

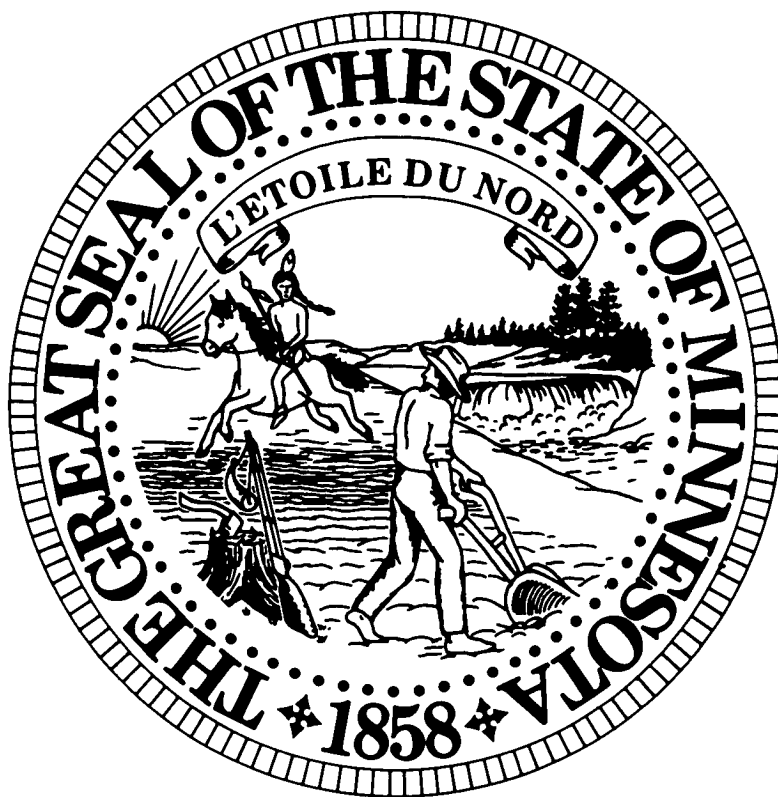
9, April

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The Minnesota
**State
Register**

Department of Administration—Print Communications Division



Rules edition
Published every Monday
(Tuesday if Monday is a holiday)

Monday 29 April 1991
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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, a monthly calendar of cases to be heard by the state supreme court, and announcements.

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. 15 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
44	Monday 15 April	Monday 22 April	Monday 29 April
45	Monday 22 April	Monday 29 April	Monday 6 May
46	Monday 29 April	Monday 6 May	Monday 13 May
47	Monday 6 May	Monday 13 May	Monday 20 May

*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 court; 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 \$140.00 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.

Arne H. Carlson, Governor

Dana B. Badgerow, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Print Communications Division
Robin PanLener, Editor

Paul Hoffman, Assistant Editor
Debbie George, Circulation Manager
Bonita Karels, Staff Assistant

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.

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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.

Pollution Control Agency

Proposed Permanent Rules Relating to Clean Water Partnership Grants

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act, in *Minnesota Statutes* secs. 14.22 to 14.28 (1990). The Agency's authority to adopt rules for the Clean Water Partnership Program is set forth in *Minnesota Statutes* sec. 103F.745 (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

The goal of the Clean Water Partnership Program is to protect state surface and ground waters from nonpoint source pollution. The program provides financial and technical assistance to local governments to help them develop and implement projects that will protect or restore bodies of water in their areas. The program offers grants that require local governments to match the funds received from the Agency.

The Agency is conducting a 30-day public comment period. All persons have until 4:30 p.m. on May 30, 1991, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the 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 rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* secs. 14.14 to 14.20 (1990).

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

Debbie Olson
Minnesota Pollution Control Agency
Water Quality Division/APS
520 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-7223

The proposed rule amendments 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.

The proposed rule amendments, if adopted, will make the Clean Water Partnership Program more effective and more responsive to the needs of local governments that receive grant funds. The three major proposed amendments will modify the grant payment process to prevent financial hardship for project sponsors, will incorporate the resources and concerns of the existing Project Coordination Team into the project selection process, and will more clearly define the criteria used to rank grant applications. The proposed rules are published below. One free copy of the rules is available upon request from Ms. Olson at the address and telephone number stated above.

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

YOU ARE HEREBY advised, pursuant to *Minnesota Statutes* sec. 14.11 (1990), "Special notice of rulemaking," that the proposed rules will not require the expenditure of public monies by local units of government unless a government elects to participate in the Clean Water Partnership Program and the proposed rules will not have any direct adverse effects on agricultural lands in the state. In areas where projects are conducted, agricultural lands will continue to be improved by best management practices, which are a requirement of the program. You are also advised, pursuant to 14.115 (1990), "Small business considerations in rulemaking," that the proposed rules will have only positive effects on small businesses. Small businesses will continue to benefit from contracts provided by the sponsors of Clean Water Partnership projects.

If no hearing is required, upon adoption of the rule amendments, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent 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 rule as adopted, must submit a written request to Ms. Olson.

Charles Williams
Commissioner

Rules as Proposed

7076.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7076.0100 to 7076.0290 have the meanings given them in *Minnesota Statutes*, ~~chapters 115 and~~ chapter 116, and rules adopted under ~~those chapters that~~ chapter and the meanings given them in this part. If terms defined in this part conflict with the definitions in *Minnesota Statutes*, ~~chapters 115 and~~ chapter 116 and the rules adopted under ~~those chapters that~~ chapter, the definitions in this part govern.

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

Subp. 3. **Best management practices.** "Best management practices" has the meaning given it in *Minnesota Statutes*, section ~~115.093~~ 103F.711, subdivision 3.

[For text of subp 4, see M.R.]

Subp. 5. [See repealer.]

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

Subp. 7. **Local unit of government.** "Local unit of government" has the meaning given it in *Minnesota Statutes*, section ~~445.093~~ 103F.711, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under *Minnesota Statutes*, chapter ~~10B~~ 103B; a surface water management plan required under *Minnesota Statutes*, section ~~473.878~~ 103B.231; or an overall plan required under *Minnesota Statutes*, chapter ~~112~~; or ~~until July 1, 1991, any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement~~ 103D, that has been approved by the Board of Water and Soil Resources.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in *Minnesota Statutes*, section ~~445.093~~ 103F.711, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in *Minnesota Statutes*, section ~~445.093~~ 103F.711, subdivision 7.

Subp. 11. [See repealer.]

Subp. 12. **Project.** "Project" has the meaning given it in *Minnesota Statutes*, section ~~445.093~~ 103F.711, subdivision 8.

Subp. 13. **Project area.** "Project area" means the area identified as hydrologically contributing to the water of concern for which the diagnostic study and implementation plan are ~~developed~~ prepared and implemented.

Subp. 14. **Project continuation grant amendment.** "Project continuation grant amendment" means an amendment to an existing project implementation grant to provide funds to continue implementation of activities identified in an approved diagnostic study and implementation plan that were not funded or partially funded in the initial project implementation grant.

Subp. 15. **Project coordination team.** "Project coordination team" means the public interagency group established in *Minnesota Statutes*, section ~~445.103~~, subdivision ~~4~~ 103F.761.

Subp. 16. [See repealer.]

Subp. 17. [See repealer.]

[For text of subs 18 to 20, see M.R.]

Subp. 20a. **Resource investigation.** "Resource investigation" means the preparation of a diagnostic study and implementation plan.

Subp. 20b. **Resource investigation grant.** "Resource investigation grant" means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

[For text of subs 21 to 23, see M.R.]

Subp. 24. **Work plan.** "Work plan" means a document prepared by a project sponsor that describes in detail the work activities to be undertaken by the sponsor to fulfill the requirements of Minnesota Statutes, sections 103F.701 to 103F.761, and of parts 7076.0100 to 7076.0290. A work plan is approved by the commissioner and includes the items required under part 7076.0230.

7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) project development resource investigation grants, and (2) project implementation grants. The grants are for a maximum of 50 percent of the eligible cost of the project. Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

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

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for state matching grants and request technical assistance if it has the following:

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

- A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;
- B. the authority to generate cash revenues and in kind contributions for the local share of a project; ~~and~~
- C. the authority to adopt, implement, and enforce official controls; and
- D. the water of concern is addressed in an approved local water plan.

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

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. Costs identified under subpart 2 are ineligible if the related project activities are started before the grant contract has been signed by the commissioner of finance. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

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

[For text of subp 4, see M.R.]

7076.0140 NOTICE OF GRANT AVAILABILITY.

Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for ~~project development resource investigation~~ grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. **Notification list.** The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the ~~public information office~~ water quality division. Whenever the agency publishes notice in the *State Register*, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

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

7076.0150 GRANT APPLICATION.

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

Subp. 2. **Project development Resource investigation grant.** An applicant submitting an application for a ~~project development resource investigation~~ grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application; ~~the grant contract, and other related project documents;~~

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of local units of government, agencies, and organizations that will be involved in ~~project development resource investigation~~;

D. ~~resolutions~~ letters of support from each participating local unit of government, agency, and organization which identify their role in ~~project development resource investigation~~ and ~~identification of~~ their contribution to the local share of ~~project development resource investigation~~ costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a preliminary work plan and schedule that ~~contain~~ contains the following:

(1) ~~the identification of each water of the state that will be affected by the~~ project goals and objectives;

(2) a description statement of the existing or potential surface and ground water quality conditions and problems that are to be addressed in the project;

(3) a identification and summary of work plan listing the activities that the grant would make possible; ~~and~~

(4) a schedule containing milestones for project development of work plan activities;

(5) a preliminary monitoring plan; ~~and~~

(6) a preliminary work plan budget; ~~and~~

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area; a general identification of water quality problems; and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; ~~and~~

~~+~~ documents required by state or federal statutes, rules, and regulations.

Subp. 3. **Project implementation grant.** An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application; ~~the grant contract, and other related project documents;~~

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and ~~which contains is part of a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;~~

D. ~~resolutions~~ letters of support from each participating local unit of government, agency, and organization that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed preliminary work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share; and

H. ~~a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and~~

~~+~~ documents required by state or federal statutes, rules, and regulations.

