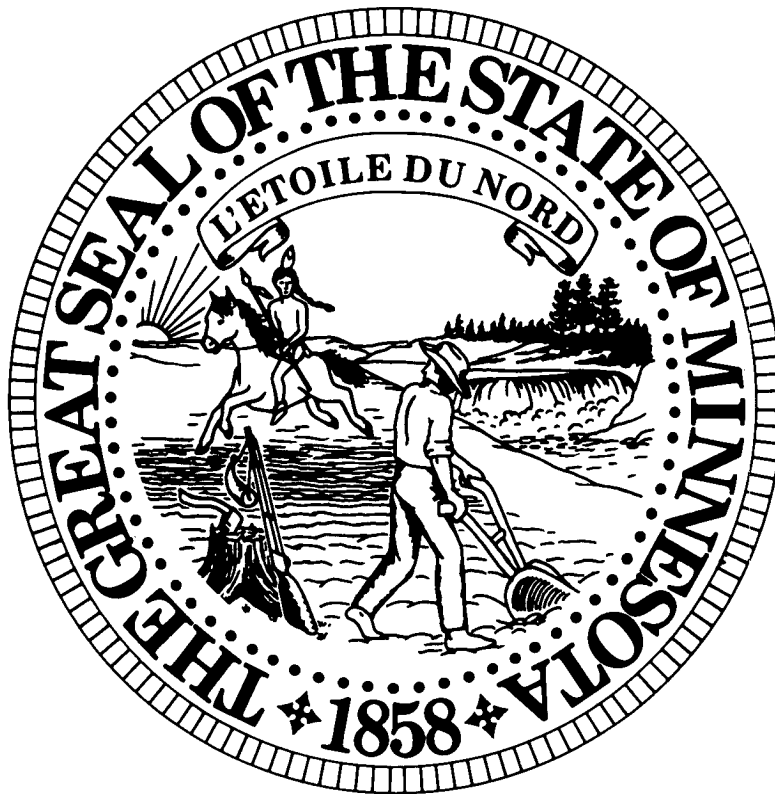


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The Minnesota
**State
Register**

Department of Administration—Print Communications Division



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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
52	Monday 10 June	Monday 17 June	Monday 24 June
Vol. 16 #1	Monday 17 June	Monday 24 June	Monday 1 July
Vol. 16 #2	Monday 24 June	Monday 1 July	Monday 8 July
Vol. 16 #3	Monday 1 July	Monday 8 July	Monday 15 July

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

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

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

The *State Register* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme 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.

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FOR LEGISLATIVE NEWS

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

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Contact: Senate Public Information Office
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This Week—weekly interim bulletin of the House.

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

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

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

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

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

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

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4670.4210; .4220; .4230; .4240 (proposed)	1050
4670.4210; .4220; .4230; .4240 (adopted)	1699
4685.2800 (proposed)	1778
4685.2800 (adopted)	2430
4690.5000 (adopted)	117
4700.1900; .2000; .2100; .2300; .2410; .2420; .2500 (proposed)	2183
4700.2300 s.2; .2400; .2550 (proposed repealer)	2183
4715.0100; .0200; .0310; .0320; .0420; .0500; .0520; .0580; .0620; .0800; .0805; .0810; .0820; .0860; .1220; .1240; .1260; .1300; .1305; .1380; .1440; .1590; .1930; .1940; .1941; .2020; .2100; .2110; .2120; .2163; .2190; .2230; .2260; .2440 (adopted)	76

4715.2130; .2140; .3900; .4000 (repealed)	76
4715.5600 (adopted)	1597
4717.0500; .7000-7050 (adopted)	1597
4717.6000-.6900 (proposed repealer)	1334
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4720.0020; .0100; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400; .1500; .1510; .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2400; .2500; .2600; .3100; .3200; .3300; .3400; .3500; .3510; .3600; .3700; .3900 (proposed repealer)	1334
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4725.0450; .0500; .1825 (proposed)	879
4725.0450; .0500; .1825 (adopted)	1474
4727.0300 (repealed)	1597
4730.0100; .0200; .0300; .0310; .0340; .0360; .0380; .0400; .0500; .0700; .0800; .0900; .1110; .1120; .1130; .1140; .1210; .1310; .1400; .1450; .1475; .1510; .1520; .1530; .1610; .1620; .1630; .1655; .1665; .1670; .1675; .1680; .1685; .1688; .1690; .1691; .1692; .1693; .1695; .1750; .1850; .1950; .2050; .2150; .2250; .2350; .2450; .2475; .2500; .2600; .2700; .2900; .3605 (proposed)	1946
4730.0100 s.11,17,21,27,29,31, and 41; 4730.0300 s.4; 4730.0700 s.1 and 2; 4730.1100; .1200; .1300; .1500; .1600; .1650; .1660; .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400; .3300; and .3600 (proposed repealer)	1946
4730.0600 (proposed)	44
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4730.1691 s.1-6 (correction to proposed)	2349
4740.2040 (proposed)	1505
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4750.0010-.0050 (adopted)	1847
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Social Work Board

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4740.2040 (correction)	1627
4760.0010-.0300 (proposed)	1565

Pollution Control Agency

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Health Department

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Higher Education Coordinating Board

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4830.0100;.0200;.0300;.0400;.0500;.0600;.0700; .1550;.1551;.1552;.1553;.1554;.1555;.2100;.2200; .2300;.2500;.2600 (adopted)	1780
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4830.1552;.1553;.1554 (proposed)	2220
4830.1554 s.1,2,3 (proposed repealer)	2220
4830.3000-.3070 (adopted)	1925
4830.6500-.6520 (proposed)	1290
4830.6500-.6520 (adopted)	1925
4830.7000-.7020 (proposed)	1290
4830.7000-.7070 (emergency proposed)	847
4830.7000-.7070 (emergency adopted)	1474
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4830.8000;.8010;.8020;.8030;.8040;.8510;.8520; .8530;.8540;.8550;.8560;.8570;.8580 (adopted)	2266
4830.8000-.8040 (emergency proposed)	846
4830.8000-.8040 (adopted)	1474
4830.8000-.8580 (proposed)	1576
4850.0010;.0011;.0012;.0014;.0015;.0016;.0017; .0018 (adopted)	1780

Housing Finance Agency

4900.0010;.0770 (proposed)	2699
4900.0010;.2900-.2907 (adopted)	376
4900.1701 (proposed)	374
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4900.1931-.1937 (adopted)	12
4900.1925-.1930 (adopted)	12
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4900.2800-.2805 (adopted)	12
4900.3000-.3050 (proposed)	373
4900.3000-.3050 (adopted)	1225
4900.3100-.3130 (proposed)	370
4900.3100-.3130 (adopted)	1225
4900.3200;.3210;.3220;.3230;.3250;.3270; .3290 (proposed)	1394
4900.3200;.3210;.3220;.3230;.3250;.3270;.3290 (adopted)	2043
4900.3300;.3310;.3320;.3330;.3340;.3350; .3360 (proposed)	1391
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Labor and Industry Department

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5205.0010 (adopted)	124
5205.0010 (proposed)	726
5205.0010 (adopted)	1122
5205.0010 (proposed)	1590
5205.0010 (adopted)	1876
5205.0010 (proposed)	2700
5205.1400 (proposed)	105
5205.1400 (proposed)	1472
5205.1500 (adopted)	1296
5205.1500 (proposed)	432
5217.0300-.1000 (proposed)	929

5217.0300;.0400;.0500;.0600;.0700;.0800;.0900; .1000 (adopted)	1877
5219.0100-.0300 (adopted)	800
5220.2645 (withdrawn)	1264
5221.0100;.2250 (adopted)	124
5221.1100;.1200;.1210;.1215;.1220;.1300;.1410;.1500; .1600;.1800;.1900;.1950;.2000;.2050;.2070;.2100; .2200;.2250;.2300;.2400;.2500;.2600;.2650;.2750; .2800;.2900;.3000;.3150;.3160;.3200;.3500 (adopted)	738
5222.0100;.0200;.0300;.0400;.0500;.0600;.0650; .0700;.0750;.0900 (proposed)	1260
5222.0100;.0200;.0300;.0400;.0500;.0600;.0650; .0700;.0750;.0900 (adopted)	1846
5222.0100 s.5,8;.0400 s.3 (proposed repealer)	1260
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5222.3000-.3007 (proposed)	1349
5222.3000-.3007 (adopted)	1847
5226.0100-.0300 (proposed)	431
5226.0100;.0200;.0300 (adopted)	1782
5230.0100 (proposed)	450
5230.0100 (proposed)	1053
5230.0100 (reconvened hearing on proposed rules)	1875
5230.0100 (adopted)	2492

Marriage & Family Therapy Board

5300.0100-.0360 (proposed)	167
5300.0100-.0360 (proposed)	931
5300.0100-.0360 (proposed rules withdrawn)	1080
5300.0100-.0360 (correction)	1080
5300.0100;.0110;.0120;.0130;.0140;.0150;.0160; .0170;.0180;.0190;.0200;.0210;.0230;.0240;.0250; .0260;.0270;.0280;.0290;.0300;.0310;.0320;.0330; .0340;.0350;.0360 (adopted)	1782

Mediation Services Bureau

5510.0510;.1410;.1510;.1910;.2810 (withdrawn)	452
5510.0510;.1410;.1510;.1910;.2810 (adopted)	1226
5510.0510;.2930 (proposed)	1352
5510.0510 s.1 (withdrawn)	1226
5520.0120 s.8;.0250 s.3;.0400;.0500 s.7 (proposed repealer)	451
5520.0120 s.8;.0250 s.3;.0400;.0500 s.7 (repealed)	2267

Medical Examiners Board

5600.0400;.0600 (adopted)	336
5600.2500 (proposed)	2626
5600.2500;.5601.0100;.0300;.0400;.0700;.0800;.1200; .1700;.1800;.1900;.2000;.2100;.2200;.2300;.2400; .2500;.2600;.2700;.2800;.2900 (adopted)	1055
5601.1000;.1100 (repealed)	1055
5605.0200;.5600.0605-.0610 (proposed)	731
5605.0200;.5600.0605-.0610 (adopted)	1640

Natural Resources Department

6100.0700;.1610 (proposed)	2472
6105.0330 (proposed)	1802
6105.0330 (adopted)	2492
6110.0100;.0300;.1000;.1200;.1400;.1500;.1800;.1900; .2100 (proposed)	1914
6110.0100;.0300;.1000;.1200;.1400;.1500;.1800; .1900;.2100 (adopted)	2430
6110.1500 s.6;.1600 s.3 (proposed repealer)	1914
6110.1500 s.6;.1600 s.3 (repealed)	2430
6133.0010-.0090 (proposed)	1920
6135.0400;.0510;.0610;.0710;.0810 (adopted)	1362
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Minnesota Rules: Amendments & Additions

Nursing Board

6301.1700; .1800; 6305.0100; .0200; .0300; .0400; .0500; 6310.2600; .2800; .2900; .3100; .3300; .3400; 6316.0100; .0200; 6321.0100; .0500; 6330.0100; .0200; .0300; .0350; .0500; 6315.0600; .0700 renumbered to 6305.0600; .0700 (adopted)	838
6301.0100 s.3; .1200 s.6; .1700 s.2,3,4; 6310.2600 s.8a,8b; 6310.3100 s.5; 6315.0100 s.15,16; 6330.0100 s.3,4,5; 6330.0400; .0500 s.2; .0600; .0700 (repealed)	838
6340.0100-.1100 (proposed)	2558

Nursing Home Administrators Board

6400.0600 (adopted)	1078
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Podiatric Medicine Board

6900.0010; .0020; .0160; .0200; .0210; .0250; .0300; .0500 (proposed)	1803
6900.0010; .0020; .0160; .0200; .0210; .0250; .0300; .0500 (proposed)	2400
6900.0010; .0020; .0160; .0200; .0210; .0250; .0300; .0500 (adopted)	2629

Pollution Control Agency

7001.0400; .3050; .3075; .3275; .3300; .3480 (proposed)	2704
7001.0520; 7045.0020; .0120; .0686 (proposed)	948
7001.0520; 7045.0020; .0120; .0686 (adopted)	1877
7001.0640; 7045.0102; .0120; .0131; .0133; .0135; .0216; .0219; .0230; .0484; .0634 (proposed)	957
7001.0640; 7045.0102; .0120; .0131; .0133; .0135; .0216; .0219; .0230; .0484; .0634 (adopted)	1878
7001.0700; 7045.0020; .0135; .0139; .0141; .0213; .0484; .0488; .0528; .0596; .0600; .0628; .0629; 7100.0335; .0340; .0350 (adopted)	1515
7001.3300; 7035.0300; .2535; 7045.0310 (proposed)	951
7001.3300; 7035.0300; .2535; 7045.0310 (adopted)	2106
7005.0700; .0710; .0720; .0730; .0740; .0750; .0760; .0770; .0780; .0790; .0800; .0810; .0820 (re-proposed repealer)	2035/2141
7005.0705-.0815 (proposed)	993
7005.0705; .0715; .0725; .0735; .0745; .0755; .0765; .0766; .0767; .0775; .0785; .0795; .0796; .0805; .0815 (re-proposed)	2035/2141
7005.0700; .0710; .0720; .0730; .0740; .0750; .0760; .0770; .0780; .0790; .0800; .0810; .0820 (proposed repealer)	993
7005.6010-.6080 (proposed)	1665
7035.0300; .0400; .0600; .0605; .0700; .0800; .2525; .2535; .2545; .2555; .2575; .2585; .2625; .2635; .2645; .2655; .2665; .2885; .2910; .2915 (proposed)	2704
7035.2685 (proposed)	1120
7035.2685 (adopted)	2308
7035.9100-.9150 (adopted)	836
7045.0020; .0120; .0130 (adopted)	801
7045.0020; .0102; .0120; .0135; .0139; .0141; .0265 (proposed)	2087
7045.0020 s. 37b and 37c as 37c and 37d respectively (adopted relettering)	1877
7045.0075; .0532; .0534; .0538; .0630; .0632; .0638 (proposed)	953
7045.0484; .0528; .0628 (proposed)	610
7045.0075; .0532; .0534; .0538; .0630; .0632; .0638 (adopted)	1877
7047.0001-.0007 (proposed)	1672
7050.0150; .0180; .0185; .0210; .0211; .0212; .0214; .0218; .0220; .0460; .0470 (adopted)	1057
7050.0210 s.14 (repealed)	1057

7075.0100 (adopted)	288
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7075.1010 s.1,2,3,4; .1060 s.3,5; .1110 s.2,3,4,6; .1410 s.3,4,5,15; .1430 s.4; .2510; .2540 s.2; .2545 s.1 (repealed)	288
7076.0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210; .0220; .0230; .0240; .0280 (proposed)	2333
7076.0110 s.5,11,16,17; .0230 s.3; 0240 s.5 (proposed repealer)	2333
7077.0100-.2010 (adopted)	288
7100.0360 (repealed)	1515
7150.0010-.0500 (proposed)	1811
7150.0010-.0700 (proposed)	264
7150.0010-.0700 (proposed rules withdrawn)	1849

