenant site improvements, of a 3,500 square foot outpatient clinic to be owned and operated by the College and located on a 36,000 square foot parcel of land at 12445 River Ridge Blvd., Burnsville, Minnesota. At said time and place the Authority shall give all parties who appear an opportunity to express their views with respect to the proposal to undertake and finance the Project.

Dated: 14 May 1990

BY ORDER OF THE MINNESOTA HIGHER
EDUCATION FACILITIES AUTHORITY
Joseph E. LaBelle
Executive Director

Department of Human Services

Notice of Payments for Inpatient Hospital Services under MA and GAMC

The purpose of this notice is to provide information concerning payments for inpatient hospital services under the Medical Assistance (MA) and General Assistance Medical Care (GAMC) Programs.

A. *Minnesota Sessions Laws 1990*, chapter 568, article 3, sections 17-19 amended Statutes relating to rate establishment and payment procedures under *Minnesota Rules*, parts 9500.1090 to 9500.1155 (Rule 54).

1. *Minnesota Statutes* 256.969, subd. 6a, (i) changes the payment methodology for mental health and chemical dependency admissions effective July 1, 1990. Payments will be based on an allocation of the per admission rate to a per day rate based on the average length of stay. The change also prohibits the billing of other government agencies for stays imposed under a court ordered hold that are medically necessary. The annualized reduction for fiscal year 1991 is estimated to be \$2,971,000 under MA and \$742,000 under GMAC.

2. *Minnesota Statutes* 256.9695, subd. 1, (b) extends the time for filing of a case mix appeal from 60 to 120 days after the end of a rate year effective July 1, 1990.

3. *Minnesota Statutes* 256.9695, subd. 3 extends the transition period for implementation of changes enacted in the 1989 session such as rebasing of cost data from January 1991 to the effective date of the upgrade to the Medicaid Management Information System.

4. *Minnesota Statutes* 256.9695, subd. 3, (c) limits the hospital cost index to five percent effective June 1, 1990 except in the case of small hospitals that currently meet the criteria for the current rateable increase. The additional one percent factor included in the cost index to account for technology changes is eliminated June 1, 1990 for all hospitals. The annualized reduction for fiscal year 1991 is estimated to be \$2,257,000 under MA and \$527,000 under GMAC.

B. The following disproportionate population adjustment (DPA) factors are effective July 1, 1990 and have not changed from the current year. However, the federal government has published proposed DPA regulations that could result in a change to the listed factor. In that event, hospitals will be notified of the necessary revisions. The operating rate of each hospital is increased by the indicated percentage.

PID	HOSPITAL	DPA %
0101778	Monticello/Big Lake	.34
0101100	Parkers Prairie District	.44
0101916	United, Grand Forks	.91
0100049	St. Mary's Detroit Lakes	.97
0100027	Mercy, Coon Rapids	1.80
0100912	Trimont	2.09
010005X	Bemidji	2.44
0100504	Fairview & Deaconess, Mpls.	2.76
0100730	International Falls	3.99
0101869	St. Francis, LaCrosse	4.15
0101224	Midway, Mounds Park, St. Paul	4.16
0101439	Miller Dwan, Duluth	5.34
0100570	University of Minnesota, Mpls.	5.55
0101428	Central Mesabi, Hibbing	5.62
0101552	St. Cloud	5.70
0101290	St. Paul Ramsey	6.82
0101825	Children's Health Center, Mpls.	7.47
0102443	Riverwood, Prescott	8.09
0101213	St. Paul Children's	11.48
0100490	Hennepin Co Medical Center, Mpls.	12.66
0102002	Gillette Children's, St. Paul	14.84

Questions or comments may be directed to:

Paul Olson
 Supervisor
 Hospital Unit
 Department of Human Services
 444 Lafayette Road
 St. Paul, Minnesota 55155-3836
 (612) 296-5620

Legislative Coordinating Commission

Nominations Accepted for Positions on the University of Minnesota's Board of Regents

Nominations are open for four positions on the Board of Regents of the University of Minnesota. Terms of the four members from Congressional Districts 1, 4, 6 and 7 will expire in 1991, creating four vacancies. The Regent Candidate Advisory Council will screen applicants and recommend candidates to the Legislature. Nominees may be self-nominated or nominated by one or more citizens. For further information and/or applications, please contact Mary E. Ryan, (612) 296-1121 or write to Room 85, State Office Building, St. Paul, MN 55155. Nominations will close November 15, 1990. Applications of those nominated must be postmarked no later than December 1, 1990.

Official Notices

Department of Natural Resources

Notice of Intent to Hold State Metallic Minerals Lease Sale State Lands to be Offered for Metallic Minerals Exploration

The Minnesota Department of Natural Resources announces that plans are being developed to hold the state's fourteenth sale of metallic minerals exploration and mining leases. The sale is tentatively scheduled for October 1990. The lease sale plans are being announced at this time in order to give mining companies, public interest groups and all other interested parties additional time to review the areas under consideration.

The purpose of Minnesota's metallic minerals rules (*Minnesota Rules* parts 6125.0100-.0700) is to promote and regulate the prospecting for, mining and removal of metallic minerals on state-owned and state-administered lands. These rules, and the leases issued under these rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of rentals that increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the addressing of environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

The areas under consideration for the lease sale cover portions of Itasca, Koochiching, Lake, Lake of the Woods and St. Louis Counties. Some of the lands being considered have been offered in previous metallic minerals lease sales, but based upon the interest shown by industry, new geologic data, and exploration techniques developed during the past few years, it is felt that within these lands there is significant potential for the discovery of mineral resources. Certain new lands of interest are also being considered for the lease sale.

The exact time and place of the lease sale will be announced by legal notice at least thirty days prior to the sale. Mining unit books, listing the state lands to be offered at the lease sale, will be available for inspection or purchase at that time.

A map showing the general areas under consideration may be obtained from the Division of Minerals, Box 45, 500 Lafayette Road, St. Paul, MN 55155-4045, telephone (612) 296-4807.

