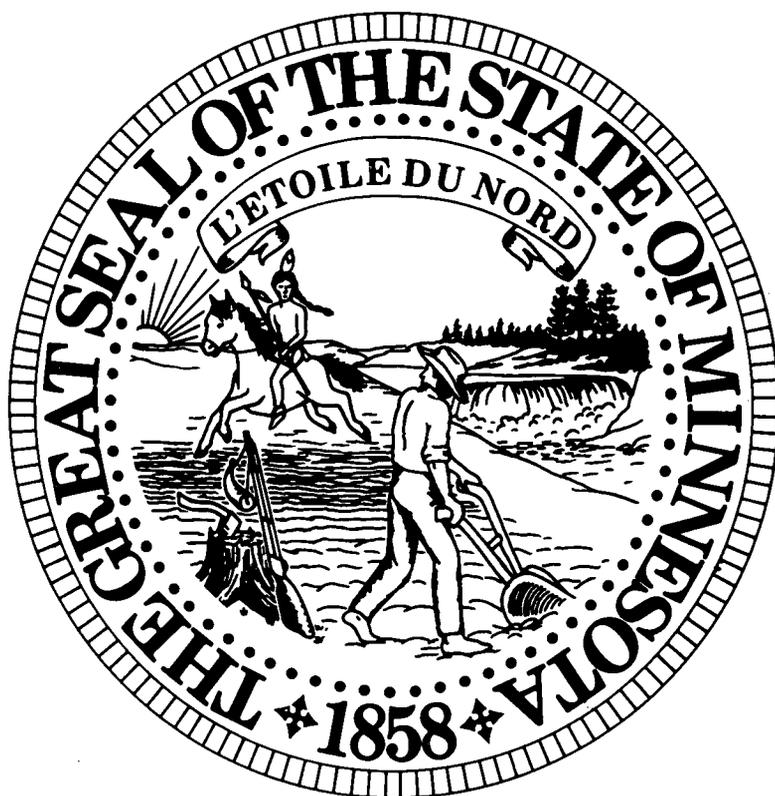


State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

18 June 1990

Volume 14, Number 51

Pages 2903-2978

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
51	Monday 4 June	Monday 11 June	Monday 18 June
52	Monday 11 June	Monday 18 June	Monday 25 June
Vol. 15 #1	Monday 18 June	Monday 25 June	Monday 2 July
2	Monday 25 June	Monday 2 July	Monday 9 July

*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

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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.

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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.

Department of Agriculture

Proposed Permanent Rules Relating to Food Vending Machines

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture 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 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, section 31.11.

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 their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department 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 upon request from Ms. Milligan.

The department has determined that small business will be minimally affected by this rule because many of the provisions are now being enforced under the sanitary food laws of *Minnesota Statutes*, Chapter 31. Also, the rule allows vending machines currently in operation that do not fully meet the design and fabrication requirements of the rule to continue in use as long as they remain in good repair, maintain proper temperatures, and are capable of being maintained in a sanitary condition.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to 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 a written request to Ms. Milligan.

Dated: 26 May 1990

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed (all new material)**1550.5000 DEFINITIONS.**

Subpart 1. **Scope.** For the purpose of parts 1550.5000 to 1550.5130, the terms in this part have the meanings given them.

Subp. 2. **Bulk food.** "Bulk food" means a food that when dispensed to the customer is not packaged, wrapped, or otherwise enclosed.

Subp. 3. **Commissary.** "Commissary" means a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term does not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

Subp. 4. **Corrosion-resistant materials.** "Corrosion-resistant materials" means materials that maintain their original sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Subp. 5. **Easily cleanable.** "Easily cleanable" means that surfaces are readily accessible and made of a material and finish and fabricated so that residues may be effectively removed by normal cleaning methods.

Subp. 6. **Employee.** "Employee" means an operator or other person who:

- A. handles a food, beverage, or ingredient to be dispensed through vending machines;
- B. comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or
- C. services or maintains a vending machine.

Subp. 7. **Food.** "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Subp. 8. **Food contact surface.** "Food contact surface" means a surface of a vending machine, appurtenance, or container that comes into direct contact with a food, beverage, or ingredient.

Subp. 9. **Hermetically-sealed container.** "Hermetically-sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Subp. 10. **Hot liquid, food, or beverage.** "Hot liquid, food, or beverage" means a liquid, food, or beverage at a temperature at the time of service to the consumer of at least 150 degrees Fahrenheit (66 degrees centigrade).

Subp. 11. **Law.** "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations.

Subp. 12. **License.** "License" means the document issued by the Department of Agriculture or a home rule charter or statutory city or a county that is authorized by the department to impose a license fee and inspect food vending machines. A home rule charter or statutory city or a county that does not inspect food vending machines may not impose a food vending inspection or license fee.

Subp. 13. **Machine location.** "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

Subp. 14. **Packaged.** "Packaged" means contained in a case, carton, can, box, wrapping, barrel, tub, bottle, phial, or other receptacle or covering.

Subp. 15. **Person.** "Person" means an individual, partnership, corporation, company, firm, institution, trustee, association, or other public or private entity.

Subp. 16. **Potentially hazardous foods.** "Potentially hazardous foods" means food that consists, in whole or in part, of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, that is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less at 77 degrees Fahrenheit (25 degrees centigrade) and foods in hermetically-sealed containers processed to prevent spoilage.

Subp. 17. **Readily accessible.** "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

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Proposed Rules

Subp. 18. **Regulatory authority.** "Regulatory authority" means the Department of Agriculture or the authorized home rule charter or statutory city or county responsible for licensing and inspection of vending machines.

Subp. 19. **Safe materials.** "Safe materials" means materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food. The term includes food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act only if they are used in conformity with regulations established under section 409 or 706 of that act. The term includes other materials only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in conformity with applicable regulations of the United States Food and Drug Administration.

Subp. 20. **Sanitizing.** "Sanitizing" means effective bactericidal treatment of clean food contact surfaces of utensils and equipment by an approved process that is effective in destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

Subp. 21. **Single-service article.** "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer or paddle, straw, napkin, wrapping material, toothpick, or similar article made wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and intended by the manufacturers and generally recognized by the public as to be discarded after only one usage.

Subp. 22. **Vending machine.** "Vending machine" means a self-service device offered for public use that, upon insertion of a coin, coins, token, credit card, or other payment device, dispenses single or multiple servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

1550.5010 VENDING MACHINE SANITATION REQUIREMENTS.

Subpart 1. **Standards.** Food intended for sale through vending machines must be obtained from sources complying with all laws relating to food and food labeling. The products must be in a wholesome condition and must be processed, prepared, handled, and stored to prevent contamination and adulteration. All food-contact surfaces of containers and equipment must be protected from contamination. Lamps located over exposed food storage or display must be shielded, coated, or otherwise shatter-resistant. This subpart has been satisfied when the requirements in subparts 2 to 7 are met.

Subp. 2. **Food manufacturing.** Food offered for sale through vending machines must be manufactured, processed, and prepared in commissaries or establishments that comply with applicable laws relating to food and food labeling.

Subp. 3. **Food.** Food offered for sale through vending machines must be wholesome and properly labeled.

Subp. 4. **Packaged food.** Food in package form must be packaged in sanitary containers and must be handled, transported, and vended in a sanitary manner.

Subp. 5. **Potentially hazardous food.** Potentially hazardous food offered for sale through vending machines must be dispensed to the consumer in a single-service original container or wrapper into which it was placed at the commissary or at the manufacturing or processing plant. Potentially hazardous food in bulk form must not be dispensed from vending machines.

Subp. 6. **Potentially hazardous food temperature requirements.** Potentially hazardous food within a vending machine must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. Vending machines dispensing potentially hazardous food must be provided with controls that will maintain the required temperatures at all times, except during the filling or servicing of the machine and for the maximum recovery period of 30 minutes following completion of these operations. The controls must also place the machine in an inoperative condition until serviced by the operator during a power failure or other condition that may permit the food storage compartment to attain a temperature over 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above, whichever is applicable. Vending machines dispensing potentially hazardous foods must be provided with a numerically-scaled indicating thermometer accurate to ± 3 degrees Fahrenheit (± 1 degree centigrade), indicating the air temperature of the food storage compartment. The thermometer must be readable without opening the machine.

Subp. 7. **Milk and milk products.** Fluid milk and fluid milk products offered for sale through vending machines must comply with the Grade A standards established by law and must be dispensed only in individual original containers.

Fluid milk and fluid milk products and fluid nondairy products must not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

1550.5020 CLEANING OF VENDING MACHINE.

Parts of vending machines that come into direct contact with food must be thoroughly cleaned and sanitized using methods approved by law. The frequency of cleaning and sanitizing treatment depends on the type of product being dispensed. A record of cleaning and sanitizing treatment must be maintained by the operator in each machine and must be current for at least 30 days. This subpart has been satisfied if the requirements in items A to C have been met.

A. All equipment at the vending location must be kept clean. Food contact surfaces must be cleaned, rinsed, and sanitized using methods that are effective in removing food residues and destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

B. The cavities and door seals of microwave ovens must be cleaned with nonabrasive cleaners as often as necessary to be maintained free of encrusted grease deposits and other soil. All doors, seals, hinges, and latch fasteners must be maintained tight and adjusted according to manufacturer's procedures. Microwave ovens must comply with applicable safety standards of the United States Food and Drug Administration's Bureau of Radiological Health.

C. Food contact surfaces of all equipment and utensils must be maintained free from contamination.

1550.5030 EQUIPMENT FOR CLEANING VENDING MACHINES.

In lieu of a permanent fixed installation of sink facilities, the person may provide portable equipment that can be moved from one location to another. The equipment must consist of detergents, sanitizers, brushes, pails, and other utility devices necessary for effective cleaning and sanitizing disinfection. Separate containers must be used for washing and rinsing operations.

1550.5040 SINGLE-SERVICE ARTICLES.

Single-service articles used for bulk food and beverages must be purchased in sanitary cartons or packages that protect the articles from contamination, stored in a clean, dry place until used, and handled in a sanitary manner. The articles must be stored in the original carton or package until introduced into the container magazine or dispenser of the vending machine. Single-service articles stored within the vending machine must be protected from manual contact, dust, insects, rodents, and other contamination. Single-service articles such as utensils, straws, toothpicks, or similar articles must be prewrapped and maintained out of the food when included as part of the packaged vended food.

1550.5050 CONDIMENTS.

Condiments must be in single-service containers and maintained out of the food when included as part of the packaged vended food.

1550.5060 VENDING MACHINE LOCATION.

Subpart 1. **Standards.** A vending machine must be located to minimize the potential for contamination of the food, must be easily cleanable, and must be kept clean. Food, food containers, and equipment stored near the machine or in a separate room at the location must be stored at least six inches (152 millimeters) above the floor and not exposed to moisture and the storage area must be kept clean. This subpart has been satisfied if the requirements in items A and B are met.

A. Each vending machine must be located in a room, area, or space that will maintain the machine in a clean condition and protect the machine from overhead leakage of drains and pipes. Vending machines must be located so that the space around and under the machine can be readily cleaned and maintained free of insect and rodent harborage.

B. The floors under vending machines must be reasonably smooth, cleanable, and capable of withstanding repeated washing and scrubbing. The immediate area surrounding a vending machine must be maintained in a clean condition.

1550.5070 EXTERIOR MACHINE CONSTRUCTION AND MAINTENANCE.

The exterior of a vending machine must be readily cleanable to prevent the entrance of insects and rodents and must be kept clean. Service connections to the machine must protect against unintentional or accidental interruption of service. This part has been satisfied if the requirements in items A to F are met.

A. The vending machine must be of sturdy construction with the exterior designed, fabricated, and finished to facilitate its cleanliness and prevent the entrance of insects and rodents.

B. Door and panel access openings to the product and container storage spaces of the machine must be tight-fitting to prevent the entrance of dust, moisture, insects, and rodents.

C. All necessary ventilation louvers on openings into vending machines must be effectively screened against insects and rodents. Screening material must not be less than 16 mesh to the inch or equivalent.

D. New vending machines with a condenser unit as an integral part of the machine must be sealed from the product and container storage spaces.

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E. Unless the vending machine is sealed to the floor to prevent seepage or can be manually moved with ease, one or more of the following provisions must be used to facilitate cleaning operations:

- (1) the machine must be mounted on legs six or more inches in height;
- (2) the machine must be mounted on casters or rollers; or
- (3) the machine must be mounted on gliders that permit it to be easily moved.

F. All service connections through an exterior wall of the machine, such as water, gas, electrical, and refrigeration connections, must be grommeted or sealed to prevent the entrance of insects and rodents. Connections to utilities must discourage unauthorized or unintentional disconnection.

1550.5080 INTERIOR CONSTRUCTION AND MAINTENANCE.

All interior surfaces and component parts of the vending machine must be designed and constructed to permit easy cleaning and must be kept clean. All food contact surfaces of the machine must be smooth, nontoxic, corrosion-resistant, and nonabsorbent and must be capable of withstanding repeated cleaning and sanitizing by normal procedures. Food contact surfaces must be protected against contamination. This part has been satisfied if the requirements in items A to G are met.

A. Nonfood contact surfaces of the interior of vending machines must be designed and constructed to permit easy cleaning and to facilitate maintenance operations. Inaccessible surfaces or areas must be minimized.

B. Food contact surfaces of vending machines must be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipping. Food contact surfaces must be designed to prevent routine contact between food and V-type threaded surfaces. All joints and welds in food contact surfaces must be smooth with rounded internal angles and corners to facilitate cleaning.

C. All food contact surfaces of vending machines including containers, pipes, valves, and fittings, must be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials and must be kept clean. All containers, valves, fittings, chutes, and faucets in contact with food must be readily removable and fabricated to be easily disassembled; and when disassembled, all surfaces must be visible for inspection and cleaning. If a machine is designed so that food contact pipes or tubing are not readily removable, in-place cleaning of pipes and pipe fittings is permitted if they are arranged so that cleaning and sanitizing solutions can be circulated throughout the fixed system and the solutions will contact all interior surfaces. The system must be self-draining, and the cleaning procedures must result in thorough cleaning of the equipment.

D. The openings into all nonpressurized containers used for the storage of food and single-service articles in vending machines must be provided with covers to prevent contamination of the interior of the containers. Covers must be designed to provide a flange that overlaps the opening and must be sloped to provide drainage from the cover surface. Port openings through the cover must be flanged upward at least three-eighths inch and must be provided with a cover that overlaps the flange. Condensation-deflecting or drip-deflecting aprons must be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the container, unless joints are watertight. Aprons must be of safe material for those openings that are in continuous use. Gaskets, if used, must be nontoxic, relatively stable, and relatively nonabsorbent, and must have a smooth surface. Gasket retaining grooves must be readily cleanable.

E. The delivery tube, chute, and orifice of bulk food and bulk beverage vending machines must be protected from manual contact, dust, insects, rodents, and other contamination. The design must divert condensation and other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of a vending machine must be provided with a tight-fitting, self-closing door or cover that is kept closed, except when the machine is in the process of delivering a food or beverage.

F. The product storage compartment within a vending machine dispensing packaged liquid products must be self-draining or must be provided with a drain outlet that permits complete draining of the compartment. The drains must be easily cleanable.

G. Opening devices that contact food or the food contact surface of the containers must be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is a single-service type, it must be readily removable for cleaning and must be kept clean. Parts of multiuse opening devices coming into contact with the food or food contact surface of containers must be reasonably protected from manual contact, dust, insects, rodents, and other contamination. The parts must be readily removable for cleaning and must be kept clean.

1550.5090 WATER SUPPLY.

Water used in a vending machine must be from an approved source and must be of a safe and sanitary quality. This part has been satisfied if the requirements in items A to E are met.

A. Water used in a vending machine must be potable and from an approved source. Water used as a product ingredient must be piped into the vending machine under pressure, and all connections and fittings must be installed in accordance with law. Containers for the storage of water must be designed and maintained as food contact surfaces. Bottled water use is not excluded.

B. Water filters or other water conditioning devices used as part of vending machines must be of a type that can be disassembled

for periodic cleaning or replacement of the active element. Replacement elements must be handled in a sanitary manner. The date of the latest replacement must be on the water device.

C. Vending machines dispensing carbonated beverages that are connected to a water supply system must be equipped with a built-in positive airgap or an approved double check type backflow preventer with intermediate atmospheric vent, or other approved devices that will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

D. Check valves used for the protection of the water supply system must have a screen of not less than 100 mesh to the inch installed in the water supply line immediately upstream from the check valves in a location that permits servicing or replacement.

E. Vending machines dispensing carbonated beverages that are connected to a water supply system with the water contact surfaces from the check valves or other protective device downstream, including the device itself, must be made of safe materials to prevent the production of toxic substances that may result from interaction with carbon dioxide or carbonated water.

1550.5100 WASTE DISPOSAL.

Waste must be maintained in suitable containers and properly disposed of to prevent a nuisance. This part has been satisfied if the requirements in items A to C are met.

A. Trash and waste material must be frequently removed from the machine location and must be disposed of in a manner approved by law.

B. Self-closing, leakproof, readily cleanable, clearly labeled and designated waste containers must be provided near each machine for disposal of used single-service items. Waste containers must not be located within the machine, except for those machines dispensing only packaged products with crown closures, where the closure receptacle may be located within the machine. Suitable racks or cases must be provided for multiuse containers or bottles.

C. Containers must be provided within vending machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device must be provided that will make the vending machine inoperative before the container overflows. Containers for waste must be readily removable for cleaning, must be easily cleanable, and must be corrosion-resistant. Liquid wastes from drip, spillage, or overflow discharged into a sewerage system must have an air gap between the connection and the sewer. The sewerage system must be constructed, maintained, and operated according to law.

1550.5110 DELIVERY OF FOOD, EQUIPMENT, AND SUPPLIES TO MACHINE LOCATION.

Food and food contact surfaces of containers, equipment, and supplies must be protected from contamination while in transit from the commissary to the machine location or its storage area. Potentially hazardous foods while in transit from a commissary must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. This part has been satisfied if the requirements in items A and B are met.

A. Food, single-service articles, and food contact surfaces in transit to vending machine locations must be protected from dirt, dust, insects, rodents, and other contamination.

B. Potentially hazardous food in transit from the commissary to vending machine locations must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above.

1550.5120 PERSONNEL CLEANLINESS.

Subpart 1. **Handling of food or food contact surfaces.** Employees must maintain a high degree of personal cleanliness and must conform to good hygienic practices while engaged in handling food or food contact surfaces of utensils or equipment.

Subp. 2. **Servicing.** Employees must thoroughly wash their hands and exposed portions of their arms before engaging in vending machine servicing operations and after smoking, eating, or using the toilet. Employees must wear clean outer garments, must not use tobacco in any form, and must keep their fingernails clean and trimmed during servicing operations.

Subp. 3. **Employee health.** No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, may work with food in any capacity in which there is a likelihood of that person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

1550.5130 EXISTING VENDING MACHINES.

Vending machines in use before the effective date of parts 1550.5000 to 1550.5130 that do not fully meet the design and fabrication

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Proposed Rules

requirements of parts 1550.5000 to 1550.5130 are acceptable if they are in good repair, capable of being maintained in a sanitary condition, and in compliance with part 1550.5000, subpart 19.

Environmental Quality Board

Proposed Permanent Rules Relating to High Voltage Lines, Power Plants

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Environmental Quality Board (EQB) is hereby giving notice of its intent to adopt the above-entitled rules without a public hearing under the noncontroversial rulemaking procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28 (1986). However, in order to expedite the rulemaking process should 25 or more persons request a hearing, thus necessitating that a hearing be held, the EQB is simultaneously giving notice of a hearing on the proposed rules. Unless, at least 25 persons request that the hearing be held, the hearing will be cancelled.

The EQB has elected to jointly notice rulemaking both with and without a hearing in order to avoid delay should a hearing be required. The EQB has informally discussed concerns raised over various parts of the proposed rules with concerned parties throughout the drafting of the proposed rules, and consequently believes that all known concerns have been given adequate considerations. Nevertheless, the EQB recognizes that there may be sufficient concern over the proposed rules to necessitate the holding of a public hearing.

II. Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Environmental Quality Board (EQB) proposes to adopt the above-captioned proposed rules without a public hearing following the procedures set forth in *Minnesota Statutes* sections 14.22 to 14.28 (1986). If adopted, the proposed permanent rules would amend existing rules, authorized by *Minnesota Statutes*, section 116C.66, which prescribes the circumstances and manner in which proposed transmission line routes and power plant sites must be reviewed through the preparation of an application and environmental review documents, and the procedures by which these reviews must be conducted. The proposed amendments (1) include a 1989 statutory amendment to the Power Plant Siting Act providing for a process to exempt small power plants from the Act, (2) transfers procedures for environmental review of electric energy facilities from the environmental review rules (chapter 4410) to the power plant siting rules (chapter 4400), and (3) makes numerous, nonsubstantive changes in form and organization. (Please note that a separate notice of intent to adopt rules is provided in this issue which relates to proposed, corresponding amendments to the EQB's environmental review rules.) A free copy of the proposed permanent rules may be obtained by contacting Bob Cupit at the address or telephone number provided in this notice.

Interested persons will have 30 days from the date of this notice in the *State Register* to submit comments in support of or in opposition to the proposed rules or any part thereof. Comment is encouraged. Each comment should identify the part of the proposed rules being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within this 30-day comment period, a public hearing will be held, **unless a sufficient number withdraw their request in writing**. A public hearing, if required, will be held in accordance with the notice of hearing given in part III of this notice. Request for a public hearing must be received by the EQB by 5:00 p.m. on July 18, 1990. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the part of the proposed rules addressed by the comment, the reason for the request, and any changes suggested in the proposed rules.

If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the EQB be informed of the specific rule part on which a hearing is being requested at the time that the hearing request is made. This will enable the EQB to limit the hearing, if one is held, to the specific issues of concern, and to adopt portions of the proposed rules for which less than 25 persons request a hearing in accordance with the noncontroversial rulemaking procedures.

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

Bob Cupit
Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-2096

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

A **STATEMENT OF NEED AND REASONABLENESS** has been prepared and may be obtained from the EQB by contacting Mr. Cupit at the address or telephone number provided in this notice. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules.

The proposed rules will not require the expenditure of public money by local public bodies, therefore the requirements of *Minnesota Statutes*, section 14.11, subdivision 1, do not apply.

The proposed rules are exempted from the requirements of *Minnesota Statutes*, sections 17.80 to 17.84, relating to agricultural land use, because high voltage transmission lines and power plants are reviewed in compliance with *Minnesota Statutes*, chapter 116D.

Pursuant to *Minnesota Statutes*, section 14.115, subd. 3, compliance with provisions of that section, relating to small businesses, will be contrary to the statutory objectives of *Minnesota Statutes*, sections 116C.51 to 116C.705, therefore the requirements of *Minnesota Statutes*, section 14.115 (1986) do not apply.

If a hearing is not required for adoption of the proposed rules, the rules as proposed, this notice, the statement of need and reasonableness, and all other supporting documents will be delivered to the Attorney General for review as to form and legality. Persons who wish to be notified of this submission to the Attorney General, or who wish to receive a copy of the adopted rules, must submit a written request to Mr. Cupit at the address provided in this notice.

III. Notice of Intent to Adopt a Rule With a Public Hearing If 25 or More Persons Request a Hearing

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULE WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON JULY 26, 1990 IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1986), on July 26, 1990, in room 302 of the Centennial Building, 658 Cedar Street, St. Paul, Minnesota, commencing at 10:00 a.m. Additional days may be scheduled as needed. All interested or affected persons will have an opportunity to participate, and may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence submitted should be pertinent to the matter at hand.

Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Phyllis Reha, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota, 55415, telephone 612/341-7611, either before or within five days after the hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. Written material received during this period will be available for review at the Office of Administrative Hearings. After the close of the comment period, the EQB and interested persons have three business days to respond in writing to any new information submitted during the comment period. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 (1986) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

The proposed rules are amendments to existing rules which regulate the location of certain transmission line routes and power plant sites in the State of Minnesota. A description of the proposed rules is provided in part II of this notice. The proposed rules are authorized by *Minnesota Statutes*, section 116C.66. A free copy of the proposed rules may be obtained by writing or telephoning: Bob Cupit, Environmental Quality Board, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone 612/296-2096.