Psychology Board

7200.6100 (proposed)	905
7200.6100 (adopted)	1542
7200.6150 (proposed)	1592
7200.6150 (adopted)	2430

Public Employment Relations Board

7300.0100; .0110; .0300; .0350; .0500; .0600; .0700; .0800; .0810; .0850; .0900; .1000; .1200; .1500; .1700; .1910; .2100; .2600; .2800; .2900; .3100; .3200; .3300; 7306.0100; .0150; .0200; .0300; .0400; .0500; .0600; 7315.0210; .0400; .0500; .0650; .0900; .1000; .1100; .1200; .1300; .1800; .1900; .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2800; .2900; 7320.0030; .0040; .0090; .0110; .0120; .0130-.0220 (proposed)	999
7300.0100; .0110; .0300; .0350; .0500; .0600; .0700; .0800; .0810; .0850; .0900; .1000; .1200; .1500; .1700; .1910; .2100; .2600; .2800; .2900; .3100; .3200; .3300; 7306.0100; .0150; .0200; .0300; .0400; .0500; .0600; 7315.0210; .0400; .0500; .0650; .0900; .1000; .1100; .1200; .1300; .1800; .1900; .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2800; .2900; 7320.0030; .0040; .0090; .0110; .0120; .0130-.0220 (adopted)	2107
7300.0400; .1800; .2050; 7305.0100; .0200; .0300; .0500; .0610; .0700; .0800; .0910; .1100; .1200; 7310.0100; .0200; .0300; .0400; .0500; .0550; .0600; 7315.2000; 7320.0030 s.9; .0120 s.2,3,4 (proposed repealer)	999
7300.0400; .1800; .2050; 7305.0100; .0200; .0300; .0500; .0610; .0700; .0800; .0910; .1100; .1200; 7310.0100; .0200; .0300; .0400; .0500; .0550; .0600; 7315.2000; 7320.0030 s.9; .0120 s.2,3,4 (repealer)	2107

Public Safety Department

7409.0100; .0200; .0300; .0400; .0500; .0600 (adopted)	2406
7409.0100-.0600 (proposed)	1675
7409.0100-.4600 (proposed)	2474
7502.0600 (proposed)	500
7502.0600 (adopted)	1123
7503.0100; .0300; .0600; .0800; .0900; .1000; .1200; .1300; .1600; .1700; .1750; .1800; .2000; .2200; .2300; .2400; .2500; .2600; .2700; .2800 (proposed)	1681
7503.0100; .0300; .0800; .0900; .1000; .1200; .1300; .1600; .1700; .1750; .1800; .2200; .2300; .2400; .2500; .2600; .2700; .2800 (adopted)	2406
7506.0100-.0180 (proposed)	612

Private Detective & Protective Agent Services Board

7506.0100-.0180 (adopted)	2627
7507.0100-.0700 (proposed)	564
7507.0100-.0700 (proposed)	1474

7520.0100; .0600; .0610; .0650; .0680; .1000; .1100 (adopted)	838
7520.0610 s.1; .1000 s.2,3; .1100 s.2,3 (repealed)	838
7520.1000; .1100 (proposed)	1052
7520.1000; .1100 (adopted)	1699
7530.0100; .0300; .0500; .0800; .1000; .1200; .1400; .1500 (adopted)	83
7535.0100-.0500 (proposed)	1722
7535.0100-.0500 (adopted)	2734
7560.0100-.0800 (proposed)	2344
Public Service Department	
7606.0040 (proposed)	1405
7606.0040 (adopted)	2223
7670.0100; .0120; .0125; .0130; .0250; .0325; .0400; .0450; .0470; .0480; .0500; .0510; .0550; .0610; .0660; .0670; .0710; .0800; .0850; .1000 (proposed)	828
7670.0100; .0120; .0125; .0130; .0250; .0325; .0400; .0450; .0470; .0480; .0500; .0510; .0550; .0610; .0660; .0670; .0710; .0800; .0850; .1000 (proposed rules withdrawn)	1850
7670.0100; .0125; .0130; .0260; .0325; .0400; .0450; .0470; .0480; .0500; .0510; .0550; .0610; .0660; .0670; .0710; .0800; .0850; .1000 (proposed)	1831
7670.0100; .0125; .0130; .0260; .0325; .0400; .0450; .0470; .0480; .0500; .0510; .0550; .0610; .0660; .0670; .0710; .0800; .0850; .1000 (adopted)	2407
7670.0110; .0200; .0210; .0220; .0300; .0310; .0320; .0330; .0340; .0520; .0540; .0600; .0620; .0630; .0640; .0650; .0700; .0720; .0730; .0900; .0910; .0920; .0930; .0940; .0950; .0960; .0970; .1010; .1020; .1030; .1100; .1110 (proposed repealer)	828
7670.0110; .0120; .0200; .0210; .0220; .0300; .0310; .0320; .0330; .0340; .0520; .0540; .0600; .0620; .0630; .0640; .0650; .0700; .0720; .0730; .0900; .0910; .0920; .0930; .0940; .0950; .0960; .0970; .1010; .1020; .1030; .1100; .1110 (proposed repealer)	1831
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Public Utilities Commission	
7817.0100; .0300 (proposed)	2092
7817.0100; .0300 (adopted)	2734
7831.0100-.0800 (proposed)	63
7831.0100-.0800 (adopted)	1599
7840.1500-.2000 (proposed)	334
7840.1500-.2000 (adopted)	1123
7843.0100-.0600 (adopted)	336
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Proposed Rules

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

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

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

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

Department of Health

Proposed Permanent Rules Relating to Home Care Licensure

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20, in the Chesley Room, First Floor, Minnesota Department of Health Building, 717 Delaware Street SE, Minneapolis, Minnesota, on August 28 through August 30, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency'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, Minnesota 55415; telephone (612) 341-7645, or Facsimile (FAX) (612) 349-2665, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may 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. Any written material or responses submitted must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses will be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 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.

The proposed *Minnesota Rules*, chapter 4668 establishes procedural rules and standards for the licensing of all home care providers subject to *Minnesota Statutes*, sections 144A.43 to 144A.49. The rules consist of the following parts:

Part 4668.0002. APPLICABILITY, AUTHORITY, AND SCOPE. Identifies the authority and application of the chapter.

Part 4668.0003. DEFINITIONS. Defines various terms used in the rules that are used technically or may otherwise be ambiguous.

Part 4668.0005. PROFESSIONAL LICENSES. Clarifies the affect of this chapter on professional licenses.

Part 4668.0008. SERVICES INCLUDED AND EXCLUDED FROM LICENSURE. Provides criteria for determining what businesses or service providers are subject to licensure and defines various terms in the statute.

Part 4668.0009. EXEMPTIONS FOR REGULATED PROGRAMS. Provides criteria and a process for determining when certain providers should be exempted from licensure.

Part 4668.0012. LICENSURE. Defines five classes of licensure and provides procedures for applying for licenses or renewals; procedures and criteria for the suspension, revocation, or denial of renewal of licenses.

Part 4668.0016. WAIVERS AND VARIANCES. Establishes criteria and procedures for waivers and variances from the standards of the chapter; establishes hearing rights.

Part 4668.0017. HEARINGS. Establishes rights and procedures for hearings to contest various actions taken under this chapter.

Part 4668.0019. ADVERTISING. Prohibits false marketing practices.

Part 4668.0020. CRIMINAL DISQUALIFICATIONS OF APPLICANTS, LICENSEES AND STAFF. Implements *Minnesota Statutes*, section 144A.46, subdivision 5, to establish what crimes disqualify persons from being licensed or working in home care; provides procedures for criminal investigations; establishes rehabilitation criteria.

Part 4668.0030. HOME CARE BILL OF RIGHTS. Implements *Minnesota Statutes*, section 144A.44, home care bill of rights.

Part 4668.0035. HANDLING OF CLIENTS' FINANCES AND PROPERTY. Establishes standards for the handling of clients' finances and property.

Part 4668.0040. COMPLAINT PROCEDURE. Requires a complaint procedure.

Part 4668.0050. ACCEPTANCE AND DISCHARGE OF CLIENTS. Rules for accepting clients and requirements for assisting clients discharged by the provider.

Part 4668.0060. ADMINISTRATION. Establishes requirements for referrals; services by contract; responsibility for contractors; fulfilling services to be provided; fulfilling scheduled appointments; and availability of assistance to paraprofessionals.

Part 4668.0065. INFECTION CONTROL. Requirements for tuberculosis screening and infection control in-service training.

Part 4668.0070. PERSONNEL RECORDS. Requirements for maintaining personnel records.

Part 4668.0075. ORIENTATION TO HOME CARE REQUIREMENTS. Requires a one-time orientation training session for all direct care and management personnel.

Part 4668.0080. QUALIFICATIONS OF PROFESSIONAL PERSONNEL. Establishes interim standards for occupational therapists, speech therapists, respiratory therapists, and dietitians, pending their regulation by registration or other mechanisms.

Parts 4668.0100 to 4668.0130. HOME HEALTH AIDE TASKS, HOME CARE AIDE TASKS, AND HOME MANAGEMENT TASKS. Establishes three categories of paraprofessional activities; defines authorized tasks; training and testing standards; supervision requirements.

Part 4668.0140. SERVICE AGREEMENTS. Requires written agreements with clients.

Part 4668.0150. MEDICATION AND TREATMENT ORDERS. Establishes standards for handling medical orders, including verbal orders, and renewals.

Part 4668.0160. CLIENT RECORDS. Requires maintenance of client records, including contents and standards for their handling.

Part 4668.0170. REQUEST BY CLIENT FOR DISCONTINUATION OF LIFE SUSTAINING TREATMENT. Establishes a procedure for providers to follow when confronted by requests for discontinuation of life-sustaining treatments.

Part 4668.0180. CLASS A PROVIDER, PROFESSIONAL HOME CARE AGENCY. Establishes requirements unique to class A providers, including a quality assurance program, and exemptions from certain rules for Medicare certified providers.

Part 4668.0190. CLASS B PROVIDER, PARAPROFESSIONAL AGENCY. Defines class B providers.

Part 4668.0200. CLASS C PROVIDER, INDIVIDUAL PARAPROFESSIONAL. Establishes requirements unique to class C providers, including record keeping.

Part 4668.0210. CLASS D PROVIDER, HOSPICE PROGRAM. Implements *Minnesota Statutes*, section 144A.48, by establishing requirements unique to class D providers, including core services, hospice program director, medical director, attending physician, interdisciplinary teams, quality assurance programs, volunteer services and training, bereavement services, inpatient services, exemptions from certain rules for Medicare certified providers.

Part 4668.0215. CLASS E PROVIDER, ASSISTED LIVING PROGRAM. Establishes licensure category for assisted living services.

Part 4668.0218. INFORMATION AND REFERRAL SERVICES. Authority for Commissioner to implement *Minnesota Statutes*, section 144A.47, to establish information and referral system.

Part 4668.0220. SURVEYS AND INVESTIGATIONS. Details survey procedures.

Part 4668.0230. FINES FOR UNCORRECTED VIOLATIONS. Sets schedule of fines for uncorrected violations of the rules.

Part 4668.0250. EFFECTIVE DATES. Sets implementation dates.

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Proposed Rules

The proposed *Minnesota Statutes*, chapter 4669, establishes licensing fees for home care providers. The fees are computed in the same manner as for the registration fee, proposed *Minnesota Rules*, chapter 4667. For most providers, fees will be based on revenues, subject to minimums and maximums. For class A licensees (professional home care agencies) and class B licensees (paraprofessional agencies), the fees will range from a minimum of \$500 to a maximum of \$4,000. For class D licensees (hospice programs), the fees will range from \$250 to \$4,000. For class C licensees (individual paraprofessionals), the fees will be \$20 or \$50. For class E licensees (assisted living programs) and medical equipment vendors (regardless the class), the fee will be \$500.

The agency's authority to adopt the proposed chapter 4668 is contained in *Minnesota Statutes*, sections 144A.45, 144A.46, subdivision 5, 144A.47, and 144A.48, subdivision 4. The authority to adopt the proposed chapter 4669 is contained in *Minnesota Statutes*, sections 144A.46, subdivision 1, clause (c) and 144.122.

Adoption of these rules will increase aggregate local public body spending by over \$100,000 in either of the first two years following the rule's adoption. The Department estimates that the total cost to all public bodies in the state to implement the rule for the two years immediately following adoption of the rule will be \$310,436 in the first year and \$143,428 in the second year. A copy of the full fiscal note is available upon request from:

Elise Paulsen
Minnesota Department of Health
Central Medical Building
393 N. Dunlap St., P.O. Box 64900
St. Paul, MN 55164-0900

Copies of the proposed rules are now available and a free copy may be obtained by writing to Elise Paulsen at the address noted above.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact David Siegel at the above address, or call (612) 643-2100.

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

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

It is the position of the Department that this proposed rule is not subject to *Minnesota Statutes*, section 14.115 regarding small business considerations in rulemaking. The basis for this position, and the Department's evaluation of the rule under section 14.115, should it be determined that the proposed rule is governed by section 14.115, are addressed in the statement of need and reasonableness.

The proposed rule will have an impact on those small businesses, as defined in *Minnesota Statutes*, section 14.115, that provide home care services. Small businesses are encouraged to comment and participate in the hearing, if necessary.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

As required by *Minnesota Statutes*, section 16A.128, subdivision 2a, a copy of this Notice and the proposed rules have been submitted to the Chairs of the House Appropriations Committee and Senate Finance Committee prior to publication of this Notice.

Marlene E. Marschall
Commissioner of Health

Rules as Proposed (all new material)

4668.0002 APPLICABILITY, AUTHORITY, AND SCOPE.

This chapter implements the licensing of home care providers and hospice programs under *Minnesota Statutes*, sections 144A.43 to 144A.49, under the authority of *Minnesota Statutes*, sections 144A.45, subdivision 1, and 144A.48, subdivision 4. Unless otherwise provided, all licensed home care providers must meet the requirements of this chapter. Provisions that apply only to specified classes of licensees are identified by those provisions. The commissioner may delegate any authority or responsibility to an agent of the department. This chapter must be read together with *Minnesota Statutes*, sections 144A.43 to 144A.48.