Dated: 1 May 1990

Joseph N. Alexander
Commissioner of Natural Resources

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Revision of Rule Governing Hazardous Waste Recycling, Reuse, and Reclamation Facilities

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources regarding the possible amendment of rules governing hazardous waste recycling, reuse, and reclamation facilities. These rules are authorized by *Minnesota Statutes* sec. 116.07, subd. 4, which allows the Agency to adopt rules relating to the regulation of hazardous waste. The existing rules under consideration for revision are found at *Minnesota Rules* pts. 7045.0125 (Management of Waste by Use, Reuse, Recycling, and Reclamation) and 7001.0520 (Permit Requirements). The Agency is reevaluating the requirements placed on operators of recycling facilities. The Agency is also reviewing the management requirements placed on very small quantity generators related to hazardous waste which is recycled.

The Agency requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral comments should be directed to:

Jeanne Eggleston
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
Telephone: (612) 643-3476

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until June 14, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Division of Air Quality

Notice of Intent to Solicit Outside Information Regarding Proposed New Rules Regarding the Removal of Lead Paint from Residences, Bridges and Water Towers

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or comments from outside sources in preparing to propose the adoption of new rules restricting the use of abrasive blasting and other paint removal methods to remove lead paint from residences, bridges and water towers. The adoption of the rules is authorized by *Minnesota Statutes* § 116.07 (1988), which authorizes the MPCA to adopt and amend rules for the prevention, abatement or control of air pollution.

The MPCA requests information and comments concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. All statements should be submitted to:

Gordon Anderson
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: (612) 296-7667

Oral comments and inquiries will be received by Mr. Anderson during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All written or oral statements will be accepted until June 15, 1990. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is adopted.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Revision of Rule Governing Small Quantity Generators of Hazardous Waste

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources regarding the possible amendment of rules governing small quantity generators of hazardous waste. These rules are authorized by *Minnesota Statutes* sec. 116.07, subd. 4, which allows the Agency to adopt rules relating to the regulation of hazardous waste generators. The existing rules under consideration for revision are found at *Minnesota Rules* pts. 7045.0219 (Special Requirements for Small Quantity Generators of Hazardous Waste), 7045.0220 (Disclosure; Management Plan), 7045.0230 (Content of Disclosure), 7045.0240 (Submission of a Disclosure to the Commissioner), 7045.0245 (Approval of Disclosures), 7045.0249 (Management Changes), 7045.0296 (Annual Reporting), 7045.0298 (Exception Reporting), and 7046.0311 (Nonmetropolitan Area Generator Fees as it relates to small quantity generators). Among the revisions under consideration is the establishment of a very small quantity generator category with reduced hazardous waste management requirements.

The Agency requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral comments should be directed to:

Jeanne Eggleston
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
Telephone: (612) 643-3476

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until June 14, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Board of Teaching

Notice of Intent to Solicit Outside Opinion Concerning the Proposed Amendment of Rules Governing Teacher Licensure in Secondary Trade and Industrial Occupations

NOTICE IS HEREBY GIVEN that the Board of Teaching is seeking information or opinions from sources outside the Board in preparing to propose the adoption of amendments to teacher licensure rules governing secondary trade and industrial occupations. Any interested person may submit data or views on this subject in writing or orally to:

Kenneth L. Peatross, Executive Secretary
Minnesota Board of Teaching
608 Capitol Square
550 Cedar Street
St. Paul, MN 55101
612/296-2415

Any written materials received by the Board shall become part of the hearing record in the event that the amendments to the rules governing this subject are promulgated.

Department of Transportation

Petition of the City of Maplewood for a variance from State Aid requirements for STREET WIDTH

NOTICE IS HEREBY GIVEN that the City Council of the City of Maplewood has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on MSAS 114 (Upper Afton Road) from McKnight Road to Trunk Highway 120.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the construction of divided roadways with a 18 foot curb-to-curb width, a median island, and a 26 foot curb-to-curb width and no parking instead of the required minimum of a 25 foot curb-to-curb width, a median island, and a 25 foot curb-to-curb width and no parking.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of Mendota Heights for a variance from minimum State Aid standards for DESIGN SPEED and USE OF STATE AID FUNDS

NOTICE IS HEREBY GIVEN that the City Council of the City of Mendota Heights has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a bituminous walkway project on MSAS 101 (Marie Avenue) from Dodd Road to Delaware Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.1200 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 25 miles per hour for two crest vertical curves and one sag vertical curve between engineers stations 19+00 and 24+00 instead of the required minimum of 30 miles per hour and from 8820.2800 which provides that only those projects for which plans are approved by the state aid engineer prior to the award of contract are eligible for state aid construction funds.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of New Brighton for a variance from State Aid requirements for USE OF STATE AID FUNDS

NOTICE IS HEREBY GIVEN that the City Council of the City of New Brighton has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from the requirement that a street must meet State Aid standards when using State Aid funds to construct sidewalk for a proposed sidewalk construction project on CSAH 15 (County Road E) from Stinson Boulevard to Silver Lake Road.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.3100 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the use of State Aid funds to finance S.A.P. 147-020-16.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of St. Cloud for a variance from minimum State Aid standards for STREET WIDTH

NOTICE IS HEREBY GIVEN that the City Council of the City of St. Cloud has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed reconstruction project on MSAS 101 (Michigan Avenue) between Kilian Boulevard and 15th Avenue S.E.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 48 feet, two traffic lanes, a center two-way left turn lane, and no parking lanes, instead of the required minimum of 52 feet, four traffic lanes and no parking lanes.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of White Bear Lake for a variance from State Aid Administration requirements for determination of MAINTENANCE MONIES

NOTICE IS HEREBY GIVEN that the City Council of the City of White Bear Lake has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 from requirements for establishing the City of White Bear Lake's 1990 State Aid Maintenance Allocation.