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a ~~project development~~ resource investigation grant or a project implementation grant shall be rejected by the commissioner for the following reasons:

A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

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

Subp. 3. **Effect of rejection.** ~~A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.~~

7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The ~~project development~~ resource investigation grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. **Priority points for ~~project development~~ resource investigation grant applications.** The agency and the project coordination team must use the following criteria ~~must be used~~ to determine the number of priority points to be awarded in the evaluation of each ~~project development~~ resource investigation grant application. ~~The agency~~ Each project shall ~~award each project between receive either zero and, two and one-half, five, seven and one-half, or ten points under each of the following criteria, depending on~~

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how well the project satisfies the criterion. The number of points awarded under each of the five criterion assigned by the agency and the project coordination team must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. ~~The criteria are as follows:~~

A. ~~The criteria for the agency are as follows:~~

~~(1) the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement the level of definition of the preliminary work plan for project goals and objectives, work activities, and project organization and management structure;~~

~~B. (2) the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources demonstrates effective and efficient use of state financial resources based on the proposed budget and work plan;~~

~~C. (3) the extent to which the water of concern is identified as a priority water in the local water plan;~~

~~D. (4) the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources severity of water quality impairment or threat as compared to expectations for the least impacted waters in that ecoregion; and~~

~~E. (5) the extent to which the proposed project demonstrates a the likelihood of transferability to similar resources; water quality protection or improvement.~~

F. ~~B. The criteria for the project coordination team are as follows:~~

~~(1) the extent to which the proposed project is of a size and scale to promote successful project management and water quality protection and improvement demonstrates a high potential for project success based on community support and involvement; and~~

~~G. (2) the priority placed on each project by the project coordination team. extent to which the proposed project includes coordination and cooperation of federal, state, and local agencies and units of government for water quality protection or improvement;~~

~~(3) the extent to which the water of concern in the proposed project is of state and regional significance and priority;~~

~~(4) the extent to which the proposed project complements the existing efforts of local, state, and federal programs; and~~

~~(5) the likelihood that the proposed project will serve as a demonstration for water quality protection or improvement and provide useful information for the geographic area.~~

Subp. 3. **Priority points for project implementation grant applications.** The agency and the project coordination team must use the following criteria must be used to determine the number of priority points to be awarded in the evaluation of each project implementation grant application. ~~The agency~~ Each project shall award each project between receive either zero and, two and one-half, five, seven and one-half, or ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each of the five criterion assigned by the agency and the project coordination team must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. ~~The criteria are as follows:~~

A. ~~The agency criteria are as follows:~~

~~(1) the extent to which the proposed project demonstrates a high potential for successful water quality protection and improvement project success based on a comparison of existing water quality and the project's the level of definition of the work plan for project goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency, work activities, budget, and project organization and management structure;~~

~~B. (2) the extent to which the proposed project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;~~

~~C. (3) the extent to which the proposed project maximizes implementation activities will result in water quality protection or improvement relative to the cost of project implementation;~~

~~D. (4) the extent to which the proposed project goals and objectives are consistent with state maximizes water quality management plans and other applicable state and federal resource management programs protection or improvement relative to the cost of project implementation; and~~

~~E. (5) the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and the local agencies and units of government for water quality protection and improvement; capability, organization, and authority to carry out the identified activities.~~

F. B. The project coordination team criteria are as follows:

(1) the extent to which the proposed project demonstrates a significant degree of transferability to similar local units of government high potential for project success based on community support and involvement; and

~~G. (2) the priority placed on each project by the project coordination team-~~ extent to which the proposed project includes coordination and cooperation of federal, state, and local agencies and units of government for water quality protection or improvement;

(3) the extent to which the water of concern in the proposed project is of state and regional significance and priority;

(4) the extent to which the proposed project indicates a commitment to official controls, programs, and activities that are a long-term commitment to water quality protection or improvement; and

(5) the likelihood that the proposed project will serve as a demonstration of water quality protection or improvement and provide useful information for the geographic area.

Subp. 4. **Project coordination team.** The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. ~~The project coordination team must use the criteria established in Minnesota Statutes, section 415.098, to assign points to each project seeking a grant.~~

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. **Project continuation grant amendments.** Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other ~~project development~~ resource investigation grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. **Grant fund allocation.** Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for ~~project development~~ resource investigation and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. **~~Development Resource investigation; project implementation split.~~** Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for ~~project development~~ resource investigation and project implementation grants. In determining the allocation of funds between ~~project development~~ resource investigation and project implementation grants, the agency shall consider:

- A. the availability and conditions for use of federal funds; and
- B. the phasing in and continuity of projects in the program.

If the money intended for ~~project development~~ resource investigation or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank ~~development projects~~ resource investigation separately from implementation projects.

Subp. 2. **Projects funded.** The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority ~~project development~~ resource investigation and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than ~~40~~ 50 points will not be considered for award of grant funds.

[For text of subps 3 to 5, see M.R.]

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7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

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

Subp. 2. **Request.** A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in June of the calendar year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency ~~and may be submitted at any time during the calendar year the funds will be needed.~~ A project sponsor who fails to submit a request for a project continuation grant amendment in June of the calendar year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. **Approval.** Subject to the availability of funds, the agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation grant amendment.

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of ~~project development~~ resource investigation or project implementation.

Subp. 2. **Grant period.** The grant period for a ~~project development~~ resource investigation grant will be for a ~~period of two up to three~~ period of two up to three years. The grant period for a project implementation grant will be for a period of three years and may be extended up to an additional three years with agency approval of a request for a project continuation grant amendment ~~in accordance with~~ according to part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a grant contract with the agency ~~before a to receive grant will be awarded funds.~~ The grant contract must include the provisions in part 7076.0220.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a ~~period of at least three years from the date of termination of the grant contract.~~ Records relating to the installation, operation, and maintenance of best management practices shall be maintained for three years beyond the design or useful life, whichever is longer.

[For text of subs 5 and 6, see M.R.]

Subp. 7. **Mid-year Quarterly update.** ~~The project sponsor shall give the commissioner a mid-year update by August 1 of~~ During each year the grant is in effect. ~~The mid-year update must include a brief report on, the project progress and difficulties encountered in meeting the project schedule~~ sponsor shall prepare for quarterly submittal or presentation to the commissioner an update of project activities and project expenditures.

Subp. 8. **Monitoring Work plan.** The project sponsor shall prepare a work plan according to part 7076.0230 and submit a monitoring plan it to the commissioner ~~within 60 days of the award of the grant.~~ The monitoring plan component of the work plan must be reviewed and revised annually and submitted to the commissioner by January 31. ~~The monitoring plan must comply with part 7076.0230~~ February 1 of each year during the project period of the grant contract.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a ~~project development~~ resource investigation grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. **Eligible costs.** No grant funds shall be ~~used provided to reimburse~~ used provided to reimburse the project sponsor for ~~costs incurred~~ grant eligible project activities started before the grant contract period or after the end of the contract period.

7076.0220 GRANT CONTRACT.

Subpart 1. **Contents.** The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that ~~the~~ cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. **Amendments.** A grant contract may be amended upon agreement of the agency and the project sponsor. Grant increase amendments shall be subject to the availability of funds.

Subp. 3. **Contract period.** Grant contracts for ~~project development~~ resource investigation will be for a ~~period of~~ up to ~~two~~ three years. Grant contracts for project implementation will be for a ~~period of~~ up to six years. The agency may allow a one year extension of either of these grant contracts.

7076.0230 MONITORING WORK PLAN.

Subpart 1. **Requirements.** The ~~monitoring work~~ work plan required to be submitted to the commissioner, in a format specified by the commissioner, as a condition of the grant must: include the requirements in item A for resource investigation grants and the requirements in item B for project implementation grants.

A. For resource investigation grants, the sponsor shall prepare and submit a detailed work plan that includes the following:

- (1) a description of the water of concern, the project area, and the existing and desired resource uses;
- (2) a description of existing and suspected or potential water quality problems;
- (3) a description of specified goals for project results, for water quality characterization and quantitative analysis research and assessment, and for citizen education;
- (4) an outline that identifies specific tasks to be completed during the project, including the tasks needed to fulfill the requirements under parts 7076.0240 and 7076.0250, the individuals responsible for the tasks, and the dates for task initiation and completion;
- (5) a monitoring plan as described in subpart 1a;
- (6) a list of predictive and diagnostic computer or statistically based models that are to be used for the project and a description and statistical definition of predictive and diagnostic uncertainties;
- (7) a quality assurance plan for data gathering and analyzing;
- (8) detailed budgets; and
- (9) a resolution from each participating local unit of government, agency, and organization that identifies their role in the project and their contribution to the local share of the project costs.

B. For project implementation grants, the sponsor shall prepare and submit a detailed work plan that includes any necessary revisions to the approved implementation plan and the following:

- (1) a revised activity schedule for implementation activities;
- (2) a revised implementation budget;
- (3) a quality assurance plan for construction activities;
- (4) a best management practice operation and maintenance plan;
- (5) a monitoring plan as required in subpart 1a that has been revised to evaluate the effectiveness of best management practices and the improvement of water quality;
- (6) a list of predictive and diagnostic computer or statistically based models that are to be used for the project and a description and statistical definition of predictive and diagnostic uncertainties;
- (7) permits and authorities for implementation activities; and
- (8) a resolution from each participating local unit of government, agency, and organization that identifies their role in the project and their contribution to the local share of the project costs.

Subp. 1a. Monitoring plan. A monitoring plan is a component of the work plan. For both resource investigation and project implementation grants, the sponsor shall prepare a monitoring plan that:

- A. identify and provide develops monitoring objectives based on project goals;
- B. defines the information needs for water quality monitoring;
- C. defines the statistical methods needed to address the monitoring objectives;

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D. sets the data requirements that are to be met for meaningful statistical analysis to be completed;

E. delineates and provides rationale for the selection of monitoring sites, ~~monitoring~~ frequency, and parameters to be monitored; and sampling protocols;

B. identify F. identifies laboratories that will ~~do~~ be doing analyses and explain for the project, explains their quality assurance and quality control procedures, and provides the certification number assigned by the Department of Health to prove the laboratories are fulfilling the requirements under chapter 4740; and

G. outlines a plan to analyze monitoring data and to use the data to assess the project area, water and pollutant loading, and alternative best management practices.

Subp. 2. **Review.** The commissioner will review the ~~monitoring work~~ plan and approve it or identify deficiencies in writing within 45 days of its receipt. ~~The project sponsor shall have 15 days to correct any deficiencies.~~

Subp. 3. [See repealer.]