4668.0003 DEFINITIONS.

- Subpart 1. **Scope.** As used in parts 4668.0002 to 4668.0230, the terms in subparts 2 to 45 have the meanings given them.
- Subp. 2. **Ambulatory.** "Ambulatory" means the ability to move about without the assistance of another person, either with or without the assistance of a walking device or wheel chair.
- Subp. 3. **Assisted living services.** "Assisted living services" means individualized home care aide tasks or home management tasks provided to residents of a residential center in their living units, and provided either by the management of the residential center or by providers under contract with the management. In this subpart, "individualized" means chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.
- Subp. 4. **Business.** "Business" means an individual or other legal entity that provides services to persons in their homes.
- Subp. 5. **Client.** "Client" means a person to whom a home care provider provides home care services.
- Subp. 6. **Commissioner.** "Commissioner" means the commissioner of health.
- Subp. 7. **Contract.** "Contract" means a legally binding agreement, whether in writing or not.
- Subp. 8. **Department.** "Department" means the Minnesota Department of Health.
- Subp. 9. **Home care aide tasks.** "Home care aide tasks" means those services specified in part 4668.0110, subpart 1.
- Subp. 10. **Home care provider or provider.** "Home care provider" or "provider" has the meaning given to home care provider by *Minnesota Statutes*, section 144A.43, subdivision 4.
- Subp. 11. **Home care service.** "Home care service" has the meaning given it in *Minnesota Statutes*, section 144A.43, subdivision 3.
- Subp. 12. **Home health aide tasks.** "Home health aide tasks" means those tasks specified in part 4668.0100, subpart 1.
- Subp. 13. **Home management services.** "Home management services" has the meaning given it in *Minnesota Statutes*, section 144A.43, subdivision 3, clause (8).
- Subp. 14. **Home management tasks.** "Home management tasks" means all home management services that are not home health aide or home care aide tasks.
- Subp. 15. **Hospice.** "Hospice" has the meaning given to "hospice program" by *Minnesota Statutes*, section 144A.48, subdivision 1, paragraph (4).
- Subp. 16. **Hospital.** "Hospital" means a facility licensed as a hospital under *Minnesota Statutes*, sections 144.50 to 144.56, and *Minnesota Rules*, chapter 4640.
- Subp. 17. **Inpatient facility.** "Inpatient facility" means a hospital or nursing home.
- Subp. 18. **Licensee.** "Licensee" means a home care provider that is licensed under *Minnesota Statutes*, sections 144A.43 to 144A.48, and parts 4668.0002 to 4668.0230.
- Subp. 19. **Licensed practical nurse.** "Licensed practical nurse" has the meaning given it by *Minnesota Statutes*, section 148.171, clause (4).
- Subp. 20. **Managerial official.** "Managerial official" means a director, officer, trustee, or employee of a provider, however designated, who has the authority to establish or control business policy.
- Subp. 21. **Medical social work or medical social services.** "Medical social work" or "medical social services" means social work related to the medical, health, or supportive care of clients.
- Subp. 22. **Nurse.** "Nurse" means a registered nurse or licensed practical nurse.
- Subp. 23. **Nursing home.** "Nursing home" means a facility licensed under *Minnesota Statutes*, sections 144A.01 to 144A.16.
- Subp. 24. **Nutritional services.** "Nutritional services" means the services provided by a dietitian, including evaluation of a client's nutritional status and recommendation for changes in nutritional care; planning, organizing, and coordinating nutritional parts of other health services; adapting a medically ordered diet to the needs and understanding of the client; and translating the recommendations for nutritional care into appropriate food selection and food preparation guidelines.
- Subp. 25. **Occupational therapist.** "Occupational therapist" means a person who performs occupational therapy.

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Proposed Rules

Subp. 26. **Occupational therapy.** “Occupational therapy” means services designed to assist a client, who has functional disabilities related to developmental, restorative, or health needs, to adapt the client’s environment and skills to aid in the performance of daily living tasks.

Subp. 27. **Owner.** “Owner” means a:

- A. proprietor;
- B. general partner;
- C. limited partner who has five percent or more of equity interest in a limited partnership;
- D. person who owns or controls voting stock in a corporation in an amount equal to or greater than five percent of the shares issued and outstanding; or
- E. corporation that owns an equity interest in a licensee or applicant for a license.

Subp. 28. **Paraprofessional.** “Paraprofessional” means a person who performs home health aide, home care aide, or home management tasks.

Subp. 29. **Physical therapist.** “Physical therapist” has the meaning given by *Minnesota Statutes*, section 148.65, subdivision 2.

Subp. 30. **Physical therapy.** “Physical therapy” has the meaning given by *Minnesota Statutes*, section 148.65, subdivision 1.

Subp. 31. **Physician.** “Physician” means a person licensed under *Minnesota Statutes*, chapter 147.

Subp. 32. **Prescriber.** “Prescriber” means a person who is authorized by law to prescribe legend drugs.

Subp. 33. **Registered nurse.** “Registered nurse” has the meaning given it by *Minnesota Statutes*, section 148.171, clause (2).

Subp. 34. **Regularly scheduled.** “Regularly scheduled” means ordered or planned to be completed at predetermined times or according to a predetermined routine.

Subp. 35. **Residential center.** “Residential center” means a building or complex of buildings in which residents rent or own distinct living units.

Subp. 36. **Respiratory therapist.** “Respiratory therapist” means a person who performs respiratory therapy.

Subp. 37. **Respiratory therapy.** “Respiratory therapy” means therapeutic services provided under medical orders for the assessment, treatment, management, diagnostic evaluation, and care of clients with deficiencies, abnormalities, and diseases of the cardiopulmonary system.

Subp. 38. **Responsible person.** “Responsible person” means a person who, because of the client’s incapacity, makes decisions about the client’s care on behalf of the client. A responsible person may be a guardian, conservator, attorney-in-fact, family member, or other agent of the client. Nothing in this chapter expands or diminishes the rights of persons to act on behalf of clients under other law.

Subp. 39. **Social work.** “Social work” has the meaning of “social work practice” as defined by *Minnesota Statutes*, section 148B.18, subdivision 11.

Subp. 40. **Speech therapy.** “Speech therapy” means diagnostic, screening, preventive, or corrective services for clients with speech, hearing, and language disorders.

Subp. 41. **Survey.** “Survey” means an inspection of a licensee or applicant for licensure for compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48. Surveys include investigations of complaints.

Subp. 42. **Surveyor.** “Surveyor” means a representative of the department authorized by the commissioner to conduct surveys of licensees.

Subp. 43. **Therapist.** “Therapist” means a respiratory therapist, physical therapist, occupational therapist, speech therapist, or provider of nutritional services.

Subp. 44. **Unit of government.** “Unit of government” means every city, county, town, school district, other political subdivisions of the state, and any agency of the state or the United States, and includes any instrumentality of a unit of government.

Subp. 45. **Verbal.** “Verbal” means oral and not in writing.

4668.0005 PROFESSIONAL LICENSES.

Nothing in this chapter limits or expands the rights of health care professionals to provide services within the scope of their licenses or registrations, as provided by Minnesota law.

4668.0008 SERVICES INCLUDED IN AND EXCLUDED FROM LICENSURE.

Subpart 1. **Purpose.** This part implements *Minnesota Statutes*, section 144A.43, and establishes a process for determining what

businesses are subject to licensure under this chapter. This part must be read together with *Minnesota Statutes*, section 144A.43. A business that is not required to be licensed under this chapter may obtain a license for the purpose of excluding individual contractors under subpart 6 or for other lawful purposes.

Subp. 2. Determination of direct services. As defined in *Minnesota Statutes*, section 144A.43, subdivision 4, a home care provider is a business that provides at least one home care service directly. A service that is provided directly means a service provided to a client by the provider or employees of the provider, and not by contract with an independent contractor. The administration of a contract for home care services is not in itself a direct service. Factors that shall be considered in determining whether a business that contracts for providers of home care services also provides home care services include whether the business:

- A. has the right to control and does control the types of services provided by the contractors;
- B. has the right to control and does control when and how the services are provided by the contractors;
- C. establishes the charges;
- D. collects fees from the clients or receives payment from third party payers on the clients' behalf;
- E. pays compensation to the contractors on an hourly, weekly, or similar time basis;
- F. treats the contractors as employees for purposes of payroll taxes and workers' compensation insurance; and
- G. holds itself out as a provider of services or acts in a manner that leads clients or potential clients reasonably to believe that it is a provider of services.

None of the factors listed in items A to G is solely determinative and the factors are not exclusive of others.

Subp. 3. Coordination of providers of home care services. The coordination of home care services is not itself a home care service. Coordination of home care services means one or more of the following:

- A. Determination whether a client needs home care services, what services are needed, and whether existing services need to continue or be modified.
- B. Referral of clients to home care providers.
- C. Administration of payments for home care services.

Subp. 4. Determination of regularly engaged. As used in *Minnesota Statutes*, section 144A.43, subdivision 4, "regularly engaged" means providing, or offering to provide, home care services as a regular part of a provider's business. The following factors shall be considered by the commissioner in determining whether a person is regularly engaged in providing home care services:

- A. whether the person markets services specifically to individuals whose illnesses, disabilities, or physical conditions create needs for the services;
- B. whether the services are designed and intended specifically to assist the individuals;
- C. whether the individuals constitute a substantial part of the person's clientele; and
- D. whether the home care services are other than occasional or incidental to the provision of services that are not home care services.

None of the factors listed in items A to D is solely determinative and the factors are not exclusive of others.

Subp. 5. Exclusion for a paraprofessional not regularly engaged in delivering home care services. For purposes of subpart 4, an individual who performs home care aide tasks or home management tasks for no more than 14 hours each calendar week to no more than one client, is not regularly engaged in the delivery of home care services, and is not subject to licensure under this chapter.

Subp. 6. Exclusion of individual contractors. An individual who is not an employee of a licensed provider need not be licensed under this chapter, if the person:

- A. only provides services as an independent contractor with one or more licensed providers;
- B. provides no services under direct agreements with clients; and
- C. is contractually bound to perform services in compliance with the contracting providers' policies and service agreements.

Individuals excluded from licensure under this subpart must comply with the same requirements of this chapter as employees of the contracting licensee.

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Proposed Rules

Subp. 7. **Governmental providers.** Except as otherwise provided in this chapter or in law, home care services that are provided by the state, counties, or other units of government must be licensed under this chapter.

Subp. 8. **Exclusion of certain instructional and incidental services.** A business is not subject to *Minnesota Statutes*, sections 144A.43 to 144A.48, and is not required to be licensed under this chapter if the business only provides services that are primarily instructional and not medical services or health-related support services.

Subp. 9. **Home management services.** For purposes of *Minnesota Statutes*, section 144A.43, subdivision 3, clause (8), a provider must be licensed under this chapter if the provider offers to provide or makes available at least two home management services, but does not necessarily provide more than one service to each client.

Subp. 10. **Temporary staffing agencies.** A business that provides staff to home care providers, such as temporary employment agencies, is not required to be licensed under this chapter if the business:

- A. only provides staff under contract to licensed or exempt providers;
- B. provides no services under direct agreements with clients; and
- C. is contractually bound to perform services under the contracting providers' direction and supervision.

Subp. 11. **Status of temporary staff.** For purposes of this chapter, staff of businesses excluded from licensure under subpart 10 shall be treated as if they are employees of the contracting licensee.

Subp. 12. **Medical equipment provider.** A provider of medical supplies and equipment is subject to this chapter only if:

- A. the provider provides a home care service;
- B. the provider makes more than one visit to a client's residence to provide the home care service; and
- C. the supplies or equipment are ordered by a physician, osteopath, dentist, podiatrist, chiropractor, or other prescriber.

In this subpart, home care service does not include maintenance of supplies or equipment or instruction in their use.

4668.0009 EXEMPTIONS FOR REGULATED PROGRAMS.

Subpart 1. **Purpose.** This part implements *Minnesota Statutes*, section 144A.46, subdivision 4.

Subp. 2. **Criteria for exemptions.** A provider that is regulated by a state regulatory program other than that administered under this chapter, is exempt from licensure under this chapter if the commissioner determines that the other program's regulatory standards and enforcement mechanisms are substantially the same as or exceed the requirements of this chapter. The commissioner may exempt from licensure a class of services that are substantially alike and are all regulated under the same state program.

Subp. 3. **Procedures.** To be exempted under this part, a provider shall request that the commissioner review the standards under which the provider is regulated. The commissioner may require the provider to provide whatever information is necessary to determine the comparability of the regulations.

Subp. 4. **Compliance with bill of rights.** Providers exempt from licensure under this part must comply with the home care bill of rights as implemented by part 4668.0030, and remain subject to the jurisdiction and authority of the Office of Health Facility Complaints.

Subp. 5. **Changes in regulation.** A provider exempt from licensure under this part shall notify the commissioner within 30 days after any changes in the rules or enforcement process under which the provider is regulated.

Subp. 6. **Review of exemption.** After receiving the notice required by subpart 5, or at any time that the commissioner learns of a change in rules or regulatory process, the commissioner shall review the changes and determine whether the provider shall continue to be exempt under this part. If the provider fails to timely notify the commissioner of changes, the exemption may be revoked, effective upon the commissioner notifying the provider of the revocation.

4668.0012 LICENSURE.

Subpart 1. **License issued.** If a provider complies with the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.49, the commissioner shall issue to the provider a certificate of licensure that will contain:

- A. the provider's name and address;
- B. the class of license as provided in subpart 3;
- C. the beginning and expiration dates; and
- D. a unique license number.

Subp. 2. **Multiple units.** Multiple units of a provider must be separately licensed if the commissioner determines that the units, because of distinct organizational structures or the distance between them and the provider's main office, cannot adequately share supervision and administration of services with the main office, or do not share the same management.

Subp. 3. **Classes of licenses.** In issuing a license under this part, the commissioner shall assign a license classification according to items A and B.

A. A provider shall apply for one of the classes of the home care license listed in subitems (1) to (5).

(1) Class A, or professional home care agency license. Under this license, a provider may provide all home care services, at least one of which is nursing, physical therapy, speech therapy, respiratory therapy, occupational therapy, nutritional services, medical social services, home health aide services, or the provision of medical supplies and equipment when accompanied by the provision of a home care service.

(2) Class B, or paraprofessional agency license. Under this license, a provider may perform home care aide tasks and home management tasks, as provided by parts 4668.0110 and 4668.0120.

(3) Class C, or individual paraprofessional license. Under this license, a provider may perform home health aide, home care aide, and home management tasks.

(4) Class D, or hospice program license. Under this license, a provider may provide hospice services, as provided by *Minnesota Statutes*, section 144A.48.

(5) Class E, or assisted living programs license. Under this license, a provider may provide assisted living services to residents of a residential center.

B. If a provider meets the requirements of both a class A and class D license, the commissioner shall issue to the provider both a class A license and a class D license.

Subp. 4. **Applicability of rules to classes.** A licensee shall comply with all requirements of this chapter, except for those parts that apply only to classes for which the licensee is not licensed. The following parts apply only to the class of license listed in items A to E.

A. A class A licensee must comply with part 4668.0180, except that one certified for Medicare as a home health agency under Code of Federal Regulations, title 42, part 484, need not comply with the requirements listed in part 4668.0180, subpart 10.