Official Notices

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.1400 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the City to increase their 1990 Maintenance Allotment by \$139,589. The monies to be transferred from their State Aid Construction account to their State Aid Maintenance account.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Brown for a variance from minimum State Aid standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the County Board of the County of Brown has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed surfacing project on CSAH 13 between Hanska and New Ulm.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 38 miles per hour for one sag vertical curve on the south approach to Bridge 6534 instead of the required minimum of 40 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Winona for a variance from minimum State Aid standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the County Board of the County of Winona has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rule as they apply to a proposed resurfacing project on CSAH 29 from the south county line to the junction of CSAH 2.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 35 miles per hour for one sag vertical curve and three crest vertical curves instead of the required minimum of 40 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 2 May 1990

Leonard W. Levine
Commissioner

Board of Water and Soil Resources

Notice of Monthly Meeting of the Board

The Board of Water and Soil Resources will hold their monthly meeting on Wednesday, May 23, 1990, at 9:00 a.m., at the Holiday Inn-North, 2540 North Cleveland, Roseville, Minnesota 55113.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. §14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Seating
Contact: John Bauer 296-2621
Bid due date at 2pm: May 18
Agency: Normandale Community College
Deliver to: Bloomington
Requisition #: 02310-17917

Commodity: 3 Panel Displays
Contact: John Bauer 296-2621
Bid due date at 2pm: May 18
Agency: Natural Resources Department
Deliver to: St. Paul
Requisition #: 29000-54100

Commodity: Zenith 386/20 Computer
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: May 18
Agency: State University
Deliver to: Moorhead
Requisition #: 26072-02200

Commodity: Wood shakes
Contact: Joyce Dehn 297-3830
Bid due date at 2pm: May 18
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: Price Contract

Commodity: Wood roof deck
Contact: Joyce Dehn 297-3830
Bid due date at 2pm: May 18
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: Price Contract

Commodity: Automatic sample evaporation system
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: May 17
Agency: Minnesota Health Department
Deliver to: Minneapolis
Requisition #: 12400-47464

Commodity: Carbon monoxide monitor
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: May 17
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000-05576

Commodity: Production switcher
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: May 18
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000-05558

Commodity: Treated timber
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: May 18
Agency: Transportation Department
Deliver to: Oakdale
Requisition #: 79900-04010

Commodity: Unleaded gasoline, gasohol, #1 & #2 regular diesel fuel
Contact: Dale Meyer 296-3773
Bid due date at 2pm: May 21
Agency: Transportation Department
Deliver to: Glenwood
Requisition #: Price Contract

Commodity: EEG unit
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: May 21
Agency: State University
Deliver to: Moorhead
Requisition #: 26072-02190

Commodity: Forensic light source
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: May 21
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07300-68852

Commodity: Eschenbach Supplies
Contact: Joseph Gibbs 296-3750
Bid due date at 4:30pm: May 21
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 21701-23470

Commodity: Macintosh hard disks
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: May 20
Agency: North Hennepin Community College
Deliver to: Minneapolis
Requisition #: 27152-21267

Commodity: Purchase of copiers
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: May 20
Agency: Corrections Department
Deliver to: St. Paul
Requisition #: 78000-22601

State Contracts and Advertised Bids

Commodity: American desk seating
Contact: John Bauer 296-2621
Bid due date at 4:30pm: May 22
Agency: Human Service Department
Regional Treatment Center
Deliver to: Anoka
Requisition #: 55100-04492

Commodity: Fire extinguisher servicing
and recharging
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: May 29
Agency: Various-Metro Area
Deliver to: Various
Requisition #: Price Contract

Commodity: Steel: common use items
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: May 29
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Telecommunications:
Norstar key system
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: May 31
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Communication equipment
Contact: Pamela Anderson 296-3770
Bid due date at 2pm: June 19
Agency: Public Safety Department
Deliver to: Various
Requisition #: 07500-61362

Commodity: Meat for July delivery
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: June 11
Agency: Correctional Facility
Deliver to: Oak Park Heights
Requisition #: 78630-09151

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: Children's services brochure/folder system. 1M brochures 8 pages + cover. 9" x 18½" folded to 6½" x 9"; 500 sheets 9½" x 26" folded to 6¾" x 9½"; 1M program cards each of five different kinds 5½" x 8½"; 1M each of 7 different brochures. 8½" x 11"

Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 6778

Commodity: Brochure (20M 16⅞" x 11" folded to 4½" x 11"), report covers (500 8½" x 11") business cards (1,500 each of 9 different names 2" x 3½"), bleeds, screens, color keys, multi-colors

Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 6953

Commodity: Deaf services folder with inserts, 2M folders 15¾" x 10" folded to 5¾" x 10", 8 inserts 2M each, 5⅞" x 10", 2-colors

Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 7004

Commodity: Job service folders with inserts, 1,700 sets, camera ready negs, (folders 9" x 12" with 2 pockets with ½" glue tab), (inserts—6 total, 2 each: 8½" x 11", 8½" x 10" and 8½" x 9"), collate, two colors, union label required

Contact: Printing Buyer's Office
Bids are due: May 17
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 7139

Commodity: WIC authorization/transfer of certification, 50M 10¾" x 12" overall, 3-folds to 3⅞" x 7½", type to set + negs, 2-sided

Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Minnesota Health Department
Deliver to: Minneapolis
Requisition #: 7114

Commodity: Pollution control DMR form, 1,500 3-part sets, carbonless, camera ready + add screens, 1-sided

Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Pollution Control Agency
Deliver to: St. Paul
Requisition #: 7014

Commodity: Pollution control 703 supplemental form, 40 pads of 15 (600 3-part sets), 17" x 11" plus tab, camera ready, 1-sided, carbonless
Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Pollution Control Agency
Deliver to: St. Paul
Requisition #: 7013

Commodity: Evidence tape envelope, 5M envelopes, 4" x 6½" + 1½/16" round flap, type to set, 1-sided
Contact: Printing Buyer's Office
Bids are due: May 16
Agency: Bureau of Criminal Apprehension
Deliver to: St. Paul
Requisition #: 7076

Commodity: Handbook of Retirement, 75M, 56-pages + cover, 8½"x11", negs available, 2-sided, saddle stitch
Contact: Printing Buyer's Office
Bids are due: May 22
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 7141

Minnesota's future environment

The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.