7076.0240 DIAGNOSTIC STUDY.

Subpart 1. **General requirements.** The diagnostic study required to be submitted by a project sponsor under part 7076.0210, subpart 9, must include:

A. a detailed description of the water of concern;

B. a detailed description of the project area;

C. an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3; and

D. the identification and documentation of the methods, procedures, ~~model~~ predictive and diagnostic models, and other tools used to prepare and complete the diagnostic study.

Subp. 1a. Exemption. Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

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

C. current data or information for the following:

(1) if the water of concern is a lake, the description shall include the following:

[For text of unit (a), see M.R.]

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, total nitrogen, nitrite plus nitrate nitrogen, total suspended solids, total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of a nutrient and sediment budgets budget for the lake;

[For text of units (c) and (d), see M.R.]

[For text of subitem (2), see M.R.]

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, porosity, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

[For text of units (b) to (d), see M.R.]

[For text of subitem (4), see M.R.]

Subp. 3. **Description of project area.** The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area at a scale appropriate to the project;

[For text of items B to I, see M.R.]

J. land use:

[For text of subitems (1) to (13), see M.R.]

(14) wetlands identified under the National Wetlands Inventory, an inventory of drained wetlands, and a summary of applicable management plans;

[For text of subitems (15) to (21), see M.R.]

(22) population characteristics; ~~and~~

(23) a summary of recreational land uses;

(24) a list of bulk pesticide and fertilizer handling facilities;

(25) a list of commercial and industrial facilities with on-site hazardous materials or wastes;

(26) a list of transportation corridors such as railroads, pipelines, and highways;

(27) a list of operating wells whose construction or maintenance may cause them to serve as conduits for contaminations to recharge groundwater; and

(28) a summary of other potential sources of groundwater contamination;

[For text of item K, see M.R.]

L. hydrology:

[For text of subitems (1) to (4), see M.R.]

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, ~~and~~ aquifer source, and amount of water used;

[For text of subitems (6) and (7), see M.R.]

[For text of subp 4, see M.R.]

Subp. 5. [See repealer.]

7076.0280 GRANT PAYMENTS.

Subpart 1. **Reimbursement Initial payment.** ~~The project sponsor may submit a request for reimbursement of expenditures for each of the standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290. After the commissioner of finance has signed the grant contract between the agency and the project sponsor, the agency shall provide to the project sponsor 25 percent of the grant award provided in the grant contract.~~

Subp. 2. **Final Second payment.** ~~The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290. Upon written approval by the commissioner of the work plan required under part 7076.0210, subpart 8, the agency shall provide to the project sponsor 35 percent of the grant award provided in the grant contract. The cumulative assistance paid to the project sponsor shall equal 60 percent of the grant award.~~

Subp. 3. **Withholding of reimbursement Project review and budget adjustment.** ~~The agency shall withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance. Upon expenditure of 50 percent of total eligible project costs by the project sponsor, the project sponsor shall submit to the commissioner for review and approval a detailed summary of project expenditures and completed work activities. The commissioner shall review the summary to verify cost eligibility and acceptable completion of work plan activities and to compare actual expenditures with the approved project work plan budget.~~

Subp. 4. **Advance Third payment.** ~~The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or \$50,000, whichever amount is less. After the requirements of subpart 3 have been met, the agency shall provide to the project sponsor up to 30 percent of the grant award. The payment shall be less than 30 percent of the grant award to compensate for the final payment withholding required under subpart 6.~~

Subp. 5. **Payment adjustment upon grant contract amendment.** When the total grant assistance amount authorized for a project is increased by a grant contract amendment, the agency shall pay the project sponsor the additional amount of grant assistance that the project sponsor is entitled to receive under subparts 1 to 4.

Subp. 6. **Final payment.** The agency shall withhold a minimum of ten percent of the grant award until the agency is satisfied that

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the project has been completed according to the terms of the grant contract and parts 7076.0100 to 7076.0290. More than ten percent of the grant award shall be withheld if the costs necessary to complete the project are less than those identified in the grant contract. Ten percent of the grant award shall be withheld if the costs necessary to complete the project are equal to or exceed the costs identified in the grant contract.

Subp. 7. Payment option. Project sponsors that received grant awards before October 1, 1990, may have the grant payment conditions specified under subparts 1 to 6 or have grant payments made on a reimbursement basis. If reimbursements are desired, a project sponsor shall submit a written request for this option to the commissioner. Reimbursement payments shall be made according to items A to C.

A. The project sponsor may submit a request for reimbursement of expenditures for each of the standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

B. The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed according to the terms of the grant contract and parts 7076.0100 to 7076.0290.

C. The agency shall withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds may not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

REPEALER. Minnesota Rules, parts 7076.0110, subparts 5, 11, 16, and 17; 7076.0230, subpart 3; and 7076.0240, subpart 5, are repealed.

Department of Public Safety

Office of Pipeline Safety

Proposed Permanent Rules Relating to One Call Excavation Notice System Enforcement and Sanctions

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 216D.08, subdivision 4; sections 299F.56 to 299F.641; and section 14.06.

Persons interested in this rule will 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 and 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. **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 June 26, 1991, unless a sufficient number withdraw their request. The hearing will be in accordance with the notice of public hearing on this same rule published in this *State Register* and mailed to persons registered with the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety, Office of Pipeline Safety, on or after May 30, 1991, between the hours of 8:00 a.m. and 4:30 p.m. at (612) 296-9636.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Brian Pierzina, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, MN 55103, (612) 296-9636.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 29, 1991.

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 free copy of this rule is available on request for your review from Brian Pierzina at the address and telephone number listed above.

Minnesota Statutes, chapter 216D, mandates the creation and use of the one-call excavation notice system. The system is to be used by excavators so that the location of all pipelines and other underground facilities is known before excavation takes place. This rule governs the enforcement of and sanctions for violating the requirements of the system. This rule sets standards for the marking of an underground facility; requires operators to participate in the one-call system; sets out the conditions under which the office must issue a notice of probable violation; gives the options that may be used to respond to a notice of violation; provides for review by the director; provides for the calculation, imposition, and payment of civil penalties assessed against excavators and operators for violations.

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 on to support the proposed rule has been prepared and is available from Brian Pierzina upon request at the address and telephone number listed above.

In preparing this rule, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rule on small businesses. The adoption of the rule will affect small businesses which are engaged in excavation for remuneration. The department has evaluated the effect of the proposed rule on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The department's evaluation of the legislation is addressed in the Statement of Need and Reasonableness.

Adoption of this rule will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rule nor have an impact on agricultural land under *Minnesota Statutes*, section 14.11. *Minnesota Statutes*, section 16A.128, subdivision 2a, does not apply because the rule does not fix any fees.

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: Brian Pierzina, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, MN 55103.

Dated: 12 April 1991

Ralph Church, Commissioner
Department of Public Safety

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Conference Room D, 5th Floor, Veterans Service Building, 20 West 12th Street, St. Paul, MN 55155, on Wednesday, June 26, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER: that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt this same rule without a public hearing published in this *State Register* and mailed to persons registered with the Department of Public Safety. To verify whether a hearing will be held, please call the Department of Public Safety, Office of Pipeline Safety, on or after May 30, 1991 between the hours of 8:00 a.m. and 4:30 p.m. at (612) 296-9636.

Following the Department's presentation at the hearing, all interested or affected 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 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 Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612) 341-7645, 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 shall 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

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Proposed Rules

during the three-day period. Any written material or responses must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record, the Administrative Law Judge will write a report as provided in *Minnesota Statutes*, sections 14.15 to 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.

Minnesota Statutes, chapter 216D, mandates the creation and use of the one-call excavation notice system. The system is to be used by excavators so that the location of all pipelines and other underground facilities is known before excavation takes place. This rule governs the enforcement of and sanctions for violating the requirements of the system. This rule sets standards for the marking of an underground facility; requires operators to participate in the one-call system; sets out the conditions under which the office must issue a notice of probable violation; gives the options that may be used to respond to a notice of violation; provides for review by the director; provides for the calculation, imposition, and payment of civil penalties assessed against excavators and operators for violations.

The agency's authority to adopt the proposed rule is contained in *Minnesota Statutes*, section 216D.08, subdivision 4; sections 299F.56 to 299F.641; and section 14.06.

In preparing this rule, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rule on small businesses. The adoption of the rule will affect small businesses which are engaged in excavation for remuneration. The department has evaluated the effect of the proposed rule on small businesses and has determined that the legislature, in drafting the applicable statutes, appropriately considered and drafted the legislation to reduce the impact on small businesses. The department's evaluation of the legislation is addressed in the Statement of Need and Reasonableness.

Adoption of this rule will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rule nor have an impact on agricultural land under *Minnesota Statutes*, section 14.11.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to or calling: Brian Pierzina, Office of Pipeline Safety, 175 Aurora Avenue, St. Paul, MN 55103, (612) 296-9636.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Brian Pierzina at the address or telephone number listed above.

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 rule 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 rule was adopted and filed with the Secretary of State. The notice must be mailed on the same day the rule is filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rule with the Secretary of State.

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

Lobbyists must register with the State Ethical Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

Dated: 12 April 1991

Ralph Church, Commissioner
Department of Public Safety

Rules as Proposed (all new material)

7560.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them. Terms not defined have the meanings given them in *Minnesota Statutes*, section 216D.01.

Subp. 2. **Director.** "Director" means the director of the Office of Pipeline Safety of the Minnesota Department of Public Safety.

Subp. 3. **Good cause to believe.** "Good cause to believe" means grounds put forth in good faith that are not arbitrary, irrational, unreasonable, or irrelevant and that are based on at least one of the following sources:

- A. information from a person;
- B. facts supplied by the notification center defined in *Minnesota Statutes*, section 216D.01, subdivision 8;
- C. facts of which the director or an agent of the director has personal knowledge; and

D. information provided by excavators or operators.

Subp. 4. **Locate.** "Locate" means an operator's markings of an underground facility.

Subp. 5. **Office.** "Office" means the Office of Pipeline Safety of the Minnesota Department of Public Safety.

Subp. 6. **Remuneration.** "Remuneration" means direct or indirect compensation or consideration paid to the person or the person's agent, employer, employee, subcontractor, or contractor. A person who excavates as part of the person's duties as an employee, employer, agent, subcontractor, or contractor is considered to be acting for remuneration.