The proposed rules may be modified as a result of the rule hearing process if the modifications do not result in a substantial change in the proposed rules as noticed. Those who are potentially affected by the substance of the proposed rules are therefore advised and encouraged to participate in the process.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is available for review at the EQB offices and at the Office of Administrative Hearings. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules. Copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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Pursuant to *Minnesota Statutes*, section 14.115, subd. 3, compliance with provisions of that section, relating to small businesses, will be contrary to the statutory objectives of *Minnesota Statutes*, sections 116C.51 to 116C.705, therefore the requirements of *Minnesota Statutes*, section 14.115 (1986) do not apply.

PLEASE NOTE that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the EQB may not take any final action on the proposed rules for a period of five business days. If you wish to be so notified, you may do so at the hearing. After the hearing, you may request notification by writing to the Administrative Law Judge.

Any person may request notification of the date on which the proposed rules were adopted and filed with the Secretary of State. The notice will be mailed to any person requesting this notice on the same day that the rule is filed. If you wish to be so notified, you may so indicate at the hearing or send a written request to the EQB at any time prior to the filing of the rule with the Secretary of State.

Minnesota Statutes, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any given month or more than \$250.00, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00 not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert, St. Paul, Minnesota, 55101, telephone (612) 296-5148.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To learn whether the hearing will be held, please call Mr. Cupit at (612) 296-2096 and leave your name, address, and telephone number. You will be notified after July 18, 1990 if the hearing has been cancelled.

Dated: 5 June 1990

Barbara L. Hughes, Vice Chair

Rules as Proposed

CHAPTER 4400 ENVIRONMENTAL QUALITY BOARD HIGH VOLTAGE LINES, POWER PLANTS

4400.0200 DEFINITIONS.

Subpart 1. **Scope.** As used in these rules this chapter, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, *Minnesota Statutes* ~~1977~~, ~~section~~ sections 116C.51 et seq to 116C.69.

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Construction.** "Construction" means:

A. any clearing of land, excavation, or other ~~action~~ improvement that would adversely affect the natural environment of a site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary boring, to ascertain foundation conditions; or

B. the modifications necessary to:

(1) increase the nominal voltage of an existing transmission line to over 200 kilovolts; or

(2) increase the nominal voltage of an existing HVTL.

[For text of subp 6, see M.R.]

Subp. 6a. Environmental impact assessment; EIA. “Environmental impact assessment” or “EIA” means a detailed written statement that describes proposed HVTLs and LEPGPs and satisfies the requirements of Minnesota Statutes, section 116D.04.

Subp. 7. File. “File” means to deliver 40 copies to the office of the ~~chairman~~ chair of the board.

Subp. 8. High voltage transmission line; HVTL. “High voltage transmission line” ~~(HVTL)~~ or “HVTL” means a conductor of electric energy and associated facilities designed for and capable of ~~operation~~ operating at a nominal voltage of 200 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, ~~switching yards,~~ substations, and terminals.

[For text of subs 9 to 14, see M.R.]

Subp. 15. Right-of-way. “Right-of-way” means the land interest ~~used or proposed to be used~~ required within a route ~~to accommodate a high voltage transmission line for the construction and operation of an HVTL.~~

Subp. 16. Route. “Route” means ~~the location of a high voltage transmission line between two end points. A route may have a variable width of up to 1.25 miles~~ an area of land up to 1.25 miles wide within which a right-of-way for an HVTL can be located.

[For text of subp 17, see M.R.]

Subp. 18. Site. “Site” means ~~the location~~ an area of land required for the construction and operation of a large electric power ~~generating plant~~ an LEPGP.

[For text of subs 19 and 20, see M.R.]

4400.0300 PURPOSE AND AUTHORITY.

~~The rules contained herein~~ Parts 4400.0200 to 4400.4900 are prescribed by the Minnesota Environmental Quality Board pursuant to the authority granted to the board in the Power Plant Siting Act, ~~Minnesota Statutes 1977, section~~ sections 116C.51 et seq. to 116C.69, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the board shall choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The board shall provide for broad spectrum citizen participation as a principle of operation.

ROUTE DESIGNATION AND CONSTRUCTION PERMIT

4400.0600 APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.

An application shall be filed ~~with the board which that~~ includes an environmental report consistent in form with a draft environmental impact statement, environmental review program rules. ~~The application shall contain~~ any information necessary to make the evaluation of considerations required in part ~~4400.1300~~ 4400.1310 and the following:

A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;

B. the size and type of the proposed transmission line HVTL;

~~B C.~~ at least two proposed routes for the proposed transmission line HVTL;

C. an environmental analysis of each proposed route including a description of the environmental setting and the potential environmental impacts of each route;

D. the engineering and operational design concepts for the proposed transmission line HVTL, including a characterization of the electrical environment of the transmission line;

E. a cost analysis of each route;

F. a description of the construction, right-of-way ~~preparation~~ restoration, and maintenance procedures anticipated for the proposed transmission line HVTL;

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Proposed Rules

G. a description of the potential human and natural environmental effects of each route and measures proposed by the applicant to mitigate adverse effects presented in the order shown in part 4400.1310;

F H. the procedures and practices proposed for the ultimate abandonment and restoration of the right-of-way;

G I. a listing and brief description of federal or and state permits that may be required for the proposed transmission line HVTL; and

H. a cost analysis of each route;

I J. the certificate of need if available, or an acknowledgment of the acceptance receipt of a substantially complete certificate of need application by the Department of Trade and Economic Development Public Utilities Commission, if a certificate of need is required by Minnesota Statutes, chapter 46J; and

J. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project 216B.

4400.0710 ACCEPTANCE OF APPLICATION FOR ROUTE DESIGNATION AND CONSTRUCTION PERMIT.

Subpart 1. Board action on application. The board shall either accept or reject an application at its first regularly scheduled meeting after the application is filed with the board, provided the application is filed at least 21 days before that meeting.

Subp. 2. Rejection of application. If the board rejects the application, the board shall inform the applicant in writing which deficiencies, if corrected, will allow the application to be accepted. If the applicant has corrected the deficiencies or provided the board with the required information 14 days in advance of a regularly scheduled meeting, the board must reconsider acceptance of the application at that meeting. If the applicant fails to meet the conditions established by the board for reconsideration of the rejected application, the rejection shall stand. If the rejection stands, the applicant may reapply at any time. If the board fails to act within the times specified in this subpart, the application shall be considered accepted.

Subp. 3. Additional information. On acceptance of the application, the board shall proceed with the actions required in parts 4400.0800 to 4400.1500. The applicant shall provide additional relevant information that the board considers necessary to process the application.

4400.0720 BOARD ACTION UPON ACCEPTANCE.

On acceptance of an application for route designation and a construction permit, the board shall designate a project leader who shall serve as an independent representative of the board during the formal routing proceedings. The project leader shall be responsible for coordinating assigned staff responsibilities during the routing process and in preparing the EIA. The project leader shall ensure that the record of the proceedings is fully developed and responsive to all issues raised in the process. The project leader may intervene as a party in the public hearing if appropriate. Positions taken or representations made by the project leader during the routing process are not binding on the board.

4400.0800 ROUTE EVALUATION COMMITTEE ADVISORY TASK FORCE.

On acceptance of an application for route designation and a construction permit the board shall may appoint a route evaluation committee advisory task force and its chair consistent with the act and part 4405.0800. The board shall provide guidance to the committee task force in the form of a charge. Route advisory task forces are advisory and assist the board in evaluating the application and alternatives, and in determining the scope of the EIA prepared under part 4400.1210.

4400.0900 PUBLIC ADVISER.

On acceptance of an application for route designation and a construction permit, the board shall designate a public adviser. The public adviser shall be available to affected or interested citizens any person to advise them that person on how to effectively participate in the route designation routing process. The public adviser's duties shall include providing advice on appropriate methods and techniques of public involvement in the transmission line routing process. However, The public adviser is shall not authorized to give legal advice or advice that may affect the legal rights of the person being advised or act as an advocate.

4400.1000 INFORMATION MEETINGS.

The board shall hold at least two information meetings.

After acceptance of an application for route designation and a construction permit the board shall hold at least one information meeting in the area affected by the applicant's proposal to explain the route designation process, receive comments on the scope of the EIA, and to respond to questions raised by the public.

~~Prior to~~ Before the public hearings held to consider the routes approved for consideration by the board, the board shall hold an information meeting in each county through which a route is proposed to be located to explain the route designation process, present major receive comments on issues and alternatives under consideration by the board described in the EIA, and respond to questions raised by the public.

4400.1100 ROUTE PROPOSALS.

Subpart 1. **Approval Acceptance for consideration.** The board shall ~~consider~~ accept for consideration the routes and route segments proposed by the applicant and may ~~consider~~ accept for consideration any other ~~route routes~~ route routes or route ~~segment~~ segment it ~~deems necessary~~ segments which are proposed in accord with this part. ~~No route~~ Only routes or route segments which have been accepted by the board prior to notice of the public hearing shall be considered at the public hearing ~~unless approved for consideration by the board prior to notice of the hearing thereon~~. All ~~approved~~ Routes and route segments accepted shall be identified by the board ~~consistent in accordance~~ with part 4400.3700, subpart 4 4400.3710. Any proposer of a route or route segment which the board has ~~approved~~ accepted for consideration shall make an affirmative presentation of facts on the merits of the proposal at the public hearing ~~which shall provide the board with a basis for making a determination on that proposal~~.

Subp. 2. [See Repealer.]

Subp. 3. **Sources of Agency and advisory task force route proposals.** The board member agencies, power plant siting staff, and the route ~~evaluation committee~~ advisory task force may propose routes or route segments to the board. Route proposals made by the route ~~evaluation committee~~ advisory task force must be made no later than 105 days after acceptance of the application by the board.

Subp. 4. **Other sources of route proposals.** Any other person may propose a route or a route segment ~~in the following manner:~~ as provided in this subpart.

A. The proposed route or route segment must be set out specifically on the appropriate general county highway map available from the Minnesota Department of Transportation, or on the appropriate United States Geological Survey topographical maps.

B. The proposal must contain the data and analysis required in parts 4400.0600 and ~~4400.1300~~ 4400.1310, except part 4400.0600, ~~item B items C and E; except where such~~ unless the information is the same as provided by the applicant.

C. The proposal must be presented to the ~~chairman~~ chair of the board ~~or his designee~~ within 70 days of acceptance of the application by the board.

Subp. 5. **Adequate preparation of proposal.** Within ten days of receipt of a route or route segment proposed under subpart 4, the chair of the board shall determine if the proposal is adequately prepared in accord with this part. If the chair of the board determines that it is adequately prepared, the chair shall forward the proposal to the board for its consideration. If the chair of the board determines that the proposal is not adequately prepared, the chair shall inform the proposer of any inadequacies in the proposal. The proposer shall have 15 days to provide additional information to the chair of the board. The chair of the board shall determine within ten days whether the amended proposal is adequately prepared. If the chair of the board then determines that the proposal is not adequately prepared, the proposer may appeal to the board at its next meeting to determine the adequacy of the proposal.

4400.1200 PUBLIC HEARINGS.

Public hearings held by the board ~~pursuant to~~ under parts 4400.0600 to 4400.1500 shall be held for the purposes of collecting and verifying data, and establishing a complete and accurate record upon which to base a decision. The hearings shall be conducted by an independent administrative law judge from the Office of Administrative Hearings. The conduct of these hearings shall be as prescribed by ~~rules adopted by the chief administrative law judge~~ chapter 1405.

4400.1210 ENVIRONMENTAL IMPACT ASSESSMENT FOR HVTL.

Subpart 1. **Record of hearings.** An environmental impact assessment (EIA) must be prepared for inclusion in the record of the public hearing under Minnesota Statutes, section 116C.58.

Subp. 2. **Contents.** The EIA must contain:

A. a summary of the project description provided in the project proposer's application;

B. a summary of the certificate of need decision, if one was required and is available; the EIA must not consider need for the project and other issues determined by the Public Utilities Commission;

C. a description of the applicant's proposed routes and any alternative routes or route segments approved by the board for consideration at public hearings;

D. a description of feasible alternative designs;

E. an analysis of the potential human and natural environmental effects of each alternative route, route segment, or design.

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The analysis must include those issues identified by the route advisory task force or by any interested person during the first public information meeting held under part 4400.1000:

F. a description of mitigative measures that could reasonably eliminate or minimize potential adverse effects;

G. a discussion of all known governmental permits and approvals required; and

H. an explanation of the board's routing process and how the public may participate, and specifically, how public comments on the EIA will be received for inclusion in the record of the public hearing.

Subp. 3. Notice of availability. The chair or the chair's designee shall provide notice of the availability of the EIA and how the public can participate in its review. The notice must be provided according to *Minnesota Statutes*, section 116C.58, and part 4400.3710, and may be provided in the notice of the hearing required. Notice must also be published in the EQB Monitor.

Subp. 4. Distribution. When notice of availability is provided under subpart 3, the EIA shall be distributed by certified mail to the persons receiving notice. At least one copy must be available for public review at the last public information meeting held before the public hearing and during the public hearing conducted under *Minnesota Statutes*, section 116C.58.

Subp. 5. Comments. The comment period begins when notice of availability of the EIA is published in the EQB Monitor and closes at the end of the oral portion of the public hearing. At least 30 days must be provided for comments. All comments become part of the hearing record as provided in part 1405.1800, subpart 5. The hearing record remains open until responses have been provided to all relevant comments that address deficiencies in the EIA pursuant to subpart 2. The date shall be set by the administrative law judge under part 1405.1400.

Subp. 6. Adequacy. Prior to designating a route and issuing a construction permit for an HVTL, the board shall make a finding and conclusion that the EIA, comments on the EIA, and responses to comments:

A. have adequately addressed significant environmental issues identified by the route advisory task force and the public under parts 4400.0800 and 4400.1000; and

B. have been prepared in compliance with the requirements of this part.

Subp. 7. Cooperative processes. The chair or the chair's designee shall cooperate with federal agencies to the fullest extent possible to reduce duplication between *Minnesota Statutes*, chapter 116D, and the National Environmental Policy Act, United States Code, title 42, sections 4321 to 4361.

Subp. 8. Costs. The board shall assess the project proposer for its reasonable costs of preparing and distributing the EIA pursuant to part 4410.6000.

4400.1310 ROUTING CONSIDERATIONS.

Subpart 1. Considerations. To facilitate the evaluation and designation of HVTL routes and route segments, the board shall be guided by the act and the following considerations:

A. effects on human settlement, including but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including but not limited to, agriculture, forestry, tourism, and mining;

D. archaeological and historic resources;

E. effects on the natural environment;

F. rare and unique natural resources;

G. application of design options which maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission capacity;

H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

I. electrical system reliability;

J. costs of constructing, operating, and maintaining the HVTL which are dependent on design and route; and

K. adverse human and natural environmental effects which cannot be avoided.

Subp. 2. Resources designated for preservation. Certain resources within the state have been designated for preservation by action of the state or federal government for the benefit of the people and for future generations. No route shall be designated by the board through state or national wilderness areas. No route shall be designated by the board through state or national parks and state scientific and natural areas unless the route would not materially damage or impair the purpose for which the area was designated, and all feasible alternative routes would have a greater adverse human or environmental impact. Designation of a route in these areas

shall be consistent with Minnesota Statutes, section 116C.53, subdivision 1, and shall include conditions to minimize impacts which adversely affect the unique character of these areas. Economic considerations alone shall not justify approval of these areas.

4400.1400 ROUTE DESIGNATION AND ISSUANCE OF CONSTRUCTION PERMIT.

Within one year after the board's acceptance of a ~~utility's~~ an application for route designation and a construction permit, the board shall act on that application. When the board designates a route, it shall issue a permit for the construction of a ~~high voltage transmission line specifying the type, design, routing, right-of-way preparation and maintenance, facility construction, and abandonment procedures it deems necessary with any other appropriate conditions~~ an HVTL specifying the design and route. The permit may specify conditions for construction, right-of-way restoration, abandonment, maintenance, and any other conditions relevant to minimizing human and environmental impact the board considers necessary. The board's decision shall be ~~made in accordance with~~ based on the record, part 4400.1300 4400.1310, and the act. The board shall give the reasons for its decision in written findings of fact.

4400.1500 REVIEW OF CONSTRUCTION PLANS PERMIT COMPLIANCE.

Following route designation and issuance of a construction permit, ~~a utility the~~ the permittee shall provide the board with a preliminary construction plan at least 60 days ~~prior to~~ before construction that shall show that the right-of-way of the ~~transmission line~~ HVTL as proposed is within the route designated by the board. The board may suspend the 60-day time limitation if it can be shown that earlier construction will not preclude proper review of the plans. If the ~~utility~~ permittee makes any changes in its preliminary construction plan, it shall notify the board in writing of ~~such~~ the changes before construction.

SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY

4400.2600 APPLICATIONS FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY.

Subpart 1. **Contents.** The An application for a ~~certificate of site compatibility shall be~~ filed with the board shall be consistent in form with an environmental report as outlined in the Minnesota Environmental Quality Board's environmental review program rules and shall contain that includes any information necessary to make the evaluation required in part ~~4400.3300~~ 4400.3310 and the following:

- A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;
- B. the size and type of the proposed plant LEPPG;
- ~~B~~ C. at least two proposed sites for the proposed plant LEPPG;
- ~~C~~ D. the engineering and operational design concepts for the plant LEPPG at each of the proposed sites;
- E. a cost analysis of the LEPPG at each proposed site;
- ~~D~~ F. an engineering analysis of each of the proposed sites;
- G. a description of the environmental setting and the potential human and natural environmental impacts of each site and measures proposed by the applicant to mitigate adverse effects, presented in the order shown in part 4400.3310;
- ~~E~~ the procedures and practices proposed for the ultimate abandonment and restoration of the site;
- F. an environmental analysis of each proposed site, including a description of the environmental setting and the potential environmental impacts of each site;
- ~~G~~ a cost analysis of the plant at each proposed site;
- H. a listing and brief description of federal or and state permits that may be required for each proposed site; and
- I. the certificate of need if available, or an acknowledgment of the acceptance receipt of a substantially complete certificate of need application by the Department of Trade and Economic Development Public Utilities Commission, if a certificate of need is required by Minnesota Statutes, chapter 116J; and
- J. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project 216B.

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

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Proposed Rules

4400.2710 ACCEPTANCE OF APPLICATION FOR SITE DESIGNATION AND CERTIFICATE OF SITE COMPATIBILITY.

Subpart 1. Board action required. The board shall either accept or reject an application at its first regularly scheduled meeting after the application is filed with the board, provided the application is filed at least 21 days before that meeting.

Subp. 2. Rejection of application. If the board rejects the application the board shall inform the applicant in writing which deficiencies, if corrected, will allow the application to be accepted. If the applicant has corrected the deficiencies or provided the board with the required information 14 days in advance of a regularly scheduled meeting, the board must reconsider acceptance of the application at that meeting. If the applicant fails to meet the conditions established by the board for reconsideration of the rejected application, the rejection shall stand. If the rejection stands, the applicant may reapply at any time. If the board fails to act within the times specified in this subpart, the application shall be considered accepted.

Subp. 3. Additional information. On acceptance of the application, the board shall proceed with the actions required in parts 4400.2800 to 4400.3500. The applicant shall provide additional relevant information that the board considers necessary to process the application.

4400.2720 BOARD ACTION UPON ACCEPTANCE.

On acceptance of an application for site designation and a certificate of site compatibility, the board shall designate a project leader who shall serve as an independent representative of the board during the formal siting proceedings. The project leader shall be responsible for coordinating assigned staff responsibilities during the siting process and in preparing the EIA. The project leader shall ensure that the record of the proceedings is fully developed and responsive to all issues raised in the process. The project leader may intervene as a party in the public hearing if appropriate. Positions taken or representations made by the project leader during the siting process are not binding on the board.

4400.2800 SITE EVALUATION COMMITTEE ADVISORY TASK FORCE.

Upon acceptance of an application for site designation and a certificate of site compatibility, the board shall may appoint a site evaluation committee advisory task force and its chair consistent with the act and part 4405.0800. The board shall provide guidance to the committee task force in the form of a charge. Site advisory task forces are advisory and are to assist the board in evaluating the application and alternatives, and in determining the scope of the EIA prepared under part 4400.3210.

4400.2900 PUBLIC ADVISER.

On acceptance of an application for site designation and a certificate of site compatibility, the board shall designate a public adviser. The public adviser shall be available to affected or interested citizens any person to advise them that person on how to effectively participate in the site designation siting process. The public adviser's duties shall include providing advice on appropriate methods and techniques of public involvement in the site designation process. However, The public adviser is shall not authorized to give legal advice or advice which may affect the legal rights of the person being advised or act as an advocate.

4400.3000 INFORMATION MEETINGS.

The board shall hold at least two information meetings as follows: After acceptance of an application for site designation and a certificate of site compatibility, the board shall hold at least one information meeting in the area affected by the applicant's proposal to explain the site designation process, receive comments on the scope of the EIA, and to respond to questions raised by the public.

~~Prior to~~ Before the public hearings held to consider the sites approved for consideration by the board, the board shall hold an information meeting in each county in which a site is proposed to be located to explain the site designation process, ~~to present major~~ receive comments on issues and alternatives under consideration by the board described in the EIA, and to respond to questions raised by the public.

4400.3100 SITE PROPOSALS.

Subpart 1. Acceptance for consideration. The board shall consider accept for consideration the sites proposed by the applicant and may consider accept for consideration any other site it deems necessary which is proposed in accord with this part. No site Only sites which have been accepted by the board prior to notice of the public hearing shall be considered at the public hearing unless approved for consideration by the board prior to notice of the hearing thereon. All approved Sites accepted shall be identified by the board consistent in accordance with part 4400.3700, subpart 4 4400.3710. In order that a site be included in the public hearing record, any proposer of a site which has been approved accepted for consideration at the public hearing by the board shall make an affirmative a presentation of facts on the merits of the proposal at the public hearing which shall provide the board with a basis for making a determination on that proposal.

Subp. 2. Agency and advisory task force site proposals. The board member agencies, power plant siting staff, and the site advisory task force may propose sites directly to the board. Site proposals made by the site advisory task force must be made no later than 105 days after acceptance of the application by the board.

Subp. 3. Other sources of site proposals. Any other person may propose a site in the following manner as provided in this subpart:

A. The proposed site must be set out specifically on the appropriate general county highway map available from the Minnesota Department of Transportation or on United States Geological Survey topographical maps.

B. The proposal must contain the data and analysis required in parts 4400.2600 and ~~4400.3300~~ 4400.3310 with the exception of part 4400.2600, subpart 1, items B C and G E, ~~except where such~~ unless the information is the same as provided by the applicant.

C. The proposal must be presented to the chairman chair of the board ~~or his designee~~ within 70 days of acceptance of the application by the board.

Subp. 4. Adequate preparation of proposal. Within ten days of receipt of the a site proposal, the chairman chair of the board ~~or his designee~~ shall determine if the proposal is adequately prepared in accord with this part. If the chairman chair of the board ~~or his designee~~ determines that it is adequately prepared, ~~he the~~ chair shall forward the proposal to the board for its consideration at its next meeting. If the chairman chair of the board ~~or his designee~~ determines that the proposal is not adequately prepared, ~~he the~~ chair shall inform the proposer of any inadequacies in the proposal. The proposer shall have 15 days ~~therefrom~~ to provide additional information to the chairman chair of the board ~~or his designee~~. The chairman chair of the board ~~or his designee~~ shall determine within ten days whether the amended proposal is adequately prepared. If the chairman chair of the board ~~or his designee~~ then determines that the proposal is not adequately prepared, the proposer may appeal to the board at its next meeting to determine the adequacy of the proposal.

4400.3200 PUBLIC HEARINGS.

Public hearings held by the board ~~pursuant to~~ under parts 4400.2600 to 4400.3500 shall be held for the purposes of collecting and verifying data and establishing a complete and accurate record upon which to base a decision. The hearing shall be conducted by an independent administrative law judge from the Office of Administrative Hearings. The conduct of these hearings shall be as prescribed by rule adopted by the chief administrative law judge chapter 1405.

4400.3210 ENVIRONMENTAL IMPACT ASSESSMENT FOR LEPP.

Subpart 1. Record of hearings. An environmental impact assessment (EIA) must be prepared for inclusion in the record of the public hearing under Minnesota Statutes, section 116C.58.