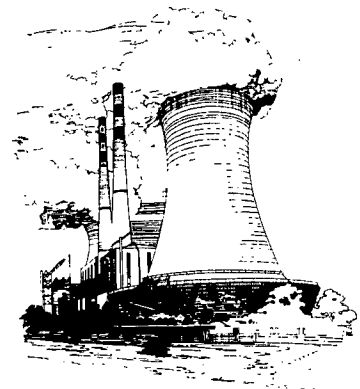
1989 Pollution Control Laws

Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. \$24.95.

1989 Hazardous Waste Rules

Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. \$16.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. *Prices are subject to change.* FAX: (612) 296-2265.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

For Real Estate Professionals:

REAL ESTATE RULES 1987

Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. \$8.00

REAL ESTATE LAWS 1988

Includes all the changes made by the 1986 State Legislature. Complete and up-to-date. Code No. 2-92. \$7.00

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. *Prices are subject to change.* FAX: (612) 296-2265.



Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Professional, Technical & Consulting Contracts

State Designer Selection Board

Request for Proposal for Two Projects: St. Cloud State University and Camp Ripley, Little Falls

To Registered Professional in Minnesota:

The State Designer Selection Board has been requested to select a designer for two projects. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., June 5, 1990, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4) *Mandatory Proposal contents in sequence:*

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) pages. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5) *Statutory Proposal Requirements:*

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

The proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights;

or

c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or

d) A statement certifying that the firm has an application pending for a certificate of compliance.

6) Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

Professional, Technical & Consulting Contracts

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7a) PROJECT—10-90

Lawrence Hall Renovation & Addition
St. Cloud State University

PROJECT BUDGET: \$3.58 million for completion of the facility program: including review of university's program, schematic design, design development, construction documents, bidding, construction, furnishings, and equipment.

SCOPE OF PROJECT: Remodel and construct an addition to Lawrence Hall to provide the following:

- Eighty-four (84) double student occupancy rooms, each with a built-in vanity/lavatory.
- Main desk and post office.
- One (1) two-bedroom apartment for the resident advisor.
- Large central lounge/meeting room.
- Computer study room.
- Recreation room.
- Television room on each floor.
- Study room.
- Laundry room.
- Kitchenette on each floor, with oven, sink, and microwave.
- Elevator.
- Mechanical rooms and circulation.
- Toilet/bath room on each floor.

New mechanical and electrical systems will be required, using the existing central steam supply, electrical service, and providing for hook-up at a future date to a central air conditioning chiller loop system.

Code items will include handicap accessibility, fire sprinklering, and exits.

PROJECT GROSS SQUARE FEET (GSF):

Remodeling	34,497
New construction	<u>5,400</u>
Total remodeling/new construction	41,897 GSF

The completed project is expected to have a net-to-gross ratio of 0.62.

PROGRAM SUMMARY:

The remodeling/addition shall include the following spaces:

TYPE	ESTIMATED NASF	
1. Sleep/Study	18,000	
2. Laundry	500	
3. Toilet/Bath	2,000	
4. Study/Reading	700	
5. Lounge/Kitchenette	1,100	
6. Recreation	600	
7. Meeting	1,200	
8. Office	600	
9. Apartment	<u>1,300</u>	26,000
10. Construction		6,000
11. Custodial		1,200
12. Mechanical		1,600
13. Circulation		<u>7,097</u>
GROSS SQUARE FEET		41,897

Professional, Technical & Consulting Contracts

SITE:

Lawrence Hall is located in the east central part of the campus with the back of the building on the Mississippi River and the front on the east edge of the mall bounded by Stewart Hall, the Atwood Student Center, the historic Whitney House, and Kiehle Hall. The addition, which is expected to encroach on the mall, must be very carefully considered so that it works with the existing building design and does not compromise the character of the mall.

PURPOSE OF THE PROJECT:

Lawrence Hall, constructed in 1905 as a dormitory and converted to academic use several years ago, will be renovated back to a residence hall, with today's amenities, such as each student room wired for the campus computer system, telephone, and cable TV access, and controlled public access to recognize the need for residents' personal security within the building.

BUILDING CONSTRUCTION:

Lawrence Hall is the oldest building on campus and its present design is important to the character of the university. The exterior is sound face brick requiring minor repairs. The roof and sheet metal at the cornices and eaves are in poor condition and require substantial repair. These repairs must match the original building design. The addition shall blend with the existing building in terms of its exterior appearance. Basic building systems of the addition will be consistent with existing. Included in the mechanical system design shall be a provision to accept the extension of the campus chiller loop (by university) to provide future air conditioning throughout the building.

Abatement of asbestos-containing materials, not part of this project, will be done prior to construction. Abatement of PCB-containing equipment, not part of this project, will be done during construction.

ARCHITECTURAL RESPONSIBILITIES:

The architect shall be responsible for, but not limited to, such tasks as: review of the university space program, preparation of preliminary schematics and cost estimates, project design, preparation of final working drawings and specifications required for bidding, and project administration during construction, including but not limited to preparation of construction change orders, review and approval of shop drawings and payment requests, oversight of project construction for owner (including on-site observation), and project acceptance.

Prior experience with the design and construction of large group facilities is desirable.

Consultant's fee shall be fixed, and shall be computed as a percent of the amount budgeted by the State for construction. Consultant's proposal shall state Consultant's policy concerning additional Consultant services resulting from acceptable low bid exceeding or falling short of the construction budget.

ARCHITECTURAL FEE: 7.0% of the Allocated Construction Cost.

UNIVERSITY CONTACT:

William Radovich, Vice President for Administrative Affairs
St. Cloud State University
St. Cloud, Minnesota 56301
(612) 255-2286

STATE UNIVERSITY SYSTEM CONTACT:

David Hardin, Director of Facilities Management
Minnesota State University System
555 Park Street, Suite 230
St. Paul, Minnesota 55103
(612) 296-6624

7b) PROJECT—11-90

Heavy Equipment Maintenance Building
Camp Ripley, Little Falls, Minnesota

GENERAL DESCRIPTION OF PROJECT:

The project involves completion of a vehicle maintenance building that was dismantled on the iron range near Chisholm and moved to Camp Ripley. The main steel super-structure has been reassembled on new concrete footings/foundation. The remainder of the building is uncompleted.