B. A class B licensee must comply with part 4668.0190.

C. A class C licensee must comply with part 4668.0200.

D. A class D licensee must comply with part 4668.0210, except that one certified for Medicare as a hospice program under Code of Federal Regulations, title 42, part 418, need not comply with the requirements listed in part 4668.0210, subpart 23.

E. A class E licensee must comply with part 4668.0215.

Subp. 5. **New license.** A license shall be issued to an applicant that is not currently licensed if the applicant completes the application, pays the fee in full, and complies with the requirements of *Minnesota Statutes*, sections 144A.43 to 144A.48, and this chapter. Except as provided in subpart 6, a license is effective for one year after the date the license is issued.

Subp. 6. **Licenses for social services agencies.** A county may apply for a single license for all its home care services or may apply for two or more licenses for separate county agencies that each provide home care services. If a county chooses to apply for a separate license for its social service agency, the county may submit a completed application together with its proposed biennial community social service plan to the Department of Human Services, as required by *Minnesota Statutes*, section 256E.09, pay the license fee in full, and comply with the requirements of this chapter. A license issued to a county social service agency is effective for two years after the date the license is issued. The commissioner may issue to each county social service agency a provisional license that is effective until a regular license is issued under this subpart.

Subp. 7. **License application.** To apply for a license under this chapter, an applicant must follow the procedures in items A and B.

A. An applicant for a license under this chapter must provide the following information on forms provided by the commissioner:

(1) the applicant's name and address, including the name of the county in which the applicant resides or has its principal place of business;

(2) address and telephone number of the principal administrative office;

(3) address and telephone number of each branch office, if any;

(4) names and addresses of all owners and managerial officials;

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(5) a list of all owners and managerial officials who have been convicted of crimes and the crimes of which they have been convicted;

(6) release statements, if required by part 4668.0020, subpart 5;

(7) evidence of workers' compensation coverage, as required by *Minnesota Statutes*, sections 176.181 and 176.182;

(8) in the case of class C applicants, proof that the applicant is not contagious with tuberculosis, as required by part 4668.0065, subparts 1 and 2;

(9) in the case of class C applicants, proof that the applicant has met any applicable training requirements for paraprofessionals, as provided by parts 4668.0100 and 4668.0110; and

(10) a list of those home care services listed in *Minnesota Statutes*, section 144A.43, subdivision 3, that will be made available to clients.

B. An application on behalf of a corporation, association, or unit of government must be signed by an officer or managing agent.

Subp. 8. **Agent.** Each application for a home care provider license or for renewal of a home care provider license shall designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner of health on all matters provided for in *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter; and

B. upon whom all notices and orders shall be served, and who is authorized to accept service of notices and orders on behalf of the licensee, in proceedings under *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter.

The designation of one or more persons under this subpart shall not affect the legal responsibility of any other owner or managerial official under *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter.

Subp. 9. **Notification of changes in information.** The licensee shall notify the commissioner in writing within ten working days after any change in the information required to be provided by subparts 7 and 8, except for services reported under subpart 7, item A, subitem (10), that are discontinued for less than 90 days.

Subp. 10. **Application processing.** The commissioner shall process an application in the manner provided by *Minnesota Statutes*, section 144A.46, subdivision 1, paragraph (b). No application shall be processed without payment of the license fee in full, in the amount provided by subpart 19.

Subp. 11. **Prelicensing survey.** Before granting a license, other than a provisional license under *Minnesota Statutes*, section 144A.49, the commissioner may investigate the applicant for compliance with *Minnesota Statutes*, sections 144A.43 to 144A.48, and this chapter.

Subp. 12. **Denial of license.** A license shall be denied if:

A. the applicant; an owner of the applicant, individually or as an owner of another home care provider; or another home care provider of which an owner of the applicant also was or is an owner; has ever been issued a correction order for failing to assist its clients, in violation of part 4668.0050, subpart 2, upon the licensee's decision to cease doing business as a home care provider;

B. the applicant is not in compliance with *Minnesota Statutes*, sections 144A.43 to 144A.48, and this chapter;

C. the applicant is disqualified under part 4668.0020, subpart 2;

D. the applicant or an owner or managerial official has refused to provide a release for access to criminal information, if required by part 4668.0020, subpart 5; or

E. the commissioner determines that an owner or managerial official, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter.

Subp. 13. **Change of classification.** A licensee may change to a different class of license under subpart 3, by submitting a new application under subpart 7 and meeting all applicable requirements of this chapter. An application under this subpart shall be accompanied by the fee provided by subpart 19.

Subp. 14. **License renewals.** Except as provided in subpart 15 or 16, a license will be renewed for a period of one year if the licensee satisfies items A to C. A license issued to a county social service agency under subpart 6 will be renewed for two years if the licensee satisfies items A to C. The licensee must:

A. submit an application for renewal on forms provided by the commissioner at least 30 days before expiration of the license, or, in the case of a county social service agency, submit an application for renewal to the Department of Human Services as part of its community social service plan, as required by *Minnesota Statutes*, section 256E.09; and

B. submit the renewal fee, in the amount provided by subpart 19; and

C. comply with this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48.

Subp. 15. **Conditional license.** If a licensee is not in full compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48, at the time of expiration of its license, and the violations do not warrant denial of renewal of the license, the commissioner may issue a license for a limited period conditioned on the licensee achieving full compliance within the term of the license or the term of any correction orders.

Subp. 16. **Suspension, revocation, or denial of renewal of license.** The commissioner may deny renewal of a license, or may suspend, revoke, or make conditional a license, if the licensee, or an owner or managerial official of the licensee:

A. is in violation, or during the term of the license has violated, any of the requirements of this chapter or *Minnesota Statutes*, sections 144A.43 to 144A.48;

B. permits, aids, or abets the commission of any illegal act in the provision of home care;

C. performs any act detrimental to the welfare of a client;

D. obtained the license by fraud or misrepresentation;

E. knowingly made or makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter;

F. denies representatives of the commissioner access to any part of the provider, its books, records, or files, or employees;

G. interferes with or impedes a representative of the commissioner in contacting the provider's clients;

H. interferes with or impedes a representative of the commissioner in the enforcement of *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter;

I. destroys or makes unavailable any records or other evidence relating to the licensee's compliance with *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter;

J. refuses to provide a criminal record release, if required by part 4668.0020, subpart 5; or

K. has failed to timely pay any fines assessed under part 4668.0230.

Subp. 17. **Transfers prohibited; changes in ownership.** A license issued under this part may not be transferred to another party. Before changing ownership, a prospective provider must apply for a new license under this part. A change of ownership means a transfer of operational control to a different business entity, and includes:

A. transfer of the business to a different or new corporation;

B. in the case of a partnership, the dissolution or termination of the partnership under *Minnesota Statutes*, chapter 323, with the business continuing by a successor partnership or other entity;

C. relinquishment of control of the provider by the licensee to another party, including to a contract management firm that is not under the control of the owner of the business' assets; or

D. transfer of the business by a sole proprietor to another party or entity; or

E. in the case of a privately held corporation, the change in ownership or control of 50 percent or more of the outstanding voting stock.

Subp. 18. **Display of license.** The original license must be displayed in the provider's principal business office and copies must be displayed in all other offices. The licensee must provide a copy of the license to any person who requests it.

Subp. 19. **Fees.** Each application for a license must include payment in full of the fee according to the schedule in chapter 4669.

4668.0016 WAIVERS AND VARIANCES

Subpart 1. **Definitions.** For purposes of this part:

A. "waiver" means an exemption from compliance with a requirement of this chapter; and

B. "variance" means a specified alternative to a requirement of this chapter.

Subp. 2. **Criteria for waiver or variance.** Upon application of a licensee, the commissioner may waive or vary any provision of

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this chapter, except for those provisions relating to criminal disqualification, part 4668.0020, and to the home care bill of rights, part 4668.0030, if the commissioner finds that:

A. the waiver or variance is necessary because of the unavailability of services or resources in the provider's geographic area; or

B. enforcement of a requirement would result in unreasonable hardship on the licensee; and

C. the waiver or variance will not adversely affect the health, safety, or welfare of any client.

Subp. 3. **Experimental variance.** A variance may be granted to allow a provider to offer home care services of a type or in a manner that is innovative, will not impair the services provided, will not adversely affect the health, safety, or welfare of the clients, and is likely to improve the services provided.

Subp. 4. **Conditions.** The commissioner may impose conditions on the granting of a waiver or variance that the commissioner considers necessary.

Subp. 5. **Duration and renewal.** The commissioner may limit the duration of any waiver or variance, and may renew a limited waiver or variance.

Subp. 6. **Applications.** An application for waiver or variance from the requirements of this chapter may be made at any time, must be made in writing to the commissioner, and must specify the following:

A. the rule from which the waiver or variance is requested;

B. the time period for which the waiver or variance is requested;

C. if the request is for a variance, the specific alternative action that the licensee proposes;

D. the reasons for the request; and

E. justification that subpart 2 or 3 will be satisfied.

The commissioner may require additional information from the licensee before acting on the request.

Subp. 7. **Grants and denials.** The commissioner shall grant or deny each request for waiver or variance in writing. Notice of a denial shall contain the reasons for the denial. The terms of a requested variance may be modified upon agreement between the commissioner and a licensee.

Subp. 8. **Violation of variances.** A failure to comply with the terms of a variance shall be deemed to be a violation of this chapter.

Subp. 9. **Revocation or denial of renewal.** The commissioner may revoke or deny renewal of a waiver or variance if:

A. it is determined that the waiver or variance is adversely affecting the health, safety, or welfare of the licensee's clients;

B. the licensee has failed to comply with the terms of the variance;

C. the licensee notifies the commissioner in writing that it wishes to relinquish the waiver or variance and be subject to the rule previously waived or varied; or

D. the revocation or denial is required by a change in law.

Subp. 10. **Hearings.** A denial of a waiver or variance may be contested by requesting a hearing as provided by part 4668.0017. The licensee bears the burden of proving that the denial of a waiver or variance was in error.

4668.0017 HEARINGS.

Subpart 1. **Hearing rights.** An applicant for a license or a licensee that has been assessed a fine under part 4668.0230, that has had a waiver or variance denied or revoked under part 4668.0016, or that has a right to a hearing under *Minnesota Statutes*, section 144A.46, subdivision 3, may request a hearing to contest that action or decision according to the rights and procedures provided by *Minnesota Statutes*, chapter 14, and this part.

Subp. 2. **Request for hearing.** A request for a hearing shall be in writing and shall:

A. be mailed or delivered to the commissioner or the commissioner's designee;

B. contain a brief and plain statement describing every matter or issue contested; and

C. contain a brief and plain statement of any new matter that the licensee believes constitutes a defense or mitigating factor.

Subp. 3. **Informal conference.** At any time, the licensee and the commissioner may hold an informal conference to exchange information, clarify issues, or resolve any or all issues.

4668.0019 ADVERTISING.

Licensees shall not use false, fraudulent, or misleading advertising in the marketing of services. For purposes of this part, advertising includes any means of communicating to potential clients the availability, nature, or terms of home care services.

4668.0020 CRIMINAL DISQUALIFICATIONS OF APPLICANTS, LICENSEES AND STAFF.

Subpart 1. **Definition.** In this part, "employ" includes engaging unpaid services of a volunteer; "employed" includes providing unpaid services as a volunteer under the control and direction of a licensee; "employee" includes a volunteer who provides unpaid services under the control and direction of the licensee.

Subp. 2. **Criminal disqualification of licensees.** Except as provided by subpart 16, no license will be issued to an applicant for a license if the applicant or an owner or managerial official of the applicant has ever been convicted of a crime listed in subpart 15, or a comparable crime in another jurisdiction.

Subp. 3. **Criminal disqualification of prospective and existing employees.** Except as provided by subpart 16, no licensee may employ in a position that requires direct contact with clients in their homes or in the community, or that requires the supervision of direct care workers, any person who the licensee knows has ever been convicted of a crime listed in subpart 15, or a comparable crime in another jurisdiction.

Subp. 4. **Disclosure of criminal conviction information by owners and managerial officials.** Each applicant and individual owner and managerial official required to be named by part 4668.0012, subpart 7, shall fully disclose all crimes of which the person has been convicted in any jurisdiction, or state that the person has never been convicted of a crime.

Subp. 5. **Criminal investigation of applicants for licensure.** If the commissioner has reasonable cause to believe that the applicant or licensee, or an individual owner or managerial official of the applicant or licensee, has not disclosed all convictions of crimes, the commissioner may require the applicant, licensee, or owner or managerial official, to sign a notarized release statement, on a form provided by the commissioner, that authorizes local law enforcement agencies, the Minnesota Bureau of Criminal Apprehension, and other law enforcement agencies, to provide the commissioner a history of criminal convictions. The release statement must include the applicant's or individual owner's or managerial official's:

- A. full name;
- B. previous names and aliases;
- C. date of birth; and
- D. sex.

The commissioner shall request that local law enforcement agencies and the Minnesota Bureau of Criminal Apprehension provide a listing of the applicant's or owner's or managerial official's criminal convictions. No new or renewal licensee shall be issued if a release required by this subpart is not provided.

Subp. 6. **Providing false information.** If an applicant for a license knowingly provides false or incomplete information about the criminal convictions of any owner or managerial official, and the commissioner issues a license in reliance on that information, the commissioner may revoke the license, subject to the requirements of part 4668.0050, subpart 2, concerning assistance upon discontinuation of services.

Subp. 7. **Criminal investigation of applicants for employment.** Before employing an applicant for employment, the licensee shall comply with subparts 9 to 11.

Subp. 8. **Criminal investigation of employees.** A licensee that has employees at the time the license is issued shall comply with subparts 9 to 11 with respect to those existing employees no later than 30 days following issuance of the license.

Subp. 9. **Disclosure of criminal conviction information by employees and applicants.** The licensee shall require each current employee and each prospective employee who has or will have direct contact with clients in their homes, or supervises or will supervise direct care workers, to sign a statement disclosing all crimes, except for minor traffic violations, of which the person has been convicted in any jurisdiction, or stating that the person has never been convicted of a crime, other than minor traffic violations. The statement disclosing crimes must include:

- A. the nature of the crime;
- B. the jurisdiction in which the person was convicted;
- C. the date of conviction;
- D. the penalty imposed, including conditions of probation or conditional release and time periods of the penalty;
- E. the name and address of the probation or parole agent, if any; and

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F. the date of release from incarceration, if applicable.

Subp. 10. **Removal of disqualified employees.** A person who is employed by the licensee at the time the license is issued, is disqualified from employment under subpart 3, and is not considered rehabilitated under subpart 16, shall not be allowed to work in a position that requires direct contact with clients in their homes or the supervision of direct care workers.