Subp. 2. Contents. The EIA must contain:

A. a summary of the project description provided in the project proposer's application;

B. a summary of the certificate of need decision, if one was required and is available; the EIA shall not consider need for the project and other issues determined by the Public Utilities Commission;

C. a description of the applicant's proposed sites and any alternative sites approved by the board for consideration at public hearing;

D. a description of feasible alternative designs;

E. an analysis of the potential human and natural environmental effects of each alternative site or design. The analysis must include those issues identified by the site advisory task force or by any interested person during the first public information meeting held under part 4400.3000;

F. a description of mitigative measures that could reasonably eliminate or minimize potential adverse effects;

G. a discussion of all known governmental permits and approvals required; and

H. an explanation of the board's siting process and how the public can participate, and specifically, how public comments on the EIA will be received for inclusion in the record of the public hearing.

Subp. 3. Notice of availability. The chair or the chair's designee shall provide notice of the availability of the EIA and how the public can participate in its review. The notice must be provided according to Minnesota Statutes, section 116C.58, and part 4400.3710, and may be provided in the notice of the hearing required. Notice must also be published in the EQB Monitor.

Subp. 4. Distribution. When notice of availability is provided under subpart 3, the EIA must be distributed by certified mail to the persons receiving notice. At least one copy must be available for public review at the last public information meeting held before the public hearing and during the public hearing conducted under Minnesota Statutes, section 116C.58.

Subp. 5. Comments. The comment period begins when notice of availability of the EIA is published in the EQB Monitor and closes at the end of the oral portion of the public hearing. At least 30 days must be provided for comments. All comments become

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Proposed Rules

part of the hearing record as provided in part 1405.1800, subpart 5. The hearing record remains open until responses have been provided to all relevant comments which address deficiencies in the EIA pursuant to subpart 2. The date shall be set by the administrative law judge under part 1405.1400.

Subp. 6. Adequacy. Prior to designating a site and issuing a certificate of site compatibility for an LEPPG, the board shall make a finding and conclusion that the EIA, comments on the EIA, and responses to comments:

A. have adequately addressed significant environmental issues identified by the site advisory task force and the public under parts 4400.2800 and 4400.3000; and

B. have been prepared in compliance with the requirements of this part.

Subp. 7. Cooperative processes. The chair or the chair's designee shall cooperate with federal agencies to the fullest extent possible to reduce duplication between Minnesota Statutes, chapter 116D, and the National Environmental Policy Act, United States Code, title 42, sections 4321 to 4361.

Subp. 8. Costs. The board shall assess the project proposer for its reasonable costs of preparing and distributing the EIA pursuant to part 4410.6000.

4400.3310 SITING CONSIDERATIONS.

Subpart 1. Considerations. To facilitate the evaluation and designation of LEPPG sites, the board shall be guided by the act and the following considerations:

A. effects on human settlement, including but not limited to, displacement, noise, aesthetics, community benefits, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including but not limited to, agriculture, forestry, tourism, and mining.

D. archaeological and historic resources;

E. effects on the natural environment;

F. rare and unique natural resources;

G. cumulative present and future demands on air and water resources;

H. application of design options which maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of generating capacity;

I. use of existing LEPPG sites;

J. use of existing transportation, pipeline, and electrical transmission systems;

K. costs of constructing and operating the facility which are dependent on design and site; and

L. adverse human and natural environmental effects which cannot be avoided.

Subp. 2. Site exclusions. The following resources within the state have been designated for preservation by action of the state or federal government for the benefit of the people and for future generations:

A. national parks;

B. national historic sites and landmarks;

C. national historic districts;

D. national wildlife refuges;

E. national monuments;

F. national wild, scenic, and recreational riverways;

G. state wild, scenic, and recreational rivers and their land use districts;

H. state parks;

I. nature conservancy preserves;

J. state scientific and natural areas; and

K. state and national wilderness areas.

These areas shall not be designated as a site for an LEPPG except for use for water intake or discharge facilities. If the board includes any of these areas within a site for use for water intake or discharge facilities, it may impose appropriate conditions in the certificate

of site compatibility which protect these areas for the purpose for which they were designated. The board shall also consider the adverse effects of proposed sites on these areas which are located wholly outside of the boundaries of these areas.

Subp. 3. Site exclusions when alternative sites exist. Certain resources within the state shall not be designated for LEPPG sites when all feasible and prudent alternatives would have greater adverse human and environmental impact. Designation of a site in these areas shall be consistent with Minnesota Statutes, section 116C.53, subdivision 1, and shall include conditions to minimize impacts which adversely affect the unique character of these areas. Economic considerations alone shall not justify approval of these areas. These areas are:

A. state registered historic sites;

B. state historic districts;

C. state wildlife management areas (except in cases where the plant cooling water is to be used for wildlife management purposes);

D. county parks;

E. metropolitan parks;

F. designated state and federal recreational trails;

G. designated trout streams; and

H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

Subp. 4. Prime farmland exclusion. When there exists a feasible and prudent alternative with less adverse environmental and noncompensable human effects, no LEPPG site shall be designated where the developed portion of the plant site includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, and no makeup water storage reservoir or cooling pond site shall include more than 0.5 acres of prime farmland per megawatt of net generating capacity. These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under Minnesota Statutes, section 414.0325.

Subp. 5. Sufficient water supply required. No site shall be designated that does not have reasonable access to a proven water supply sufficient for plant operation. No use of groundwater shall be permitted where removal of groundwater results in material adverse effects on groundwater in and adjacent to the area, as determined in each case.

The use of groundwater for high consumption purposes, such as cooling, shall be avoided if feasible and prudent surface water alternatives less harmful to the environment exist. Groundwater use to supplement available surface water shall be permitted if the cumulative impact minimizes environmental harm.

4400.3400 SITE DESIGNATION AND ISSUANCE OF CERTIFICATE OF SITE COMPATIBILITY.

Within one year after the board's acceptance of a ~~utility's~~ an application for a certificate of site compatibility, the board shall act on that application. When the board designates a site it shall issue a certificate of site compatibility with any appropriate conditions. The board's decision shall be ~~made in accordance with~~ based on the record, part ~~4400.3300~~ 4400.3310, and the act. The board shall give the reasons for its decision in written findings of fact. If the board refuses to designate a site, it shall indicate the reasons for the refusal and indicate the necessary changes in size or type of facility to allow site designation.

4400.3500 CERTIFICATE COMPLIANCE.

Following site designation and issuance of a certificate of site compatibility, the board may require the ~~applicant~~ permittee to supply ~~such~~ plans and information as it deems necessary to determine whether or not the ~~plant, as proposed or operated,~~ LEPPG is in compliance with the conditions of the certificate of site compatibility.

4400.3600 PROGRAM ADVISORY COMMITTEES TASK FORCE.

Subpart 1. [See Repealer.]

Subp. 2. ~~Power plant site Program advisory committee task force.~~ The board ~~shall~~ may appoint a ~~power plant siting program advisory committee which shall work closely with the board staff in reviewing, advising, task force to provide advice and making recommendations to the board concerning development, revision, and enforcement of any rule, inventory, or program initiated under the act or these rules parts 4400.0200 to 4400.4900.~~ The board shall provide guidance to the ~~committee~~ program advisory task force

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in the form of a charge and through specific requests. The ~~committee~~ program advisory task force shall be composed of as many members as may be designated by the board, and its membership shall be solicited on a statewide basis. The ~~committee~~ program advisory task force and its chair shall be appointed for a one-year term ~~coincident with the fiscal year~~.

4400.3710 NOTICES.

Subpart 1. When to notice. The chair or the chair's designee shall provide notice consistent with the act at the following points in the routing and siting processes:

- A. within 20 days of acceptance of any application filed with the board under the act, except an exemption application;
- B. public information meetings;
- C. availability of EIA;
- D. public hearing; and
- E. board designation of a site or route.

Subp. 2. Content of notices. All notices shall be provided consistent with the act, except for subpart 1, item E, and shall include, but not be limited to, the following information:

- A. identification of the applicant;
- B. date, time, and location of any action, meeting, or public hearing being noticed;
- C. a brief description of the proposed large electric power facility;
- D. a map showing the location of the proposed facility;
- E. procedures for participating in the routing or siting process and for interested persons to be placed on a mailing list for future notices;
- F. locations where documents are available for public review; and
- G. the name and function of the public advisor and the address and telephone number where that person can be reached.

Subp. 3. Proposals required to be noticed. For purposes of providing notice, a route, route segment, or site proposal shall be any route, route segment, or site proposed by the applicant or accepted by the board under part 4400.1100 or 4400.3100.

4400.3800 EMERGENCY CERTIFICATIONS AND PERMITS.

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

Subp. 2. Determination of an emergency. The board shall hold a public hearing as prescribed by chapter 1405 within 90 days of acceptance of an application for emergency certification to consider the following to determine whether an emergency exists:

- A. any evidence offered by the Department of Trade and Economic Development, or any other person;
- ~~B.~~ whether adherence to the procedures and time schedules specified in parts 4400.1400 and 4400.3400 would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner;
- ~~C.~~ B. whether there remains any feasible or prudent alternative to the utility which can serve its immediate need; and
- ~~D.~~ C. whether the utility is prepared to, and will upon authorization, carry out the acquisition and construction program at the maximum rate of progress.

The board shall also establish whether the situation could have been reasonably anticipated by the utility in time to ~~utilize~~ use the normal application procedures. If the board finds that the utility could have reasonably anticipated the situation, the utility may be subject to the provisions of Minnesota Statutes 1977, section 116C.68.

Subp. 3. Emergency procedures. If the board determines that an emergency exists, then the route or site designation procedures prescribed in parts 4400.0600 to 4400.1500 and 4400.2600 to 4400.3500, with the exception of parts 4400.1100, subparts 2 and 3 to 5, and 4400.3100, subparts 2 to 4, shall be followed, except that the board shall designate a route and issue an emergency construction permit or designate a site and issue an emergency certificate of site compatibility within 195 days of the application.

4400.3900 EXEMPTION OF CERTAIN TRANSMISSION LINE ROUTES.

Subpart 1. Application for exemption. A utility or person may apply to the board file an application with the board to exempt from the act the construction of a high voltage transmission line from the act. A utility shall submit an application for exemption of a specific transmission line containing the following information: the engineering design concepts; the proposed location of the facility; the environmental setting and impact of the proposed action; and a description of the plans for right-of-way preparation and construction of an HVTL within a proposed route. No exemptions may be granted unless the procedures in this part are followed.

Subp. 1a. Application contents. The application for exemption shall contain information necessary to make an evaluation of considerations listed in part 4400.1310, and the following:

A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;

B. a general description of the proposed project;

C. a description of the route for the proposed HVTL and a map;

D. the engineering design and estimated costs for the proposed HVTL;

E. a description of the construction, right-of-way restoration, and maintenance procedures anticipated for the proposed HVTL;

F. a description of the potential human and natural environmental effects and measures proposed by the applicant to mitigate adverse effects presented in the order shown in part 4400.1310; and

G. a listing and brief description of governmental permits that may be required.

Subp. 2. Notice of exemption application. Within 15 days of filing with the board of an exemption application for exemption of a certain route, the utility applicant shall:

A. publish a notice and description of the exemption application including, but not limited to, a map of the proposed route and the size and type of facility in a legal newspaper of general circulation in each county in which the route is proposed to be located consistent with the act;

B. send a copy of the exemption application by certified mail to the chair or chief executive of any regional development commission, county, incorporated municipality home rule charter or statutory city, and organized town in which the route is proposed to be located; and

C. send a notice and description of the exemption application mail to each owner over whose property the line may run is included within the route, a notice and description of the exemption application, together with an understandable description of the procedures the owner must follow should he the owner desire to object. Determination of ownership shall be consistent with Minnesota Statutes, section 116C.57, subdivision 5.

Subp. 3. ~~Objections~~ Objection to exemption. ~~Any~~ If a person who owns real property crossed by the proposed route, or any person owning property adjacent contiguous to the property crossed by the proposed route, or any affected political subdivision ~~may file an~~ submits a written objection with to the board within 60 days after the giving of notice ~~under part 4400.3900, subpart 2, stating reasons why the board should deny the application.~~ has been provided, the board must either deny the exemption application or conduct a hearing as prescribed by chapter 1405 to determine if the proposed HVTL within the proposed route will cause any significant human or environmental impact. The written objection shall:

A. state reasons why the board should deny the exemption application or hold a public hearing;

B. to the extent possible, describe significant impacts on the human or natural environment which will be caused by the proposed facility, or show that insufficient information is provided on possible impacts in the application; and

C. provide evidence of real property ownership required in this subpart. Property tax records shall suffice as evidence.

Subp. 4. [See Repealer.]

Subp. 5. Public hearing. Pursuant to Minnesota Statutes, section 116C.06, the board may order a public hearing as prescribed by chapter 1405 to determine if the proposed facility will cause any significant human or environmental impact.

Subp. 6. Public comments. Any person may submit comments to the board within 60 days after notice has been provided as required by subpart 2.

Subp. 7. Determination. In deciding whether to grant or deny an exemption, the board shall consider any objections and comments that are submitted, the record of any public hearing which is held, and the information contained in the application. If the board determines that the proposed HVTL will not have a significant human or environmental impact, the board may exempt from the act with any appropriate conditions the construction of the proposed facility within the proposed route. If the board denies an HVTL exemption, it shall indicate the reasons and indicate the project changes necessary for approval. The applicant may reapply for an exemption or apply for a construction permit.

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When an exemption is granted, the utility or person must comply with any applicable state rules, local zoning, building, and land use rules, regulations, and ordinances of any regional, county, local, and special purpose governments in which the facility is to be located.

4400.3910 EXEMPTION OF CERTAIN LEPPG SITES.

Subpart 1. Application for exemption. A utility or person may file an application with the board to exempt from the act the construction of an LEPPG with an electric power production capacity between 50 and 80 megawatts at a proposed site. No exemptions may be granted unless the procedures in this part are followed.

Subp. 2. Contents of application. The application for exemption shall contain information necessary to make an evaluation of considerations listed in part 4400.3310 and inventory criteria in part 4400.4500, and the following:

A. a statement of proposed ownership of the facility as of the day of filing and an affidavit authorizing the applicant to act on behalf of those planning to participate in the project;

B. the size and type of the proposed plant;

C. the proposed site location and a map;

D. an engineering design, cost, and operation analysis for the proposed plant;

E. a description of all waste streams and disposal methods;

F. the anticipated life of the facility;

G. a description of the potential human and natural environmental effects and measures proposed by the applicant to mitigate adverse effects presented in the order shown in part 4400.3310; and

H. a listing and brief description of governmental permits that may be required.

Subp. 3. Notice of exemption application. Within 15 days of the filing of an exemption application, the applicant shall:

A. publish notice consistent with the act in each county in which any portion of the proposed site is located;

B. send a copy of the exemption application by certified mail to the chair or chief executive of any regional development commission, county, home rule charter or statutory city, and organized town within ten miles of the proposed site; and

C. mail to the owner of each property that is part of or is contiguous to the proposed site a notice and description of the exemption application and an understandable description of the procedures the owner must follow should the owner desire to object. Determination of ownership shall be consistent with Minnesota Statutes, section 116C.57, subdivision 5a, paragraph (b).

Subp. 4. Objection to exemption. If a person who owns real property that is part of or contiguous to the proposed site or an affected political subdivision submits a written objection to the board within 60 days after the board receives an exemption application, the board must either deny the exemption application or conduct a public hearing as prescribed by chapter 1405 to determine if the proposed electric power plant at the proposed site will cause any significant human or environmental impact. The written objection shall:

A. state reasons why the board should deny the exemption application or hold a public hearing;

B. to the extent possible, describe significant impacts on the human or natural environment which will be caused by the proposed facility, or show that insufficient information is provided on possible impacts in the exemption application; and

C. provide evidence of real property ownership required in this subpart. Property tax records shall suffice as evidence.

Subp. 5. Public hearing. Pursuant to Minnesota Statutes, section 116C.06, the board may order a public hearing as prescribed in chapter 1405 to determine if the proposed facility will cause significant human or environmental impact.

Subp. 6. Public comments. Any person may submit comments to the board within 60 days after notice has been provided as required in subpart 3.

Subp. 7. Determination. In deciding whether to grant or deny an exemption, the board shall consider any objections and comments that are submitted, the record of any public hearing which is held, and the information contained in the application. If the board determines that a facility has an electric power production capacity less than 80 megawatts and construction at the proposed site will not have a significant human or environmental impact, the board may exempt with any appropriate conditions the construction of the proposed facility at the proposed site from the requirements of the act. If the board denies an LEPPG exemption, it shall indicate the reasons and indicate the project changes necessary for approval. The applicant may reapply for an exemption or apply for a certificate of site compatibility.

When an exemption is granted, the utility or person must comply with applicable state rules, local zoning, building, and land use rules, regulations, and ordinances of any regional, county, local, and special purpose governments in which the facility is to be located.

4400.4000 DELAY IN ROUTE OR SITE CONSTRUCTION.

Utilities that have acquired a route or site may proceed to construct or improve the route or site in accordance with these rules. However, when ~~If~~ construction and improvement of a route or site have not commenced four years after the construction permit or site certificate has been issued by the board, the board shall suspend the certificate or permit. If at that time, or at a time subsequent, the utility decides to construct the proposed large electric power facility, it shall certify to the board that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit or certificate was issued. If the board determines that there are no significant changes, it shall reinstate the permit or certificate. If the board determines that there is a significant change, it may order a new hearing and consider the matter further, or it may require a new application.

4400.4100 MINOR ALTERATIONS IN CONSTRUCTION PERMIT FOR HIGH VOLTAGE TRANSMISSION LINE OR CERTIFICATE OF SITE COMPATIBILITY.

Following issuance of a construction permit for a ~~high voltage transmission line~~ an HVTL or a certificate of site compatibility for an LEPGP, a utility may apply to the board for minor alterations on conditions specified in the permit or certificate. The utility shall submit an application for a minor alteration which contains sufficient information for the board to determine within 45 days the following: whether the requested changes are significant enough to warrant board study and approval; whether to order public hearings near the affected area; or whether additional fees shall be assessed.

If the board decides to study the application, the board shall determine within 70 days whether granting the application would be consistent with part ~~4400.1300~~ 4400.1310 or 4400.3310 and shall grant or deny the utility's application accordingly.

4400.4200 REVOCATION OR SUSPENSION OF CERTIFICATE OR PERMIT.

Subpart 1. **Initiation of action to revoke or suspend.** The board may initiate action to consider revocation or suspension of a construction permit or certificate of site compatibility on its own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of the act has occurred ~~as set forth in~~ under Minnesota Statutes, section 116C.645 or ~~these rules~~ this chapter.

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

Subp. 3. **Finding of violation.** If the board finds that a violation of Minnesota Statutes, section 116C.645 or ~~these rules~~ this chapter has occurred, it may revoke or suspend the permit or certificate, require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit or certificate.

4400.4500 IDENTIFICATION OF LARGE ELECTRIC POWER GENERATING PLANT STUDY AREAS.

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

Subp. 2. **Exclusion areas.** Criterion: study areas shall be compatible with board rules on exclusion criteria for LEPPG site selection.

Standard: geographic areas identified in part ~~4400.3300~~ 4400.3310, subpart 2 shall not be part of any study area.

[For text of subps 3 to 6, see M.R.]

4400.4900 APPLICATION FEES.

Every applicant for a route or site pursuant to Minnesota Statutes, section 116C.57 shall pay to the board a fee as prescribed by the act.

For applications filed pursuant to Minnesota Statutes, section 116C.57, subdivisions 1 and 2, 25 percent of the total estimated fee shall accompany the application and the balance is payable in three equal installments at the end of 90, 180, and 270 days from the date of the board's acceptance of the application.

For applications filed pursuant to Minnesota Statutes, section 116C.57, subdivision 3, 25 percent of the total estimated fee shall accompany the application and the balance is payable at the end of 90 days from the date of the board's acceptance of the application.

For applications filed pursuant to Minnesota Statutes, section 116C.57, ~~subdivision~~ subdivisions 5 and 5a, ~~ten~~ 50 percent of the total ~~estimated fee shall accompany~~ approved cost for processing the application shall be paid within 14 days of receipt of the application and the balance is payable as determined by the board.

REPEALER. Minnesota Rules, parts 4400.0700; 4400.1100, subpart 2; 4400.1300; 4400.2700; 4400.3300; 4400.3600, subpart 1; 4400.3700; and 4400.3900, subpart 4, are repealed.

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Environmental Quality Board

Proposed Permanent Rules Relating to Environmental Review of Certain Large Energy Facilities

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Environmental Quality Board (EQB) is hereby giving notice of its intent to adopt the above-entitled rules without a public hearing under the noncontroversial rulemaking procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28 (1986). However, in order to expedite the rulemaking process should 25 or more persons request a hearing, thus necessitating that a hearing be held, the EQB is simultaneously giving notice of a hearing on the proposed rules. Unless, at least 25 persons request that the hearing be held, the hearing will be cancelled.

The EQB has elected to jointly notice rulemaking both with and without a hearing in order to avoid delay should a hearing be required. The EQB has informally discussed concerns raised over various parts of the proposed rules with concerned parties throughout the drafting of the proposed rules, and consequently believes that all known concerns have been given adequate considerations. Nevertheless, the EQB recognizes that there may be sufficient concern over the proposed rules to necessitate the holding of a public hearing.

II. Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Environmental Quality Board (EQB) proposes to adopt the above-captioned proposed rules without a public hearing following the procedures set forth in *Minnesota Statutes* sections 14.22 to 14.28 (1986). If adopted, the proposed rule amendments would establish the transmission line routing and power plant siting processes (*Minnesota Rules*, chapter 4400) as alternative environmental review. These proposed permanent rules are amendments to existing rules, authorized by *Minnesota Statutes*, sections 116D.04 and 116D.045, which prescribe the circumstances and manner in which proposed transmission line routes and power plant sites must be reviewed through the preparation of environmental review documents, and the procedures by which these reviews must be conducted. The proposed amendments transfer the environmental review process for large energy facilities from the environmental review rules (4410) to the power plant siting rules (4400), and constitutes alternative environmental review. (Please note that a separate notice of intent to adopt rules is provided in this issue which relates to proposed, corresponding amendments to the EQB's power plant siting rules.) A free copy of the proposed permanent rules may be obtained by contacting Bob Cupit at the address or telephone number provided in this notice.

Interested persons will have 30 days from the date of this notice in the *State Register* to submit comments in support of or in opposition to the proposed rules or any part thereof. Comment is encouraged. Each comment should identify the part of the proposed rules being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within this 30-day comment period, a public hearing will be held, **unless a sufficient number withdraw their request in writing**. A public hearing, if required, will be held in accordance with the notice of hearing given in part III of this notice. Request for a public hearing must be received by the EQB by 5:00 p.m. on July 18, 1990. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the part of the proposed rules addressed by the comment, the reason for the request, and any changes suggested in the proposed rules.

If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the EQB be informed of the specific rule part on which a hearing is being requested at the time that the hearing request is made. This will enable the EQB to limit the hearing, if one is held, to the specific issues of concern, and to adopt portions of the proposed rules for which less than 25 persons request a hearing in accordance with the noncontroversial rulemaking procedures.

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

Bob Cupit
Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-2096

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

A **STATEMENT OF NEED AND REASONABLENESS** has been prepared and may be obtained from the EQB by contacting Mr. Cupit at the address or telephone number provided in this notice. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules.

The proposed rules will not require the expenditure of public money by local public bodies, therefore the requirements of *Minnesota Statutes*, section 14.11, subdivision 1, do not apply.

The proposed rules are exempted from the requirements of *Minnesota Statutes*, sections 17.80 to 17.84, relating to agricultural land use because high voltage transmission lines and power plants are reviewed in compliance with *Minnesota Statutes*, chapter 116D.

Pursuant to *Minnesota Statutes*, section 14.115, subd. 3, compliance with provisions of that section, relating to small businesses, will be contrary to the statutory objectives of *Minnesota Statutes*, chapter 116D, therefore the requirements of *Minnesota Statutes*, section 14.115 (1986) do not apply.

If a hearing is not required for adoption of the proposed rules, the rules as proposed, this notice, the statement of need and reasonableness, and all other supporting documents will be delivered to the Attorney General for review as to form and legality. Persons who wish to be notified of this submission to the Attorney General, or who wish to receive a copy of the adopted rules, must submit a written request to Mr. Cupit at the address provided in this notice.