PROJECT DETAILS:

Design requirements include but are not limited to:

- Cleaning and painting of existing structure.

Professional, Technical & Consulting Contracts

- Exterior insulated sandwich metal roof and wall panels and some framing.
- Overhead doors and frames.
- Interior metal panel and concrete block walls.
- Concrete floors and aprons.
- Electrical work including telephone, power, lighting and primary telephone and electrical services to building.
- Mechanical work including plumbing and water, heating, ventilation, vehicle exhaust, and water and sewer services to building.
- Rehabilitation of existing bridge crane.

The layout and floor plan for building has been established to provide six vehicle bays, office, toilets, equipment and parts storage and mechanical room.

ESTIMATED PROJECT CONSTRUCTION COST: \$508,000.00

WORK TO BE PERFORMED BY THE DESIGNER:

The work includes the preparation and furnishing of required drawings; specifications and allied documents to include bidding documents; presiding at the bid opening; the handling of contract documents; the general supervision of the construction work for the owner; assisting in the preparation of supplemental agreements; review and approval of shop drawings and payment requests; assisting in final acceptance of the work. The specification format will be the designer's normal for commercial work, tailored to the project.

DESIGNER'S FEE FOR THE WORK:

The fee for design, printing, travel and supervision services is Government established on a variable scale at a percentage of the construction cost of the work. Estimated fee is 6.4%. The Department of Military Affairs will provide the designer with programming documents and Department construction standards which include space criteria, supporting facility criteria, construction standards, authorized finish schedules and use relationships.

Questions concerning this project may be referred to Tom Vesely at (612) 632-6631.

Mark Anderson, Chairman
State Designer Selection Board

Higher Education Coordinating Board

Notice of Availability of Request for Proposals for Graphic Arts and Design Services

The Higher Education Coordinating Board is requesting proposals from qualified graphic designers for consulting services to provide assistance for FY 1991. Proposals must be submitted no later than June 5, 1990.

Copies of the RFP are available from:

Communications
MHECB
400 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-9678

Dated: 3 May 1990

Minnesota Pollution Control Agency

Division of Air Quality

Notice of Request for Proposals for Consultant Services to Assist the Minnesota Pollution Control Agency in Evaluating Air and Ash Emissions from Medical Waste Incinerators in Minnesota

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking proposals for consultant services to assist it in evaluating air and ash emissions from three small (no pollution control equipment) medical waste incinerators within

Professional, Technical & Consulting Contracts

Minnesota. Funding for this contract will be provided by state funds. This Request for Proposals does not obligate the MPCA to enter into a contract for these services, and the MPCA reserves the right to cancel the solicitation if the MPCA considers that to be in its best interest.

Estimated cost: Not to exceed \$150,000

Submission Deadline: 4:30 p.m., June 18, 1990

Contact Person: Peter Torkelson
Minnesota Pollution Control Agency
Division of Air Quality
520 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-7260

Interested persons may obtain a Request for Proposals from and submit proposals to Mr. Torkelson.

Gerald L. Willet
Commissioner

Department of Public Safety

Office of Traffic Safety

Request for Proposals for a Roadside Survey of Drinking and Driving in Minnesota

The Department of Public Safety is seeking proposals to plan and conduct a roadside survey of drinking and driving in Minnesota. The survey is to be conducted during September of 1990; the written report is to be completed by December 1, 1990. The research design must be compatible with similar research conducted in other states. Details of the plan are contained in a Request for Proposals which may be obtained by calling or writing:

Telephone: (612) 296-9490

Address: Office of Traffic Safety
Department of Public Safety
207 Transportation Building
St. Paul, MN 55155

Contact: Karen M. Sprattler

Estimated cost of the contract is \$90,000.00. Final date for submitting proposals is Friday, June 8, 1990, by 4:00 p.m.

State Board of Vocational Technical Education

Notice of Request for Proposals for Adult Education in Consumer and Homemaking Education

The State Board of Vocational Technical Education is seeking proposals for projects to provide research, curriculum, development, expand, continue or initiate new programs to serve families through extension offerings on worksite, on campus or a customized design.

Application for these monies must be made through a Technical College. The requests must address the needs of families. Grants for the purposes set forth may be used for—program development and improvement of instruction, curricula, support services and activities relating to managing individual and family resources, making consumer choices, managing home and work responsibilities, improving responses to individual and family crisis, strengthening parenting skills, assisting aged and handicapped individuals, improving nutrition, conserving limited resources, understanding the impact of new technology on life and work, applying consumer and homemaking education skills to jobs and careers, and other needs as determined by the State.

The RFP application and additional information should be requested from:

Florence K. Stater, Program Manager
State Board of Vocational Technical Education
550 Cedar Street, Capitol Square Building, Suite 350
St. Paul, MN 55101
(612) 296-0667

Approximately \$190,000 will be available statewide for these projects to operate from July 1, 1990 to June 30, 1991. Proposals must be received by Florence K. Stater, at the above address on Monday, June 11, 1990.

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Jobs & Training

Division of Rehabilitation Services

Notice of Availability of Funds for Extended Employment Programs

Rehabilitation facilities with certified Extended Employment Program(s) may apply for funds granted by the Division of Rehabilitation Services in accordance with *Minnesota Rules* 3300.1950—3300.3050. Application forms for funding Extended Employment Programs (Supported Employment, Long-Term Employment, Work Activity and Work Component) are available from the Department of Jobs and Training, Division of Rehabilitation Services, Office of Rehabilitation Resources, 390 North Robert Street, Fifth Floor, St. Paul, MN 55101. Completed applications must be postmarked July 27, 1990, or delivered to the above address by 4:30 p.m. on that date.

Applications are required for funding Extended Employment programs currently receiving State Extended Employment funds from the Division of Rehabilitation Services, and are also required for new or expanded programs.

Any city, town, county, non-profit organization, or any combination of these which operates or proposes to operate a public or non-profit Extended Employment program may apply for funding.

For additional information contact the Office of the Director of Rehabilitation Resources, (612) 296-5628.