Subp. 11. **Criminal conviction history search.** If the commissioner or the licensee has reasonable cause to believe that an employee or prospective employee has not disclosed all convictions of crimes, the commissioner or licensee shall require the employee or prospective employee to sign a notarized release statement, on a form provided by the commissioner, that authorizes local law enforcement agencies and the Minnesota Bureau of Criminal Apprehension to provide the commissioner a history of criminal convictions. The release statement must include the person's:

- A. full name;
- B. all prior names and aliases;
- C. date of birth; and
- D. sex.

The commissioner or licensee shall request that local law enforcement agencies and the Minnesota Bureau of Criminal Apprehension provide a listing of the person's criminal convictions.

Subp. 12. **Failure to provide release.** If a person is required by a licensee to provide the release statement required by subpart 11, and fails to provide the release statement within five working days after the request, the person shall not be allowed to work in a position that requires direct contact with clients in their homes, or the supervision of direct care workers, until it is determined that the person is not disqualified under this part.

Subp. 13. **Procedure to contest disqualification for license.** If a license is denied under subpart 2, the applicant that is disqualified and the owner or managerial official whose criminal record reveals criminal convictions may submit information to the commissioner to show that the criminal record is inaccurate or that the person is rehabilitated under subpart 16. The applicant may also contest the denial of a license under part 4668.0017.

Subp. 14. **Procedure to contest disqualification for employment.** If a licensee denies employment to a prospective employee under subpart 3, or removes an existing employee from a position, under subpart 10, the person who is disqualified may submit information to the licensee to show that the criminal record is inaccurate or that the person is rehabilitated under subpart 16. The licensee shall remove an existing employee from direct client service or supervision of direct client service pending a determination whether the criminal record is inaccurate or that the person is rehabilitated under subpart 16.

Subp. 15. **Disqualifying crimes.** The following crimes disqualify persons for licensure or employment, as provided by subparts 2 and 3:

A. crimes of homicide and aiding suicide under *Minnesota Statutes*, sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, and 609.215;

B. crimes against the person under *Minnesota Statutes*, sections 609.221, 609.222, 609.223, 609.2231, 609.224, 609.228, 609.23, 609.231, 609.235, 609.24, 609.245, 609.25, and 609.255;

C. crimes against unborn children under *Minnesota Statutes*, sections 609.2661, 609.2662, 609.2663, 609.2664, 609.2665, 609.267, 609.2671, 609.2672, and 609.268;

D. crimes of compulsion under *Minnesota Statutes*, sections 609.27, 609.275, and 609.28;

E. sex crimes under *Minnesota Statutes*, sections 609.322, 609.323, 609.324, 609.33, 609.342, 609.343, 609.344, 609.345, and 609.352;

F. crimes against the family under *Minnesota Statutes*, sections 609.377 and 609.378;

G. crimes affecting a public officer or employee under *Minnesota Statutes*, sections 609.465 and 609.466;

H. crimes of theft and related crimes under *Minnesota Statutes*, sections 609.52, 609.525, 609.53, 609.54, and 609.551;

I. crimes of damage or trespass to property under *Minnesota Statutes*, sections 609.561, 609.562, 609.563, 609.582, 609.595, and 609.611;

J. crimes of public misconduct or nuisance under *Minnesota Statutes*, sections 609.687 and 609.713;

K. the crime of indecent exposure under *Minnesota Statutes*, section 617.23;

L. the crime of failure to report the maltreatment of minors under *Minnesota Statutes*, section 626.556, subdivision 6;

M. the crime of failure to report the maltreatment of vulnerable adults under *Minnesota Statutes*, section 626.557, subdivision

7;

N. the crime of abuse or neglect of a vulnerable adult, under *Minnesota Statutes*, section 626.557, subdivision 19; and

O. crimes related to prohibited drugs under *Minnesota Statutes*, chapter 152.

Subp. 16. **Rehabilitation.** Except as provided by subpart 17, a license that otherwise would have been denied under subpart 2, will be granted if the person or persons who have been convicted of crimes listed in subpart 15, meet the requirements of items A to D. Except as provided by subpart 17, a person who is disqualified from employment with a licensee under subpart 3 may be employed if:

A. the commissioner determines that the circumstances or social conditions surrounding the commission of the crime sufficiently mitigate the risk of employing the person; or

B. the person meets the requirements of subitems (1) to (4):

(1) The person has not been convicted of a crime listed in subpart 15, or a comparable crime in another jurisdiction, for the two years before the date of application for the license or for employment.

(2) If on probation, parole, or other conditional release, the person submits a report from the person's probation or parole agent that is satisfactory to the commissioner.

(3) The person has not been incarcerated in jail or prison for the two years before the date of application for the license or for employment.

(4) If, as a condition of the person's probation, conditional release, or sentence, the person had been ordered by a court to participate in a program for the treatment of chemical dependency, psychological disorders, or other behavioral problems, the person completed the program in compliance with the condition.

Subp. 17. **Exceptions to rehabilitation.** Subpart 16 does not apply in the case of a crime of homicide or aiding suicide under *Minnesota Statutes*, sections 609.185 to 609.215, committed in connection with the provision of health care or home care services.

Subp. 18. **Reporting new criminal information.** If a licensee learns of any criminal conviction of an employee that was not revealed to the licensee as required by subpart 9, and was not discovered by the criminal history search required by subpart 11, and is verified by a law enforcement agency, the licensee shall:

A. remove the employee from work involving direct client service or supervision of direct client service, unless the failure to reveal the conviction was unintentional and is excusable; and

B. report the information about the conviction to the commissioner.

4668.0030 HOME CARE BILL OF RIGHTS.

Subpart 1. **Scope and enforcement against those exempt from licensure.** All home care providers, including those exempt from licensure under *Minnesota Statutes*, section 144A.46, subdivision 2, must comply with this part and the home care bill of rights, as provided by *Minnesota Statutes*, section 144A.44. The commissioner shall enforce this part and the home care bill of rights against providers exempt from licensure in the same manner as against licensees.

Subp. 2. **Notification of client.** The provider shall give a written copy of the home care bill of rights, as required by *Minnesota Statutes*, section 144A.44, to each client or each client's responsible person.

Subp. 3. **Time of notice.** The provider shall deliver the bill of rights at the time that the provider and the client or the client's responsible person agree to a service agreement, or before services are initiated, whichever is earlier.

Subp. 4. **Content of notice.** In addition to the text of the bill of rights in *Minnesota Statutes*, section 144A.44, subdivision 1, the written notice to the client must include the following:

A. a statement, printed prominently in capital letters, that is substantially the same as the following:

**IF YOU HAVE A COMPLAINT ABOUT THE AGENCY OR PERSON
PROVIDING YOU HOME CARE SERVICES, YOU MAY CALL, WRITE,
OR VISIT THE OFFICE OF HEALTH FACILITY COMPLAINTS,
MINNESOTA DEPARTMENT OF HEALTH. YOU MAY ALSO CONTACT
THE OMBUDSMAN FOR OLDER MINNESOTANS.**

B. the telephone number, mailing address, and street address, of the Office of Health Facility Complaints;

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C. the telephone number and address of the office of the ombudsman for older Minnesotans; and

D. the licensee's name, address, telephone number, and name or title of the person to whom problems or complaints may be directed.

The information required by items B and C shall be provided by the commissioner to licensees upon issuance of licenses and whenever changes are made.

Subp. 5. **Acknowledgment of receipt.** The provider shall obtain written acknowledgment of the client's receipt of the bill of rights or shall document why an acknowledgment cannot be obtained. The acknowledgment may be obtained from the client or the client's responsible person.

Subp. 6. **Documentation.** The licensee shall retain in the client's record documentation of compliance with this part.

Subp. 7. **Abuse reporting.** The licensee and all employees of the licensee shall report the maltreatment of vulnerable minors or adults in compliance with *Minnesota Statutes*, sections 626.556 and 626.557, respectively.

Subp. 8. **Prohibition against waivers.** The licensee may not request nor obtain from clients any waiver of any of the rights enumerated in *Minnesota Statutes*, section 144A.44, subdivision 1. Any waiver obtained in violation of this subpart is void.

4668.0035 HANDLING OF CLIENTS' FINANCES AND PROPERTY.

Subpart 1. **Powers-of-attorney.** A licensee may not accept powers-of-attorney from clients for any purpose, and may not accept appointments as guardians or conservators of clients. This subpart does not apply to licensees that are Minnesota counties or other units of government.

Subp. 2. **Handling clients' finances.** A licensee may assist clients with household budgeting, including paying bills and purchasing household goods, but may not otherwise manage a client's property. A licensee must provide clients with receipts for all transactions and purchases paid with the clients' funds, and must maintain records of all such transactions.

Subp. 3. **Security of clients' property.** A licensee may not borrow a client's property, nor in any way convert a client's property to the licensee's possession, except in payment of a fee at the fair market value of the property.

Subp. 4. **Gifts and donations.** Nothing in this part precludes a licensee or its staff from accepting bona fide gifts of minimal value, or precludes the acceptance of donations or bequests made to a licensee that are exempt from income tax under section 501(c) of the Internal Revenue Code of 1986.

4668.0040 COMPLAINT PROCEDURE.

Subpart 1. **Complaint procedure.** Every class A, class B, class D, and class E licensee that has more than one direct care staff person, shall establish a system for receiving, investigating, and resolving complaints from its clients.

Subp. 2. **Informing clients.** The system required by subpart 1 must provide written notice to each client that includes:

- A. the client's right to complain to the licensee about the services received;
- B. the name or title of the person or persons to contact with complaints;
- C. the method of submitting a complaint to the licensee;
- D. the right to complain to the Minnesota Department of Health; and
- E. a statement that the provider will in no way retaliate because of a complaint.

Subp. 3. **Prohibition against retaliation.** No licensee shall take any action that negatively affects a client in retaliation for a complaint made by the client.

4668.0050 ACCEPTANCE, RETENTION, AND DISCHARGE OF CLIENTS.

Subpart 1. **Acceptance of clients.** No licensee may accept a person as a client unless the licensee has staff, sufficient in qualifications and numbers, to adequately provide the services agreed to in the service agreement, under part 4668.0140.

Subp. 2. **Assistance upon discontinuance of services.** If the licensee discontinues a home care service to a client for any reason and the client continues to need the home care service, the licensee shall provide to the client a list of home care providers that provide similar services in the client's geographic area.

This subpart does not apply to a licensee that discontinues a service to a client because of the client's failure to pay for the service.

4668.0060 ADMINISTRATION.

Subpart 1. **Referrals.** The licensee shall notify another home care provider, inpatient facility, or other health care practitioner or provider to whom the licensee refers a client, of any contagious disease to which the client is known to have been exposed or which the client is known to have contracted.

Subp. 2. **Services by contract.** The licensee may contract for services to be provided to its clients. Personnel providing services under contract must meet the same requirements required by this chapter of personnel employed by the licensee.

Subp. 3. **Responsibility of licensee for contractors.** A violation of this chapter by a contractor of the licensee will be considered to be a violation by the licensee.

Subp. 4. **Fulfillment of services.** The licensee shall provide all services required by the client's service agreement, required by part 4668.0140.

Subp. 5. **Scheduled appointments for nonessential services.** If a licensee, contractor, or employee of a licensee is unable, for any reason, to keep a scheduled appointment for a service that is not essential for medical or safety reasons, the licensee shall:

A. follow the procedure, if any, established in the service agreement;

B. provide a replacement person; or

C. notify the client that the appointment will not be kept, and schedule a new appointment or arrange for some other alternative acceptable to the client.

Subp. 6. **Scheduled appointments for essential services.** If, for medical or safety reasons, a service to be provided must be completed at the scheduled time, and the licensee, contractor, or employee of a licensee is unable, for any reason, to keep the scheduled appointment, the licensee shall make arrangements to complete the service through a contract with another provider or through other means reasonably acceptable to the client.

Subp. 7. **Availability of contact person.** Every class A, class B, class D, or class E licensee that provides home health aide or home care aide tasks, must have a contact person available for consultation whenever a paraprofessional is performing home health aide or home care aide tasks for a client. The contact person must be available to the paraprofessional in person, by telephone, or by other means.

4668.0065 INFECTION CONTROL.

Subpart 1. **Tuberculosis screening.** No person who is contagious with tuberculosis may provide services that require direct contact with clients. All individual licensees and employees and contractors of licensees must document the following before providing services that require direct contact with clients:

A. the person must provide documentation of having received a negative reaction to a Mantoux test administered within the 12 months before working in a position involving direct client contact, and no later than every 24 months after the first Mantoux test; or

B. if the person has had a positive reaction to a Mantoux test within the two years before working in a position involving direct client contact, the person must provide:

(1) documentation of a negative chest x-ray administered within the three months before working in a position involving direct client contact; and

(2) documentation of a negative chest x-ray administered each 12 months, for two years after the positive reaction to a Mantoux test; or

C. if the person has had a positive reaction to a Mantoux test more than two years before working in a position involving direct client contact, the person must provide documentation of a negative chest x-ray taken within the previous 12 months.

In this subpart, "Mantoux test" means a Mantoux tuberculin skin test.

Subp. 2. **Exposure to tuberculosis.** In addition to the requirements of subpart 1, a person who has been exposed to active tuberculosis must document a negative result of a Mantoux test or chest x-ray administered no earlier than ten weeks and no later than 14 weeks after the exposure.

Subp. 3. **Infection control in-service training.** For each 12 months of employment, all licensees and employees and contractors of licensees who have contact with clients in their residences, and their supervisors, shall complete in-service training about infection control techniques used in the home. This subpart does not apply to a person who performs only home management tasks. The training must include:

A. hand washing techniques;

B. the need for and use of protective gloves, gowns, and masks;

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- C. disposal of contaminated materials and equipment, such as dressings, needles, syringes, and razor blades;
- D. disinfecting reusable equipment; and
- E. disinfecting environmental surfaces.

4668.0070 PERSONNEL RECORDS.

Subpart 1. **Personnel records.** Except for class C licensees, the licensee must maintain a record of each employee, of each individual contractor excluded under part 4668.0008, subpart 6, and of other individual contractors. The record must include the following information:

- A. evidence of current professional licensure, registration, or certification, if licensure, registration, or certification is required by this chapter, statute, or other rules;
- B. records of training required by this chapter; and
- C. evidence of licensure under this chapter, if required.

Subp. 2. **Job descriptions.** The licensee shall maintain current job descriptions, including qualifications, responsibilities, and identification of supervisors, if any, for each job classification.

Subp. 3. **Retention of personnel records.** Each personnel record must be retained for at least three years after an employee or contractor ceases to be employed by the licensee.

4668.0075 ORIENTATION TO HOME CARE REQUIREMENTS.

Subpart 1. **Orientation.** Every individual applicant for a license, and every person who provides direct care, supervision of direct care, or management of services for a licensee, shall complete an orientation to home care requirements before providing home care services to clients. This orientation may be incorporated into the training required of paraprofessionals under part 4668.0130, or of persons providing volunteer services to a hospice under part 4668.0210, subpart 16. This orientation need only be completed once.