III. Notice of Intent to Adopt a Rule With a Public Hearing If 25 or More Persons Request a Hearing

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULE WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON JULY 26, 1990 IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1986), on July 26, 1990, in room 302 of the Centennial Building, 658 Cedar Street, St. Paul, Minnesota, commencing at 10:00 a.m. Additional days may be scheduled as needed. All interested or affected persons will have an opportunity to participate, and may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence submitted should be pertinent to the matter at hand.

Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Phyllis Reha, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota, 55415, telephone 612/341-7611, either before or within five days after the hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. Written material received during this period will be available for review at the Office of Administrative Hearings. After the close of the comment period, the EQB and interested persons have three business days to respond in writing to any new information submitted during the comment period. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 (1986) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

The proposed rules are amendments to existing rules which regulate environmental review of certain transmission line routes and power plant sites in the State of Minnesota. A description of the proposed rules is provided in part II of this notice. The proposed rules are authorized by *Minnesota Statutes*, sections 116D.04 and 116D.045. A free copy of the proposed rules may be obtained by writing or telephoning: Bob Cupit, Environmental Quality Board, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone 612/296-2096.

The proposed rules may be modified as a result of the rule hearing process if the modifications do not result in a substantial change in the proposed rules as noticed. Those who are potentially affected by the substance of the proposed rules are therefore advised and encouraged to participate in the process.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is available for review at the EQB offices and at the Office of Administrative Hearings. This document describes the need for and reasonableness of each proposed rule and identifies the information relied upon to support the proposed rules. Copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

The proposed rules will not require the expenditure of public money by local public bodies, therefore the requirements of *Minnesota Statutes*, section 14.11, subdivision 1, do not apply.

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Proposed Rules

The proposed rules are exempted from the requirements of *Minnesota Statutes*, sections 17.80 to 17.84, relating to agricultural land use, because high voltage transmission lines and power plants are reviewed in compliance with *Minnesota Statutes*, chapter 116D.

Pursuant to *Minnesota Statutes*, section 14.115, subd. 3, compliance with provisions of that section, relating to small businesses, will be contrary to the statutory objectives of *Minnesota Statutes*, chapter 116D, therefore the requirements of *Minnesota Statutes*, section 14.115 (1986) do not apply.

PLEASE NOTE that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the EQB may not take any final action on the proposed rules for a period of five business days. If you wish to be so notified, you may do so at the hearing. After the hearing, you may request notification by writing to the Administrative Law Judge.

Any person may request notification of the date on which the proposed rules were adopted and filed with the Secretary of State. The notice will be mailed to any person requesting this notice on the same day the rule is filed. If you wish to be so notified, you may so indicate at the hearing or send a written request to the EQB at any time prior to the filing of the rule with the Secretary of State.

Minnesota Statutes, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any given month or more than \$250.00, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00 not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert, St. Paul, Minnesota, 55101, telephone (612) 296-5148.

IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To learn whether the hearing will be held, please call Mr. Cupit at (612) 296-2096 and leave your name, address, and telephone number. You will be notified after July 18, 1990 if the hearing has been cancelled.

Dated: 5 June 1990

Barbara L. Hughes, Vice Chair

Rules as Proposed

4410.7000 SPECIAL RULES FOR LEPGP.

Environmental review for LEPGP as defined in *Minnesota Statutes*, section 116C.52, subdivision 4, shall be conducted according to the procedures set forth in parts 4410.7000 to 4410.7300 and 4410.7100, unless a utility has filed an application for emergency certification pursuant to *Minnesota Statutes*, section 116C.57, subdivision 3, or for an exemption pursuant to *Minnesota Statutes*, section 116C.57, subdivision 5a. Environmental review shall consist of an environmental report at the certificate of need stage and an EIS at the site certificate stage. Energy facilities subject to *Minnesota Statutes*, section 216B.243, but excluded under *Minnesota Statutes*, section 116C.52, subdivision 4, shall not be subject to this part. Except as expressly provided in parts 4410.7000 to 4410.7300, parts 4410.0500 to 4410.3800 shall not apply to LEPGP's subject to parts 4410.7000 to 4410.7300. No EAW shall be prepared for any LEPGP's subject to parts 4410.7000 to 4410.7300.

A. at the certificate of need stage, an environmental report prepared pursuant to part 4410.7100; and

B. at the site certificate stage, an environmental impact assessment prepared pursuant to part 4400.3210, which shall, in conjunction with parts 4400.2600 to 4400.3500, constitute alternative environmental review.

If a utility has filed an application for emergency certification pursuant to *Minnesota Statutes*, section 116C.57, subdivision 3, or for an exemption pursuant to *Minnesota Statutes*, section 116C.57, subdivision 5a, the procedures and standards specified in part parts 4400.3800 and 4400.3910, respectively, shall constitute alternative environmental review and neither parts 4410.0500 to 4410.3800 nor 4410.7000 to 4410.7300 shall apply.

4410.7100 ENVIRONMENTAL REPORT AT CERTIFICATE OF NEED STAGE.

Subpart 1. **Preparer.** The Public Utilities Commission shall be responsible for preparation of an environmental report on a LEPGP subject to parts 4410.7000 to 4410.7300 at the certificate of need stage.

[For text of subs 2 and 3, see M.R.]

Subp. 4. **Level of detail.** The environmental report shall not be as exhaustive or detailed as an EIS and shall consider only those site-differentiating factors identifiable pursuant to the information requirements of part ~~7849.0250~~ 4220.2500, item A, subitem (5).

[For text of subps 5 to 12, see M.R.]

4410.7400 SPECIAL RULES FOR HVTL.

Environmental review for HVTLs as defined in *Minnesota Statutes*, section 116C.52, subdivision 3, shall be conducted according to the procedures ~~set forth~~ in parts 4410.7400 to ~~4410.7800~~ and 4410.7500, unless a utility has filed an application for emergency certification pursuant to *Minnesota Statutes*, section 116C.57, subdivision 3, or for an exemption pursuant to *Minnesota Statutes*, section 116C.57, subdivision 5. Environmental review shall consist of ~~an environmental report at the certificate of need stage and an EIS at the route designation and construction permit stage. Except as expressly provided in parts 4410.7400 to 4410.7800, parts 4410.0500 to 4410.3800 shall not apply to HVTLs subject to parts 4410.7400 to 4410.7800. No EAW shall be prepared for any HVTLs subject to parts 4410.7400 to 4410.7800.~~

A. at the certificate of need stage, an environmental report prepared pursuant to part 4410.7500; and

B. at the construction permit stage, an environmental impact assessment prepared pursuant to part 4400.1210, which shall, in conjunction with parts 4400.0600 to 4400.1500, constitute alternative environmental review.

If a utility has filed an application for emergency certification pursuant to *Minnesota Statutes*, section 116C.57, subdivision 3, or for an exemption pursuant to *Minnesota Statutes*, section 116C.57, subdivision 5, the procedures and standards specified in parts 4400.3800 and 4400.3900, respectively, shall constitute alternative environmental review ~~and neither parts 4410.0500 to 4410.3800 nor parts 4410.7400 to 4410.7800 shall apply.~~

4410.7500 ENVIRONMENTAL REPORT AT CERTIFICATE OF NEED STAGE.

Subpart 1. **Preparer.** The Public Utilities Commission shall be responsible for preparation of an environmental report on an HVTL ~~subject to parts 4410.7400 to 4410.7800~~ at the certificate of need stage.

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

Subp. 3. **Contents.** The environmental report on the certificate of need application shall include:

[For text of items A and B, see M.R.]

C. a general evaluation, including the availability, estimated reliability, and economic, employment, and environmental impacts, of the proposal and alternatives; and

D. a general analysis of the alternatives of no facility and delayed construction of the facility, which analysis shall include consideration of conservation and load management measures that could be used to reduce the need for the proposed facility.

The environmental report shall not be as exhaustive or detailed as an EIS and shall consider only those route differentiating factors identifiable pursuant to the information requirements of part ~~7849.0260~~ 4220.2600; and the report shall be reviewed in the manner provided in part 4410.7100, subparts 5 to 12.

Subp. 4. **Alternative review.** The PUC may request EQB approval of an alternative form of environmental review on a HVTL subject to parts 4410.7400 to ~~4410.7800~~ and 4410.7500. The EQB shall approve the governmental process as an alternative form of environmental review if the PUC demonstrates the process meets the following conditions:

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

Subp. 5. **Exemption.** If the EQB accepts the PUC's process as an adequate alternative environmental review procedure, the PUC is exempt from the requirements under part 4410.7500, subparts 1 to 3, for preparing an environmental report on an HVTL. On approval of the alternative review procedure, the EQB shall provide for periodic review of the procedure to ensure continuing compliance with the requirements and intent of the environmental report requirement. The EQB shall withdraw its approval if review indicates that the procedure no longer fulfills the intent and requirements of the Minnesota Environmental Policy Act and parts 4410.7400 to ~~4410.7800~~ and 4410.7500. A project in the process of undergoing review under an approved alternative review process shall not be affected by the EQB's withdrawal of approval.

REPEALER. *Minnesota Rules*, parts 4410.7200; 4410.7300; 4410.7600; 4410.7700; and 4410.7800 are repealed.

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

Department of Health

Proposed Permanent Rules Relating to Registration Fee for Home Care Providers

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing If Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 144A.49.

Persons interested in this rule have 30 days in which to 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 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 requests 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. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON July 31, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUESTS, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS EDITION OF THE *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HEALTH. To verify whether a hearing will be held, please call the Department of Health between July 19 and July 30, 1990 at (612) 643-2151.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

David Siegel
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900
(612) 643-2159

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on July 18, 1990.

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

A copy of the rule follows this notice. Additional copies of the rule are available upon request from:

Elise Paulsen
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900
(612) 643-2151

The rule implements *Minnesota Statutes*, section 144A.49, by establishing a one-time fee for the registration of all home care providers that are subject to registration. The fees are based on categories of types of providers, and range from \$15 to \$900.

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 upon request from Elise Paulsen at the address noted above.

The adoption of this rule will increase aggregate spending by local public bodies in excess of \$100,000 per year in either of the first two years following the rule's adoption. See the fiscal note following this notice which contains the Department's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule.

Small businesses are invited and encouraged to comment on the potential impact of the proposed rule on small businesses, in accordance with *Minnesota Statutes*, section 14.115. The rule will directly affect all small businesses that provide home care services, and are not otherwise exempt from registration under *Minnesota Statutes*, sections 144A.43 to 144A.49. The rule will cost each

registrant a one-time fee of between \$15 and \$900, computed to recover the costs of the regulatory program for the period July 1, 1987 to June 30, 1990.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered 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 Elise Paulsen at the address noted above.

Sister Mary Madonna Ashton
Commissioner of Health

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to the Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Chesley Room, Room 105, Minnesota Department of Health Building, 717 Delaware Street, S.E., Minneapolis, Minnesota, on Tuesday, July 31, 1990, beginning at 9:00 a.m. and continuing until all interested persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HEALTH. To verify whether a hearing will be held, please call the Department of Health between July 19 and July 30, 1990, at (612) 643-2151.

Following the agency's presentation at the hearing, all interested persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented must be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Jr., Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period will be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses will be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The rule implements *Minnesota Statutes*, section 144A.49, by establishing a one-time fee for the registration of all home care providers that are subject to registration. The fees are based on categories of types of providers, and range from \$15 to \$900.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 144A.49.

The adoption of this rule will increase aggregate spending by local public bodies in excess of \$100,000 per year in either of the first two years following the rule's adoption. See the fiscal note following this notice which contains the Department's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule.

Small businesses are invited and encouraged to comment on the potential impact of the proposed rule on small businesses, in accordance with *Minnesota Statutes*, section 14.115. The rule will directly affect all small businesses that provide home care services, and are not otherwise exempt from registration under *Minnesota Statutes*, sections 144A.43 to 144A.49. The rule will cost each registrant a one-time fee of between \$15 and \$900, computed to recover the costs of the regulatory program for the period July 1, 1987 to June 30, 1990.

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

Free copies of the proposed rules may be obtained by writing to:

David Siegel
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900
(612) 643-2151

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact:

David Siegel
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64900
St. Paul, MN 55164-0900
(612) 643-2159

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. A copy of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction. A copy may be obtained free of charge from the agency.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sister Mary Madonna Ashton
Commissioner of Health

Fiscal Note

Background and Legal Authority

Minnesota Statutes, sections 144A.43 to 144A.48, establishes a system of licensure for home care providers, including hospice programs, to be administered by the Department of Health. Section 144A.49 provides temporary procedures pending promulgation of licensing rules. Among those procedures is a requirement for the registration of providers and assessment of a registration fee. To establish the one time fee, *Minnesota Rules*, chapter 4667, is proposed under the authority of *Minnesota Statutes*, sections 144A.49 and 144.122.

Effects on State and Local Spending

Included among those providers subject to home care licensure are county public health agencies, county social service agencies that provide home care services, and a few other governmental units.

All 66 county public health agencies are currently registered, and will pay fees of \$900 each as class A providers. 26 social service agencies are currently registered. It is estimated that 24 additional agencies will be required to register. Each will pay a fee of \$650 as class B providers.

The total state and local registrants are as follows:

<u>Number and type of provider</u>	<u>Fee</u>	<u>Total</u>
66 public health agencies	\$900	\$59,500
50 social service agencies	650	32,500
4 other county agencies	900	3,600
12 city agencies	900	10,800
4 city hospices	250	1,000
Total		\$107,300

The total one time cost impact of this rule on local and state spending will be approximately \$107,300 in 1990.

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

4667.0005 AUTHORITY.

This chapter establishes fees for the temporary registration of home care providers, as authorized by *Minnesota Statutes*, section 144A.49.

4667.0010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 4667.0005 to 4667.0030, the terms in subparts 2 to 11 have the meanings given them.

Subp. 2. **Class A provider.** "Class A provider" means a home care provider, other than an individual, that provides one or more home care services, at least one of which is nursing services, physical therapy, speech therapy, respiratory therapy, occupational therapy, nutritional services, or medical social services.

Subp. 3. **Class A-individual provider.** "Class A-individual provider" means a home care provider who is an individual, and who provides any home care service that is not personal care services or home management services.

Subp. 4. **Class B provider.** "Class B provider" means a home care provider, other than an individual, that provides only personal care services not included under *Minnesota Statutes*, sections 148.171 to 148.285, or home management services.

Subp. 5. **Class C provider.** "Class C provider" means a home care provider who is an individual, and who provides only personal care services not included under *Minnesota Statutes*, sections 148.171 to 148.285, or home management services.

Subp. 6. **Class D provider.** "Class D provider" means a provider of a hospice program.

Subp. 7. **Class E provider.** "Class E provider" means a provider of individualized personal care services not included under *Minnesota Statutes*, sections 148.171 to 148.285, or home management services, to residents of a residential center in their living units, when the provider is either the management of the residential center or another provider under contract with the management. "Residential center" means a building or complex of buildings in which residents rent or own distinct living units.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Department of Health.

Subp. 9. **Provider.** "Provider" means a home care provider required to register under *Minnesota Statutes*, section 144A.49.

Subp. 10. **Registrant.** "Registrant" means a home care provider who has registered with the department under *Minnesota Statutes*, section 144A.49, before the effective date of this chapter.

Subp. 11. **Register.** "Register" means to provide to the department the information required by *Minnesota Statutes*, section 144A.49.

4667.0020 PROCEDURE FOR REGISTRATION FEE.

Subpart 1. **Billing of existing registrants.** After the effective date of this chapter, the commissioner shall bill each registrant for the fee required by part 4667.0030.

Subp. 2. **Payment of fee.** A registrant shall pay the fee to the commissioner no later than 30 days after receipt of the billing. A registrant that fails to timely pay the fee shall be considered to not be registered under *Minnesota Statutes*, section 144A.49.

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

Subp. 3. **New providers.** A provider who registers on or after the effective date of this chapter shall pay the fee to the commissioner and submit the fee together with a completed registration form provided by the commissioner. The commissioner will not accept a registration without payment of the fee in full.

4667.0030 FEE SCHEDULE.

The amount of the registration fee shall be determined according to the following schedule for each class of provider:

- A. Class A provider, \$900;
- B. Class A-individual provider, \$150;
- C. Class B provider, \$650;
- D. Class C provider, \$15;
- E. Class D provider, \$250; and
- F. Class E provider, \$650.

Department of Labor and Industry

Proposed Permanent Rules Relating to Reimbursement for Copies of Workers' Compensation Medical Records

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry 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*, section 176.135, subs. 1 and 7, and Section 176.83.

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. Public 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:

Gloria Gebhard
Senior Rehabilitation & Medical Specialist
Rehabilitation and Medical Affairs
443 Lafayette Road
St. Paul, Minnesota 55155
Telephone: (612) 296-8213

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 free copy of the rule is available upon request from Gloria Gebhard at the above address and telephone number.

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 Gloria Gebhard upon request.

Minnesota Statutes, Section 14.115 requires state agencies to consider methods to reduce the impact of proposed rules on small businesses and to provide small businesses with special notice of rules that may affect them, unless the rules regulate service businesses such as health care providers for standards and costs. While the proposed rules are exempt from these requirements because they regulate providers for costs, the Department has considered the impact on small business providers. It is expected that there will be a small impact on providers who currently charge more for copies of records than allowed by the proposed rules. The Statement of Need and Reasonableness discusses in greater detail the impact on small businesses and options considered by the Department.

Adopted Rules

A fiscal note under *Minnesota Statutes*, Sections 3.982 or 14.11 is not needed because the rule is expected to result in savings that equal or exceed costs to self-insured local public bodies and school districts.

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 Gloria Gebhard at the above address.

Dated: 5 June 1990

David Abrams, Deputy Commissioner
for Ken Peterson, Commissioner

Rules as Proposed (all new material)

5219.0100 PURPOSE.

This chapter provides a schedule for reasonable reimbursement to a health care provider for copies of medical records. The privacy of medical records or reports under other law is not affected by this chapter.

5219.0200 SCOPE.

This chapter governs reimbursement for copies of existing medical records related to a current claim for compensation under *Minnesota Statutes*, chapter 176, when requested by any person or business entity from a health care provider as defined in *Minnesota Statutes*, section 176.011, subdivision 24.

5219.0300 REASONABLE REIMBURSEMENT ALLOWANCE.

Subpart 1. **First copy of appropriate record.** For the first copy of the appropriate record as defined in part 5221.0100, subpart 1a, (proposed at 14 S.R. 2412, April 9, 1990) when provided by the health care provider to the payer to substantiate the service being billed, a charge not to exceed 75 cents per page is reasonable. This amount applies whether the record is provided with the billing, under separate cover, or in response to a request by the payer for an appropriate record which has not been submitted with the bill.

Subp. 2. **Other copies.** For all other copies of existing medical records or data that are not specifically addressed in subpart 1 or in *Minnesota Statutes*, section 176.155, or any other Minnesota statute or rule, a charge is reasonable if the total charge for each submission following a request does not exceed the sum of \$10 as a retrieval fee and 75 cents per page.

Subp. 3. **Postage and other charges.** In addition to the charges in subparts 1 and 2, the health care provider may charge actual postage, any applicable Minnesota sales tax, and notary fees, if notarization is requested.

Subp. 4. **Time for payment.** The requester must reimburse the health care provider within 30 days of receipt of the copies requested.

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.

State Board of Vocational Technical Education

Adopted Permanent Rules Relating to License for Financial Aid Administrator

The rule proposed and published at *State Register*, Volume 14, Number 34, pages 2050-2051, February 20, 1990 (14 S.R. 2050) is adopted as proposed.

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.

Executive Orders

Executive Order No. 90-2: Assigning Emergency Responsibilities to State Agencies; Rescinding Executive Order 88-2

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, natural and man-made disasters in major proportions have and will occur in any part of the state; and

WHEREAS, hazardous materials incidents can occur in the state at any time; and

WHEREAS, state resources may be called upon in response to these incidents and disasters; and

WHEREAS, state agencies may be asked to direct these resources from state or regional Emergency Operating Centers (EOCs);

NOW, THEREFORE, I hereby order that:

1. Each department, independent division, bureau, board, commission, and independent institution of the state government, hereinafter referred to as agencies, develop and make available to its employees emergency plans and procedures for:

- a. protecting its personnel, equipment, supplies, and public records in a disaster;
- b. carrying on normal services in a disaster;
- c. carrying out emergency assignments made by this Executive Order.

2. The responsibility for emergency planning shall rest with the head of each agency. Agency heads shall designate competent agency personnel to:

- a. develop emergency plans and procedures;
- b. report and direct state resources from the state and/or regional Emergency Operating Centers in response to a disaster/emergency, including exercises;
- c. staff Disaster Application Centers (DACs) when providing disaster relief following a presidential declaration of a major disaster, as requested by the Division of Emergency Management;
- d. support emergency management activities coordinated by regional program coordinators of the Division of Emergency Management.

Agency personnel shall be available for planning, training, exercising, and participating in emergency operations. They shall be granted time off or compensation, if any, pursuant to the applicable collective bargaining unit agreement, commissioner's plan or managerial plan, for services performed outside of regular working hours.

3. The Division of Emergency Management shall have overall responsibility for coordinating the development and updating of the *Minnesota Emergency Operations Plan*, the *Minnesota Emergency Response Plan for Nuclear Power Plants*, and the *Minnesota Emergency Response Plan for High-Level Radioactive Waste Transportation Accidents/Incidents*.

4. Each state agency is responsible for developing standard operating procedures and/or administrative plans to carry out its emergency responsibility assignments. Draft copies of plans and procedures shall be submitted to the Division of Emergency Management for review and coordination.

5. Each state agency that has a role in emergency management shall participate in the development of hazard mitigation strategies to reduce or eliminate the vulnerability of life and property to the effects of disasters.

6. Certain state agencies are hereby given the emergency management responsibilities specified in an appendix to this Executive Order.

Executive Order 88-2 is rescinded.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, Subdivision 2, this Executive Order shall be effective fifteen (15) days after its publication in the *State Register* and filing with the Secretary of State, and shall remain in effect until it is rescinded by proper authority or expires in accordance with *Minnesota Statutes* 1988, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 31st day of May, 1990.



Rudy Perpich
Governor

I. DEPARTMENT OF ADMINISTRATION

- Section 100** The Department of Administration shall provide architects and engineers to prepare damage assessment and damage survey reports of public buildings damaged by disaster.
- Section 101** The Department of Administration shall administer the state self insurance program as it relates to federal disaster assistance, as set forth under Public Law 93-288.
- Section 102** The Department of Administration shall provide administrative support to state government agencies during a disaster. This support would include, but is not limited to, assigning administrative staff, equipment, stenographic, printing and duplicating materials and maintenance, at state and regional emergency operating centers.
- Section 103** The Department of Administration shall furnish computer services needed for emergency operations and resource management in an emergency. These services include the use of computer facilities and support staff to provide needed information on a 24-hour basis during and immediately following an emergency.
- Business Technologies Division**
- Section 110** The Business Technologies Division shall provide emergency telecommunications support and shall coordinate planning and delivery of statewide telecommunications systems and services for emergency operations, as necessary, during an emergency.
- Section 111** The Business Technologies Division shall be responsible for providing telephone operation support during exercises and emergencies in state and regional emergency operating centers.
- Section 112** The Director of the Business Technologies Division shall be the chief of the state communications service.

II. DEPARTMENT OF AGRICULTURE

- Section 200** The Department of Agriculture shall provide guidance for the use of agricultural land and crops affected by a disaster.
- Section 201** The Department of Agriculture, with the assistance of the Board of Animal Health, shall develop procedures for the protection of farm animals affected by a disaster.
- Section 202** The Department of Agriculture shall assist in the preparation of damage estimates for the Division of Emergency Management on agricultural losses to support disaster declaration requests.
- Section 203** The Department of Agriculture shall develop emergency procedures for a statewide food supply and distribution program in order to maintain adequate emergency food supplies. These procedures will make provisions for the control and distribution of primary and secondary foods as prescribed by federal guidelines.
- Section 204** The Department of Agriculture shall be responsible for a statewide program for the decontamination and salvage of animals and crops exposed to radiation and the use of contaminated agricultural land to include decontamination methods, cultivation guidance, and types of crops to be grown.
- Section 205** The Department of Agriculture shall prepare procedures and support the response to hazardous materials incidents in the state as requested by the Division of Emergency Management. Specific duties shall include:
- providing the state lead response to pesticide/fertilizer incidents and supporting other state agencies;
 - coordinating state contractor's actions at superfund or ACRRA fund eligible sites involving pesticide/fertilizer incidents; and
 - providing public information services, post incident enforcement, long-term site cleanup, laboratory services for agricultural chemical related incidents, and evaluation of affected food and animal feed safety.