7560.0200 UNDERGROUND FACILITY LOCATE; RELIANCE.

An excavator must be able to rely on the locate for a period of 48 hours from the date and the time when excavation is to begin unless:

- A. the markings have been obliterated or obscured;
- B. weather conditions have impeded visibility of the markings;
- C. the site shows evidence of recent excavation; or
- D. the excavator has other reason to believe the markings are incorrect or missing.

7560.0300 OPERATOR PARTICIPATES AND SHARES COSTS.

An operator shall participate in and share the costs of the one call excavation notice system by:

- A. submitting the information required by the notification center to allow the center to notify the operator of excavation activity;
- B. updating the information provided to the notification center on a timely basis;
- C. installing and paying for equipment reasonably requested by the notification center to facilitate receipt of notice of excavation from the center;
- D. paying the costs charged by the notification center on a timely basis; and
- E. receiving and responding to excavation notices, including emergency notices, as required by *Minnesota Statutes*, chapter 216D.

7560.0400 CITATIONS.

Subpart 1. **Notice of violation.** The office shall issue a notice of probable violation when the office has good cause to believe a violation of *Minnesota Statutes*, sections 216D.01 to 216D.09 or this chapter has occurred.

Subp. 2. **Contents of notice of violation.** A notice of violation must include:

- A. a statement of the statute or rule allegedly violated by the person and a description of the evidence on which the allegation is based;
- B. notice of response options available to the person cited; and
- C. if a civil penalty is proposed, the amount of the proposed civil penalty and the maximum civil penalty applicable under law.

7560.0500 RESPONSE OPTIONS.

The person shall respond to the notice of violation in the following way:

- A. When the notice contains a proposed compliance order, the person shall:
 - (1) agree to the proposed compliance order;
 - (2) request the execution of a consent order;
 - (3) object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice; or
 - (4) request the office to initiate a hearing under *Minnesota Statutes*, sections 14.50 to 14.69.

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Proposed Rules

B. When the notice contains a proposed civil penalty, the person shall:

- (1) pay the penalty and close the case;
- (2) submit an offer in compromise of the proposed civil penalty;
- (3) submit a written explanation, information, or other material in answer to the allegations or in mitigation of the proposed civil penalty; or
- (4) request the office to initiate a hearing under *Minnesota Statutes*, sections 14.50 to 14.69.

7560.0600 DIRECTOR REVIEW.

If the person objects to the proposed civil penalty or compliance order and submits written explanations, information, or other materials in response to a notice of violation, the director shall review the submissions and determine whether to negotiate further, to change or withdraw the notice of violation, or to initiate a hearing under *Minnesota Statutes*, sections 14.50 to 14.69.

7560.0700 CONSENT ORDER.

An executed consent order must contain:

- A. an admission by the person of the jurisdictional facts;
- B. a waiver of further procedural steps and the right to seek judicial or administrative review or otherwise challenge or contest the validity of the consent order; and
- C. an agreement that the notice of violation may be used to construe the terms of the consent order.

7560.0800 CIVIL PENALTIES.

Subpart 1. **Proceedings against excavators.** When the office has good cause to believe that an excavator is engaging or has engaged in conduct that violates *Minnesota Statutes*, section 216D.04, subdivision 1, 2, or 3; 216D.05, clause (1), (2), (3), or (4); or 216D.06, subdivision 1, or a rule adopted under *Minnesota Statutes*, section 216D.08, subdivision 4, the office, if appropriate, shall negotiate a civil penalty under *Minnesota Statutes*, section 216D.08, subdivision 2. A penalty imposed under *Minnesota Statutes*, section 216D.08, is subject to the contested case and judicial review provisions of *Minnesota Statutes*, chapter 14. An operator who engages or has engaged in excavation that violates *Minnesota Statutes*, chapter 216D, is subject to the proceedings specified in subpart 2 and is subject to the penalties specified in subpart 4, item B or C.

Subp. 2. **Proceedings against underground facility operators.** The office may negotiate a civil penalty under item A or B.

A. When the office has good cause to believe that an underground facility operator, other than an operator set forth in item B, is engaging or has engaged in conduct that violates *Minnesota Statutes*, sections 216D.01 to 216D.07, or a rule adopted under *Minnesota Statutes*, section 216D.08, subdivision 4, the office, if appropriate, shall negotiate a civil penalty under *Minnesota Statutes*, section 216D.08, subdivision 2. A penalty imposed under *Minnesota Statutes*, section 216D.08, is subject to the contested case and judicial review provisions of *Minnesota Statutes*, chapter 14.

B. When the office has good cause to believe that an operator who engages in the transportation of gas or hazardous liquids or who owns or operates a gas or hazardous liquid pipeline facility is engaging or has engaged in conduct that violates *Minnesota Statutes*, sections 299F.56 to 299F.641, or a rule adopted under *Minnesota Statutes*, section 299F.60, subdivision 5, the office, if appropriate, shall negotiate a civil penalty under *Minnesota Statutes*, section 299F.60, subdivision 2. A penalty imposed under *Minnesota Statutes*, section 299F.60, is subject to the contested case and judicial review provisions of *Minnesota Statutes*, chapter 14.

Subp. 3. **Assessment considerations.** In assessing a civil penalty under this part, the office shall consider the following factors:

- A. the nature, circumstances, and gravity of the violation;
- B. the degree of the person's culpability;
- C. the person's history of previous offenses;
- D. the person's ability to pay;
- E. good faith on the part of the person in attempting to remedy the cause of the violation;
- F. the effect of the penalty on the person's ability to continue in business; and
- G. past reports of damage to an underground facility by a person.

Subp. 4. **Maximum penalties.** For the purposes of this part, penalties imposed under this part must not exceed the limits in items A to C.

- A. Penalties imposed against excavators must not exceed \$500 for each violation per day of violation.
- B. Penalties imposed against underground facility operators, other than an operator set forth in item C, must not exceed \$500 for each violation per day of violation.

C. Penalties imposed against an operator who engages in the transportation of gas or hazardous liquids or who owns or operates a gas or hazardous liquid pipeline facility must not exceed \$10,000 for each violation for each day that the violation persists, except that the maximum civil penalty must not exceed \$500,000 for a related series of violations.

Subp. 5. **Payment procedure.** The person shall pay a civil penalty that has been proposed, assessed, or compromised by submitting to the office a certified check or money order in the correct amount, payable to the commissioner of public safety.

Errata

Department of Health

Proposed Permanent Rules Relating to Ionizing Radiation

Notice of Correction

The wrong symbol, \cong , appeared in eight places in the *State Register* for the above titled rules on pages 1979, 1980 and 1981 in Vol. 15 #37, March 11, 1991.

The correct symbol should be \approx .

Executive Orders

Executive Order #91-12: Providing for the Reduction of State Mandates on Local Units of Government

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

WHEREAS, Minnesota must fundamentally restructure the relationship between the state and local governments to meet the economic and social challenges of the 1990s; and

WHEREAS, state government has imposed many mandates on local units of government that increase costs, reduce flexibility, and create administrative requirements; and

WHEREAS, the Carlson/Dyrstad administration is committed to eliminating unnecessary mandates on local governments;

NOW, THEREFORE, I hereby order that all executive branch agencies eliminate or modify unnecessary or problematic state mandates imposed on counties, cities, school districts, and other local units of government.

1. Each agency shall conduct a comprehensive review of its mandates to identify which mandates should be maintained, modified, or eliminated.
2. Each agency shall take immediate action to eliminate or modify unnecessary or problematic mandates for which no administrative or legislative action is required.

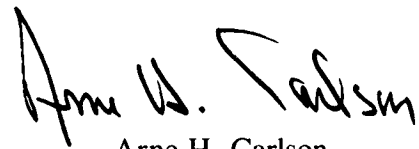
KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule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

Executive Orders

3. By November 1, 1991, each agency shall identify which state mandates should be modified or eliminated through administrative or legislative action. Each agency shall prepare an action plan and timetable for elimination or modification of these mandates. Agencies shall send their plans to the State Planning Agency for review. Plans shall include a compilation of all mandates imposed by the agency.

Pursuant to *Minnesota Statutes* 1990, Section 4.035, this Executive Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by the proper authority or it expires in accordance with *Minnesota Statutes* 1990, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this eighteenth day of April, 1991.



Arne H. Carlson
Governor

Executive Order #91-13: Establishing a Children's Advisory Team on the Environment

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

WHEREAS, the earth is on loan from our children; and

WHEREAS, when empowered, children in Minnesota act to conserve and renew natural resources, and reduce and recycle waste streams; and

WHEREAS, many children have made a commitment to keeping the earth healthy and beautiful; and

WHEREAS, many children love the land, air, water and all living creatures; and

WHEREAS, many of our state's children who care about the earth are defenders of Minnesota's environment;

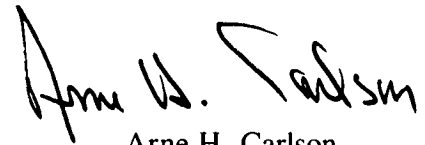
NOW, THEREFORE, I hereby order:

The establishment of a Children's Advisory Team on the Environment:

1. The Purpose of the Advisory Team is to empower the children of Minnesota by providing a forum for communicating their perspectives and concerns about the environment to this state's environmental, education, and political systems through recommendations to the Governor.
2. The Advisory Team shall be composed of twenty-one children appointed by the Governor from each of the six natural resource regions of the state. Membership on the Advisory Team shall be open to all children in grades 2 to 6 through an appointed process which will ensure fair representation with respect to race, color, creed, religion, national origin, disability, sex, or status with respect to public assistance.
3. The Advisory Team shall be coordinated by the Minnesota Department of Natural Resources and the Minnesota Zoo.
4. Other natural resource and environmental protection agencies of the state as well as private organizations may participate in the programming to implement this order.

Pursuant to *Minnesota Statutes* 1990, Section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1990, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this twenty-second day of April, 1991.



Arne H. Carlson
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.

Minnesota Comprehensive Health Association

Notice of Meeting of Enrollee Appeals Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association Enrollee Appeals Committee will be held on Thursday, May 2, 1991, at 2:30 p.m. in the lower level conference room at the Park Place Office Center located at 5775 Wayzata Boulevard in St. Louis Park.