Subp. 2. **Content.** The orientation required by subpart 1 must contain the following topics:

- A. an overview of the home care statute, *Minnesota Statutes*, sections 144A.43 to 144A.49, and this chapter;
- B. handling of emergencies and use of emergency services;
- C. reporting the maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557.
- D. home care bill of rights;
- E. handling of clients' complaints and reporting of complaints to the Office of Health Facility Complaints;
- F. services of the ombudsman for older Minnesotans; and
- G. resources in the community to which clients may be referred, including medical and dental practitioners, health and social service providers, and other related service providers, and procedures for making referrals.

Subp. 3. **Sources of orientation.** The orientation training required by this part may be provided by the licensee or may be obtained from other sources. The commissioner shall provide a curriculum and materials that may be used to present the orientation.

Subp. 4. **Verification and documentation.** Each licensee shall retain evidence that each person required under subpart 1, has completed the orientation training required by this part.

Subp. 5. **Transferability.** Licensees may accept from another provider written verification that a person has completed the orientation.

4668.0080 QUALIFICATIONS OF PROFESSIONAL PERSONNEL.

Subpart 1. **Occupational therapy.** A person who provides occupational therapy as a licensee or as an employee or contractor of a licensee must:

- A. have earned a baccalaureate degree from an occupational therapy program accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Certification Board;
- B. be registered as an occupational therapist by the American Occupational Therapy Certification Board; or
- C. meet the standards established for registration by the American Occupational Therapy Certification Board, in effect on June 1, 1990.

Subp. 2. **Speech therapy.** A person who provides speech therapy as a licensee or as an employee or contractor of a licensee must be registered with the department as a speech- language pathologist, under parts 4750.0010 to 4750.0700.

Subp. 3. **Respiratory therapy.** A person who provides respiratory therapy as a licensee or as an employee or contractor of a licensee must have completed a respiratory care program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation and the Joint Review Committee for Respiratory Therapy Education or by an accrediting agency approved by the commissioner.

Subp. 4. **Dietitians.** A person who provides nutritional services as a licensee or as an employee or contractor of a licensee, must have a baccalaureate degree in nutrition or a comparable program, including at least six months of supervised experience, or be registered by the Commission on Dietetic Registration of the American Dietetic Association.

4668.0100 HOME HEALTH AIDE TASKS.

Subpart 1. **Home health aide tasks.** Only a person who satisfies the requirements of subpart 5 may perform medical, nursing, or therapy services that, by law, must be delegated by registered nurses or therapists, including:

- A. assistance with the administration of medications, as provided by subpart 2;
- B. performing delegated nursing or delegated therapy procedures, as provided by subpart 4;
- C. assisting with body positioning or transfers of clients who are not ambulatory;
- D. feeding of clients who, because of their condition, are at risk of choking;
- E. assistance with bowel and bladder control, devices, and training programs;
- F. assistance with therapeutic or passive range of motion exercises;
- G. providing skin care, including full or partial bathing and foot soaks; and
- H. during episodes of serious disease or acute illness, providing services performed for a client or to assist a client to maintain the hygiene of the client's body and immediate environment, to satisfy nutritional needs, and to assist with the client's mobility, including movement, change of location, and positioning, and bathing, oral hygiene, dressing, hair care, toileting, bedding changes, basic housekeeping, and meal preparation. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

Subp. 2. **Assistance with administration of medications.** A person who satisfies the requirements of subpart 5 may assist with the administration of medications, whether oral, suppository, eye drops, inhalant, topical, or administered through a gastrostomy tube, if:

- A. the medications are regularly scheduled;
- B. in the case of pro re nata medications, each dosage is individually authorized by a registered nurse within the 24 hours before the administration;
- C. the person is instructed by a registered nurse in the procedures to assist with the administration of medications to each client;
- D. a registered nurse specifies, in writing, and documented in the clients' records, the procedures for assisting with the administration of medications; and
- E. the person demonstrates to a registered nurse the person's ability to competently follow the procedure.

For purposes of this subpart, "pro re nata medication," commonly called p.r.n. medication, means a medication that is ordered to be administered to or taken by a client as necessary.

Subp. 3. **Limitations on assistance with medications.** A person who assists with the administration of medications under subpart 2 may not inject medications into veins, muscle, or skin.

Subp. 4. **Performance of routine procedures.** A person who satisfies the requirements of subpart 5 may perform nursing and therapy procedures, if:

- A. the person is instructed by a registered nurse or therapist, respectively, in the proper methods to perform the procedures with respect to each client;
- B. a registered nurse or therapist, respectively, specifies, in writing, specific instructions for performing the procedures for each client;
- C. the person demonstrates to a registered nurse or therapist, respectively, the person's ability to competently follow the procedures; and
- D. the procedures for each client are documented in the clients' records.

Subp. 5. **Qualifications for persons who perform home health aide tasks.** No person may offer or perform home health aide tasks, or be employed to perform home health aide tasks, unless the person has:

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- A. successfully completed the training and passed the competency evaluation required by part 4668.0130, subpart 1;
- B. passed the competency evaluation required by part 4668.0130, subpart 3;
- C. successfully completed training in another jurisdiction substantially equivalent to that required by item A;
- D. satisfied the requirements of Medicare for training or competency of home health aides, as provided by Code of Federal Regulations, title 42, section 484.36;
- E. satisfied subitems (1) and (2):
 - (1) meets the requirements of title XVIII of the Social Security Act for nursing assistants in nursing facilities certified for participation in the Medicare program, or has successfully completed a nursing assistant training program approved by the state; and
 - (2) has had at least 20 hours of supervised practical training or experience performing home health aide tasks in a home setting under the supervision of a registered nurse, or completes the supervised practical training or experience within one month after beginning work performing home health aide tasks, except that a class C licensee must have completed this supervised training or experience before a license will be issued; or
- F. before the effective date of this chapter, completed a training course of at least 60 hours for home health aides that had been approved by the department.

Subp. 6. **In-service training.** For each person who performs home health aide tasks, the licensee must comply with items A to C.

- A. For each 12 months of employment, each person who performs home health aide tasks shall:
 - (1) complete at least eight hours of in-service training in topics relevant to the provision of home care services, including that required by part 4668.0065, subpart 3; and
 - (2) demonstrate to a registered nurse or therapist, as appropriate, the person's competence in at least two skills.
- B. Licensees shall retain documentation of satisfying this part and shall provide documentation to persons who have completed the in-service training.

C. Licensees may satisfy the in-service training requirements of this subpart by verifying that persons who perform home health aide tasks have completed some or all of the required in-service training while employed by another licensee or while licensed as a class C provider under part 4668.0200.

Subp. 7. **Documentation.** Class A and class D licensees shall verify that persons employed or contracted by the licensees to perform home health aide tasks have satisfied the requirements of this part and shall retain documentation in the personnel records. Persons who perform home health aide tasks must provide documentation to the employing or contracting licensees of satisfying this part. Class C licensees shall retain documentation of satisfying this part.

Subp. 8. **Initiation of home health aide tasks.** When home health aide tasks are initiated, a registered nurse or therapist shall orient the first person who is to perform home health aide tasks to the client at the client's residence, and to the tasks to be performed. Additional persons assigned to serve that client after the initial visit may be oriented in a manner other than at the client's residence.

Subp. 9. **Periodic supervision of home health aide tasks.** After the orientation required by subpart 8, a therapist or a registered nurse shall supervise, or a licensed practical nurse, under the direction of a registered nurse, shall monitor persons who perform home health aide tasks at the client's residence to verify that the work is being performed adequately, to identify problems, and to assess the appropriateness of the care to the client's needs. This supervision or monitoring must be provided no less often than the following schedule:

- A. within two weeks after the orientation visit; and
- B. monthly thereafter.

If monitored by a licensed practical nurse, a person must be supervised at the residence by a registered nurse at least every six months, and the licensed practical nurse must be under the supervision of a registered nurse, according to *Minnesota Statutes*, sections 148.171 to 148.285.

4668.0110 HOME CARE AIDE TASKS.

Subpart 1. **Home care aide tasks.** Only a person who satisfies the requirements of subpart 2 or part 4668.0100, subpart 5, may perform the following services for clients:

- A. planning and preparing modified diets, such as diabetic or low sodium diets;
- B. reminding clients to take regularly scheduled medications or perform exercises;
- C. household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

D. household chores when the client's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

E. assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the client is ambulatory, and if the client has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

Subp. 2. Qualifications for persons who perform home care aide tasks. No person may offer or perform home care aide tasks, or be employed to perform home care aide tasks, unless the person has:

- A. successfully completed training and passed the competency evaluation required by part 4668.0130, subpart 1;
- B. passed the competency evaluation required by part 4668.0130, subpart 3;
- C. successfully completed training in another jurisdiction comparable to that required by item A; or
- D. satisfied the requirements of part 4668.0100.

Subp. 3. Documentation. Class A, class B, and class D licensees shall verify that the persons employed or contracted by the licensees to perform home care aide tasks have satisfied the requirements of this part and shall retain documentation in the personnel records. Persons who perform home care aide tasks must provide documentation to the employing or contracting licensees of satisfying this part. Class C licensees shall retain documentation of satisfying this part.

Subp. 4. In-service training. For each person who performs home care aide tasks, the licensee must comply with items A to C.

A. For each 12 months of employment, each person who performs home care aide tasks must complete at least six hours of in-service training in topics relevant to the provision of home care services, including that required by part 4668.0065, subpart 3.

B. Licensees shall retain documentation of satisfying this part and shall provide documentation to persons who have completed the in-service training.

C. Licensees may satisfy the in-service training requirements of this subpart by verifying that persons who perform home care aide tasks have completed some or all of the required in-service training while employed by another licensee or while licensed as a class C provider under part 4668.0200.

4668.0120 HOME MANAGEMENT TASKS.

Subpart 1. Home management tasks. Any person may perform services that are not listed in part 4668.0100, subpart 1, or part 4668.0110, subpart 1, including housekeeping, laundry, preparation of regular snacks and meals, and shopping.

Subp. 2. Training of persons who perform home management tasks. Except for the orientation training required by part 4668.0075, no training is required of persons who perform home management tasks.

4668.0130 TRAINING AND COMPETENCY EVALUATION FOR PERSONS WHO PERFORM HOME HEALTH AIDE AND HOME CARE AIDE TASKS.

Subpart 1. Scope of training course and instructor. The training required by part 4668.0100, subpart 5, and by part 4668.0110, subpart 2, must:

- A. include the topics and course requirements specified in subpart 2 and use a curriculum approved by the commissioner;
- B. be taught by a registered nurse with experience or training in home care, except that specific topics required by subpart 2 may be taught by another instructor in conjunction with the registered nurse; and
- C. include a competency evaluation required by subpart 3.

Subp. 2. Curriculum. The training required in part 4668.0100, subpart 5 for home health aide tasks must contain the topics described in items A to N, and must contain no less than 75 hours of classroom and laboratory instruction. The training required in part 4668.0110, subpart 2 for home care aide tasks, must contain the topics described in items A to G, and must contain no less than 24 hours of classroom and laboratory instruction. The required topics are:

- A. those topics required in the orientation training required by part 4668.0075;
- B. observation, reporting, and documentation of client status and of the care or services provided;
- C. basic infection control;
- D. maintenance of a clean, safe, and healthy environment;

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- E. medication reminders;
- F. appropriate and safe techniques in personal hygiene and grooming, including bathing and skin care, the care of teeth, gums, and oral prosthetic devices, and assisting with toileting;
- G. adequate nutrition and fluid intake including basic meal preparation and special diets;
- H. communication skills;
- I. reading and recording temperature, pulse, and respiration;
- J. basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional;
- K. recognition of and handling emergencies;
- L. physical, emotional, and developmental needs of clients, and ways to work with clients who have problems in these areas, including respect for the client, the client's property, and the client's family;
- M. safe transfer techniques and ambulation; and
- N. range of motion and positioning.

Subp. 3. **Competency evaluation.** The competency evaluation tests must be approved by the commissioner.

A. To qualify to perform home health aide tasks, the person must pass the following:

(1) a practical skill test, administered by a registered nurse, that tests the subjects described in subpart 2, items E, F, I, M, and N; and

(2) a written, oral, or practical test of the topics listed in subpart 2, items A to D, G, H, and J to L.

B. To qualify to perform home care aide tasks, the person must pass the competency evaluation for home health aide tasks, or the following:

(1) a practical skill test, administered by a registered nurse, that tests the subjects described in subpart 2, items E and F; and

(2) a written, oral, or practical test of the topics in subpart 2, items A to D and G.

Subpart 4. **Evidence of qualifications.** A licensee that provides the training and the competency evaluation required by this part shall provide each person who completes the training or passes the competency evaluation with written certification of satisfying this part.

4668.0140 SERVICE AGREEMENTS.

Subpart 1. **Service agreements.** No later than the second visit to a client, a licensee shall enter into a written service agreement with the client or the client's responsible person. Any modifications of the service agreement must be in writing.

Subp. 2. **Contents of service agreement.** The service agreement required by subpart 1 must include:

A. a description of the services to be provided, and their frequency;

B. identification of the persons or categories of persons who are to provide the services;

C. the schedule or frequency of sessions of supervision or monitoring required, if any;

D. how charges will be computed;

E. a plan for contingency action that includes:

(1) the action to be taken by the licensee, client, and responsible persons, if scheduled services cannot be provided;

(2) the method for a client or responsible person to contact a representative of the licensee whenever staff are providing services;

(3) who to contact in case of an emergency or significant adverse change in the client's condition;

(4) the method for the licensee to contact a responsible person of the client, if any; and

(5) circumstances in which emergency medical services are not to be summoned, consistent with the Adult Health Care Decisions Act, *Minnesota Statutes*, chapter 145B, and declarations made by the client under that act.

Subp. 3. **Exceptions for class C.** Class C licensees need not comply with subpart 2, items B, C, and E, subitem (2).

4668.0150 MEDICATION AND TREATMENT ORDERS.

Subpart 1. **Scope.** This part applies to medications and treatments that are ordered by a physician, osteopath, dentist, podiatrist, chiropractor, or other prescriber to be administered by the licensee.

Subp. 2. **Medication and treatment orders.** Medications and treatments must be administered by a nurse or therapist qualified to perform the order or by a person who performs home health aide tasks under the direction and supervision of the nurse or therapist consistent with part 4668.0100, subparts 2 to 4.

Subp. 3. **Authorizations.** All orders for medications and treatments must be dated and signed by the prescriber, except as provided by subpart 5.

Subp. 4. **Content of orders.** All orders for medications must contain the name of the drug, dosage, and directions for use.