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III. ATTORNEY GENERAL

- Section 300** The Attorney General shall be responsible for providing legal advice and opinions in support of state emergency operations to include preparing and reviewing proclamations and special regulations as issued by the governor.
- Section 301** The Attorney General shall provide representation at disaster application centers (DACs) and public meetings as requested by the Division of Emergency Management, to provide consumer information to persons affected by a disaster.
- Section 302** The Attorney General shall prepare procedures and support the response to hazardous materials incidents in the state as requested by the Division of Emergency Management. Specific duties shall include:
- providing support on legal authorities during an incident, post incident enforcement, and training on crime identification, reporting, and preservation of evidence; and
 - assisting on the pre-planning and development issues, and in the recovery of state costs.

IV. STATE AUDITOR

- Section 400** The State Auditor shall be responsible for assuring that audits of project applications submitted by political jurisdictions meet the applicable audit requirements. The State Auditor is responsible for conducting audits where audits are required by the Single Audit Act of 1984.
- Section 401** The State Auditor shall be responsible for conducting state audits for applicants of Minnesota Statutes Chapter 9.061 "The Calamity Act."

V. DEPARTMENT OF COMMERCE

- Section 500** The Department of Commerce shall provide representation at disaster application centers (DACs) and public meetings as requested by the Division of Emergency Management, to furnish information relative to insurance claim procedures to persons affected by a disaster.
- Section 501** The Department of Commerce shall develop procedures and provide the necessary staff to support the state's responsibility in emergency banking and fiscal matters of the economic stabilization program, as established by the Federal Reserve Bank of Minneapolis and the Federal Reserve System.
- Section 502** The Department of Commerce shall assist state and local governments with a damage assessment of private or individual dwellings and businesses, as requested by the Division of Emergency Management.

VI. DEPARTMENT OF JOBS AND TRAINING

Field Operations Branch

- Section 600** The Field Operations Branch shall be responsible for coordinating and directing the use of manpower within the state during disaster operations from state and regional emergency operating centers.

Unemployment Insurance Branch

- Section 610** The Unemployment Insurance Branch shall develop procedures to provide unemployment assistance to eligible individuals whose unemployment results from a disaster declared under Public Law 93-288. It will also arrange for payment of benefits under regular unemployment compensation laws to eligible individuals in cases where a disaster has not been declared.

VII. DEPARTMENT OF EDUCATION

- Section 700** The Department of Education shall encourage local school districts to cooperate with local government authorities to ensure the preparation of plans for the protection of school children in an emergency. These plans shall include sheltering students in schools, or evacuating them to their homes, as well as using the schools as congregate care centers in support of emergency operations.
- Section 701** The Department of Education shall assist local school districts in preparing and submitting a request for financial assistance from the federal government, as appropriate, when public school facilities have been damaged or destroyed by a major disaster.
- Division of Management Effectiveness**
- Section 710** The Division of Management Effectiveness, Child Nutrition Section shall have the responsibility for providing federal government food commodities. (The Department of Human Services shall be responsible for coordinating the distribution of these provisions to victims in the disaster area.)

VIII. DEPARTMENT OF EMPLOYEE RELATIONS

- Section 800** The Department of Employee Relations shall support the Department of Jobs and Training in the management of manpower services at state and regional emergency operating centers, during a disaster, and will assist in the development of emergency employment utilization procedures.

IX. DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

Section 900 The commissioner of the Department of Trade and Economic Development, with the assistance of the Policy Analysis, Science and Technology Division, shall provide the Division of Emergency Management with an estimate of the immediate economic impact of a disaster and, where applicable, provide estimated projections of long range effects of a major disaster. This shall include the accessibility and coordination of data from and through other state agencies of a nonconfidential nature that is relevant to the disaster situation.

Section 901 The commissioner of the Department of Trade and Economic Development, upon direction by the governor, shall be responsible for the management of essential services and directing emergency industrial production. The commissioner, with the assistance of the Policy Analysis, Science and Technology Division, shall prepare plans and procedures for controlling this production from state and regional emergency operating centers in coordination with the federal government.

Community Development Division

Section 910 The Community Development Division shall provide a representative, when requested, to serve on a State Review and Selection Panel, in order to assist in the evaluation of projects proposed for funding under the (Public Law 93-288) Hazard Mitigation Grant Program.

X. DEPARTMENT OF FINANCE

Section 1000 The Department of Finance shall develop procedures for fiscal management of the state during a disaster.

Section 1001 The Department of Finance shall (within three days after receipt of payment authorization from the Department of Public Safety, Division of Emergency Management) process and issue checks for disaster victims that have applied for assistance through the Individual and Family Grant Program.

XI. DEPARTMENT OF HEALTH

Section 1100 The Department of Health shall develop procedures for providing emergency health services for the critically ill and injured as a result of a disaster. These procedures shall include provisions for blood donor programs (in coordination with the American Red Cross), disease control, sewage and waste disposal, the handling of radioactive materials, potable water supply, disposition of mass casualties, and health assessment and training programs for health care and support personnel.

Bureau of Health Delivery Systems

Section 1110 The Bureau of Health Delivery Systems, in cooperation with the Office of Electronic Communication of the Technical Services Division of the Department of Transportation, shall develop a statewide emergency medical services radio communication system.

Section 1111 The Bureau of Health Delivery Systems, through its emergency medical services field staff and district representative, shall assist in the coordinating of emergency medical resources, including hospitals, blood banks and ambulance services to respond to disasters.

Bureau of Health Protection

Section 1120 The Bureau of Health Protection shall provide assistance to local officials in conjunction with the local health agency to ensure the safety of food and water for human consumption during and immediately following a disaster.

Section 1121 The Bureau of Health Protection shall provide engineers and environmental health specialists to prepare damage survey reports (DSRs) of health and public water facilities damaged by a disaster. The engineers will assist communities in determining the cost to repair or replace damaged health facilities and public water distribution systems so federal financial assistance can be requested under Public Law 93-288.

Section 1122 The Bureau of Health Protection shall be responsible for providing guidance on protective action levels and medical assistance to state and local authorities in areas affected by accidents/incidents involving the storage and transportation of radioactive materials, as well as fixed nuclear facilities. They shall develop procedures to accomplish this and conduct in-service training to maintain this response capability.

Section 1123 The Bureau of Health Protection shall coordinate food service activities with federal state agencies having responsibilities for providing resources in an emergency, specifically by conducting food inspections at mass feeding facilities.

Section 1124 The Bureau of Health Protection shall prepare procedures and support the response to hazardous materials incidents in the state as requested by the Division of Emergency Management. Specific duties shall include:

- providing state liaison to potable water users potentially affected by an incident;
- providing drinking water sampling and analysis;
- providing evacuation and re-entry advice to state agencies;
- providing long-term health risk assessment; and
- analyzing environmental samples.

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XII. MINNESOTA HOUSING FINANCE AGENCY

- Section 1200** The Minnesota Housing Finance Agency shall administer home improvement grants and loans, available through its own agency, to home owners of low and moderate incomes, that have sustained disaster-related damage to their principle residence.
- Section 1201** The Minnesota Housing Finance Agency shall provide guidance for coordinating emergency construction and housing activities within the state to the limits of their capabilities, following a disaster.
- Section 1202** The Minnesota Housing Finance Agency shall provide a representative, when requested, to serve on a State Review and Selection Panel, in order to assist in the evaluation of projects proposed for funding under the (Public Law 93-288) Hazard Mitigation Grant Program.

XIII. DEPARTMENT OF HUMAN SERVICES

- Section 1300** The Department of Human Services shall be responsible for coordinating the provision of government commodity foods and food stamps to victims in a disaster area. Legal responsibility for government commodities is placed with the Minnesota Department of Education, Child Nutrition Section.
- Section 1301** The Department of Human Services shall be responsible for coordinating the mass emergency repatriation of Minnesota residents upon an emergency declaration by the federal government or upon a request from the U.S. State Department.
- Section 1302** The Minnesota Board on Aging (Aging Program Division) shall provide representation at the disaster application center (DAC) and the disaster area, as deemed necessary by the Division of Emergency Management, to assist and identify elderly disaster victims.
- Section 1303** The Department of Human Services shall be responsible for coordinating, with local government and voluntary agencies, the provision of emergency human services, following a disaster. They shall also provide, as requested, personnel to the state and/or regional emergency operating centers to coordinate these human services.
- Section 1304** The Department of Human Services shall provide personnel, as requested, to assist the state in the delivery of individual assistance, following a presidential declaration of a major disaster.

XIV. DEPARTMENT OF MILITARY AFFAIRS

- Section 1400** The Department of Military Affairs shall prepare plans and procedures to support civil authorities in an emergency that exceeds local resources. As authorized by the governor, the department shall render assistance to civil authorities within the State of Minnesota to include, but not be limited to: supplemental state and local law enforcement, continuance of vital public services, rescue and communication support, restoration of essential facilities (within the capabilities of the department), prevention of loss of life and suffering, and the taking of action necessary to assist in the restoration of civilian government, as required.
- Section 1401** The Department of Military Affairs shall prepare procedures and support the response to hazardous materials incidents in the state as requested by the Division of Emergency Management, which include: providing logistical support, evacuation and security assistance, and air support.

XV. DEPARTMENT OF NATURAL RESOURCES

- Section 1500** The Department of Natural Resources shall be responsible for preparing plans and procedures for chemical and biological monitoring of lakes, animals, forests, and grasslands in its area of jurisdiction and is responsible for assigning personnel to state and regional emergency operating centers.
- Section 1501** The Department of Natural Resources shall be responsible for providing technical assistance, manpower and equipment for debris and wreckage removal from state waterways and forested areas, subject to the availability of funds.
- Section 1502** The Department of Natural Resources shall provide engineers, when requested, to participate in a preliminary damage assessment (PDA) effort following the occurrence of a disaster. The department shall also provide engineers, when requested, to help prepare damage survey reports (DSRs) following a presidential declaration of a major disaster.
- Section 1503** The Department of Natural Resources shall provide personnel, when requested, to serve on an Interagency Hazard Mitigation Team (IHMT) following a presidential declaration of a major disaster due to flooding.
- Section 1504** The Department of Natural Resources shall prepare procedures and support the response to hazardous materials incidents in the state as requested by the Division of Emergency Management. Specific duties shall include:
- pre-planning for sensitive area designation and dispersant use;
 - providing for wildlife and waterfowl rehabilitation;
 - assisting in tracking plumes on waterways;
 - providing chemical and pathology laboratory services;
 - protecting critical habitat; and
 - assisting other state and federal agencies in damage assessment.

Waters Division

- Section 1510** The Waters Division shall be responsible for coordinating the Flood Plain Management Program and the National Flood Insurance Program in Minnesota.

- Section 1511** The Waters Division shall, following a presidential disaster declaration due to flooding, be responsible for the development, revision and implementation of the hazard mitigation plan as required by Public Law 93-288, in consultation with the Department of Public Safety, Division of Emergency Management.
- Section 1512** The Waters Division shall assist local units of government in applying for grants through the Department of Natural Resources, Flood Hazard Mitigation Grant Assistance Program.
- Section 1513** The Waters Division shall provide a representative, when requested, to serve on a State Review and Selection Panel, in order to assist in the evaluation of projects proposed for funding under the (Public Law 93-288) Hazard Mitigation Grant Program.
- Section 1514** The Waters Division shall establish plans for the conservation and allocation of surface and underground waters in the state during emergencies.
- Section 1515** The Waters Division shall assign the state climatologist to prepare necessary climatological reports as well as other related weather data in support of emergency operations.
- Section 1516** The Waters Division shall provide personnel at disaster application centers (DACs), as requested, to disseminate information to and solicit information from disaster victims resulting from flooding.
- Enforcement Division**
- Section 1520** The Enforcement Division shall provide personnel and equipment support to the State Patrol in emergency law enforcement and traffic control operations, when requested by the Division of Emergency Management.
- Section 1521** The Enforcement Division shall prepare procedures for providing communications support in a disaster area.
- Forestry Division**
- Section 1530** The Forestry Division shall provide personnel and equipment support to the state Fire Marshal Division in emergency rescue operations, when requested by the Division of Emergency Management.
- Section 1531** The Forestry Division shall be responsible for coordinating fire suppression activities in forested and grassland areas in the state.
- Section 1532** The Forestry Division shall assist state and local governments in applying for grants from the federal government for the purpose of reimbursing expenses actually incurred by a property owner in the removal of timber damaged by a major disaster.
- Section 1533** The Forestry Division shall assist local government in training for emergency fire and rescue operations in full coordination with the state Fire Marshal Division and the Vocational-Technical College System.

XVI. POLLUTION CONTROL AGENCY

- Section 1600** The Pollution Control Agency shall, upon instructions from the office of the governor, waive, modify, or suspend the enforcement rules of the agency for areas stricken by disaster. This required action will be to relieve or expedite recovery operations to avert an even greater disaster from occurring.
- Section 1601** The Pollution Control Agency shall provide engineers, when requested, to participate in a preliminary damage assessment (PDA) effort following the occurrence of a disaster. The agency shall also provide engineers, when requested, to help prepare damage survey reports (DSRs) of damage to public-owned waste disposal and utility systems, following a presidential declaration of a major disaster.
- Section 1602** The Pollution Control Agency shall provide personnel, when requested, to serve on an Interagency Hazard Mitigation Team (IHMT), following a presidential declaration of disaster due to flooding.
- Section 1603** The Pollution Control Agency shall provide a representative, when requested, to serve on a State Review and Selection Panel in order to assist in the evaluation of projects proposed for funding under the (Public Law 93-288) Hazard Mitigation Grant Program.
- Section 1604** The Pollution Control Agency shall review the environmental effects of an emergency diking project and recommend approval or disapproval before work begins.
- Section 1605** The Pollution Control Agency shall prepare procedures and support the response to hazardous materials incidents in the state as requested by the Division of Emergency Management. Specific duties shall include:
- providing state agency lead response and support for most incidents;
 - coordinating state contractor's actions at superfund eligible sites;
 - providing public information services for incidents in which the PCA was the lead agency;
 - coordinating long term site cleanup;
 - assisting other state agencies in damage assessment;
 - assisting lead state agency in tracking water borne plume;
 - acting as a liaison with affected waste water treatment facilities;
 - providing laboratory support for airborne releases;
 - assisting the Department of Health in assessing hazard and evacuation corridors; and
 - providing debris assessment and hazardous debris disposal.

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XVII. DEPARTMENT OF PUBLIC SAFETY

Capitol Complex Security Division

- Section 1700** The Capitol Complex Security Division shall be responsible for providing protection to property, and equipment in the capitol complex during an emergency and shall develop procedures to accomplish this.
- Section 1701** The Capitol Complex Security Division shall provide 24-hour security for the state emergency operating center (EOC) and the joint public information center (JPIC) during an emergency.
- Section 1702** The Capitol Complex Security Division shall be responsible for facilitating the transfer of the 24-hour duty officer telephone number to and from the Division of Emergency Management switchboard. The Capitol Complex Security Division is also responsible for activating the duty officer pager when the duty officer is on the pager and an emergency is reported.
- Section 1703** The Capitol Complex Security Division shall act as a back-up for the activation of the NAWAS for the Metro Warning Point.
- Section 1704** The Capitol Complex Security Division shall provide back-up personnel for state patrol radio operators to operate the radio console in the state emergency operating center (EOC) as requested by the Division of Emergency Management.

Criminal Apprehension Division

- Section 1710** The Criminal Apprehension Division shall be responsible for the dissemination of warnings over the Minnesota Law Enforcement Teletype Network.
- Section 1711** The Criminal Apprehension Division shall make its field agents available, when possible, to assist other state government agencies with search and rescue, evacuation and traffic control, and law enforcement, during a disaster.

Division of Emergency Management

- Section 1720** The director of the Division of Emergency Management shall serve as the state coordinating officer (SCO) and the Governor's Authorized Representative (GAR), and the deputy director shall serve as the deputy SCO and GAR, for all presidentially declared emergencies and/or major disasters.
- Section 1721** The director of the Division of Emergency Management shall designate one of the division's staff members as the state hazard mitigation officer (HMO). The state HMO shall administer the (Public Law 93-288) Hazard Mitigation Grant Program, and shall ensure that the hazard mitigation plan required by Public Law 93-288 is developed or updated, as necessary.
- Section 1722** The Division of Emergency Management shall monitor the operations of the state portion of the National Warning System and coordinate any actions determined to be necessary to maintain service or extend coverage within the state.
- Section 1723** The Division of Emergency Management shall assist local communities in the completion of all prerequisite actions needed to construct flood protection works. The Division of Emergency Management will also help to obtain the concurrence of the Department of Natural Resources, the Department of Transportation, and the Pollution Control Agency in any project before requesting construction assistance from the U.S. Army Corps of Engineers.
- Section 1724** The Division of Emergency Management shall maintain a 24-hour duty officer system for the purpose of ensuring the proper receipt and dissemination of disaster notifications to appropriate state and local government officials. This is to include, among other types of emergencies, reports of hazardous materials spills in compliance with SARA Title III, and notifications of pipeline emergency releases and reportable incidents in compliance with federal and state statutes and rules.
- Section 1725** The Division of Emergency Management shall activate the state emergency operating center (EOC) when any type of major disaster threatens or has occurred. Regional program coordinators shall establish an emergency operating center or field office, as required, in or adjacent to the disaster area, in order to coordinate field operations. The division shall notify state agencies with responsibilities for emergency operations when the state and/or regional emergency operating centers are or will be activated, in order that they may provide staff.
- Section 1726** The Division of Emergency Management shall (on behalf of state and local government) coordinate the obtaining of damage assessment information required for federal and/or state disaster assistance.
- Section 1727** The Division of Emergency Management shall request all appropriate state agencies to provide representatives to the disaster application centers (DACs) that have been established following a presidential declaration of a major disaster.
- Section 1728** The Division of Emergency Management shall administer the Public Assistance Program and the Individual and Family Grant Program as provided under Public Law 93-288.
- Section 1729** The Division of Emergency Management shall have overall responsibility for coordinating local government emergency planning. This responsibility shall include the development and maintenance of prototype emergency operations plans and supporting documents, as well as planning requirements guidance.
- Section 1730** The Division of Emergency Management regional program coordinators shall be responsible for reviewing all county and municipal emergency operations plans and for determining if such plans are in compliance with state and federal requirements.

- Section 1731** The Division of Emergency Management shall provide guidance and information sufficient to allow local government to request assistance under the provisions of *Minnesota Statutes* Chapter 9.061 (the "Calamity Act") and Chapter 273.123 (Reassessment of Homestead Property Damaged in a Disaster). The division shall also present such request for assistance to the state Executive Council.
- Section 1732** The Division of Emergency Management shall keep the governor, Executive Council, and the legislature, as appropriate, informed of all actual or impending emergency operations.
- Section 1733** The Division of Emergency Management shall coordinate the emergency training needs/requests of other state agencies and local government.
- Section 1734** The Division of Emergency Management shall maintain regional offices in geographical sections of the state, as provided in the *Minnesota Statutes*, Chapter 12. The regional program coordinators will establish regional emergency operations centers to ensure continuity of government and support to all areas of the state in the event of a disaster/emergency.
- Section 1735** The Division of Emergency Management shall be responsible for the operation of the Radiological Protection Program in state disaster operations, with respect to a radiological emergency involving nuclear detonations.
- Section 1736** The Division of Emergency Management shall have overall responsibility to coordinate a multi-state agency response to hazardous materials incidents in the state, including: notifying appropriate state agencies via the duty officer; providing pre-planning assistance; and, when appropriate, activating the emergency operation center and requesting federal assistance.
- Section 1737** The Division of Emergency Management shall be responsible for designating the location of an alternate state emergency operating center, should the primary emergency operations center be unusable.

Office of Public Information

- Section 1740** The Office of Public Information shall provide emergency public information support following the occurrence of a disaster, including disaster exercises, in coordination with the Division of Emergency Management and the Governor's Office.

Fire Marshal Division

- Section 1750** The state Fire Marshal Division shall assist local government in planning for emergency rescue operations, fire protection, and in obtaining fire fighting and rescue assistance in an emergency in accordance with the state emergency operations plan.
- Section 1751** The state Fire Marshal Division shall coordinate with the Vocational-Technical College System and the Department of Natural Resources for emergency training of local responders to emergency fire and rescue operations, as needed.
- Section 1752** The state Fire Marshal Division shall coordinate the states response to major fires, except those that involve grass and forest land and assign personnel to state and regional emergency operating centers.
- Section 1753** The state Fire Marshal Division shall support the Division of Emergency Management's overall responsibility for the coordination of a multi-state agency response to a hazardous materials incident in the state, by providing lead response for explosive incidents and liaison with local fire investigators.

Liquor Control Division

- Section 1760** The Liquor Control Division shall provide support to the State Patrol Division in response to any disaster situation as required.

State Patrol Division

- Section 1770** The State Patrol Division shall be responsible for law enforcement and traffic control on all interstate and state trunk highways in an emergency.
- Section 1771** The State Patrol Division shall assist local police agencies with available resources in law enforcement and traffic control when requested by proper local authority to do so.
- Section 1772** The State Patrol Division shall act as net control for the National Warning System (NAWAS) within the state for the dissemination of national and local emergency information and warnings.
- Section 1773** The State Patrol Division shall be responsible for providing any assistance that may be required by the Capitol Complex Security Division to protect the personnel in the capitol complex during an emergency, and shall prepare plans and procedures to accomplish this.
- Section 1774** The chief of the State Patrol shall be in charge of the law enforcement function and shall coordinate its emergency operations in the state, including the assignment of personnel as law enforcement chiefs of the state and regional emergency operating centers.
- Section 1775** The State Patrol statewide radio frequency shall serve as the state's direction and control net. The State Patrol is responsible for providing personnel to operate the radio console in the state emergency operating center (EOC) during exercises, drills, and emergencies.
- Section 1776** The State Patrol Division shall support the Division of Emergency Management's overall responsibility for the coordination of a multi-state agency response to a hazardous materials incident in the state by providing traffic control, emergency communications, air support and post-incident enforcement.

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Emergency Response Commission

- Section 1780** The Emergency Response Commission shall provide emergency response personnel with access to hazardous chemical storage information required to be provided to the Commission by facilities subject to regulation under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.
- Section 1781** The Emergency Response Commission shall provide technical guidance and assistance to political subdivisions in meeting requirements of SARA Title III.
- Section 1782** The Emergency Response Commission, through the Regional Review Planning Committees of the Commission, shall review the SARA Title III elements contained in local government emergency operations plans.
- Office of Pipeline Safety**
- Section 1790** The Office of Pipeline Safety shall act as a liaison with pipeline companies, local units of government, federal pipeline authorities, and provide post incident enforcement and investigation.

XVIII. DEPARTMENT OF PUBLIC SERVICE

- Section 1800** The Department of Public Service shall develop procedures for the conservation and management of energy resources during energy emergencies, in coordination with energy suppliers in the state.
- Section 1801** The Department of Public Service shall coordinate their activities with the Division of Emergency Management in the implementation of energy emergency procedures.
- Section 1802** The Department of Public Service shall develop various public information releases for use in an energy emergency.

XIX. DEPARTMENT OF REVENUE

Communication Division and Taxpayer Services Division

- Section 1900** The Communication Division and Taxpayer Services Division shall provide for representation at disaster application centers (DACs), as requested by the Division of Emergency Management, to provide guidance to disaster victims on the effects of their losses regarding state taxes.
- Section 1901** The Communication Division and Taxpayer Services Division shall assist local governments and citizens certify tax losses sustained as a result of a natural disaster, if the disaster is of such magnitude as to require such information.

Local Government Services Division

- Section 1910** The Local Government Services Division shall assist local government in conducting a damage assessment of private homes and businesses as needed.

Petroleum Division

- Section 1920** The Petroleum Division shall assist the Division of Emergency Management and the Department of Public Service, in the implementation of an energy plan which provides for the allocation and conservation of energy resources and provide staff for the state and regional emergency operating centers.