For additional information, please call Lynn Gruber at 683-2150.

Department of Education

Unique Learner Needs Section

Notice of Public Hearings on the Year IV State Plan for Part H, PL 99-457

NOTICE IS HEREBY GIVEN that the Minnesota Department of Education, Unique Learner Needs Section in conjunction with the Department of Health and Human Services seeks public comment through two public hearings on the Year IV State Plan for Part H, PL 99-457 for Infants and Toddlers Birth Through Age Two with Disabilities and Their Families.

Notice is hereby given that a full, intact Year IV Part H Plan can be requested by mail or picked up from the Interagency Planning Project for Young Children with Disabilities, 826 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. A full intact Part H Plan for Year IV will also be available for public inspection at the hearing sites. Written and oral comments will be received at the two public hearings listed below:

Capitolview Center Auditorium
70 W. Co. Rd B2
Little Canada, MN
Friday, June 7, 1991
1:30-4:00 p.m.

Brainerd Technical College
Room 204
300 Quince Street
Brainerd, MN 56401
Friday, June 7, 1991
8:00-10:30 a.m.

Official Notices

For those unable to attend the public hearings please send written comments relative to the plan to the Interagency Planning Project for Young Children with Disabilities, 826 Capitol Square Building, 550 Cedar St., St. Paul, MN 55101.

For further information, contact Jan Rubenstein at 612-296-7032, Jan Jernell, 612-623-5538, or Diane Bick, 612-297-5979.

Department of Human Services

Health Care Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendment of Minnesota Rules, Governing Parental Responsibility for Cost of Services Provided to Children Whose Eligibility for Medical Assistance was Determined Without Consideration of Parental Income or Assets

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 *Minnesota Rules*, part 9505.0075 governing parental responsibility for the cost of services provided to children whose eligibility for Medical Assistance was determined without consideration of parental income or assets. The amendment of *Minnesota Rules*, part 9505.0075 is authorized by *Minnesota Statutes*, section 256B.14, subdivision 2, which permits the agency to promulgate rules to determine the ability of responsible relatives to contribute partial or complete repayment of Medical Assistance furnished to recipients for whom they are responsible and requires that the rules be consistent with the requirements of *Minnesota Statutes*, section 257.27 for parents of children whose eligibility for Medical Assistance was determined without considering the parents' income and assets. *Minnesota Statutes*, section 252.27 governs parental contribution for the cost of children's services.

This Notice is published to make *Minnesota Rules*, part 9505.0075 consistent with proposed amendments to *Minnesota Rules*, parts 9550.6200 to 9550.6240, the rule governing parental fees for the cost of services provided to children placed in 24-hour care outside the home or whose eligibility for Medical Assistance was determined without consideration of parental income or assets. The proposed amendments to *Minnesota Rules*, part 9505.0075 are being done simultaneously with the proposed amendments to *Minnesota Rules*, parts 9550.6200 to 9550.6240. The Notice of Solicitation of Outside Information or Opinions for proposed amendments to *Minnesota Rules*, parts 9550.6200 to 9550.6240 was published September 4, 1990 at 15 S.R. 588.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. 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: Laura Plummer, Rules and Bulletins Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816. Oral statements will be received during regular business hours over the telephone at 612/297-1217 and in person at the above address.

All statements of information and opinions shall 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 that the rule is adopted.

Dated: 22 April 1991

Laura Plummer
Rules and Bulletins Division

Department of Human Services

Division for Persons with Developmental Disabilities

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendment of Minnesota Rules, Governing the Definition of Supported Living Services for Children

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 definition of "supported living services for children" under part 9525.2010, subpart 34 governing the licensure of residential-based habilitation services. The amendment of this definition is being proposed to be consistent with amendments currently being proposed to parts 9525.1800 to 9525.1930 governing the funding and administration of home and community-based services. Specifically, the proposed amendment will change the capacity of a supported living services site for children from three to four children. The Notice of Solicitation of Outside Information or Opinions regarding proposed amendments to parts 9525.1800 to 9525.1930 was published on August 20, 1990 at 15 S.R. 455.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. 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: Laura Plummer, Rules and Bulletins Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816. Oral statements will be received during regular business hours over the telephone at 612-297-1217 and in person at the above address.

All statements of information and opinions shall 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 Public 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 that the rule is adopted.

Dated: 22 April 1991

Laura Plummer
Rules and Bulletins Division

Department of Natural Resources

Minerals Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Adoption of Rules Relating to Nonferrous Metallic Mineral Mineland Reclamation

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources (Department) is extending the period in which it will accept information or opinions from sources outside the Department in preparing to promulgate rules relating to the reclamation of nonferrous metallic mineral minelands. A Notice of Intent to Solicit Outside Opinion Regarding Proposed Adoption of Rules Relating to Nonferrous Metallic Mineral Mineland Reclamation was published in the *State Register* on March 18, 1991 (15 S.R. 2111). All persons were informed that the Department would accept oral and written statements of information and comments on the proposed adoption of rules until May 1, 1991. The Department is now extending the period in which it will accept information and comments until August 1, 1991. Written statements, or requests for copies of the draft rules, shall be addressed to:

Julie Jordan
Department of Natural Resources
Division of Minerals
P.O. Box 567
Hibbing, Minnesota 55746

Oral statements will be received during regular business hours over the telephone at (218) 262-6767 and in person at the above address.

William C. Brice, Director
Division of Minerals

Department of Public Service

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rule Changes to the Existing Energy Information Reporting Rules

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Service (department) is seeking information or opinions from outside sources in preparation to amend those portions of *Minnesota Rules*, Chapter 7610, relating to energy information reporting. The promulgation of this proposed rule change is authorized by *Minnesota Statutes*, section 216C.10.

The proposed amendment to the rule would streamline the reporting process and bring reporting requirements in line with current data collection. The changes will include the deletion of information requirements that the department believes are too burdensome to the electric utilities, natural gas utilities, interstate gas pipeline, and prime petroleum suppliers and petroleum pipeline companies based on the limited value of the information to the department. Other deletions will also be made because certain information requirements are no longer necessary for the department to adequately fulfill its legislatively mandated energy data collection, analysis, and forecasting responsibilities.

Official Notices

Any person who would like a copy of the draft revisions to *Minnesota Rules*, Chapter 7610, or the Statement of Need and Reasonableness that explains each rule change should submit a request at the address listed below. All interested or affected parties are requested to submit information or comment regarding the proposals. Statements of information and comment may be made orally or in writing (preferred) until June 12, 1991. Oral statements will be received during regular business hours over the telephone at (612) 296-9325 or in person at the address listed below. Written statements of information and comments should be addressed to:

Melinda Reyes
Minnesota Department of Public Service
900 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101

Any written material received by the Department of Public Service shall become part of the record to be submitted to the Attorney General or administrative law judge in the event that the proposed rule amendments are adopted.

Dated: 22 April 1991

Krista L. Sanda
Commissioner

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 May 21, 1991.

Emergency Response Commission

90 Bigelow Bldg., 450 Syndicate St., St. Paul 55104. 612-643-3000
Laws of 1989, Chapter 315

APPOINTING AUTHORITY: Governor. **COMPENSATION:** Per diem plus expenses.

VACANCY: One member: fire marshal representative.

The commission coordinates the implementation of the federal Emergency Planning and Community Right-To-Know Act, carrying out the requirements of a commission under the Act, and may adopt rules in order to do so. The commission consists of twenty-one members, including the commissioners of the Departments of Public Safety, Health, Agriculture, the commissioner of the Pollution Control Agency; and seventeen members (four from outside the metro area) to be appointed by the governor to include one representative each of: fire chiefs, professional firefighters, volunteer firefighters, fire marshals, law enforcement personnel, emergency medical personnel, health professionals, wastewater treatment operators, labor, local elected officials, three representatives of community groups or the public, four representatives from business and industry, at least one of whom must represent small business.

Advisory Task Force on Divestment, State Board of Investment

55 Sherburne Ave., St. Paul 55155. 612-296-3328
Minnesota Statutes 15.059

APPOINTING AUTHORITY: State Board of Investment. **COMPENSATION:** None.

VACANCY: Three members: please see the description of this new task force.

The task force is charged with monitoring implementation of the Resolution of the Minnesota State Board of Investment on South Africa. The task force consists of eight members, three members appointed by the State Board of Investments through the Open Appointments process: one member from the Minnesota corporate community, one member from a Minnesota public employee labor group, and one member from a public employee retirement group. Meetings occur once a year, two hours in length, at the State Board of Investment.

Minnesota Racing Commission

11000 W. 78th St., Suite 201, Eden Prairie 55344. 612-341-7555
Minnesota Statutes 240.02

APPOINTING AUTHORITY: Governor. Senate confirmation. **COMPENSATION:** \$35 per diem.

VACANCY: Three members

The commission licenses persons to operate racetracks, conduct horse racing, conduct parti-mutual wagering on horse racing, enforces and collects all applicable taxes and license fees, and establishes a Minnesota Breeders' Fund. Prescribed qualifications include Minnesota resident for five years before appointment, no more than five members of the same political party, appointees must file a bond of \$100,000. Terms are staggered. Members must file with the Ethical Practices Board.

Minnesota-Wisconsin Boundary Area Commission

619 2nd St., Hudson, WI 54016. 612-436-7131

Minnesota Statutes 1.31

APPOINTING AUTHORITY: Governor. COMPENSATION: Reimbursed for expenses.

VACANCY: One member: must be a resident of Minnesota.

The commission studies, makes recommendations, and coordinates intergovernmental activities on the use, development and protection of the St. Croix and Mississippi rivers that form the interstate border of Minnesota and Wisconsin. Members include five commissioners from each state, each Minnesota member has a four year term. Terms are staggered. Bi-monthly Commission meetings; more frequent committee meetings.

State Curriculum Advisory Committee

647 Capitol Square Bldg., St. Paul 55101. 612-297-2657

Minnesota Statutes 126.67

APPOINTING AUTHORITY: Commissioner of Education. COMPENSATION: None.

VACANCY: Two members: one resident of Region 11, one resident of Region 9; Education Cooperative Service Unit Regions. Members must be former or current members of a local curriculum advisory committee, and must be a parent, teacher, or school administrator or a member of a local Board of Education.