Subp. 5. **Verbal orders.** Upon receiving an order verbally from a prescriber, the nurse or therapist shall:

A. record and sign the order; and

B. forward the written order to the prescriber for the prescriber's signature no later than seven days after receipt of the verbal order.

Subp. 6. **Renewal of orders.** All orders must be renewed at least every three months.

4668.0160 CLIENT RECORDS.

Subpart 1. **Maintenance of client record.** The licensee shall maintain a record for each client.

Subp. 2. **Security.** Client record information must be safeguarded against loss, destruction, or unauthorized use. The licensee shall establish written procedures to control use and removal of client records from the provider's offices and to establish criteria for release of information. The client record must be readily accessible to personnel authorized by the licensee to use the client record.

Subp. 3. **Retention.** A client's record must be retained for at least five years following discharge. Arrangements must be made for secure storage and retrieval of client records if the licensee ceases business.

Subp. 4. **Transfer of client.** If a client transfers to another home care provider or is admitted to an inpatient facility, the licensee, upon request of the client, shall send a copy or summary of the client's record to the new provider or facility or to the client.

Subp. 5. **Form of entries.** All entries in the client record must be:

A. legible, permanently recorded in ink, dated, and authenticated with the name and title of the person making the entry; or

B. recorded in an electronic media in a secure manner.

Subp. 6. **Content of client record.** The client record must contain:

A. the following information about the client:

(1) name;

(2) address;

(3) telephone number;

(4) date of birth;

(5) dates of the beginning and end of services; and

(6) names, addresses, and telephone numbers of any responsible persons;

B. a service agreement as required by part 4668.0140;

C. medication and treatment orders, if any;

D. notes summarizing each contact with the client, signed by each individual providing service including volunteers, and entered in the record no later than two weeks after the contact;

E. names, addresses, and telephone numbers of the client's medical services providers and other home care providers, if known;

F. a summary following the termination of services, which includes the reason for the initiation and termination of services, and the client's condition at the termination of services.

Class C and class E licensees need only include the information required by items A, B, and E.

Subp. 7. **Confidentiality.** The licensee shall not disclose to any other person any personal, financial, medical, or other information about the client, except:

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- A. as may be required by law;
- B. to staff or contractors of the licensee who require information in order to provide services to the client, but only such information that is necessary to the provision of services;
- C. to persons authorized in writing by the client or the client's responsible person to receive the information, including third-party payers; and
- D. representatives of the commissioner authorized to survey or investigate home care providers.

4668.0170 REQUEST BY CLIENT FOR DISCONTINUATION OF LIFE SUSTAINING TREATMENT.

Subpart 1. **Action by person receiving request.** If a client, family member, or other caregiver of the client requests that an employee or other agent of the licensee discontinue a life sustaining treatment, the employee or other agent of the licensee receiving the request:

- A. shall take no action to discontinue the treatment; and
- B. shall promptly inform the person's supervisor or other representative of the licensee of the client's request.

Subp. 2. **Action by licensee.** Upon being informed of a request for termination of treatment, the licensee shall promptly:

- A. inform the client that the request will be made known to the physician who ordered the client's treatment; and
- B. inform the physician of the client's request.

Subp. 3. **Right to maintain treatment.** This part does not require the licensee to discontinue treatment, except as may be required by law or court order.

Subp. 4. **Rights of clients.** This part does not diminish the rights of clients to control their treatments or terminate their relationships with providers.

Subp. 5. **Health care declarations.** This part shall be construed in a manner consistent with the Adult Health Care Decisions Act, *Minnesota Statutes*, chapter 145B, and declarations made by clients under that act.

4668.0180 CLASS A PROVIDER, PROFESSIONAL HOME CARE AGENCY.

Subpart 1. **Scope.** This part applies only to a professional home care agency with a class A license under part 4668.0012, subpart 3.

Subp. 2. **Required services.** The licensee shall provide at least one of the following home care services directly:

- A. professional nursing;
- B. physical therapy;
- C. speech therapy;
- D. respiratory therapy;
- E. occupational therapy;
- F. nutritional services; or
- G. medical social services.

Subp. 3. **Scope of services.** The licensee may provide all home care services, except that the licensee may provide a hospice program only if licensed as a hospice program under part 4668.0012, subpart 3, as provided by *Minnesota Statutes*, section 144A.48, subdivision 5.

Subp. 4. **Medical social services.** If provided, medical social services must be provided in compliance with *Minnesota Statutes*, sections 148B.18 to 148B.28.

Subp. 5. **Nursing services.** If provided, nursing services must be provided according to *Minnesota Statutes*, sections 148.171 to 148.285.

Subp. 6. **Physical therapy.** If provided, physical therapy must be provided according to *Minnesota Statutes*, sections 148.65 to 148.78.

Subp. 7. **Other services.** Other services not addressed in this chapter may be provided.

Subp. 8. **Referrals.** If a licensee reasonably believes that a client is in need of another medical or health service, including that of a physician, osteopath, dentist, podiatrist, chiropractor, other health professional, or social service provider, the licensee shall:

- A. inform the client of the possible need;
- B. determine the client's preferences with respect to obtaining the service; and
- C. if the client desires the service, inform the client about available providers or referral services.

Subp. 9. **Quality assurance.** The licensee shall establish and implement a quality assurance plan, described in writing, in which the licensee must:

- A. monitor and evaluate two or more selected components of its services at least once every 12 months; and
- B. document the collection and analysis of data and the action taken as a result.

Subp. 10. **Equivalent requirements for certified providers.** A class A licensee that is certified for participation in Medicare as a home health agency under Code of Federal Regulations, title 42, part 484, need not comply with this part, or with the following provisions of this chapter:

- A. part 4668.0040;
- B. part 4668.0050;
- C. part 4668.0060, subparts 2, 3, 4, and 7;
- D. part 4668.0070, subparts 1 and 2;
- E. part 4668.0080, subparts 1 and 2;
- F. part 4668.0100, subparts 1 and 4 to 9;
- G. part 4668.0110;
- H. part 4668.0130;
- I. part 4668.0140, subparts 1 and 2, items A to D;
- J. part 4668.0150;
- K. part 4668.0160;
- L. part 4668.0180, subparts 1 to 9.

4668.0190 CLASS B PROVIDER, PARAPROFESSIONAL AGENCY.

A paraprofessional agency with a class B license under part 4668.0012, subpart 3, may perform home care aide tasks and home management tasks.

4668.0200 CLASS C PROVIDER, INDIVIDUAL PARAPROFESSIONALS.

Subpart 1. **Scope.** This part applies only to a paraprofessional with a class C license under part 4668.0012, subpart 3.

Subp. 2. **Services.** The licensee may perform:

- A. home health aide tasks;
- B. home care aide tasks; and
- C. home management tasks.

Subp. 3. **Training.** The licensee who performs home health aide tasks or home care aide tasks must meet the requirements of part 4668.0130 before a license will be issued.

Subp. 4. **Record of supervision.** The licensee who performs home health aide tasks must maintain a record of the supervision required by part 4668.0100, subpart 9.

Subp. 5. **Records.** The licensee must maintain a written record of the services provided at each visit to clients.

Subp. 6. **Notice of clientele.** Upon request of the commissioner, class C licensees shall provide the name, address, and telephone numbers of all or specified clients and the clients' responsible persons.

4668.0210 CLASS D PROVIDER, HOSPICE PROGRAM.

Subpart 1. **Scope.** This part implements *Minnesota Statutes*, section 144A.48. This part applies only to a hospice program holding a class D license under part 4668.0012, subpart 3, and must be read together with *Minnesota Statutes*, section 144A.48.

Subp. 2. **Required services and programs.** A licensee must provide the services and programs required by *Minnesota Statutes*, section 144A.48, subdivision 2, subject to this part.

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Subp. 3. **Core services.** The core services, as required by *Minnesota Statutes*, section 144A.48, subdivision 2, clause (1), and as defined by *Minnesota Statutes*, section 144A.48, subdivision 1, paragraph (1), may be provided directly by the licensee, through contracts between the licensee and other providers, or through other arrangements between the licensee and other providers. Contracts or other arrangements must be described in writing, and must include the other providers' names, addresses, telephone numbers, contact persons, and the types of services to be provided.

Subp. 4. **Hospice program director.** The licensee shall designate an individual or individuals who shall have defined lines of responsibility and authority and who are responsible for the overall management of the hospice program.

Subp. 5. **Medical director.** The licensee shall have a medical director, who may be an employee, a contractor, or may serve as a volunteer. The medical director must:

- A. be a physician currently licensed in Minnesota; and
- B. have experience or training in hospice program services or in the palliative treatment of terminal illnesses.

Subp. 6. **Policies of medical director.** The licensee shall establish in writing the medical director's responsibilities, and the procedures necessary to implement the licensee's policies and this chapter concerning medical care. These policies and procedures must be provided to the medical director if the medical director is an employee or volunteer of the licensee. If the medical director is a contractor, these policies and procedures must be incorporated into a written contract.

Subp. 7. **Responsibilities of medical director.** The medical director:

- A. shall direct the medical components of the hospice program;
- B. shall provide consultation to the interdisciplinary teams, hospice program management, and staff; and
- C. may, with a client's consent, provide medical services to the client.

Subp. 8. **Attending physician.** The palliative medical care provided to the client must be established in the plan of care after consultation with a physician designated by the client as the client's attending physician.

Subp. 9. **Composition of interdisciplinary team.** The licensee shall establish an interdisciplinary team appropriate to each client. Each team must consist of individuals who represent each provider of core services to that team's client.

Subp. 10. **Duties of interdisciplinary team.** The interdisciplinary team required by subpart 9 shall:

- A. establish a plan of care for the team's client; and
- B. review and evaluate the client's plan of care as often as is appropriate to the client.

Subp. 11. **Orientation of the interdisciplinary teams.** Each member of each interdisciplinary team must be oriented to the physical, spiritual, and psychosocial aspects of hospice care.

Subp. 12. **Accessibility.** The licensee must provide a mechanism for clients or other providers to reach a designated contact person at all times, in case of emergencies or crises.

Subp. 13. **Quality assurance.** The licensee must establish and implement a quality assurance plan, described in writing, in which the licensee must:

- A. monitor and evaluate two or more selected components of hospice care services at least once every 12 months, including those provided in the home and in inpatient facilities; and
- B. document the collection and analysis of data and the action taken as a result.

Subp. 14. **Volunteer services.** If the licensee provides services through the use of volunteers, it shall comply with subparts 15 to 20.

Subp. 15. **Criminal disqualification of volunteers.** A licensee shall not use the services of a volunteer who is disqualified from providing home care services because of a criminal conviction, under part 4668.0020.

Subp. 16. **Volunteer training.** All volunteers who will provide services directly to clients of the licensee must complete a training course before providing any services. The training course may be combined with other training and must include the following topics:

- A. the orientation required by part 4668.0075;
- B. confidentiality of client records and communications between clients and licensee staff;
- C. goals and services of hospice care; and
- D. record keeping.

Subp. 17. **Documentation of training.** The training required by subpart 16 must be documented by attendance records.

Subp. 18. **In-service training for volunteers.** The licensee shall make available to volunteers an in-service training program at least every three months. The in-service for volunteers may be provided in conjunction with in-service programs for employees.

Subp. 19. **Paraprofessional tasks by volunteers.** Except as provided by subpart 20, volunteers who perform home health aide tasks or home care aide tasks must meet the requirements of parts 4668.0100 and 4668.0110.

Subp. 20. **Incidental paraprofessional tasks by volunteers.** Volunteers who have not met the qualifications under part 4668.0100, subpart 5, or 4668.0110, subpart 2, may perform home care aide tasks if the tasks are performed incidentally to the provision of other services, and are not performed as a regular part of the volunteer services.

Subp. 21. **Bereavement services.** The licensee shall offer bereavement services to the client's family after the client's death. For purposes of this subpart, "family" includes persons related to the client or close significant others.

Subp. 22. **Inpatient services.** The licensee shall provide inpatient services directly or shall arrange with one or more hospitals or nursing homes to provide inpatient services to the licensee's clients. If the arrangements are not subject to a contract, the licensee shall establish in writing the services that will be provided by the inpatient facility, the circumstances under which they are to be provided, and the procedures that will be followed in admitting and discharging clients.

Subp. 23. **Equivalent requirements for certified providers.** A class D licensee that is certified for participation in Medicare as a hospice program under Code of Federal Regulations, title 42, part 418, need not comply with subparts 1 to 10, 12, 13, 16 to 18, 21, and 22.

4668.0215 CLASS E PROVIDER, ASSISTED LIVING SERVICES.

Subpart 1. **Scope.** This part applies to an assisted living service holding a class E license.

Subp. 2. **Services.** Class E licensees may provide assisted living services.

4668.0218 INFORMATION AND REFERRAL SERVICES.

The commissioner may request from licensees information necessary to establish and maintain information and referral services required by *Minnesota Statutes*, section 144A.47, and licensees shall provide the requested information. This information may be required to be provided together with the licensing information required by part 4668.0012, or may be required to be provided separately.

4668.0220 SURVEYS AND INVESTIGATIONS.

Subpart 1. **Surveys.** Except as provided in subpart 3 or 10, the commissioner may survey each applicant or licensee before issuing a new license or renewing an existing license. Applicants and licensees shall provide any and all information requested by the surveyor or investigator that is within the scope of licensure.

Subp. 2. **Coordination of surveys.** If feasible, the commissioner shall survey licensees to determine compliance with this chapter at the same time as surveys for certification for Medicare and medical assistance.

Subp. 3. **Biennial surveys.** A licensee that has been licensed for at least two consecutive years and that has been in substantial compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.49, and has had no serious violations in that period, may be surveyed every second license term rather than during each license term.

Subp. 4. **Complaint investigations.** Upon receiving information that a licensee may be violating or may have violated a requirement of this chapter or *Minnesota Statutes*, sections 144A.43 to 144A.48, the commissioner shall investigate the complaint.

Subp. 5. **Scheduling surveys.** Surveys and investigations shall be conducted without advance notice to licensees. Surveyors may contact licensees on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice.

Subp. 6. **Contacting and visiting clients.** Surveyors may contact or visit a licensee's clients without notice to the licensee. Licensees shall provide a list of current and past clients and responsible persons with addresses and telephone numbers upon request of a surveyor. Before visiting a client, a surveyor shall obtain the client's or responsible person's permission by telephone, by mail, or in person. Surveyors shall inform all clients and responsible persons of their right to decline permission for a visit.

Subp. 7. **Information from clients.** The commissioner may solicit information from clients by telephone, mail, or other means.

Subp. 8. **Client information.** Upon the commissioner's request, licensees shall provide to the commissioner information identifying some or all of its clients and any other information about the licensee's services to the clients.

Subp. 9. **Sampling of clientele.** The commissioner may conduct a written survey of all or a sampling of home care clients to determine their satisfaction with the services provided.