Tax Court

Pursuant to Minn. Stat. §271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in §271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

A subscription service to *all decisions* of the Minnesota Tax Court is available through Minnesota's Bookstore. An annual subscription for a full 12 months costs \$275, renewable on the subscription's anniversary. Individual decisions may be purchased for \$2.25 plus 6% sales tax and \$1.50 postage/handling per order. Decisions printed below do not include the written memorandums attached to each decision. The memorandums explain the court's reasons for its decisions and can be very lengthy. To subscribe, or order individual decisions, use the handy order form at the back of this magazine, or call (612) 296-0931 for more information.

TAX COURT—REGULAR DIVISION

DOCKET NO. 5024—Dated: April 24, 1990

C. Bruce Solomonson, Appellant, vs. Commissioner of Revenue, Appellee.

The above-entitled matter came on for hearing before the Honorable Arthur C. Roemer, Judge of the Minnesota Tax Court, on November 16, 1989, at the Hennepin County Juvenile Justice Center in Minneapolis, Minnesota.

Timothy J. Nolan, Attorney at Law, of the firm of O'Connor and Hannan, appeared on behalf of the appellant.

David R. Brennan and Linda S. Svitak, Attorneys at Law, of the firm of Faegre and Benson, appeared on behalf of the appellee. Post-trial briefs were filed by both parties and the matter was submitted to the Court for decision on February 5, 1990.

The issue in this case involves the amount of the withholding tax liability of Caswell Ross Agency, Inc., and the personal liability, if any, of the appellant for the amount of the unpaid tax and/or penalty and interest.

The Court, having heard and considered the evidence adduced at the hearing and upon all of the files and records herein, now makes the following:

FINDINGS OF FACT

1. Caswell Ross Agency, Inc. (hereinafter "CRA") was a Minnesota corporation doing business as an insurance agency.
2. CRA was purchased by Regional Finance Agencies, Inc. ("RFA") in July, 1985. Initially the appellant, C. Bruce Solomonson, owned a 50 percent interest in both RFA and CRA, and was Chairman. Patrick I. McGovern, a 25 percent owner in both entities, was President of both entities. R.F.I.H., Inc., a company wholly owned by John Morrison, held the remaining 25 percent of the stock. John Morrison was Vice President of both RFA and CRA.
3. In late 1986 CRA redeemed the shares of R.F.I.H., and the appellant became a $\frac{2}{3}$ (66.6 percent) owner of CRA and RFA, and Patrick McGovern became a 33.3 percent owner of both entities.
4. During the taxable period June, 1986 through June, 1987, CRA failed to file state withholding tax returns or pay state withholding taxes.
5. Between October 21, 1987 and November 3, 1987, CRA paid a total of \$100,103.96, which represented an amount equal to the delinquent withholding tax principal.
6. On November 16, 1987, the Commissioner of Revenue issued Orders assessing personal liability against appellant and Patrick McGovern for \$33,134.44, which is an amount equal to the penalty and interest on the delinquent withholding taxes.
7. Prior to the issuance of the Commissioner's Orders at issue, the appellant had absented himself from the CRA premises at 6800 France Avenue South, Minneapolis, Minnesota.
8. The November 16, 1987 Orders were sent in care of Insurance Consulting Services, Inc., located in Eden Prairie, which was considered to be CRA's operative business address.
9. Mr. McGovern received a copy of the Order, and on November 25, 1987, filed a protest of the Commissioner's November 16, 1987 Order.
10. Appellant alleges that he did not receive a copy of the November 16, 1987 Order of the Commissioner of Revenue and was not aware of it until a tax lien was filed on December 11, 1987 against his homestead property.
11. A second copy of the Commissioner's Order of November 16th was sent to appellant, and the Commissioner re-opened the protest period to allow appellant the opportunity to protest the Order.
12. On December 26, 1987, appellant filed a protest of the November 16, 1987 Order imposing personal liability.
13. On or about December 18, 1987, prior to the receipt of appellant's protest and without consulting or informing appellant, the Commissioner agreed to abate the penalty as to CRA and Mr. McGovern in exchange for the payment of a sum equal to the delinquent withholding tax principal and interest.
14. CRA paid the Commissioner an additional \$7,000, a sum equal to the delinquent interest on the withholding tax liability.
15. In the Commissioner's letter to CRA and Mr. McGovern of December 18, 1987, the Commissioner did not relinquish his rights to continue collection efforts from the appellant.
16. Appellant's protest was subsequently denied by the Commissioner citing as a reason appellant's failure to demonstrate reasonable cause for an abatement.
17. On February 9, 1988, appellant timely filed a Notice of Appeal from the Commissioner's January 13, 1988 Order Denying Protest.
18. The attached Memorandum is hereby made a part of these Findings of Fact.

CONCLUSIONS OF LAW

1. The appellant was a person with the requisite legal control to be held personally liable for unpaid withholding taxes under *Minnesota Statutes* § 290.92, arising from the withholding tax assessment against Caswell Ross Agency, Inc.
2. The appellant's motion to amend his Notice of Appeal under *Minnesota Rules of Civil Procedure* 15, to include a claim that the assessment is inaccurate, is granted.

Supreme Court Decisions, Opinions & Rules

3. Appellant received actual notice of the November 16, 1987 assessment of personal liability and a full opportunity to protest that Order, plus the opportunity to appeal that Order to this Court.

4. The assessment against the appellant has not been discharged by the payments made by Caswell Ross Agency, Inc. and Mr. McGovern.

5. The withholding tax payments by Caswell Ross Agency, Inc. included \$6,045 based upon income Mr. McGovern received from Professional Writers, Inc., for which Caswell Ross Agency, Inc. has not been determined to be responsible.

6. The assessment against the appellant of \$24,957.59 should be reduced by \$6,045, leaving a balance of \$18,912.59.

7. The imposition of the remaining amount due (\$18,912.59) against the appellant is neither unjust nor inequitable.

8. The Commissioner's motion to amend its answer to assert an alternative theory is hereby granted.

9. Crediting first to penalty, next to interest, then to tax, would not change the amount of the appellant's liability. Appellant is liable for the net amount of tax, penalty and interest remaining unpaid.