The committee advises the State Board and Department of Education on the planning, evaluation, and reporting process. The committee consists of eleven members including nine members, one appointed from each educational cooperative service units, and two at-large members.

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 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. The task force consists of 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.

Metropolitan Council

Mears Park Centre, 230 E. Fifth St., St. Paul 55101. 612-291-6390

Minnesota Statutes 473.123

APPOINTING AUTHORITY: Governor. Senate confirmation. COMPENSATION: \$50 per diem plus expenses.

VACANCY: One member: must be a public official and a resident from Metropolitan Council District 11.

The council coordinates planning and development of the seven-county metro area and establishes policies for regional transportation, sewer, airports, parks, human services and housing systems. The council consists of seventeen members including sixteen members selected from districts of equal population, and a chair representing the metro area at large. The chair serves at the pleasure of the governor. Members cannot hold elected public office and must reside in the council district he or she represents. Meetings twice a month, St. Paul. Members must file with the Ethical Practices Board.

Board of Private Detective and Protective Agent Services

1246 University Ave., St. Paul 55104. 612-642-0775

Minnesota Statutes 326.32—326.339

APPOINTING AUTHORITY: Commissioner of Public Safety. COMPENSATION: \$55 per diem plus expenses.

VACANCY: One public member.

The board licenses private detectives and protective agents. The board consists of five members including the superintendent of the Bureau of Criminal Apprehension or designee, a licensed protective agent, a licensed private detective and two public members. Monthly meetings. Members must file with the Ethical Practices Board.

Official Notices

Minnesota Office on Volunteer Services Advisory Committee

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

Minnesota Statutes 16B.88

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

VACANCY: One member: must have an interest in the field of volunteerism and reside in Economic Development Region 10 (Rice, Goodhue, Wabasha, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore and Houston counties).

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. The committee consists of twenty-one members including at least one member from each economic development region. Three to five meetings per year, usually at the state capitol complex.

Cosmetology Advisory Council

Dept. of Commerce, 133 E. 7th St., St. Paul 55101. 612-297-3562

Minnesota Statutes 155A.06

APPOINTING AUTHORITY: Commissioner of Commerce. **COMPENSATION:** Reimbursed for expenses.

VACANCY: Two members: one to be a consumer, one to be a salon representative.

The council advises the Commissioner of Commerce on matters relating to cosmetology services and on licensing procedures for cosmetologists. The council consists of eleven members including three consumer representatives, four cosmetology or shop managers, one representative of manufacturers of cosmetology products and three cosmetology school representatives; at least one will represent the public and one will represent private cosmetology schools. Meetings at least once a year.

Market Assistance Program Committee

133 E. 7th St., Attn: L. Esau, St. Paul 55101. 612-297-4634

Minnesota Statutes 62I.09

APPOINTING AUTHORITY: Commissioner of Commerce. **COMPENSATION:** None.

VACANCY: Twelve members: please see the description of this committee.

The committee reviews applicants of the Minnesota Joint Underwriting Association to ascertain if coverage is available in private insurance. The committee consists of twelve members including six representatives of insurers, two insurance agents, two public members, and two representatives of groups insured by the Minnesota Joint Underwriting Association. Meeting schedule varies, usually monthly or bimonthly.

Real Estate Appraiser Advisory Board

Dept. of Commerce, 133 E. 7th St., St. Paul 55101. 612-297-4630

Minnesota Statutes 82B.05

APPOINTING AUTHORITY: Commissioner of Commerce. **COMPENSATION:** \$35 per diem plus expenses.

VACANCY: Six members: one consumer, two public members, and three appraisers.

The advisory board makes recommendations to the commissioner as to rules regarding pre-licensing and continuing education, license examination specifications, periodic review of standards for development and communication of real estate appraisals, and other matters necessary under statute. The board consists of fifteen members, including eight licensed real estate appraisers, two of whom are to be Level Two, four consumers of appraisal services, and three members from the public. Meetings will be held at least quarterly, location not established.

Minnesota Workers Compensation Insurers' Assn (Rating Assn)

7760 France Ave. S., Suite 640, Mpls. 55435. 612-897-1737

Minnesota Statutes 79.61

APPOINTING AUTHORITY: Commissioner of Commerce. **COMPENSATION:** Reimbursement for expenses.

VACANCY: Two public members.

The association oversees the administration of the Minnesota Workers Compensation Insurers' Association (Rating Association). The membership includes twelve members of whom two are employer representatives. Quarterly meetings.

Minnesota Insurance Guaranty Association

Dept. of Commerce, 133 E. 7th St., St. Paul 55101. 612-296-4026

Minnesota Statutes 60C.08, Subdivision 1.

APPOINTING AUTHORITY: Commissioner of Commerce. **COMPENSATION:** Reimbursed for expenses.

VACANCY: Two public members.

The association provides for the payment of covered claims to avoid financial loss to policyholders because of the liquidation of an

State Contracts and Advertised Bids

insurer. The association board consists of nine members and two public members. Public members are appointed by the commissioner of the Dept. of Commerce for a period of two years. Meetings as needed.

Minnesota Comprehensive Health Association Board of Directors

Dept. of Commerce, 133 E. 7th St., St. Paul 55101. 612-296-4026
Minnesota Statutes 62E.10

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

VACANCY: Four public members.

The board will govern the activities of the Minnesota association which provides basic health insurance coverage to persons in Minnesota unable to obtain coverage through the open market. The board consists of nine members of which four are public members. Quarterly meetings in the Twin Cities area.

Minnesota Automobile Insurance Plan Governing Committee

G-M Building, Suite A, 6603 Queen Ave. S., Richfield 55423. 612-866-2280
Minnesota Statutes 65B.03

APPOINTING AUTHORITY: Commissioner of Commerce. COMPENSATION: None.

VACANCY: Four public members.

The committee shall direct the operation of the Minnesota Automobile Insurance Plan which provides for the placement of insurance for drivers and vehicle owners who are unable to obtain coverage in the open market. The committee consists of nine individuals of whom five shall be elected by insurers and four public members. Meetings every other month in the Twin Cities area.

Minnesota Automobile Assigned Claims Bureau

G-M Building, Suite A, 6603 Queen Ave. S., Richfield 55423. 612-866-2280
Minnesota Statutes 65B.63

APPOINTING AUTHORITY: Governor. COMPENSATION: None.

VACANCY: Two public members.

The committee shall govern the operations of the Minnesota Auto Assigned Claims Plan in providing no-fault basic economic loss benefits to eligible recipients as provided under *Minnesota Statutes* 65B.64. The committee consists of seven members of which two are public members. Meetings scheduled bi-ennially in even-numbered years in the Twin Cities area.

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.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management 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.

Materials Management Division—Department of Administration:

Contracts and Requisitions Open for Bid

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

Commodity: Recorders

Contact: Jack Bauer 296-2621

Bid due date at 4:30pm: May 3

Agency: Jobs & Training Department

Deliver to: St. Paul

Requisition #: 21200-35582

Commodity: Copy machine

Contact: Jack Bauer 296-2621

Bid due date at 4:30pm: May 7

Agency: Gaming Department

Deliver to: Roseville

Requisition #: RFP

Commodity: 35mm cameras

Contact: Jack Bauer 296-2621

Bid due date at 4:30pm: May 1

Agency: Public Safety

Deliver to: St. Paul

Requisition #: 07500-11259-01

State Contracts and Advertised Bids

Commodity: Copier
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: May 3
Agency: Natural Resources
Deliver to: Aitkin
Requisition #: 29003-04776

Commodity: Trucks with water tanks
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: May 17
Agency: Natural Resources
Deliver to: Grand Rapids
Requisition #: 29000-56123

Commodity: Applicant tracking system software
Contact: Joan Breisler 296-9071
Bid due date at 2pm: May 6
Agency: Human Services
Deliver to: St. Paul
Requisition #: 55000-13758

Commodity: Belden cable
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: May 6
Agency: Administration—Intertech
Deliver to: St. Paul
Requisition #: 02410-12042-01

Commodity: Turnkey system
Contact: Jack Bauer 296-2621
Bid due date at 2pm: May 6
Agency: Transportation
Deliver to: Detroit Lakes
Requisition #: 79000-14247

Commodity: Software for data general system
Contact: Joan Breisler 296-9071
Bid due date at 2pm: May 6
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 29000-56195-01

Commodity: Copier
Contact: John Bauer 296-2621
Bid due date at 2pm: May 6
Agency: Academy for the Blind
Deliver to: Faribault
Requisition #: 37001-11031

Commodity: Security system APM
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: May 7
Agency: Administration
Deliver to: Duluth
Requisition #: 02307-11349

Commodity: VHF mobile radios
Contact: Joan Breisler 296-9071
Bid due date at 2pm: May 7
Agency: Transportation
Deliver to: North St. Paul
Requisition #: 79000-14342

Commodity: Electrical hardware
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: May 7
Agency: MN Correctional Facility
Deliver to: Faribault
Requisition #: 78790-01921

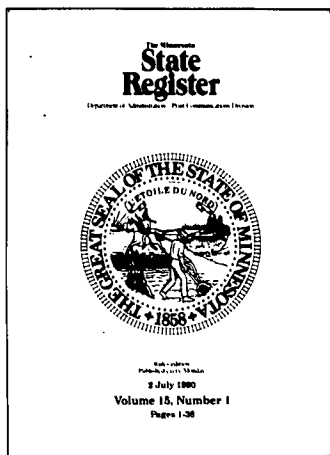
Commodity: Detention equipment and fire equipment
Contact: John Bauer 296-2621
Bid due date at 4:30pm: May 3
Agency: Brainerd Human Services Center
Deliver to: Brainerd
Requisition #: 55304-08812

Commodity: Everex computers
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: May 3
Agency: Normandale Community College
Deliver to: Bloomington
Requisition #: 27156-10758

Commodity: DNA thernal cyclor
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: May 3
Agency: Public Safety
Deliver to: St. Paul
Requisition #: 07300-18208

Commodity: Autoclave
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: May 3
Agency: Public Safety
Deliver to: St. Paul
Requisition #: 07300-18207

The "inside scoop" on OVER \$1 BILLION in annual business contracts.



Each year over \$1 billion in state contracts are awarded. About \$20 million in state contracts per week are advertised in the **STATE REGISTER**, the most complete listing of state contracts available. Just a *sampling* of contracts includes: professional, technical and consulting services, commodities, printing, equipment, supplies, food items, and a wide variety of special services.