Alcohol, Tobacco, and Special Taxes Division, Collection Division and Audit Division

- Section 1930** The Alcohol, Tobacco, and Special Taxes Division, Collection Division and Audit Division shall assign personnel to assist with compliance activities associated with the economic stabilization function.

XX. DEPARTMENT OF TRANSPORTATION

- Section 2000** The Department of Transportation shall provide a representative, when requested, to serve on a State Review and Selection Panel, in order to assist in the evaluation of projects proposed for funding under the (Public Law 93-288) Hazard Mitigation Program.
- Section 2001** The Department of Transportation shall prepare procedures and support a response to hazardous materials incidents in the state as requested by the Division of Emergency Management. Specific duties shall include:
- providing information on possible evacuation routes;
 - providing debris removal, transportation assistance, and special permits;
 - providing roadway rehabilitation;
 - providing liaison with rail industry;
 - providing non-roadway transportation regulation and enforcement;
 - providing air support;
 - providing information management for hazardous shipments; and
 - supplementing the State Patrol communication network.

Aeronautics Division

- Section 2010** The Aeronautics Division shall restrict flights over disaster areas when requested by the Division of Emergency Management or other appropriate authority.
- Section 2011** The Aeronautics Division shall coordinate flights with the Civil Air Patrol in search and rescue missions and aerial radiological monitoring.
- Section 2012** The Aeronautics Division shall coordinate civilian air transportation and military air transportation in a disaster situation.

- Section 2013** The Aeronautics Division shall provide personnel, when requested, to participate in a preliminary damage assessment (PDA) effort, and to prepare damage survey reports for airports and airport facilities damaged in any type of major disaster.
- Section 2014** The Aeronautics Division shall provide air transportation and/or reconnaissance as requested by the Division of Emergency Management during a declared disaster situation.
- Section 2015** The Aeronautics Division shall have a plan for the utilization of aircraft available for emergency operations.
- Section 2016** The Aeronautics Division shall, during a disaster, be responsible for providing and coordinating the use of air transportation resources within state government.
- Section 2017** The Aeronautics Division shall maintain current records of airport facilities, aircraft registrations, and licensed pilots that could be used to provide transportation to various parts of the state in the event of a disaster.

Operations Division

- Section 2020** The Operations Division shall develop emergency procedures for emergency engineering services in disaster operations and shall assign personnel to state and regional emergency operating centers.
- Section 2021** The Operations Division shall make available the Maintenance Construction Communications System for use as the Division of Emergency Managements' command net, should the direction and control net (State Patrol radio) fail.
- Section 2022** The Operations Division shall be responsible for debris and wreckage removal from all interstate and state trunk highways and for other assistance to political subdivisions on other roadways as may be required.
- Section 2023** The Operations Division shall provide any highway clearances and waivers required to expedite the transportation of high priority materials and personnel during periods of declared emergencies, including mass relocation of the populace.
- Section 2024** The Operations Division shall determine the impact of an emergency diking project on the interstate and trunk highway system and recommend approval or disapproval of the project before work begins.
- Section 2025** The Operations Division shall provide engineers, when requested, to participate in a preliminary damage assessment (PDA) effort following the occurrence of a disaster. The division shall also provide engineers, when requested, to help prepare damage survey reports (DSRs) following a presidential declaration of disaster.
- Section 2026** The Operations Division, working with the state Health Department and State Patrol, shall assist in radiological emergency response and protection efforts such as radiological monitoring and decontamination of state highways and vital facilities.
- Section 2027** The Operations Division shall provide personnel, when requested, to serve on an Interagency Hazard Mitigation Team (IHMT) or Hazard Mitigation Survey Team (HMST), following a presidential declaration of disaster.
- Section 2028** The Operations Division shall prepare emergency highway traffic regulation plans and procedures for the regulation of highway travel during periods of emergency operations.
- Section 2029** The Operations Division shall prepare plans and procedures and be responsible for the coordination of all rail, bus, and truck transportation in the state during an emergency, including emergency transportation in the disaster area.

Program Management Division

- Section 2040** The Program Management Division shall develop procedures for receiving and disseminating information to appropriate agencies concerning the shipment of chemicals, radiological substances, and other materials that are potentially hazardous.

Technical Services Division

Office of Electronic Communication

- Section 2050** The Office of Electronic Communications shall provide for the maintenance of radio communications systems essential to operations during an emergency or disaster.
- Section 2051** The Director of Electronic Communications shall be the state radio officer.

XXI. MINNESOTA TECHNICAL COLLEGE SYSTEM

- Section 2100** The Minnesota Technical College System shall assist local government by providing training in fire, rescue and hazardous materials emergency operations through the technical colleges located statewide.

Emergency Executive Order No. 90-3: Providing for Personnel and Equipment for the Prairie Island Nuclear Power Plant Exercise

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Minnesota Department of Public Safety, Division of Emergency Management, has requested assistance in providing personnel and equipment to support the Prairie Island Nuclear Power Plant Exercise; and

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WHEREAS, adequate personnel and equipment are not available from the Department of Public Safety, other participating state agencies, Dakota and Goodhue Counties of Minnesota, and other local authorities;

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to active duty on or about March 28, 1990, in the service of the State, such personnel and equipment of the military forces of the State as required to provide the necessary support needed by the Department of Public Safety and Dakota and Goodhue Counties to successfully complete the Prairie Island Nuclear Power Plant Exercise.

2. The cost of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed by the Department of Public Safety, Division of Emergency Management, as provided by an inter-agency agreement dated July 17, 1989.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, this order shall be in effect from March 28, 1990 through May 16, 1990.

IN TESTIMONY WHEREOF, I hereunto set my hand this 31st day of May, 1990.



Rudy Perpich
Governor

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

Agronomy Services Division

Notice of Meeting

Pursuant to *1989 Laws of Minnesota*, Chapter 326, Article 8, Section 10, the first meeting of the Agricultural Chemical Response Compensation Board will be held at 10 a.m. July 11 at the Minnesota Department of Agriculture in St. Paul. The board will adopt rules to govern its activities.

The board, which will be known as the ACRRA Board (for Agricultural Chemical Response and Reimbursement Account) was created as part of the Minnesota Groundwater Protection Act in 1989. The ACRRA Board will determine reimbursement eligibility of people who incur costs in cleaning up agricultural chemical environmental contamination, and will reimburse those who qualify.

Funding for this reimbursement account will be generated from annual surcharges on pesticide and fertilizer manufacturers, distributors, applicators and dealers in the state.

State officials believe Minnesota is the only state where the department of agriculture has authority to order or oversee clean-up of ag chemical contamination sites, and where the parties involved can get reimbursed for the majority of their clean-up expenses.

By law, the ACRRA Board consists of office members, the State Commissioners of Agriculture and Commerce, Jim Nichols and Tom Borman, and three members appointed by the governor—one representative of agricultural chemical manufacturers and wholesalers, one farmer and one agricultural chemical retailer. Governor Perpich has appointed Paul Rhein, Cenex/Land 'O Lakes; Willis Eken, Minnesota Farmers Union; and Harlan More, Cannon Valley Co-op.

The board tentatively plans to meet on the third Wednesday of every month.

Contact:

Paul Liemandt: 297-4872
Agronomy Services Division

Minnesota State Arts Board

Notice of Board Meeting

A meeting of the Minnesota State Arts Board will take place at 1:00 p.m. on Thursday, June 21, 1990 at the Arts Board offices, 432 Summit Avenue in Saint Paul. The public is invited to attend. Open meeting law guidelines will be in effect.

Agenda items will include grant recommendations from Operating Support, Series Presenters, and Minnesota Touring Arts Programs.

For information on this meeting or other programs, contact the Arts Board at 432 Summit Avenue, Saint Paul, MN 55102, or call (612) 297-2603 or toll-free from greater Minnesota at (800) 652-9747.

Because the Arts Board is located in an historic building, handicap access to the building is limited. Anyone who may have difficulty attending because of a disability should contact Gail Swaim to make arrangements to attend.

Minnesota Department of Commerce

Correction to Adjustment of Dollar Amounts for the Minnesota Property Exemption and Restrictions of Deficiency Judgments

Change of Official Notice: The following notice is changed from the official notice printed in the April 30, 1990 *State Register* on pages 2534 and 2535. Underlining indicates the changes from the original notice.

ADJUSTMENT OF DOLLAR AMOUNTS FOR THE MINNESOTA PROPERTY EXEMPTION AND RESTRICTIONS OF DEFICIENCY JUDGMENTS

Commissioner of Commerce Thomas H. Borman announced today that increases will occur in the property exemption from creditor collection action under *Minnesota Statutes*, Section 550.37. A 1990 legislative change increases the amount of credit extended upon which a lender is restricted from obtaining a deficiency judgment after repossession under Minnesota Statutes, Section 325G.22, Subdivision 1. These statutes provide for periodic adjustment in dollar amounts that would be effective on July 1 in even numbered years based on a percentage change in the Implicit Price Deflator for the Gross National Product.

Information obtained from the U.S. Department of Commerce, Bureau of Economic Analysis, in their monthly publication "Survey of Current Business" for February 1990, indicates a percentage change from the revised reference base to be 44% calculated to the nearest whole percentage point as required. The reference index was revised nationally from 1972 = 100 to 1982 = 100, with the statutory reference base index for dollar adjustments being December 1980. The index for December 1980 was 89, increasing to 127.9 in December 1989, for an increase of 38.9 or a percent change of 43.71%. The statute requires that the percentage of change in the reference base index be 10% or more in order to adjust the dollar amounts. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded. Dollar amounts change only in multiples of ten percent of amounts appearing in law.

Personal property exempted under *Minnesota Statutes*, Section 550.37, Subdivision 4 includes all wearing apparel, one watch, utensils, and foodstuffs of the debtor and the debtor's family, and household furniture, household appliances, phonographs, radio and television receivers of the debtor and the debtor's family. The exemption may not be waived except for purchase money security interest. Personal property, with an amended exemption of \$4,500 in 1983, is indexed as follows:

	8-1-83	7-1-84	7-1-86	7-1-88	7-1-90
Personal Property	\$4,500	No change \$4,500	20% increase \$5,400	10% increase \$5,850	10% increase \$6,300

Official Notices

Minnesota Statutes, Section 550.37, subdivision 4(a) was amended in 1985, effective July 1, 1986, to include dollar amount adjustments for other property exemptions within this section of statute. In 1989 a legislative amendment to subdivision 4(a) exempted indexing for subdivisions 5 and 7 by setting a maximum amount of \$13,000 in each subdivision. A 1989 legislative amendment to subdivision 24(2) provided a \$30,000 amount not subject to attachment in employee benefit accounts which received a cumulative index of 40% in 1990. The dollar adjustments use December 1980 as the reference base index, with indexing as follows:

Description	Original	7-1-88 30% increase	7-1-90 10% increase
Farm exemptions described under subdivision 5	\$10,000	\$13,000	No Increase
Business exemptions described under subdivision 6	\$ 5,000	\$ 6,500	\$ 7,000
Total exemptions under subdivisions 5 and 6 described by subdivision 7	\$10,000	\$13,000	No increase
Exempted insurance benefits described under subdivision 10	\$20,000	\$26,000	\$28,000
Additional exemptions under subdivision 10 for each dependent	\$ 5,000	\$ 6,500	\$ 7,000
Motor vehicle exemption described under subdivision 12a	\$ 2,000	\$ 2,600	\$ 2,800
Accrued interest exemption described under subdivision 23	\$ 4,000	\$ 5,200	\$ 5,600
Employee benefits described under subdivision 24(2)	NA	NA	\$42,000

Minnesota Statutes, Section 325G.22, was amended by Chapter 464, 1990 Session Laws by adding the following: "Subd. 1a. [ADJUSTMENT OF DOLLAR AMOUNTS.] The dollar amount in subdivision 1 shall change periodically as provided in section 550.37, subdivision 4a." The adjustment uses the reference base index date of December 1980 and is subject to a cumulative index of 40% in 1990. The effective date of this amendment is April 24, 1990, and the dollar amount is indexed as follows:

Subdivision 1 Credit Extended	Original	7-1-90 40% increase
	\$ 3,000	\$ 4,200

The next published adjustment is scheduled on or before April 30, 1992, for July 1, 1992, based on the December 1991 index.

Department of Commerce

Notice to Solicit Outside Opinion Regarding Proposed Long Term Care Insurance Rules Including the Impact of Rules on Small Business

NOTICE IS HEREBY GIVEN that the Department of Commerce is seeking information or opinions from persons outside the agency to determine what rules should be adopted in regard to the establishment of standards to ensure that assessments used in the prescribing of long term care and which are required to receive coverage under long term care insurance policies, are reliable, valid and clinically appropriate. Promulgation of these rules is authorized by *Minnesota Statutes*, sections 45.025 and 62A.56, subd. 2.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by *Minnesota Statutes* Section 14.115, subdivision 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to:

Melbourne R. Boynton
Assistant Commissioner
Department of Commerce
133 East 7th Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-3588.

All statements of information and comment shall be accepted until July 18, 1990. Any written material received by the Department of Commerce shall become a part of the record in the event that the rules are promulgated.

Dated: 11 June 1990

Thomas H. Borman
Commissioner of Commerce

Department of Human Services

Health Care Management Division

Public Notice Regarding Changes to the Medical Assistance (MA) Program

NOTICE IS HEREBY GIVEN to providers of Minnesota Medical Assistance (MA) and to the public of certain administrative changes affecting the MA program. This notice is published pursuant to *Minnesota Statutes*, section 256B.0625, subdivision 25, which governs Medical Assistance. The purpose of this notice is to inform Medical Assistance providers and the public of changes in the process to request health services which require prior authorization.

Effective July 1, 1990, a phone-in prior authorization system will be available for MA enrolled providers to request any of the following specific health services, equipment and/or supplies.

- Powered Air Flotation Beds

Service codes limited to: E0193

- Hearing Aids

(Restricted to requests for more than one monaural contract aid or one set of binaural contract aids in 5 years; or repairs when the cost of parts and labor exceeds \$100 or if a repair was made in the preceding 12 months; and purchase of all noncontract hearing aids)

Service codes limited to: V5030, V5040, V5050, V5060, V5070, V5080, V5090, V5100, V5110, V5120, V5130, V5140, V5150, V5160, V5170, V5180, V5190, V5200, V5210, V5220, V5230, V5240, V5299, X5246, X5249, X5250, X5251, X5260, X5270, X5271

- Bronchial Drainage Vests

Service Codes limited to: E1399

- Eyeglass Replacements For Loss or Breakage

(Restricted to requests for more than one pair of eyeglasses in a 24 month period)

Service Codes limited to: 92340, 92341, 92342, 92370

- Depo-provera For Contraception

Service Codes limited to: J1050

Effective August 1, 1990, a phone-in prior authorization system will be available for MA enrolled providers to request the following health service:

- Nonemergency Regularly Scheduled Ambulance Trips (over 6 one-way trips in one month)

Service Codes limited to: A0010, A1050, A0220, A0222, A0223, A0225

Telephones will be staffed during the hours of 8 a.m. to 4:30 p.m., Monday through Friday. The telephone number available outside the metro area is 1-800-657-3616 (toll free). The telephone number within the metro area is (612) 297-2947.

The Medical Assistance/General Assistance Provider Manual publication of July 1, 1990, will contain the specific instructions and information required to be furnished by the provider during the phone-in process when requesting the services, equipment or supplies listed above.

Department of Human Services

Health Care Management Division

Notice of Solicitation of Outside Information or Opinion Regarding Proposed Amendments of Rules Governing Medical Assistance Reimbursement of Community Health Clinic Service Providers

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing medical assistance reimbursement of community health clinic service providers, *Minnesota Rules*, part 9505.0255. The amendment of the rule is authorized by *Minnesota Statutes*, section 256B.04, subdivision 2 which requires the agency to make uniform rules governing the administration of the medical assistance system in an efficient, economical, and impartial manner and *Minnesota Statutes*, section 256B.0625, subdivision 4 which establishes community health clinic services as covered services in the medical assistance program. The amendment will facilitate the enrollment of the State's regional treatment centers as community health clinic service providers by exempting the centers from the requirement to obtain tax exempt status as provided in Internal Revenue Code, section 501(c)(3).

The State Department of Human Services requests information and opinions concerning the subject matter of the rule amendment. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Eleanor Weber
Rules and Bulletins Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Oral statements will be received over the telephone during regular business hours at (612) 297 4301 and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event the rule amendment is adopted.

Department of Labor and Industry

Notice of Correction to Prevailing Wage Rates

The prevailing wage rate certified February 1, 1990 for labor code 203-Dragline, excavator/crawler backhoe or other similar equipment with shovel type controls, on highway and heavy construction projects in Crow Wing County has been corrected.

Copies of the corrected rates may be obtained by contacting the Department of Labor and Industry, Labor Standards Division, 443 Lafayette Road, St. Paul, Minnesota 55155.

Ken Peterson
Commissioner

Metropolitan Council

Notice of Preliminary Schedule for the Examination of Metropolitan Council Policies for the Rural Service Area

The Metropolitan Council's rural service area policies are part of its *Metropolitan Development and Investment Framework* (MDIF). The MDIF is the plan that sets a general direction for future development patterns in the Metropolitan Area. It also establishes guidelines for making decisions about major regional facilities, like sewers and highways, that are needed to support commercial, industrial and residential development. The focus of the Council's strategy on directing growth in the region is to encourage development to occur within the "urban service area," where such facilities and services are provided.

When it adopted the MDIF in 1986, the Council decided to reexamine its policies for the portion of the rural service area consisting of the "general rural use area," where the land is not suited for agriculture. This area makes up more than 40 percent of the land in the Metropolitan Area. By the end of 1990, the Council expects to consider policy alternatives for the rural area. In recent months, the Council's Metropolitan and Community Development Committee has worked with its Land Use Advisory Committee to review existing Council policies and rural development trends. A series of issue papers has been prepared to examine the impacts of development in the rural area.

The following is a preliminary schedule for the examination of rural service area policies:

June 7, 1990	Public meeting to discuss existing rural area policies
June through August 1990	Policy alternatives developed and reviewed on: <ul style="list-style-type: none">• Appropriate rural area land uses• Development density• Various implementation approaches, such as cluster development or lot-size standards• Planning for areas in transition from rural to urban
September 1990	Policy alternatives recommended for public comment
October 1990	Public meetings held on recommended for public comment
December 1990	Metropolitan Council decides whether or not to revise the general rural use area policies

For more detailed information and meeting schedules, please contact any of the following Council staff members:

Carl Ohrn, 291-6507	Anne Hurlburt, 291-6501
Bob Overby, 291-6381	Paul Baltzersen, 291-6321

Copies of Council publications, such as the *Metropolitan Development and Investment Framework* (MDIF) and the issue papers, are available from the Metropolitan Council Data Center at 291-8140.

Department of Public Safety

Emergency Response Commission

Meeting Notice and Preliminary Agenda

1. Approval of minutes of previous meeting
2. Introduction of new agenda items
3. Committee Reports
 - a. Reporting and Public Requests
 - b. Emergency Planning
 - c. Legislative
 - d. Education and Training
4. Open—New Business

Meeting dates are:

July 12, 1990	State Capitol Building, 75 Constitution Avenue, Room G-15
August 9, 1990	To Be Determined
September 13, 1990	To Be Determined
October 11, 1990	To Be Determined
November 8, 1990	To Be Determined
December 13, 1990	To Be Determined

All meetings will be held at 9:30 a.m. Contact the Commission for additional information (612) 643-3000.

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is July 10, 1990.

MN OFFICE ON VOLUNTEER SERVICES ADVISORY COMMITTEE

500 Rice St., St. Paul 55155. 612-296-4731

Minnesota Statutes 4.31

APPOINTING AUTHORITY: Commissioner of Administration. COMPENSATION: Reimbursed for expenses.

VACANCY: One member: Resident of RDC Area 8.

The Minnesota Office on Volunteer Services is the statewide leader and a primary service provider to the volunteer community. Its mission is to encourage and sustain volunteer programs, citizen participation efforts and public/private partnerships that contribute to the quality of life for Minnesota citizens. Twenty-one members include at least one member from each economic development region. Three to five meetings per year, usually at the state capitol complex.

MN CRIME VICTIM AND WITNESS ADVISORY COUNCIL

Dept. of Public Safety, 211 Transportation Bldg., St. Paul 55155. 612-296-6642

Minnesota Statutes 611A.70

APPOINTING AUTHORITY: Commissioner of Public Safety. COMPENSATION: None.

VACANCY: One member: District Court Judge.

The council reviews on a regular basis the treatment of victims by the criminal justice system and the need and availability of services to crime victims. Twelve members include two members of the Minnesota legislature who have demonstrated expertise and interest in crime victim issues, one from each house; one district court judge; one county attorney; one public defender; one peace officer; one medical or osteopathic physician licensed to practice in this state; five members who are crime victims or crime victims assistance representatives; three public members. The appointments should take into account sex, race and geographic distribution.

BOARD OF MEDICAL EXAMINERS

2700 University Ave. W., Room 106, St. Paul 55114-1080. 612-642-0538

Minnesota Statutes 147.01

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem plus expenses.

VACANCY: Five new positions to include two public members, one with a term ending January 1992, one with a term ending January 1994; three Doctors of Medicine licensed in Minnesota, one with a term ending January 1992, one with a term ending January 1993, one with a term ending January 1994.

The board examines, licenses, and registers medical doctors and doctors of osteopathy, physician assistants, midwives, and physical therapists and enforces the medical practices act. Eleven members include M.D. physician, D.O. physician, and three public members. Legislation effective August 1, 1990 adds five new positions as previously stated in this notice. Monthly meetings, some committee meetings. Members must file with the Ethical Practices Board.

STATE FUND MUTUAL INSURANCE COMPANY

900 Wilson Ridge, 7500 Flying Cloud Drive, Eden Prairie 55344-3758. 612-944-3260

Minnesota Statutes 176A.02

APPOINTING AUTHORITY: Governor. COMPENSATION: \$500 annual, \$100 per meeting plus expenses.

VACANCY: One director member: *Minnesota Statutes* 176A.02, subd. 2 states in part "... Each director shall represent a policyholder and may be an employee of a policyholder. . . No member of the board may represent or be an employee of an insurance company."

The board has control and management of the fund created as a non-profit independent public corporation to insure employers against liability for personal injuries to employees. The board of directors includes seven members; the commissioner of Labor and Industry and the manager (president) of the fund shall be ex-officio members. The governor shall appoint every other director until he has made four appointments. Three members must be elected by policyholders of the Mutual Insurance Company. Quarterly meetings.

STATE ADVISORY COUNCIL ON MENTAL HEALTH

444 Lafayette Rd., St. Paul 55155-3828. 612-297-4164

Minnesota Statutes 245.697

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem. Reimbursed for expenses.

VACANCY: One member: Must be a family member or relative of a person with mental illness or emotional disturbance.

The council advises the governor, the legislature, and state agency heads about policy, programs, and services affecting people with mental illness. Thirty members include commissioner designees from the Departments of Education, Corrections, Vocational Rehabilitation, and the Housing Finance Agency, one representative in the state agency responsible for the state's Title XIX program, one member from each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing); one representative from each of the following advocacy groups: Mental Health Association of MN, MN Alliance for the Mentally Ill, MN Mental Health Law Projects; providers of mental health services, consumers of mental health services, family members of persons with mental illnesses, legislators, social service agency directors, county commissioners, and other members reflecting a broad range of community interest.

SOCIAL WORK LICENSING BOARD

2700 University Ave. W. #225, St. Paul 55114. 612-643-2580

Minnesota Statutes 148B.19

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem plus expenses.

VACANCY: One member: to be a school social worker licensed by the Board of Teaching. NOTE: This is a correction of the vacancy published May 29, 1990.

The board adopts and enforces rules for licensure of social workers and for regulation of their professional conduct. Ten members include six licensed social workers, (two licensed independent clinical social workers, two licensed independent social workers, and two licensed social workers); three public members as defined in Minnesota Statutes 214.02; and one school social worker licensed by the Board of Teaching. The social workers shall represent the following employment settings: two shall represent public agencies, two shall represent private agencies, one shall be in private practice, and one shall be an educator engaged in regular teaching duties at an accredited program of social work. In addition, at least two members shall be persons of color, and at least four members shall reside outside the seven-county metropolitan area. Members must file with the Ethical Practices Board.