10. Based on the foregoing Findings of Fact and Conclusions of Law, the January 13, 1988 Order of the Commissioner from which this appeal was taken shall be reduced to \$18,912.59.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

BY THE COURT,

Arthur C. Roemer, Judge
Minnesota Tax Court

Supreme Court Decisions, Opinions & Rules

Decisions Filed 7 May 1990

C7-90-241 State of Minnesota v. Melvin Edwin Gilbertson, Appellant. Court of Appeals.

In case in which presumptive sentence established by Sentencing Guidelines was two stayed concurrent terms of 1 year and 1 day, the maximum amount of probationary jail time the defendant may be required to serve is 8 months.

Affirmed as modified. Simonett, J.

Decisions Filed 11 May 1990

C2-88-1345 Donald J. Diesen v. John Hessburg, et al., petitioners, Appellants. Court of Appeals.

1. An allegedly false implication arising out of true statements is generally not actionable in defamation by a public official plaintiff against media defendant.

2. The record failed to establish actual malice with convincing clarity where media appellants verified sources, complied with journalism standards for reporting and editing, and did not publish the speech with reckless disregard for its truth.

Reversed. Popovich, C.J.

Dissenting, Yetka, Kelley, JJ.

Concurring specially, Simonett, Coyne, JJ.

C9-88-2119 Halla Nursery, Inc. v. Baumann-Furrie & Co., et al., petitioners, Appellants.

1. The trial court did not err in applying the principles of comparative fault in this action by a client against an accountant for negligent failure to discover embezzlements in the client's business.

2. The trial court erred in concluding that its failure to instruct the jury on the effects of comparative fault was a fundamental error of law requiring a new trial.

Reversed. Wahl, J.

C4-89-1650 American Association of Cereal Chemists, et al., Relators v. County of Dakota. Tax Court.

1. Because relators failed to meet their burden of proving that they were purely public charities, their real property is not exempt from taxation under *Minnesota Statutes* § 272.01, subd. 1(6) (1988).

2. Relators failed to meet their burden of proving that they are seminaries of learning and are therefore not exempt from real property taxation under *Minnesota Statutes* § 272.02 subd. 1(4) (1988).

Affirmed. Wahl, J.

Supreme Court Decisions, Opinions & Rules

C1-89-1671 Donald Shetka, et al. v. Kueppers, Kueppers, Von Feldt and Salmen, a partnership, et al., Appellants v. T. Jay Salmen, et al. Court of Appeals.

Because the financial condition of nonculpable partners in a law firm, who may be liable if at all only vicariously, is irrelevant to resolution of a plaintiff's legal malpractice claim asserting punitive damages, that financial condition is not discoverable before entry of judgment.

Reversed. Kelley, J.

C2-89-979, C1-89-1007 Nathan E. Chapman, et al., Plaintiffs, Rachael M. Rouse, a minor by and through her mother and natural guardian, Celeste M. Rouse v. Special School District No. 1, petitioner, Appellant, Gerald Grady, petitioner, Appellant. Court of Appeals.

A motion to vacate a judgment of dismissal based upon excusable neglect, however egregious the conduct of the party's own attorney, must be brought within one year after the judgment, order, or proceeding was entered or taken. *Minnesota Rules of Civil Procedure* 60.02.

Reversed. Coyne, J.

C6-60-37101 In re Petition of Leonard A. Hanson, for Reinstatement to the Practice of Law in the State of Minnesota. Supreme Court.

Reinstatement denied. Per Curiam.

Orders

C6-89-2122 In Re the Petition for Disciplinary Action against Michael A. Ronchetti, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Kelley, J.

Announcements

Natural Resources Department (DNR): Open houses will be offered at all 64 **Minnesota state parks** on Sunday, June 3. No vehicle permit stickers will be required to enter a state park that day, providing an opportunity for those not familiar with state parks to learn more about what they have to offer, including hiking trails, scenic overlooks, beaches, historic sites, fishing piers, visitor centers and programs for everyone. The 1990 annual state park permit costs \$16 and is good for any state park through 1990. It can be charged on VISA or MasterCard. For more information, call (612) 296-6157 or toll-free in Minnesota 1-800-652-9747. • **A fall turkey hunt** will be conducted in Minnesota for the first time this autumn. The five-day season will run from Wed., Oct. 17 through Sun., Oct. 21. Fall turkey applications will be available at all license agents after May 18. The deadline for submitting applications for a permit drawing will be June 15 and application fee is \$3.00. A total of 1,000 permits will be issued for hunting birds of either sex in turkey zones 1, 2 and 3 (same as spring hunt zones) in southeastern Minnesota. A preference system will also be initiated for this hunt completely separate from the spring hunt system. The current wild turkey population in Minnesota is estimated at nearly 15,000 birds. For more information call (612) 296-6157 or toll-free in Minnesota 1-800-652-9747 (ask for the DNR). • Youths ages 13 through 17 need a **Minnesota Watercraft Operator's Permit** to run a motorboat of more than 24 horsepower without an adult on board. Children under 13 years old may not operate a motorboat over 24 horsepower without someone at least 18 on board. Teens wishing to obtain a permit need to take the home study boating safety course offered by the DNR at no charge. For a copy of the home study boating course contact the DNR's Boat & Water Safety Section, 500 Lafayette Road, St. Paul, MN 55155-4046, or call (612) 296-3310 or toll-free in Minnesota 1-800-652-9747.

Agriculture Department: Residents itching to plant trees, shrubs and bushes this spring should make sure the products are purchased from vendors certified by the Minnesota Department of Agriculture. Department officials are concerned that sales of uncertified nursery stock will increase the dissemination of plant pests throughout the state that can harm other plant life. "Every year it seems we find trees and shrubs planted in yards that came from a thicket somewhere," said Art Mason, Director of the Minnesota Department of Agriculture Plant Industry Division. "The probability of these plants surviving is not high, and the vendors of these products are violating several state laws." Mason advised consumers to look for current dealer's certificates when purchasing nursery stock from vendors. Valid certificates run from November 1989 to November 1990 and should be displayed in a prominent manner, he said. Anyone approached door-to-door should ask to see the solicitor's certificate before purchasing nursery stock. Mason added. Certificates insure the plants have been inspected within the past year and are free of harmful pests. A vendor that does not produce a valid certificate should be reported to local authorities and the Minnesota Department of Agriculture Plant Industry Division by calling (612) 296-8619.