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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.

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: Member statement sheets, negs available, 130,000 sheets, continuous form, one part, perforating

Contact: Printing Buyer's Office

Bids are due: April 30

Agency: PERA

Deliver to: St. Paul

Requisition #: 15937

Commodity: Registration stamp, negs available, 3,000,000, green foil metallic process, no overruns, hot stamp process, blue ink

Contact: Printing Buyer's Office

Bids are due: May 2

Agency: Gambling Control Board

Deliver to: St. Paul

Requisition #: 15954

Professional, Technical & Consulting Contracts

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.

Department of Administration

Employee Assistance Program

NOTICE IS HEREBY GIVEN that the Department of Administration intends to engage the services of one or more employee assistance provider organizations with service access in 17 locations throughout Minnesota: Bemidji, Brainerd, Cambridge, Crookston, Duluth, Faribault, Fergus Falls, Grand Rapids, Hibbing, Mankato, Marshall, Morris, Rochester, St. Cloud, Stillwater, Willmar and Winona. The contractor shall provide assessment and referral counseling services, employee education services and management/supervisory consultation services for state employees, dependent family members of state employees and state agencies in the respective locations. The Contractor also will be expected to perform local outreach activity within various state agencies, (supervisory training, seminars, health fairs, etc.).

Contractors shall be expected to maintain five-day per week operations and fully staffed offices in each location.

The contract period shall run between July 1, 1991 and June 30, 1992.

The estimated amount of the contract in each of these locations should not exceed \$5,000.00 annually. Responses must be received no later than 06/01/91.

Responses should be addressed to:

Director
State Employee Assistance Program
Meridian National Bank
205 Aurora Avenue, Suite 200
Saint Paul, Minnesota 55103
612-296-0765

Department of Health

Community Health Services Division

Emergency Medical Services Section

Notice of Request for Proposal for an Assessment of the State Emergency Medical Services Communication System

The Minnesota Department of Health is requesting proposals from interested parties to undertake an assessment of Minnesota's emergency medical services communication system.

The goal of the proposed project is to systematically study and assess the current state of the emergency medical services communication system within Minnesota, including equipment condition, usefulness, and future needs, and to work with technical staff on the development of a current state communication plan for emergency medical services.

The objective of the proposed project is to assist the Department in establishing reasonable, realistic priorities and recommendations, consistent with the outcome of the assessment, in order to begin the process of upgrading and enhancing Minnesota's prehospital emergency medical services communication technology.

Applicants must respond in the form of a proposal to enter into a contract with the Department of Health for an amount not to exceed \$16,900. The project is expected to begin June 15, 1991, and be completed by September 30, 1991. Deadline for submission of proposals is May 15, 1991.

More information on the scope of this project is available from:

Wayne Arrowood, Assistant Chief
Emergency Medical Services Section
Minnesota Department of Health
717 Delaware St. S.E. Box 9441
Minneapolis, Minnesota 55440
(612) 643-5483 Metro
(800) 747-2011 Greater Minnesota

Department of Human Services

Residential Facility: Ah-Gwah-Ching Nursing Home

Notice of Request for Proposal for Medical Consultant Contract

NOTICE IS HEREBY GIVEN that the Ah-Gwah-Ching Nursing Home, Mental Health Division, Department of Human Services, is requesting proposals to provide for the medical directorship and physician coverage for the treatment and care of residents at Ah-Gwah-Ching Nursing Home (including Lakeside Center Chemical Dependency Unit).

I. Contractor's Duties

A. Medical Director Duties

1. As a member of the senior executive team, the medical director has an important role in the planning, development, and evaluation of Ah-Gwah-Ching's care and services. In this capacity the medical director will be a member of the following committees:

- a. Pharmacy Committee
- b. Infection Control Committee
- c. Patient Care Policy Committee
- d. Ethics Committee
- e. Medical Director Committee

He or she will also serve as an advisor to the facility's Safety (Risk Management) Committee, particularly as it relates to Workers Compensation issues. Occasionally, the medical director may be called to make a visit to St. Paul to have liaison with DHS personnel.

Professional, Technical & Consulting Contracts

2. In terms of medical duties he or she will:

a. Serve as a liaison between staff and attending physicians in matters relating to physician visits, medical practice, referrals to specialized services.

b. Provide supervision to the facility's nurse practitioners.

B. Clinic Services

1. Provide direct resident care physician services for a twelve-month period. Physician names and license numbers must be included with proposal.

2. Physician will be available for call on a 24-hour basis (a 30-day schedule must be included).

3. To rapidly identify infectious disease problems and provide help with steps in isolation and work with the State Health Department when needed.

4. Physicians should have knowledge of and/or experience in treating patients with serious psychiatric and/or behavioral problems.

5. To provide monthly surgical consultations at Ah-Gwah-Ching on post-surgical residents. Include physician name and license number.

6. Provide direction to the physical therapist on treatment of post-surgical residents.

7. The consultant will provide other services as may be requested by the Chief Executive Officer.

8. Ah-Gwah-Ching Nursing Home will not be responsible for services rendered at a doctor's office, outside clinic, or at a hospital.

9. A standard state consultant contract will be utilized in the writing of this contract and is available upon request.

10. Consideration will be given to factors such as the numbers and qualifications of physicians, the distance to the hospitals in which they practice, and the array of health specialists available.

11. May also provide lab services.

Nothing in this contract precludes physicians or the clinic from billing AGC residents for services under routine third party billing, i.e. Medicare, Medical Assistance, or third party payment.

Responses must be received by May 13, 1991.

Direct inquiries to: Ah-Gwah-Ching Nursing Home
Ah-Gwah-Ching, MN 56430
Attention: Jeff Smith

Department of Human Services

Residential Facility: Ah-Gwah-Ching Nursing Home

Notice of Request for Proposal for Psychiatric Consultant Contract

NOTICE IS HEREBY GIVEN that the Ah-Gwah-Ching Nursing Home, Mental Health Division, Department of Human Services, is requesting proposals to provide psychiatry services to the residents at Ah-Gwah-Ching Nursing Home (including Lakeside Center Chemical Dependency Unit).

I. Contractor's Duties

A. Confer with the contracted physicians, Ah-Gwah-Ching nurse practitioners, psychologist, the consulting pharmacologist, and the nursing staff regarding the development, implementation, and monitoring of resident management plans, medication usage and other treatment modalities appropriate for the individual residents.

B. Maintain medical records according to standards of care established by Ah-Gwah-Ching policies and procedures.

C. Represent Ah-Gwah-Ching Nursing Home in legal proceedings when there is a need for psychiatric opinion.

D. Be available for telephone consultation on emergency resident problems.

The Contractor agrees to provide the above services at Ah-Gwah-Ching on a scheduled basis jointly agreed to by the Contractor and Ah-Gwah-Ching.

Professional, Technical & Consulting Contracts

A standard state consultant contract will be utilized in the writing of this request and is available upon request.

Nothing in this contract precludes physicians or the clinic from billing Ah-Gwah-Ching residents for services under routine third party billing, i.e. Medicare, Medical Assistance, or third party payment.

Responses must be received by May 13, 1991.

Direct inquiries to: Ah-Gwah-Ching Nursing Home
Ah-Gwah-Ching, MN 56430
Attention: Jeff Smith

Department of Human Services

Fergus Falls Regional Treatment Center

Notice of Request for Proposals for Service to be Delivered on a Contractual Basis

NOTICE IS HEREBY GIVEN that the Fergus Falls Regional Treatment Center, Department of Human Services, is seeking the following service which is to be performed as requested by the Administration of the Fergus Falls Regional Treatment Center. Contracts will be written for the period July 1, 1991 through June 30, 1992.

Services of one or more locum tenens board eligible psychiatrists for a total of one Full Time Equivalent at the Fergus Falls Regional Treatment Center for diagnosis and treatment of emotional disorders of mentally ill, chemically dependent and mentally retarded clients. The total estimated amount of the contract will not exceed \$99,900.00.

Further information on position responsibilities may be obtained by contacting Leonard Woytassek, M.D., Medical Director, Fergus Falls Regional Treatment Center, Box 157, Fergus Falls, MN 56538-0157. (218) 739-7200.

Department of Human Services

Family Support Programs

MAXIS Division

Request for Information: Issuance Operations Center

Due date for written responses is 3:00 p.m., Friday, May 17, 1991.

The Minnesota Department of Human Services (MDHS), MAXIS Project is requesting information from the vendor community relative to the Issuance Operations Center (IOC) which MAXIS will operate. Equipment, maintenance and professional services to support the IOC will be procured through a Request for Proposal (RFP).

The Issuance Operations Center (IOC) receives data from the MAXIS application system to produce (print) notices, cash benefit payment warrants, food stamp mailing pieces, and some reports. These outputs are prepared for distribution via the U.S. Postal Service or direct delivery within the IOC. The IOC also maintains Minnesota's food stamp inventory and processes returned cash and food stamp benefits.

As background for the RFI, MDHS is providing a draft version of the RFP. Vendors are cautioned that the draft version will undergo changes prior to its release as an RFP. Part of the purpose of this RFI is to solicit input which may be incorporated into the final RFP.

The RFI describes a relationship to be established between the State of Minnesota, Department of Human Services (MDHS) and a prime contractor. The prime contractor will provide primary and secondary support in establishing and maintaining operations of the State of Minnesota, Department of Human Services (MDHS) Issuance Operations Center (IOC).

RFP Components will include the following:

- **Equipment:** Provide production and distribution equipment. This includes installation, associated peripherals, software, training and related products and services.
- **Maintenance:** Provide maintenance and technical support for production and distribution equipment and software.
- **Services:** Provide professional, technical, operations and support staff and services for IOC operations.

MDHS requests information as follows:

1. Identify areas of the draft RFP which require clarification, correction or additional information. In providing input to this item, remember that MDHS is committed to seeking a solution from vendors through RFP; it will not be written as a specification for bid.

2. Identify the general parameters of the solution which will or may be proposed by your firm.

Organizations interested in receiving a copy of this Request for Information contact:

Mr. Don Olson, Contract Administrator
Department of Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

All responses must be delivered to:

IOC RFI: Mr. Don Hockman
MAXIS Project-4th Floor
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3835

Response to the RFI is not required for consideration of a vendor's proposal to the RFP. Any communication with MAXIS or MDHS relative to this RFI should be addressed, in writing, to Mr. Don Hockman, at the address shown above.