BOARD OF UNLICENSED MENTAL HEALTH SERVICE PROVIDERS

2700 University Ave. W., #225, St. Paul, 55114. 612-649-5490

Minnesota Statutes 148B.01

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem plus expenses.

VACANCY: One member: representing professional counselors; must be subject to register with the board (*Minnesota Statutes 148B.41*).

The board registers health service providers, and adopts and enforces rules relating to their conduct. Seventeen members include two chemical dependency counselors, two professional counselors, two pastoral counselors, five members representing other identifiable specialties and subgroups of providers subject to filing requirements, and six public members. Members must file with the Ethical Practices Board.

STATE BOARD OF CHIROPRACTIC EXAMINERS

2700 University Ave. W., Suite 20, St. Paul 55114-1089. 612-642-0591

Minnesota Statutes 148.02

APPOINTING AUTHORITY: Governor. COMPENSATION: \$35 per diem plus expenses.

VACANCY: One chiropractic member.

The board examines, licenses, and regulates chiropractors; handles complaints; reviews and approves continuing education programs; and registers professional corporations. Seven members include five chiropractors with at least three years experience, and two public members. Meetings as necessary. Members must file with the Ethical Practices Board.

INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL (IISAC)

50 Sherburne Ave., 309 Administration Bldg., St. Paul 55155. 612-297-5530

Minnesota Statutes 16B.42

APPOINTING AUTHORITY: Commissioner of Administration. COMPENSATION: \$35 per diem plus expenses for public members.

VACANCY: One member: must represent cities—2nd, 3rd class within the metro area. Term expires December 31, 1991.

The council promotes the use and exchange of information between state and local governments through a grant program and also acts as a liaison in the area of information systems. Twenty-five members (fourteen elected or appointed government officials, seven

Official Notices

representatives of state agencies and four public members) include two each from counties outside of the metro area, 2nd and 3rd class cities within and outside of metro area, and 4th class cities; one member each from Metropolitan Council, outstate regional body, counties within metro area, 1st class cities, school districts within and outside metro area, state department officials, and four from the state community at large. Members are appointed for four year terms.

HIGHER EDUCATION FACILITIES AUTHORITY

175 East 5th St., Suite 450, St. Paul 55101. 612-296-4690

Minnesota Statutes 136A.26

APPOINTING AUTHORITY: Governor. Senate confirmation. **COMPENSATION:** \$48 per diem.

VACANCY: One public member.

The authority issues tax exempt revenue bonds for capital improvements at non-profit private post-secondary educational institutions. Eight members include an expert in construction, one in higher education, and one in municipal financing. At least two members must reside outside the metropolitan area as defined in section 473.121, subdivision 2. The executive director of HECB is an ex-officio member and the president of the Minnesota Private College Council is an ex-officio, non-voting member. Monthly meetings.

COUNCIL ON DISABILITY

Metro Square Bldg., Suite 145, St. Paul 55101. 612-296-6785

Minnesota Statutes 256.481-256.482

APPOINTING AUTHORITY: Governor. **COMPENSATION:** \$48 per diem plus expenses.

VACANCY: One member.

The council advises the governor, legislature, service providing agencies, and the public on the needs and potentials of people with physical, mental or emotional disabilities. Twenty-one members represent the general public and organizations which provide services for persons with disabilities; at least one member from each development region—a majority of members are persons with disabilities or parents or guardians of persons with disabilities (service consumers). The Commissioners of the Departments of Education, Health, Human Services, Jobs and Training, Human Rights, and the Directors of Vocational Rehabilitation and State Services for the Blind or their designees are ex-officio members. Bi-monthly meetings.

COMPENSATION COUNCIL

Legislative Coordinating Commission, Room 85, State Office Bldg., St. Paul 55155. 612-297-3697

Minnesota Statutes 15A.082, Subdivision 3

APPOINTING AUTHORITY: Governor. **COMPENSATION:** \$48 per diem.

VACANCY: Eight members: one from each congressional district—of whom no more than four may belong to the same political party.

The Council is created in even numbered years to assist the legislature in establishing the compensation of constitutional officers, legislators, supreme court justices, court of appeals judges, and trial court judges. The governor appoints one member from each congressional district of whom no more than four may belong to the same political party. The chief justice of the supreme court appoints two non-judges and the legislature appoints six members. Appointments must be made by October 1 in the even numbered year. Recommendations by the council must be made to the legislature by April 1 in the even-numbered years.

HAZARDOUS MATERIALS INCIDENT RESPONSE ADVISORY TASK FORCE

211 Transportation Bldg., St. Paul 55155. 612-296-6642

Minnesota Statutes 15.059

APPOINTING AUTHORITY: Commissioner of Public Safety. **COMPENSATION:** None.

VACANCY: Eight members: Please see the description of this new task force.

The task force advises the commissioner in the development of a plan for a statewide system of response to spills, emissions, or exposure of hazardous materials by regional teams established by the state, local government emergency responders, and private industry. Ten members, including the Commissioner of the Department of Public Safety and the Commissioner of the Pollution Control Agency or their designees: three persons representing fire service; three persons representing private industry; a representative of the Minnesota League of Cities and a representative of the general public. Meeting schedule and location undetermined at this time.

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION (MMJUA)

Dept. of Commerce, 133 E. 7th St., St. Paul 55010. 612-296-4026

Minnesota Statutes 62F

APPOINTING AUTHORITY: Commissioner of Commerce/Governor. **COMPENSATION:** A per diem plus expenses.

VACANCY: Six members: Three public members appointed by the Governor, three health care providers appointed by the Commissioner of Commerce.

The board provides medical malpractice insurance coverage to any licensed health care provider unable to obtain this insurance through ordinary methods. Eleven members include three public members appointed by the governor, three health care providers appointed by the commissioner of Commerce, and five members elected by members of the association. Every personal injury liability insurer in the state shall be a member as condition of obtaining and retaining a license to write insurance in Minnesota.

ADVISORY COUNCIL ON THE MINNESOTA ACADEMY FOR THE DEAF AND THE BLIND

P.O. Box 308, Faribault 55021. 507-332-3363

Minnesota Statutes 128A.03

APPOINTING AUTHORITY: Board of Education. COMPENSATION: \$35 per diem.

VACANCY: Two members: Please see the description of this advisory council.

The council advises the Board of Education on policies pertaining to the control, management, and administration of these academies. Up to fifteen members: shall be representative of the various geographic regions of the state and include parents or guardians of visually disabled or hearing impaired children, a staff representative of the applicable academy, two representatives from groups representing the interest of visually disabled or hearing impaired individuals. All members shall have knowledge, experience and interest in the problems of visually disabled or hearing impaired children.

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, July 19, 1990, at 5:30 p.m. in Hearing Room 5, Ground Floor, State Office Building, 100 Constitution Ave., St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines regarding the ranking for new and amended crimes passed during the 1990 legislative session, proposed modifications to the Misdemeanor and Gross Misdemeanor Offense List, and a housekeeping change.

Additional copies of the proposed modifications that include proposed modifications to the Commentary are available, free of charge, by contacting the Minnesota Sentencing Guideline Commission at Meridian National Bank Building, 205 Aurora Ave., Suite 205, St. Paul, MN 55103, or by calling (612) 296-0144.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the Commission staff at the above address/telephone number.

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On July 24, 1990, the Commission will meet at 3:00 p.m. in the Lexington-Summit Room at the Embassy Suites Hotel, 175 E. 10th Street, St. Paul, Minnesota to formally adopt or reject the proposed modifications. If adopted, the modifications, as indicated, will become effective August 1, 1990. The one modification requiring Legislative review will become effective August 1, 1991 absent legislative action to the contrary.

I. PROPOSED MODIFICATIONS EFFECTIVE AUGUST 1, 1990, IF ADOPTED

Proposed Modifications to Section II. G. Convictions for Attempts or Conspiracies:

G. Convictions for Attempts or Conspiracies: For persons convicted of attempted offenses or conspiracies to commit an offense, the presumptive sentence is determined by locating the Sentencing Guidelines Grid cell defined by the offender's criminal history score and the severity level of the completed offense, and dividing the duration contained therein by two, but such sentence shall not be less than one year and one day except that for Conspiracy to Commit a Controlled Substance offense as per *Minnesota Statutes* § 152.096, . . .

Proposed Modifications to Section V. Offense Severity Reference Table:

Importing Controlled Substances Across State Borders—152.0261

Controlled Substance Crime in the Third Degree—152.023, subd. 1 and subd. 2 (3), (4), & (5), & (6)

Criminal Vehicular ~~Operation~~ Homicide and Injury—609.21, subd. 1 & 3

Malicious Punishment of Child (great bodily harm)—609.377

Criminal Vehicular ~~Operation~~ Homicide and Injury—609.21, subd. 2 & 4

Assault 3—609.233, subd. 1

Malicious Punishment of Child (substantial bodily harm)—609.377

Criminal Vehicular Homicide and Injury—609.21, subd. 2a

Official Notices

Firearm Silencer—609.66, subd. 1a (1)

Telecommunications Fraud—609.893, subd. 2

Assault 3—609.223, subd. 2

Bullet-Resistant Vest During Commission of Crime—609.486

Discharge of Firearm—609.66, subd. 1a (3)

Furnishing Firearm to Minor—609.66, subd. 1a (2)

Proposed Modifications to the Theft Related Offense List:

Theft Related Offense List

Fraudulent Long Distance Telephone Calls

609.75

Telecommunications and Information Services Fraud

609.893, subd. 1

Proposed Modifications to Commentary Regarding Consecutive Sentences for Escape Convictions:

II.F.02... *Under this method, if the most severe current offense is sentenced first, the resulting aggregated sentence lengths would be the same as if one judge had sentenced the offenses consecutively.*

It is permissive for a sentence for an escape conviction to be consecutive to any other current sentence and any prior sentence regardless of whether the other sentences are for crimes against the person. If the sentencing judge determines that the sentence for an escape conviction is to be consecutive with sentences for other current felony convictions, the escape conviction should be sentenced last with the presumptive duration found at the zero criminal history column and the appropriate severity level.

II. PROPOSED MODIFICATIONS EFFECTIVE AUGUST 1, 1991 BARRING LEGISLATIVE ACTION TO THE CONTRARY, IF ADOPTED

Proposed Modifications to the Misdemeanor and Gross Misdemeanor Offense List:

Misdemeanor and Gross Misdemeanor Offense List

Contraband Articles Forbidden (Jail/Lock-up/Correctional Facility)

641.165

Department of Transportation

Petition of the City of Fairmont for a variance from minimum State Aid standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the City Council of the City of Fairmont 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 proposed reconstruction project on MSAS 106 (Prairie Avenue) from Budd Street to Forest Street.

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 design speed of 20 miles per hour for SAP 123-106-12 instead of the required minimum of 30 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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of Hopkins for a variance from minimum State Aid standards for STREET WIDTH

NOTICE IS HEREBY GIVEN that the City Council of the City of Hopkins 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 341 (Mainstreet) from Shady Oak Road to 5th Avenue.

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 46 feet, two traffic lanes and two parking lanes, instead of the required minimum of 48 feet, two traffic lanes and two parking lanes between intersections and to permit a street width of 32 feet, two traffic lanes and no parking lanes, instead of the required minimum of 36 feet, two traffic lanes and no parking lanes, at intersection node areas.

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: 11 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of Mankato for a variance from State Aid requirements for RIGHT OF WAY WIDTH

NOTICE IS HEREBY GIVEN that the City Council of the City of Mankato has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from the rule for a proposed reconstruction project on MSAS 122 (Adams Street) from Johnson Street to Pfau Street.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2500 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a right of way width of 49.5 feet instead of the required minimum of 60 feet for S.A.P. 137-122-01.

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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the City of Prior Lake for a variance from minimum State Aid standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the City Council of the City of Prior Lake 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 sidewalk project on MSAS 105 (Fish Point Road) from Huron Street to Glory Circle.

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 design speed of 28 miles per hour for one horizontal curve and 27.8 miles per hour on four vertical curves instead of the required minimum of 30 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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Hennepin for a variance from minimum State Aid standards for STREET WIDTH

NOTICE IS HEREBY GIVEN that the County Board of the County of Hennepin 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 CSAH 9 (45th Avenue, Lake Drive) from Adair Avenue to York Avenue in the City of Excelsior.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9919 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 48 feet, two traffic lanes and two parking lanes, instead of the required minimum of 66 feet, four traffic lanes and two 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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Hennepin for a variance from minimum State Aid standards for STREET WIDTH

NOTICE IS HEREBY GIVEN that the County Board of the County of Hennepin 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 CSAH 19 (Oak Street) from Trunk Highway 7 to 400 feet north of Water Street in the City of Excelsior.

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, four traffic lanes 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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Jackson for a variance from minimum State Aid standards for RECOVERY AREA and RIGHT OF WAY WIDTH

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 grading and a paving project on CSAH 9 between the north limits of Heron Lake and the north Jackson County line.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a recovery area of 25 feet instead of the required minimum of 42 feet and from 8820.2500 so as to permit a 50 foot right of way width instead of the required minimum of 66 feet between engineers stations 52 + 70 and 55 + 00.

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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of St. Louis for a variance from minimum State Aid standards for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the County Board of the County of St. Louis 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 railroad grade crossing project on CSAH 91 (40th Avenue West) near 9th Street in Duluth.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a design speed of 18 miles per hour for the sag vertical curve at the crossing instead of the required minimum of 40 miles per hour for the rural design section east of the crossing and from 8820.9912 which has a 30 miles per hour requirement for the urban design section west of the crossing.

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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Sibley for a variance from minimum State Aid standards for DIAGONAL PARKING

NOTICE IS HEREBY GIVEN that the County Board of the County of Sibley 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 C.S.A.H. 17 (Main Street) from Trunk Highway 5 to the MNVA Railroad, Inc. crossing in Arlington, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9916 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162 so as to permit 45 degree diagonal parking with a street width of 60 feet, curb to curb, instead of the 45 degree diagonal parking with the required width of 90 feet, curb to curb.

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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Todd for a variance from minimum State Aid standards for USE OF STATE AID FUNDS

NOTICE IS HEREBY GIVEN that the County Board of the County of Todd 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 shoulder widening and bituminous overlay project (SAP 77-624-10) on C.S.A.H. 24 from the east city limits of Bertha to C.S.A.H. 11.

Official Notices

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, 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: 8 June 1990

Leonard W. Levine
Commissioner

Department of Transportation

Notice of Appointment and Meeting of a State Aid Variance Committee

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Thursday, June 28, 1990, at 9:00 a.m. in room 400 south, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota 55155.

This notice is given pursuant to *Minnesota Statute* 47k.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards and administrative procedures as governed by *Minnesota Rules* for State Aid Operations 8820.3400 adopted pursuant to *Minnesota Statutes* 161 and 162.

The agenda will be limited to these questions:

1. Petition of the County of Hennepin for a variance from minimum standards as they apply to a proposed reconstruction project on CSAH 19 (Oak Street) from Trunk Highway 7 to 400 feet north of Water Street in the City of Excelsior so as to permit a street width of 48 feet, four traffic lanes and no parking lanes, instead of the required minimum of 52 feet, four traffic lanes and no parking lanes.

2. Petition of the County of Hennepin for a variance from minimum standards as they apply to a proposed reconstruction project on CSAH 9 (45th Avenue, Lake Drive) from Adair Avenue to York Avenue in the City of Excelsior so as to permit a street width of 48 feet, two traffic lanes and two parking lanes, instead of the required minimum of 66 feet, four traffic lanes and two parking lanes.

3. Petition of the County of St. Louis for a variance from minimum standards as they apply to a proposed railroad grade crossing project on CSAH 91 (40th Avenue West) near 9th Street in Duluth so as to permit a design speed of 18 miles per hour for the sag vertical curve at the crossing instead of the required minimum of 40 miles per hour for the rural design section east of the crossing and from 8820.9912 which has a 30 miles per hour requirement for the urban design section west of the crossing.

4. Petition of the City of Mankato for a variance from minimum standards as they apply to a proposed reconstruction project on MSAS 122 (Adams Street) from Johnson Street to Pfau Street so as to permit a right of way width of 49.5 feet instead of the required minimum of 60 feet for S.A.P. 137-122-01.

5. Petition of the County of Todd for a variance from rule as they apply to a shoulder widening and bituminous overlay project (SAP 77-624-10) on C.S.A.H. 24 from the east city limits of Bertha to C.S.A.H. 11 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.

6. Petition of the County of Sibley for a variance from minimum standards as they apply to a proposed reconstruction project on C.S.A.H. 17 (Main Street) from Trunk Highway 5 to the MNVA Railroad, Inc. crossing in Arlington, Minnesota so as to permit 45 degree diagonal parking with a street width of 60 feet, curb to curb, instead of 45 degree diagonal parking with the required width of 90 feet, curb to curb.

7. Petition of the City of Fairmont for a variance from minimum standards as they apply to a proposed reconstruction project on M.S.A.S. 106 (Prairie Avenue) from Budd Street to Forest Street so as to permit a design speed of 20 miles per hour for S.A.P. 123-106-12 instead of the required minimum of 30 miles per hour.

8. Petition of the County of Jackson for a variance from minimum standards as they apply to a grading and a paving project on CSAH 9 between the north limits of Heron Lake and the north Jackson County line so as to permit a recovery area of 25 feet instead of the required minimum of 42 feet and from 8820.2500 so as to permit a 50 foot right of way width instead of the required minimum of 66 feet between engineers stations 52 + 70 and 55 + 00.

State Contracts and Advertised Bids

9. Petition of the City of Prior Lake for a variance from minimum standards as they apply to a sidewalk project on MSAS 105 (Fish Point Road) from Huron Street to Glory Circle so as to permit a design speed of 28 miles per hour for one horizontal curve and 27.8 miles per hour on four vertical curves instead of the required minimum of 30 miles per hour.

10. Petition of the City of Hopkins for a variance from minimum standards as they apply to a proposed reconstruction project on MSAS 341 (Mainstreet) from Shady Oak Road to 5th Avenue so as to permit a street width of 46 feet, two traffic lanes and two parking lanes, instead of the required minimum of 48 feet, two traffic lanes and two parking lanes between intersections and to permit a street width of 32 feet, two traffic lanes and no parking lanes, instead of the required minimum of 36 feet, two traffic lanes and no parking lanes, at intersection node areas.

The cities and counties previously listed are requested to follow the following time schedule when appearing before the Variance Committee:

9:00 a.m. County of Hennepin
9:45 a.m. County of St. Louis
10:20 a.m. City of Mankato
10:40 a.m. County of Todd
11:00 a.m. County of Sibley
11:20 a.m. City of Fairmont
11:40 a.m. County of Jackson
12:00 p.m. City of Prior Lake
12:20 p.m. City of Hopkins

Dated: 9 June 1990

Leonard W. Levine
Commissioner

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: Vehicle V-31-89
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: June 19
Agency: DNR Southern Service Center
Deliver to: St. Paul
Requisition #: 29000-53820-2

Commodity: Northgate 386/20 Slimline
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 20
Agency: DNR—Minerals Division
Deliver to: St. Paul
Requisition #: 29000-54360

Commodity: 1990 Chevrolet Lumina or equal
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: June 21
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07300-69495

State Contracts and Advertised Bids

Commodity: 1990 Buick LeSabre
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: June 21
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 07150-61416

Commodity: Dictation recording tapes
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: June 21
Agency: Transportation Department
Deliver to: South St. Paul
Requisition #: 79000-05660

Commodity: UPS system
Contact: Joan Breisler 296-9071
Bid due date at 2pm: June 21
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 55000-03652

Commodity: Unleaded #1 & #2 regular diesel fuel (rebid)
Contact: Dale Meyer 296-3773
Bid due date at 2pm: June 21
Agency: Transportation Department
Deliver to: Baudette
Requisition #: Price Contract

Commodity: Unleaded gasoline, #1 & #2 regular diesel fuel (rebid)
Contact: Dale Meyer 296-3773
Bid due date at 2pm: June 21
Agency: Transportation Department
Deliver to: Deer River
Requisition #: Price Contract

Commodity: Upgrade DCA software
Contact: Joan Breisler 296-9071
Bid due date at 2pm: June 22
Agency: Community College Board
Deliver to: St. Paul
Requisition #: 27138-51709

Commodity: 386/20 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 22
Agency: DNR—Regional Headquarters
Deliver to: St. Paul
Requisition #: 29006-00061

Commodity: Electronic painting
Contact: John Bauer 296-2621
Bid due date at 4:30pm: June 22
Agency: Education Department
Deliver to: St. Paul
Requisition #: 37010-73710

Commodity: Kitchen equipment
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: June 25
Agency: Correctional Facility
Deliver to: Faribault
Requisition #: 78790-00619

Commodity: Anti freeze permanent type
Contact: Dale Meyer 296-3773
Bid due date at 2pm: June 26
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Meat for August delivery
Contact: Linda Parkos 296-3725
Bid due date at 2pm: July 10
Agency: Minnesota Correctional Facility
Deliver to: St. Cloud
Requisition #: 78830-10496-01

Commodity: Aerial truck—rebid
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: June 22
Agency: MN/DOT Central Shop
Deliver to: St. Paul
Requisition #: 79382-01901

Commodity: Maintenance agreement on Wang system
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 21
Agency: Governor's Office
Deliver to: St. Paul
Requisition #: 39000-10019

Commodity: Northgate 386/33 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 22
Agency: Natural Resources Department
Deliver to: Brainerd
Requisition #: 29003-06527

Commodity: Continuation of lease/maint. IBM hdwe and software
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: June 26
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 21200-30657

Commodity: NCR tower 321700
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: June 26
Agency: Human Rights Department
Deliver to: St. Paul
Requisition #: 17000-02781

Commodity: Xerox 2520 lease
Contact: John Bauer 296-2621
Bid due date at 2pm: June 26
Agency: MN/DOT Communications
Deliver to: Thief River Falls
Requisition #: 79200-03969

Commodity: 80386 SX/16 computers
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 26
Agency: Natural Resources Department
Deliver to: Various
Requisition #: 29002-19867

Commodity: DEC computer—no substitute
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 26
Agency: Transportation Department
Deliver to: Maplewood
Requisition #: 79000-06069

Commodity: Compression test cell
Contact: Pamela Anderson 296-1053
Bid due date at 4:30pm: June 26
Agency: Transportation Department
Deliver to: Maplewood
Requisition #: 79000-05857

Commodity: Retaining wall system
Contact: Pamela Anderson 296-1053
Bid due date at 4:30pm: June 26
Agency: Transportation Department
Deliver to: Hibbing
Requisition #: 79150-00866

Commodity: Walk-in freezer
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: June 26
Agency: Natural Resources Department
Deliver to: Duluth
Requisition #: 29002-19573

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: Interoffice envelope, 150M envelopes, camera ready, 2-sided, 4 1/8" x 9 1/2" 1-hole in center, side seam 1 1/2" straight flap
Contact: Printing Buyer's Office
Bids are due: June 20
Agency: Administration Department-Central Stores
Deliver to: St. Paul
Requisition #: 9320

Commodity: MCC General Facts Brochure, 18M 28 1/2"x11" folded to 8 1/2"x11" camera ready, 2-sided, photos and score
Contact: Printing Buyer's Office
Bids are due: June 22
Agency: Minneapolis Community College
Deliver to: Minneapolis
Requisition #: 6744

Commodity: Three-ring binders, 700 with tabs, 8 1/2"x11" type to set, 1- and 2-sided
Contact: Printing Buyer's Office
Bids are due: June 22
Agency: Bureau of Mediation Services
Deliver to: St. Paul
Requisition #: 9387

Commodity: Notice of applied refund, 25M 2-part sets 8 1/2" x 7" includes 1/2" pinfeed strips, type to set, 2-sided, fanfold 1-up
Contact: Printing Buyer's Office
Bids are due: June 21
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 9300

Commodity: MCC Catalog 1990-91, 12M books 150 pages + cover, camera ready, 2-sided, 6"x9" trim size, color photo for cover + 11 black and whites, 111 bleed bars cut and screened
Contact: Printing Buyer's Office
Bids are due: June 22
Agency: Minneapolis Community College
Deliver to: Minneapolis
Requisition #: 6708

Good Business Decisions are Made with Good Information

Minnesota Manufacturer's Directory. More than 7,000 entries that include 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 plus tax.