Minnesota-Grown Directory Available: A listing of over 300 producers who market Minnesota-Grown agricultural products directly to consumers is available now at a number of locations throughout the state. Minnesotans can obtain this year's directory of Roadside Stands, Orchards, Pick-Your-Own-Farms and Farmers' Markets through local public libraries, chambers of commerce, county extension agents, or by calling the Minnesota Travel Information Center at 296-5029 (metro) or 1-800-652-9747 (rural). The directory features locations to purchase fresh fruits and vegetables, flowers, herbs, poultry, lamb, beef, honey, wild rice, Christmas trees and other products. Recipes and canning information is also included. A recent poll conducted by the University of Minnesota found that Minnesotans enjoy purchasing products directly from Minnesota growers. Results of the 800-person survey show that 56 percent of the respondents had purchased goods from a farmers' market in the past year, 62 percent from a roadside stand, 27 percent from a roadside farm or orchard and 11 percent from a choose-and-cut Christmas tree farm.

'Arts Access' Grant Program: The Metropolitan Council, as the regional arts council for the seven-county Twin Cities Metro Area, and the Minnesota State Arts Board are now accepting applications for a new grant program titled "Arts Access." The program was created to make the arts more accessible for people who—for social, economic or physical reasons—have been unable to participate in and enjoy the arts. The program provides up to \$300 to social service organizations or neighborhood groups to buy tickets for, and provide transportation to, art activities and events for their clients and members. Applications to fund activities that take place from July 1, 1990, to June 30, 1991, are due on May 29. They should be sent to Soyini Guyton, Metropolitan Council, 230 E. Fifth St., St. Paul, MN 55101. A second cycle of grants is planned for this fall. To qualify for funding, activities must take place within the seven-county Metro Area and include at least five people. Eligible activities include: performing arts, visual and other art exhibits, music, dance, film and video, literary readings and similar activities (including book fairs), theater, and ethnic and cultural festivals that include arts as a core activity. Grants are available up to \$300. Applicants must be nonprofit social-service organizations; neighborhood groups must use a fiscal agent. Activities must include at least five people. Eligible groups may apply twice per calendar year. For an application or for more information, call Soyini Guyton of the Metropolitan Council's Regional Arts Council at 291-6543.

Minnesota: national leader in education

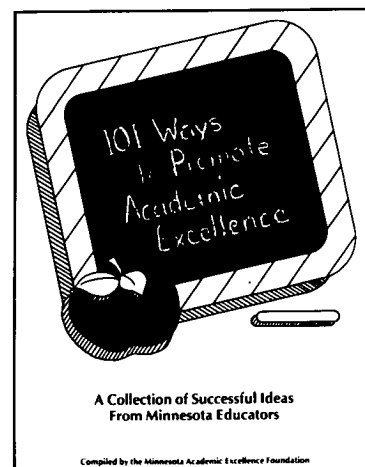
101 Ways to Promote Academic Excellence

A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting the public educators' great challenge: helping every single child learn. Code #5-1, \$4.50.

Education Directory, 1989-90

This popular comprehensive directory contains Minnesota school districts, superintendents, principals, addresses, phone numbers and enrollment. 170 pages, paperbound. Code #1-93, \$8.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.



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Successful business means successful sales

The Minnesota Documents Division has a variety of mailing lists of licensed professionals and permit holders that will enable you to focus your marketing efforts on a targeted audience.

Types of lists available are: registered nurses, real estate agents, physicians, insurance agents, boatowners, hunters, cosmetologists, teachers, and many more! And you can get them on printouts, cheshire/pressure sensitive labels, as well as 9-track magnetic tapes.

What's more, you can choose from several selection capabilities. You will find our selections most helpful and beneficial to your business when you learn that you can acquire names and addresses of individuals in the areas you need to target most.

Find out more about our mailing lists by writing for our free mailing list catalog. In a hurry? Call (612) 297-2552 for more information. Requests can be sent to: Minnesota Documents Division, Mailing List Operation, 117 University Avenue, St. Paul, MN 55155. FAX: (612) 296-2265.

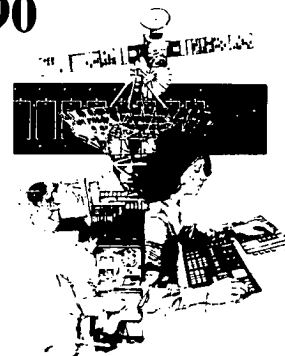
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Minnesota Manufacturer's Directory 1989-90



UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$78.50.

NEW: In the directory this year are two titles (where applicable) Chief Engineer and Data Processing Manager.



TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.

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Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

Voices of the Loon, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

The Loon: Voice of the Wilderness, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$17.95.

Love of Loons. A Voyageur Wilderness Book, with color photos and lore of this delightful state bird make this a beautiful gift. Stock #9-22, \$12.95 + tax.

Loon Lapel Pin. Code #15-30, \$2.49.

Loon Windsock, 56 inches long in full color. Code #15-29, \$19.95.

Loon Nature Print, full-color poster 16" x 22", Code #15-18, \$3.00.

Loon with Baby-poster, 16" x 20". Code #15-48, \$3.00.

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Minnesota Rules 1989. An 11-volume set of rules from the approximately 75 agencies empowered to promulgate rules by the Administrative Procedure Act. Stock #18-200, \$160.00 + tax, or \$15 for individual volumes. **NOTE:** This is a subscription service for the set, entitling subscriber to updates as they are produced.

Chemical Dependency Programs Directory 1989. Features comprehensive listings for programs ranging from Prevention/Intervention Services to a wide range of Treatment Services. Each type of program includes an alphabetical listing of facilities and brief narrative description of programming provided. Stock No. 1-12, \$15.00 plus tax.

Process Parenting—Breaking the Addictive Cycle. A training manual that provides parent education and treatment techniques for professionals who work with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, \$15.00 plus tax.

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