Department of Revenue

Revenue Information Systems Division

Notice for Request for Proposals for Electronic Funds Transfer Vendor

The Department of Revenue will begin accepting electronic fund transfer of tax payments from businesses starting in January of 1992. This request for proposal is for the third party vendor to process the debit electronic fund transfers. This includes the processing of personnel computer based, voice response as well as operator assisted phone calls for the collection of data to generate Automated Clearing House (ACH) debit transactions from the State's bank to the taxpayers bank. The vendor will be required to provide the department with daily information concerning the volume and amount of transactions. The vendor must also format the information to initiate the fund transfer process using current American National Standards Institute (ANSI) standards. The project consists of a six month implementation effort starting July 1, 1991, which will involve the vendor in working with the Department's implementation team on system design and marketing issues. Starting January 1992 the vendor will be required to process up to 6000 transactions a month.

The RFP asks for experience in handling other states' electronic fund transfer programs or other large volume accounts, options available and services provided. It also requests in detail, all costs associated with the transaction process.

Copies of this request for proposal, including detailed project tasks are available from Patrick Tittle, Minnesota DOR, 10 River Park Plaza, St. Paul, MN 55146.

Supreme Court Calendar

Cases Scheduled for April 30-May 7, 1991

Compiled by staff, Minnesota State Law Library (612) 296-2775

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc. should be directed to: Clerk of the Appellate Courts, Room 245 Minnesota Judicial Center, St. Paul, MN 55155 (612) 296-2581.

TUESDAY, APRIL 30, 1991, 9:00 AM

C8-90-1009 TERESA M. GRAHAM, petitioner, Appellant (Attorney: James V. Roth of Leonard, Street & Deinard) vs. **SPECIAL SCHOOL DISTRICT NO. 1, et al, Respondents** (Attorney: Donald M. Lewis of Popham, Haik, Schnobrich & Kaufman, Ltd.). Opinion Court of Appeals.

Supreme Court Calendar

Were Appellant's claims barred by the doctrines of *res judicata* and collateral estoppel or are issues raised in this lawsuit regarding defamation, the Minnesota Whistleblower's Act and 42 U.S.C. s1983 claims outside the scope of the statutory termination proceeding?

Did Respondent School District waive its right to asset defenses of *res judicata* and collateral estoppel in subsequent proceedings, because of evidentiary objections at Appellant's termination hearing?

Was fraud or misconduct established by Appellant during her termination hearing which would warrant relief from a final judgment?

Should the Respondent School District have been allowed to amend its answer in order to assert preclusion defenses?

Did Appellant Graham offer sufficient evidence supporting the essential claims of her case?

C0-90-100 EMMETT GARRICK, et al., Respondents (Attorneys: James B. Peterson and Robert C. Falsani of Falsani, Balmer, Berglund & Merritt) vs. **NORTHLAND INSURANCE CO., petitioner, Appellant** (Attorneys: Louise A. Dovre and David M. Bolt of Rider, Bennett, Egan & Arundel), **ATHENA ASSURANCE COMPANY, Respondent** (Attorney: Eric D. Hylden of Halverson, Watters, Bye, Downs, Reyelts & Bateman, Ltd.), **THE OMAHA INDEMNITY CO., petitioner, Appellant** (Attorney: Dexter O. Corliss of Hagglund Law Firm). Opinion Court of Appeals.

Is Appellant entitled to uninsured motorist benefits under his personal policy, if injured while operating a business vehicle and the policy issued by the insurer of his personal vehicles does not contain an "other insurance" provision?

Is an injured occupant of a vehicle on which only minimum required insurance has been obtained entitled to recover uninsured motorist benefits at a level based upon so-called "stacked" coverage for all of the scheduled vehicles listed on the same commercial policy?

Is Appellant entitled to recover attorneys' fees and costs?

WEDNESDAY, MAY 1, 1991, 9:00 AM

C3-90-2083 STATE OF MINNESOTA, Respondent (Attorneys: Hubert H. Humphrey, III, State Attorney General, 2nd Floor, Ford Bldg., 117 University Avenue, St. Paul, MN-55155, and Michael O. Freeman, Hennepin County Attorney, and Linda K. Jenny, Assistant County Attorney, A-2000 Government Center, Minneapolis, MN 55487) vs. **CALVIN LAMONT EVERETT, Appellant** (Attorneys: John Stuart, State Public Defender, and Leslie Rosenberg, Spec. Asst. Public Defender, 95 Law Center, University of Minnesota, Minneapolis, MN 55455). Order of Hennepin County.

Was jury composition skewed by racial and group bias in violation of the Sixth Amendment to the U.S. Constitution and Article I, s2 and s6 of the Minnesota Constitution because the Respondent state used its peremptory challenges to exclude the only black person and all young persons from the panel?

Was the Appellant's statement the fruit of an illegal arrest violative of his rights under the Fourth and Fourteenth Amendments to the U.S. Constitution and Article I, s16 of the Minnesota Constitution, and should it therefore have been suppressed as evidence?

Was the warrant by which police arrested the Respondent defective or illegal?

Was the Appellant's arrest pretextual?

Was Appellant's interrogation by police properly performed or in violation to his Sixth Amendment right to counsel?

Would the "good faith" exception of United States v. Leon apply, if it is found that the arrest warrant was not valid?

Was prosecutor's final argument problematic, inappropriate or dispositive of error?

Was Motion for change of venue properly considered?

C0-90 STATE OF MINNESOTA, Respondent (Attorneys: Hubert H. Humphrey, III, State Attorney General, and Paul Kempainen, and Richard S. Roberts, Traverse County Attorney) vs. **KENNETH WAYNE PILCHER, Appellant**, (Attorneys: John Stuart, State Public Defender and Michael F. Cromett, Asst. State Public Defender). Order of Traverse County.

Were the Appellant's statements to police obtained voluntarily and in conformity with his *Miranda* rights to counsel?

Were Appellant's subsequent to law enforcement personnel made in conformity with proper police interrogation techniques?

Was the prosecutor's conduct before the Grand Jury proper or did it sully the indictments returned by them?

Was the Appellant appropriately represented by defense counsel during the trial court proceeding?

Was Appellant's confinement by a leg restraint during trial court proceedings observable by jurors and prejudicial *per se*.

Was the evidence sufficient to allow the jury to convict the Appellant on all counts of First Degree Murder?

Did jury confusion exist as evinced by their return of guilty on five counts, when one had not appeared on the form given them?

THURSDAY, MAY 2, 1991, 9:00 AM

C8-90-1169 DAVID T. BRITTON, Respondent (Attorneys: Edwin L. Sisam and Perry M. Smith of Sisam & Associates) vs. **MARY KOEP, individually and as CROW WING COUNTY COMMISSIONER, and CROW WING COUNTY, petitioners, Appellants** (Attorneys: Jon P. Parrington and Jeffrey Lindquist of Pustorino, Pederson, Tilton & Parrington). Opinion Court of Appeals.

Was the Respondent in his role as a probation officer a public official, at all times relevant to this action?

If a "public official," should Respondent bear the burden of producing clear and convincing evidence of *actual malice* in a defamation suit?

Were the Respondent's claims against Appellant Koep barred by the doctrine of "qualified immunity," based upon 42 U.S.C. s1983?

Was Appellant County immune from Respondent's civil rights claim asserted under 42 U.S.C. s1983, because Appellant Koep's actions were neither official county policy or well-established county custom?

Was Respondent's common law claim against Appellants barred by the doctrine of official immunity?

Has Respondent established the severity of his emotional distress or that Appellants' conduct was its causation?

MONDAY, MAY 6, 1991, 9:00 AM

C5-89-2094 In Re Petition for Disciplinary Action against ROBERT P. MORIN, an Attorney of the State of Minnesota (Attorneys: William J. Wernz, Director, Lawyers Professional Responsibility, and Kenneth L. Jorgensen, Senior Asst. Director, First Floor, 520 Lafayette Road, St. Paul, MN 55155, and Robert P. Morin, 2324 Rehberg Lane, #29, Billings, MT 59102). Petition for Disciplinary Action.

Briefs unavailable for examination.

C2-89-58 In Re Petition for Reinstatement of DAVID K. PORTER as an Attorney at Law of the State of Minnesota (Attorneys: William J. Wernz, Director, Lawyers Professional Responsibility, and Betty M. Shaw, and Thomas J. Davern of Ardery, Davern & Van Orden). Petition for Reinstatement.

Has Petitioner met requirements for reinstatement pursuant to Ethics Rules 18, 24 & 26 and to the terms of the Court's Order?

Was the Panel's findings of fact recommending against reinstatement in error?

TUESDAY, MAY 7, 1991, 9:00 AM

C2-91-89 RICK STEWART, Respondent (Attorney: Mark J. Fellman of Hertogs, Fluegel, Sieben, Polk, Jones & LaVerdiere) vs. **FORD MOTOR COMPANY, Self-Insured, Relator** (Attorneys: Mark Ginder and Susan S. Byers of Dorsey & Whitney). Decision of Workers' Compensation Court of Appeals.

What is the appropriate base for calculating Respondent's average weekly wage, the twenty-six weeks immediately preceding the injury date or the twenty-six weeks during which he actually worked before being injured?

Should profit sharing monies be included in this calculation of average weekly wages in the Workers' Compensation setting?

C5-91-166 CHRISTOPHER BERRY, Relator, (Attorney: James E. Hart of Harold Sadoff & Associates) vs. **WALKER ROOFING COMPANY and HOME INSURANCE COMPANY, Respondents**, (Attorney: Elise M. Colosey of Peahl and Day) and **DAAK CONSTRUCTION COMPANY and FARM BUREAU MUTUAL INSURANCE CO., Respondents** (Attorneys: Gerald M. Linnihan and Michael A. Rayer of Jardine, Logan & O'Brien) and **SPECIAL COMPENSATION FUND, Respondent**, (Attorneys: Hubert Humphrey, III, State Attorney General, and Rory H. Foley). Decision of Workers' Compensation Court of Appeals.

Is the employee's average weekly wage established simply by multiplying the daily wages fivefold under existing law?

Was the establishment of the Employee's projected earning capacity based on calculations using earnings of other coemployees justified under law and compatible with facts presented?

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