Business and NonProfit Corporation Act 1989. A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 80B, 302, 302A and 317. Code #2-87, \$15.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4. \$15.00 plus tax. 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 a Project at the University of Minnesota-Duluth

To Minnesota Registered Design Professionals:

The State Designer Selection Board has been requested to select a designer for a project at the University of Minnesota—Duluth. Design firms who wish to be considered for this project should deliver proposals on or before 4:00 p.m., July 10, 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.

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

Professional, Technical & Consulting Contracts

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.

7) PROJECT—15-90

Student Health and
Counseling Center Expansion
University of Minnesota—Duluth

The University of Minnesota is planning to expand the Student Health and Counseling Center located at the Duluth campus. The project consists of approximately 2,880 asf and 4,810 gsf of new construction. The existing building, of 4,350 asf and 6,840 gsf, will receive minor remodeling and reconfiguring, as required, for expansion connections. The major categories of spaces are:

Clerical/Administration	- 1,320 asf
Clinical	- 2,310 asf
Laboratory/X-ray	- 560 asf
Counseling	- 1,970 asf
Health Education	- 375 asf
General Clinic and Counseling	- 690 asf

The Student Health and Counseling Center is located in a remodeled contemporary residence on the northwest portion of the campus, in an area of student housing. The construction budget of approximately \$640,000.00 includes parking, landscaping, and utility connections; the estimated project cost is \$890,000.00.

As the campus and resulting health service needs have expanded, the existing facility can no longer efficiently meet the program demands. Portions of the existing facility are to remain in use throughout the construction period. The architect must consider the on-going operations, phasing of work, and schedule in the design of the project. The facility must be brought up to code for handicapped accessibility.

The designer is also to investigate, provide schematic design, and cost estimates for an enclosed pedestrian connection from the Student Health and Counseling Center to the campus concourse system.

It is important that the overall design have a very positive aesthetic image and that the architect has previously demonstrated excellent design ability and energy conscious design. Prior experience in the design of medical clinics is expected.

Questions concerning this project may be referred to Clinton Hewitt at (612) 625-7355.

Mark Anderson, Chairman
State Designer Selection Board

Gaming Department

Minnesota State Lottery

Request for Interest in Vendor Listing for Promotional Merchandise

Periodically the Minnesota State Lottery will purchase a variety of promotional items for purposes of marketing lottery games. (Items may include but will not be limited to t-shirts, sweatshirts, hats, mugs, key chains, lapel pins, balloons.) Those items will be purchased under provisions of M.S. 349A.07 which states in part:

“The director shall utilize an open bid process and shall take into account the particularly sensitive nature of the state lottery and shall consider the competence, quality of product, experience, and timely performance of each potential vendor in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery.”

Since time frames for these purchases will often be extremely constrained, the Lottery will establish a list of vendors willing to deliver specific items or groups of items. Invitations to bid on specific items will then be faxed and mailed to these vendors and responses mailed directly to the Lottery offices in Roseville.

Companies interested in being included on the Minnesota State Lottery vendor listing for promotional merchandise should submit the following information:

- Business Name
- Address
- Contact Person
- Phone Number

Professional, Technical & Consulting Contracts

- Fax Number
- Brief Description of Product(s)

All responses should be sent to:

Tom Barrett
Administrative Services Manager
Minnesota State Lottery
2645 Long Lake Road
Roseville, MN 55113

Vendors may request their names and product lines be added to the Minnesota State Lottery listing at any time. Vendors will be removed from the list only at the request of the vendor or if mail or fax transmissions are undeliverable.

Potential vendors should note: Minnesota state law requires that any vendor awarded a contract with the State of Minnesota or one of its agencies in excess of \$50,000 or employing more than 20 persons on a full-time basis must hold a certification from the Minnesota Department of Human Rights ensuring that the vendor has in place an affirmative action plan as required.

Department of Human Services

Notice of Request for Proposals for Medical Information Line Services

The Minnesota Department of Human Services, Division of Health Care Management, Managed Health Care Section is requesting proposals from organizations interested in providing medical information line services to Medical Assistance recipients in Ramsey County. Services included will be the following: provision of medical advice, direction to appropriate care site, provision of information on medical care providers, collection of information on callers and follow-up with callers. The telephone line will be staffed by registered nurses, using predetermined medical protocols.

Telephone line services will be offered on a pilot basis for one year, beginning October 1, 1990, with the option to extend the pilot for an additional year.

A request for proposals is available upon request to the Department of Human Services. Proposals are due by July 6, 1990.

For a copy of the Request for Proposals, please contact:

Kathleen Schuler
Managed Health Care
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3854
612-297-4668

State Board of Investment

Official Notice to Retain Money Management Firms

The Minnesota Board of Investment (SBI) retains private money management firms to manage a portion of the pension assets and other accounts under its control. Firms interested in managing either equity or fixed income assets for the SBI are asked to contact the following address for additional information:

Douglas Gorence, Manager
External Investment Program
Minnesota State Board of Investment
Room 105—MEA Building
55 Sherburne Avenue
St. Paul, Minnesota 55155

Pollution Control Agency

Air Quality Division

Notice of Intent to Request for Proposal In the Matter of the Request for Proposals to Conduct a Preliminary Emission Assessment for Pressed Wood Manufacturing Facilities

NOTICE OF AVAILABILITY OF CONTRACT AND NOTICE OF REQUEST FOR PROPOSAL for Contractual services to conduct a preliminary emission assessment for pressed wood manufacturing facilities and investigate the effect of operational parameters on the emission rate of selected pollutants. The Minnesota Pollution Control Agency (MPCA), will use the result of this project in understanding the factors affecting the release of air toxics from these facilities.

Scope of Project:

The purpose of this study is to evaluate available information regarding likely air toxic emissions from Minnesota pressed wood producers and develop a suitable test plan to most efficiently complete the emission data base for critical air toxics from pressed wood product manufacturing facilities in Minnesota.

Project Start and Completion Dates:

The duration of the contract with qualified parties is six months with an execution date anticipated for August 1, 1990.

Project Cost:

It is estimated that the cost of this project will not exceed \$20,000 for professional services and expenses. This project will be funded by the Environmental Protection Agency (EPA).

Any questions regarding this request for proposal, that describes the requirements necessary for the contract should be directed to:

Fardin Oliaei	520 Lafayette Road
Air Quality Division	St. Paul, Minnesota 55155
Minnesota Pollution Control Agency	(612)296-7967

All proposals must be submitted to the attention of the above MPCA contact person no later than 4:00 p.m., on July 10, 1990. Late submittals will not be accepted.

Gerald L. Willet
Commissioner

State University Board

Notice of Availability of State Contracts for Professional/Technical Educational Services

From time to time during the fiscal year the Minnesota State University Board will have need of temporary or adjunct teaching services. Interested persons should contact each State University separately to the person listed below to indicate their interest in providing such services. Contracts will vary with length of service and course or subject matter.

BEMIDJI STATE UNIVERSITY

Dr. Les Duly
Vice President for Academic Affairs
1500 Birchmont Dr. N.E.
Bemidji, MN 56601-2699

MANKATO STATE UNIVERSITY

Dr. Richard Crofts
Vice President for Academic Affairs
Mankato, MN 56002

METROPOLITAN STATE UNIVERSITY

Dr. Leah Harvey
Vice President for Academic Affairs
120 Metro Square Building
St. Paul, MN 55101

MOORHEAD STATE UNIVERSITY

Dr. Roland Barden
Vice President for Academic Affairs
Moorhead, MN 56563

ST. CLOUD STATE UNIVERSITY

Dr. Josephine Davis
Vice President for Academic Affairs
720 4th Avenue South
St. Cloud, MN 56301-4498

SOUTHWEST STATE UNIVERSITY

Dr. Ned Conway
Vice President for Academic Affairs
Marshall, MN 56258

WINONA STATE UNIVERSITY

Dr. Douglas Sweetland
Vice President for Academic Affairs
Winona, MN 55987

Professional, Technical & Consulting Contracts

Department of Trade and Economic Development

Professional Economic Development Program and Instructor(s) Sought

The Development Resources Office of the Minnesota Department of Trade and Economic Development is soliciting proposals for a Comprehensive Financial Economic Development training program. The program should be designed to cover the four areas of expertise as listed below.

- Economic Development Financing
- Business Credit Analysis
- Real Estate Financing
- Deal Structuring

Each area should be covered by one week of instruction. The four week plus program may be repeated over a three year period. In addition, a one week advanced training course may be considered for inclusion in the overall training program. Estimated contract cost is \$250,000.

Affirmative Action: In accordance with *Minnesota Statutes* Chapter 363, proposals submitted by businesses 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 their proposal may be accepted.

No proposal will 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 signed, notarized statement certifying that your firm is not required to have a Certificate of Compliance because it has not had more than 20 full-time employees at any time during the previous 12 months.

To obtain a Certificate of Compliance, a person must either develop an Affirmative Action Plan acceptable to the Commissioner of Human Rights or offer proof to the Commissioner of approval of an Affirmative Action Plan by a local human rights agency or the federal government by providing copies of the approved plan and documentation of the compliance status. You may contact the Minnesota Department of Human Rights for detailed instruction and assistance in obtaining your Certificate of Compliance at 612/296-5663 or by mail or in person at:

Contract Compliance Unit
Minnesota Department of Human Rights
500 Bremer Tower
7th Place and Minnesota Street
St. Paul, Minnesota 55101

DTED reserves the right to reject any and all proposals submitted and to cancel any portion or all of this undertaking at any time without further notice.

Proposals should be received by MN DTED no later than 4:00 p.m. July 16, 1990.

The formal request for proposal may be requested and inquiries should be directed to:

Mr. Harry Rosefelt, Director
Development Resource Office
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-5010

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.

Pollution Control Agency

Water Quality Division

Applications Accepted for Project Development and Project Implementation Grants Through the Clean Water Partnership Program

The Minnesota Pollution Control Agency (MPCA) hereby announces that it will accept applications for Project Development and Project Implementation Grants through the Clean Water Partnership Program (CWP).

In 1987, the Minnesota Legislature established the Clean Water Partnership Program (*Minnesota Statutes* Sections 115.091 through 115.103) to protect and improve surface and ground water in Minnesota through financial and technical assistance to local units of government.

Applications will be accepted from local units of government interested in leading a nonpoint source pollution control project. Clean Water Partnership project funding is awarded in two phases. The first phase, the Project Development Grant, involves the completion of a diagnostic study and implementation plan that identifies pollution problems, their causes, and identifies the combination of management practices necessary to improve or identifies the combination of management practices necessary to improve or protect water quality. The second phase, the Project Implementation Grant, involves implementing the activities identified in the first phase as necessary to improve or protect water quality.

Applications will be accepted from June 29 through August 30, 1990. All applications must be received by 4:30 p.m. on August 30, 1990.

Minnesota Rules Parts 7076.0100 through 7076.0290 provide the criteria and procedural conditions under which the MPCA may award assistance to local units of government.

An information package is available for all interested parties. This package includes: 1) the CWP grant application, 2) a copy of *Minnesota Rules* Parts 7076.0100 through 7076.0290, 3) a copy of *Minnesota Statutes* Sections 115.091 through 115.103, and 4) other guidance documents.

MPCA staff will be available at the following times and locations to answer questions and assist applicants complete their applications.

- 1) Date: July 16, 1990
Time: 12:30 p.m. to 4:00 p.m.
Location: Mankato Regional Library
100 East Main Street
Mankato, Minnesota
- 2) Date: July 17, 1990
Time: 12:30 p.m. to 4:00 p.m.
Location: Brainerd Public Library
416 South Fourth Street
Brainerd, Minnesota
- 3) Date: July 18, 1990
Time: 12:30 p.m. to 4:00 p.m.
Location: Minnesota Pollution Control Agency
Lower Level, Training Room #2
520 Lafayette Road
St. Paul, Minnesota

Request additional information and the CWP Application Information Package from:

Mr. Gaylen Reetz
Program Development Section
Water Quality Division
Minnesota Pollution Control Agency

520 Lafayette Road
St. Paul, Minnesota 55155
Phone: (612) 296-8834

State Grants

Department of Public Safety

Office of Drug Policy

Notice of Availability of Grant Funds to Support Community Crime and Drug Reduction Projects

The Office of Drug Policy announces the availability of grant funds to support Community Crime and Drug Reduction Projects.

Purpose

The projects are intended to enhance a community's sense of security and self-reliance and to assist a community in its crime control and related drug prevention programs.

Eligible Applicants

Local units of government and/or public and private non-profit agencies may apply.

Funds

Approximately \$750,000 in Federal and State funds is available for competitive projects. Grant awards will range from \$25,000 to \$50,000 for a twelve month period.

\$450,000 is to be dedicated to the geographical areas with the highest crime rates. \$300,000 will be awarded based on innovative programming and community involvement without regard to crime rates.

Eligible Types of Programs

Eligible programs must be community based and collaborative. Examples of qualifying programs include, but are not limited to the following: neighborhood block clubs, crime watch programs, community based programs or alternative activities designed to encourage young people and adults from involvement in unlawful drug or street gang activities.

Proposal Due Date

July 27, 1990, by 4:30 p.m. in office and address below.

Request for Proposal

To receive a copy of the request for proposal which describes how to apply for these funds, contact:

Jeri Boisvert, Steve Winfield or Tim Reardon
Office of Drug Policy
Department of Public Safety
316 State Transportation Building
St. Paul, MN 55155
(612) 296-0922

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.

Notice of Discontinuation of Publication in the *State Register*.

NOTICE IS HEREBY GIVEN that publication of selected Minnesota Tax Court—Regular Division decisions will no longer be published in the *State Register*.

Subscription service to all decisions of the Minnesota Tax Court/Property Decisions are available through Minnesota's Bookstore. An annual subscription for a full 12 months cost \$275.00 and is renewable on the subscription's anniversary. Individual copies of the Regular Tax Court decisions may be purchased for \$2.25 plus 6% sales tax \$2.00 postage/handling per order. Prices vary on individual Property Decisions based on the number of pages. To subscribe, or order individual decisions, use the order form at the back of this magazine, or call (612) 296-0931 for more information.

Supreme Court Decisions, Opinions & Rules --- ---

Decisions Filed 15 June 1990

CX-89-504 Therese Sorenson and the Heirs and Next of Kin of John Sorenson by their trustee, Kevin Sorenson v. St. Paul Ramsey Medical Center, et al., petitioners, Appellants, Rebecca Brick, Certified Nurse Midwife, possibly known as B. Birch, petitioner, Appellant, Dr. Gordon M. Ditmanson, et al., petitioners, Appellants, Dr. John Doe, et al. Court of Appeals.

1. In light of the importance of disposing of cases on their merits and the unique facts of this case, the affidavits and answers to interrogatories in question satisfy the disclosure requirements of *Minnesota Statutes* § 145.682 (1988).

2. In future cases, plaintiffs will be expected to set forth specific details concerning their expert's expected testimony in order to satisfy the disclosure requirements of *Minnesota Statutes* § 145.682 (1988).

Affirmed as modified. Yetka, J.

Took no part, Kelley, J.

C9-89-1109 State of Minnesota, petitioner, Appellant v. Oscar Christopher Schaeffer. Court of Appeals.

The trial court determines admissibility of a criminal defendant's confession; if the trial court admits the confession, the trial court must permit the defense to present evidence on the circumstances surrounding the giving of the confession to assist the jury in the determination of its weight and credibility.

Reversed and judgment of conviction reinstated. Coyne, J.

C0-89-1886 Peggy Marlene Moelter v. Commissioner of Public Safety, petitioner, Appellant. Court of Appeals.

Reversed. Keith, J.

Orders

C5-90-383 In Re the Petition for Disciplinary Action against Richard J. Kadrie, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Kelley, J.

Order C2-84-2163—Publication of List of Attorneys on Involuntarily Restricted Status

Pursuant to the request of the Minnesota Board of Continuing Legal Education,

IT IS HEREBY ORDERED that effective January 1, 1991, the Minnesota Board of Continuing Legal Education shall publish in January of every year the names of attorneys registered in the state who have not met their continuing legal education requisites and who have been placed by order of this Court on involuntary restricted status.

Dated: 12 June 1990

BY THE COURT:
Peter S. Popovich
Chief Justice

Order C3-88-1547—Order Appointing Members to Supreme Court Task Force on Financing of the Trial Courts

WHEREAS, the Court, by order dated September 15, 1989 continued the Supreme Court Task Force on Financing of the Trial Courts authorized under *1989 Minnesota Laws* Chapter 335, Art. 3, Section 43 and appointed members, and

WHEREAS, vacancies have occurred as a result of Margaret Langfeld's resignation as a member of the task force, and Peggy Addick's resignation as ex officio member representing the Association of Minnesota Counties;

NOW, THEREFORE, IT IS HEREBY ORDERED that Herbert Baumhoefner, Martin County Commissioner, having indicated a willingness to serve, is appointed to serve on the Supreme Court Task Force on Financing of the Trial Courts, and

IT IS FURTHER ORDERED THAT Merry Beckmann be appointed to serve as ex officio member of the task force representing the Association of Minnesota Counties.

Dated: 1 June 1990

BY THE COURT:
Peter S. Popovich
Chief Justice

Announcements

Environmental Quality Board (EQB): Comments are due July 11 on the following EAWs (environmental assessment worksheets) at the regional governing unit listed with each: **Oak Brook Peninsula**, City of Lino Lakes (612) 464-5562; **City of Deephaven Dock Expansion**, Lake Minnetonka Conservation District (612) 473-7033; **Loon and Jay Gould Lakes Development Plan-Itasca County**, Itasca County (218) 327-2857; **Pokegama Lake RV Park Boat Harbor**, Pine County (612) 629-6781 ext. 122. • The MPCA (Minnesota Pollution Control Agency), the RGU for the **Pope-Douglas Ash Storage Facility**, has extended the EAW comment period by two additional weeks. The comment period now ends on Wednesday 27 June 1990. • Petitions for environmental review have been received for the **McCrossan Contained Soil Treatment Facility**, MPCA, Debra McGovern, Office of Environmental Analysis, 520 Lafayette Rd, St. Paul, MN 55155; **Otsego Town Hall**, Wright County, Tom Salkowski, Planning & Zoning, Courthouse, Buffalo, MN 55313; **Stillwater High School-Stillwater Township**, Washington County, (612) 779-5443, Dennis O'Donnell, 14900 61st St. N., P.O. Box 6, Stillwater, MN 55082-0006. • A Scoping Decision Document conforming with EQB regulations pertaining to EIS preparation has been drawn up for the **Northeast Corridor Light Rail Transit**, Anoka County. Contact Timothy Yantos, 325 East Main Street, Anoka, MN 55303, (612) 421-4760, or Kenneth Stevens, Hennepin County Government Center, Minneapolis, MN 55487, (612) 348-9260. • The **Air National Guard** is preparing an environmental assessment for the modification of an existing special use airspace. The special use airspace requirement involves the modification of the existing **Snoopy MOA boundaries**, to avoid **aircraft overflight of the Boundary Waters Canoe Area Wilderness**. The environmental analysis for the proposed action will be conducted with the Council on Environmental Quality Regulations to comply with the National Environmental Policy Act of 1969. The MOA will not be used as proposed until after the environmental impact analysis process is completed and the proposal is approved by the federal Aviation Commit Administration. Questions concerning the proposal should be directed to Gloria Hagge, Project Manager, Advanced Sciences, Inc., (402) 291-5301. Written comments should be addressed to Advanced Sciences, Inc., 1510 Wall Street, Suite 220, Bellevue, Nebraska 68005. The deadline for comments is June 29, 1990.

Landlords Required to Submit Form by June 30: The Minnesota Department of Revenue said today a new state law requires landlords to file a rental property tax form with the department on or before June 30, 1990 and by May 30 each succeeding year. Information from the landlord rental property tax (LRP) form which must be completed by landlords for each rental property, is needed to complete the certificate of rent paid (CRP) form given to renters. The renter uses the CRP, which indicates the amount of rent going to property tax, when applying for the state-paid property tax refund. Landlords who have not received the 1990 landlord rental property tax form in the mail should call the department at 296-3781 (Twin Cities Metro area), or 1-800-652-9094 (Greater Minnesota). With the filing deadline quickly approaching, the department will allow a 30-day grace period in 1990 for landlords unable to file by June 30.

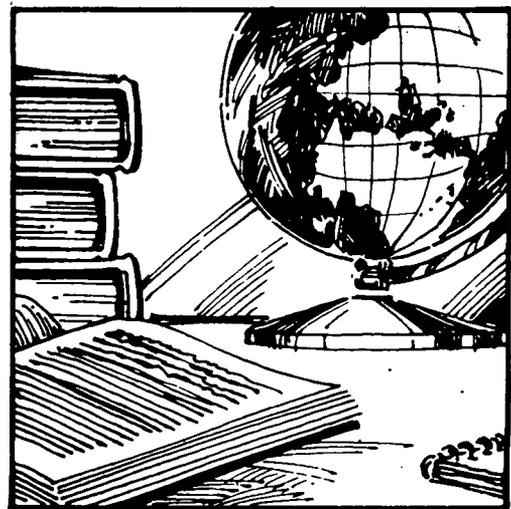
Governor's Appointments: Governor Rudy Perpich announced the appointment of **Pat Davies**, Mendota Heights, to the *Environmental Quality Board* to a term to January 1992. The board insures cooperation and coordination among state agencies on issues that affect the environment. • **John McLaughlin**, Minneapolis, was appointed chair of the *Governor's Advisory Council for Refugees*. McLaughlin has served on the council for 10 years and is currently its acting chair. The council advises the Governor on issues of concern to refugees. • **Beverly Pehler**, St. Cloud, was appointed to the *Board of Architecture* to a term to January 1992. The board licenses and regulates architects, engineers, land surveyors and landscape architects.

Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1987. Minnesota Rules Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74, \$7.00 plus tax.

Education Directory 1989-90. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93, \$8.95 plus tax.

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.

Minnesota's Bookstore

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NEW PUBLICATIONS:

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.

It's Never Okay: A Handbook for Professionals on Sexual Exploitation by Counselors and Therapists. Therapeutic and prevention issues and employer responsibilities are discussed in this task force report, as well as recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16, \$19.95

Hazardous Waste Rules 1989. Governs the storage, treatment, utilization, processing, transfer, and disposal of hazardous waste. Contains the complete requirements for application for permits for discharge of hazardous waste on construction and operation of a treatment facility. Stock No. 3-71, \$16.95 plus tax.

Environmental Quality Board Rules 1989. Essential for long-term planning. Details the scope, purpose and objectives of the rules. Explains the need for environmental impact statements and the review process. Includes a special section on large energy facilities and high voltage transmission lines. Stock No. 3-54, \$5.00 plus tax.

OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. \$13.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. \$3.50 plus tax.

Landscaping for Wildlife. Attract songbirds, deer, butterflies, hummingbirds, pheasants, and other wildlife to your property by using the tips in this 144-page, 4-color book. Stock #9-15, \$8.95 plus tax. See "Special Set Offer" below.

Woodworking for Wildlife. Carefully illustrated with a variety of game bird and mammal box designs, including maintenance requirements and important tips on placement of nests in proper habitat areas. 47 pages with diagrams. Stock #9-14, \$3.95 plus tax. See "Special Set Offer" below.

"Special Set Offer." Save 15% by purchasing the two books together on wildlife mentioned above. Stock #9-20, \$10.95 plus tax.

Minnesota Manufacturer's Directory, 1990. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchasing managers, and four manufactured products. Stock #40-2. \$78.50 + \$4.71 sales tax.

SUBSCRIPTIONS:

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription: Monday edition only \$130; Monday and Thursday's State Contract Supplement \$195; 13-week trial (includes both Monday and Thursday editions) \$60.00.

Workers Compensation Decisions. Volume 40. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription. \$105.00.

SERVICES:

Mailing Lists. Lists of Minnesota licensed professionals and permit holders. Write or call (612) 297-2552 for a free mailing list catalog which contains available lists, selections, formats, pricing and ordering information.

American Flag. Perfect for home or office. 3' x 5' with embroidered stars. Heavy nylon bunting. Code No. 6-1. \$21.00, plus tax.

1989 Lake Map Index. Listing over 4,000 lake maps. Free.

1989 Publication Catalog of Minnesota's Bookstore. Lists publications available through Minnesota's Bookstore. Free.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo. \$6.50 plus 39¢ tax.