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Subp. 10. **Surveys of class C licensees.** The commissioner may survey class C licensees by telephoning, visiting, or writing to the licensees' clients. Office visits may be conducted, but are not required.

4668.0230 FINES FOR UNCORRECTED VIOLATIONS.

Subpart 1. **Authority.** The fines provided under this part are under the authority of *Minnesota Statutes*, sections 144A.45, subdivision 2, clause (4), and 144.653, subdivision 6.

Subp. 2. **Fines for license classes.** Class A, class B, class D, and class E licensees shall be assessed fines at 100 percent of the amounts provided in subpart 3. Class C licensees shall be assessed fines at 25 percent of the amounts provided in subpart 3.

Subp. 3. **Schedule of fines for violations of statutory provisions.** For each violation of a statutory provision subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the following fines shall be assessed for the respective provision that was violated in *Minnesota Statutes*:

- A. section 144A.44, subdivision 1, clause (1), \$250;
- B. section 144A.44, subdivision 1, clause (2), \$250;
- C. section 144A.44, subdivision 1, clause (3), \$50;
- D. section 144A.44, subdivision 1, clause (4), \$350;
- E. section 144A.44, subdivision 1, clause (5), \$250;
- F. section 144A.44, subdivision 1, clause (6), \$250;
- G. section 144A.44, subdivision 1, clause (7), \$50;
- H. section 144A.44, subdivision 1, clause (8), \$250;
- I. section 144A.44, subdivision 1, clause (9), \$250;
- J. section 144A.44, subdivision 1, clause (10), \$250;
- K. section 144A.44, subdivision 1, clause (11), \$350;
- L. section 144A.44, subdivision 1, clause (12), \$250;
- M. section 144A.44, subdivision 1, clause (13), \$500;
- N. section 144A.44, subdivision 1, clause (14), \$250;
- O. section 144A.44, subdivision 1, clause (15), \$350;
- P. section 144A.44, subdivision 1, clause (16), \$250;
- Q. section 144A.44, subdivision 1, clause (17), \$500;
- R. section 144A.44, subdivision 2, \$250;
- S. section 144A.48, subdivision 2, clause (1), \$100;
- T. section 144A.48, subdivision 2, clause (2), \$300;
- U. section 144A.48, subdivision 2, clause (3), \$350;
- V. section 144A.48, subdivision 2, clause (4), \$350;
- W. section 144A.48, subdivision 2, clause (5), \$500;
- X. section 144A.48, subdivision 2, clause (6), \$100;
- Y. section 144A.48, subdivision 2, clause (7), \$300;
- Z. section 144A.48, subdivision 2, clause (8), \$50; and
- AA. section 144A.48, subdivision 2, clause (9), \$500.

Subp. 4. **Schedule of fines for violations of rules.** For each violation of a rule provision subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the following fines shall be assessed for the respective rule that was violated:

- A. part 4668.0009, subpart 5, \$100;
- B. for providing false information required by part 4668.0012, subpart 7, \$500;
- C. part 4668.0012, subpart 9, \$100;
- D. part 4668.0012, subpart 18, \$50;
- E. a variance, under part 4668.0016, subpart 8, the fine shall be the amount of the fine established for the rule that was varied;

F. part 4668.0019, \$250;
G. part 4668.0020, subpart 3, \$300;
H. part 4668.0020, subpart 4, \$500;
I. part 4668.0020, subpart 9, \$300;
J. part 4668.0020, subpart 10, \$300;
K. part 4668.0020, subpart 11, \$300;
L. part 4668.0020, subpart 12, \$300;
M. part 4668.0020, subpart 14, \$300;
N. part 4668.0020, subpart 18, item A, \$300;
O. part 4668.0020, subpart 18, item B, \$100;
P. part 4668.0030, subpart 2, \$250;
Q. part 4668.0030, subpart 3, \$50;
R. part 4668.0030, subpart 4, \$50;
S. part 4668.0030, subpart 5, \$50;
T. part 4668.0030, subpart 6, \$50;
U. part 4668.0030, subpart 7, \$500;
V. part 4668.0030, subpart 8, \$250;
W. part 4668.0035, subpart 1, \$250;
X. part 4668.0035, subpart 2, \$100;
Y. part 4668.0035, subpart 3, \$100;
Z. part 4668.0040, subpart 1, \$250;
AA. part 4668.0040, subpart 2, \$50;
BB. part 4668.0040, subpart 3, \$250;
CC. part 4668.0050, subpart 1, \$350;
DD. part 4668.0050, subpart 2, \$100;
EE. part 4668.0060, subpart 1, \$350;
FF. part 4668.0060, subpart 2, \$50;
GG. part 4668.0060, subpart 4, \$350;
HH. part 4668.0060, subpart 5, \$350;
II. part 4668.0060, subpart 6, \$500;
JJ. part 4668.0060, subpart 7, \$300;
KK. part 4668.0065, subpart 1, \$500;
LL. part 4668.0065, subpart 2, \$500;
MM. part 4668.0065, subpart 3, \$300;
NN. part 4668.0070, subpart 1, \$50;
OO. part 4668.0070, subpart 2, \$50;
PP. part 4668.0070, subpart 3, \$50;
QQ. part 4668.0075, subpart 1, \$300;

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RR. part 4668.0075, subpart 2, \$100;
SS. part 4668.0075, subpart 4, \$50;
TT. part 4668.0080, subpart 1, \$300;
UU. part 4668.0080, subpart 2, \$300;
VV. part 4668.0080, subpart 3, \$300;
WW. part 4668.0080, subpart 4, \$300;
XX. part 4668.0100, subpart 1, \$350;
YY. part 4668.0100, subpart 2, \$350;
ZZ. part 4668.0100, subpart 3, \$500;
AAA. part 4668.0100, subpart 4, \$350;
BBB. part 4668.0100, subpart 5, \$300;
CCC. part 4668.0100, subpart 6, \$300;
DDD. part 4668.0100, subpart 7, \$50;
EEE. part 4668.0100, subpart 8, \$350;
FFF. part 4668.0100, subpart 9, \$350;
GGG. part 4668.0110, subpart 1, \$350;
HHH. part 4668.0110, subpart 2, \$300;
III. part 4668.0110, subpart 3, \$50;
JJJ. part 4668.0110, subpart 4, \$300;
KKK. part 4668.0130, subpart 1, \$300;
LLL. part 4668.0130, subpart 2, \$300;
MMM. part 4668.0130, subpart 3, \$300;
NNN. part 4668.0130, subpart 4, \$50;
OOO. part 4668.0140, subpart 1, \$250;
PPP. part 4668.0140, subpart 2, \$50;
QQQ. part 4668.0150, subpart 2, \$350;
RRR. part 4668.0150, subpart 3, \$350;
SSS. part 4668.0150, subpart 4, \$350;
TTT. part 4668.0150, subpart 5, \$350;
UUU. part 4668.0150, subpart 6, \$350;
VVV. part 4668.0160, subpart 1, \$100;
WWW. part 4668.0160, subpart 2, \$100;
XXX. part 4668.0160, subpart 3, \$50;
YYY. part 4668.0160, subpart 4, \$100;
ZZZ. part 4668.0160, subpart 5, \$50;
AAAA. part 4668.0160, subpart 6, \$100;
BBBB. part 4668.0160, subpart 7, \$250;
CCCC. part 4668.0170, subpart 1, \$500;
DDDD. part 4668.0170, subpart 2, \$500;
EEEE. part 4668.0180, subpart 3, \$500;
FFFF. part 4668.0180, subpart 4, \$300;
GGGG. part 4668.0180, subpart 5, \$300;

HHHH. part 4668.0180, subpart 6, \$300;
IIII. part 4668.0180, subpart 8, \$200;
JJJJ. part 4668.0180, subpart 9, \$100;
KKKK. part 4668.0190, \$500;
LLLL. part 4668.0200, subpart 2, \$500;
MMMM. part 4668.0200, subpart 4, \$100;
NNNN. part 4668.0200, subpart 5, \$50;
OOOO. part 4668.0200, subpart 6, \$500;
PPPP. part 4668.0210, subpart 3, \$100;
QQQQ. part 4668.0210, subpart 4, \$100;
RRRR. part 4668.0210, subpart 5, \$100;
SSSS. part 4668.0210, subpart 6, \$100;
TTTT. part 4668.0210, subpart 7, \$100;
UUUU. part 4668.0210, subpart 8, \$350;
VVVV. part 4668.0210, subpart 9, \$300;
WWWW. part 4668.0210, subpart 10, \$300;
XXXX. part 4668.0210, subpart 11, \$300;
YYYY. part 4668.0210, subpart 12, \$350;
ZZZZ. part 4668.0210, subpart 13, \$100;
AAAAA. part 4668.0210, subpart 15, \$300;
BBBBB. part 4668.0210, subpart 16, \$350;
CCCCC. part 4668.0210, subpart 17, \$50;
DDDDD. part 4668.0210, subpart 18, \$300;
EEEEE. part 4668.0210, subpart 19, \$300;
FFFFF. part 4668.0210, subpart 21, \$350;
GGGGG. part 4668.0210, subpart 22, the first sentence, \$350;
HHHHH. part 4668.0210, subpart 22, the second sentence, \$50;
IIIII. part 4668.0220, subpart 6, \$500; and
JJJJJ. part 4668.0220, subpart 8, \$500.

4669.0001 AUTHORITY.

This chapter establishes fees for the licensing of home care and hospice providers, as required by *Minnesota Statutes*, section 144A.46, subdivision 1, paragraph (c), and part 4668.0012, subpart 19.

4669.0010 DEFINITIONS.

Subpart 1. **Applicant.** "Applicant" means a provider of home care services that applies for a new license or renewal license under chapter 4668.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Health.

Subp. 3. **Provider.** "Provider" means a home care provider required to be licensed under *Minnesota Statutes*, sections 144A.43 to 144A.48.

Subp. 4. **Revenues.** "Revenues" means all money or the value of property or services received by a registrant and derived from

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Proposed Rules

the provision of home care services, including fees for services, grants, bequests, gifts, donations, appropriations of public money, and earned interest or dividends.

4669.0020 LICENSE FEE.

An applicant for a new license or renewal license under chapter 4668 shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the formula in part 4669.0050.

4669.0030 PROCEDURE FOR PAYING LICENSE FEE.

Subpart 1. **Payment of fee.** An applicant shall submit the fee required by part 4669.0050 to the commissioner together with the application for the license.

Subp. 2. **Verification of revenues.** The commissioner may require each applicant to verify its revenues by providing a copy of an income tax return; informational tax return, such as an Internal Revenue Service form 1065 partnership return or form 990 tax-exempt organization return; Medicare cost report; certified financial statement; or other documentation that verifies the accuracy of the revenues derived from the provision of home care services for the reporting period on which the fee is based.

4669.0040 FEE LIMITATION.

A provider is subject to one registration fee, regardless of the number of distinct programs through which home care services are provided. The fee shall be based on the total revenue of all home care programs.

4669.0050 FEE SCHEDULE.

Subpart 1. **Fees for classes A, B, and D.** The amount of the fee for class A, class B, and class D providers, shall be determined according to the following schedule:

- A. for revenues greater than \$1,500,000, \$4,000;
- B. for revenues greater than \$1,275,000 and no more than \$1,500,000, \$3,500;
- C. for revenues greater than \$1,100,000 and no more than \$1,275,000, \$3,000;
- D. for revenues greater than \$950,000 and no more than \$1,100,000, \$2,500;
- E. for revenues greater than \$850,000 and no more than \$950,000, \$2,250;
- F. for revenues greater than \$750,000 and no more than \$850,000, \$2,000;
- G. for revenues greater than \$650,000 and no more than \$750,000, \$1,750;
- H. for revenues greater than \$550,000 and no more than \$650,000, \$1,500;
- I. for revenues greater than \$450,000 and no more than \$550,000, \$1,250;
- J. for revenues greater than \$350,000 and no more than \$450,000, \$1,000;
- K. for revenues greater than \$250,000 and no more than \$350,000, \$750;
- L. for revenues no more than \$250,000, \$500; and
- M. for class D providers with annual revenues no more than \$25,000, \$250.

Subp. 2. **Fees for class C.** The amount of the fee for class C providers shall be as follows:

- A. for revenues greater than \$1,000, \$50; and
- B. for revenues no more than \$1,000, \$20.

Subp. 3. **Fees for class E.** The amount of the fee for class E providers is \$500.

Subp. 4. **Fees for medical equipment vendors.** Regardless of the class under which it is licensed, a provider of medical supplies and equipment shall pay a fee of \$500.

EFFECTIVE DATE. These rules, except for parts 4668.0100, subpart 5; 4668.0110, subpart 2; and 4668.0130, are effective 90 days after adoption. Parts 4668.0100, subpart 5; 4668.0110, subpart 2; and 4668.0130, are effective one year after adoption.

Housing Finance Agency

Proposed Permanent Rules Relating to Accessibility Deferred and Home Improvement Loan Program

Notice of Intent to Adopt a Rule Without a Public Hearing

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

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

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

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

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

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

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

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

Dated: 21 June 1991

James J. Solem
Commissioner

Rules as Proposed

4900.0010 DEFINITIONS.

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

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

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

D. With respect to home improvement grants and rehabilitation loans pursuant to parts 4900.0610 to 4900.0700 and accessibility loans pursuant to parts 4900.0750 to 4900.0780 to be made by the agency, those persons and families whose assets do not exceed \$25,000, and

(1) with respect to home improvement grants and rehabilitation loans defined in part 4900.0610 as deferred loans, those persons and families whose adjusted income does not exceed \$8,500; or

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(2) with respect to rehabilitation loans defined in part 4900.0610 as revolving loans and accessibility loans defined in part 4900.0770 as deferred loans, those persons and families:

(a) in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington whose adjusted income does not exceed \$15,000; and

(b) in all other counties whose adjusted income does not exceed \$12,000.

E. With respect to home improvement loans, and accessibility improvement assistance, and accessibility deferred loans, pursuant to parts 4900.0510, and 4900.0710, and 4900.0750, respectively, those persons and families whose adjusted gross income does not exceed \$27,000 or such lower amount as the limits established by the agency may establish to assure that the interest on obligations of the pursuant to part 4900.0070 in conformity with the requirements of the United States Department of the Treasury or other agency will be exempt from of the federal income taxation government for federally subsidized mortgages for low- and moderate-income families.

[For text of items F to H, see M.R.]

4900.0770 DISTRIBUTION OF ACCESSIBILITY DEFERRED LOANS.

Subpart 1. **Availability.** Accessibility funds shall be provided in the form of deferred loans. As funds become available, households meeting the limits established in 4900.0010, subpart 23, item D, shall have first priority for receipt of funds. These households A household will be eligible for a loan representing the total of approved expenses, or the maximum assistance available, whichever is less. Households with incomes exceeding the limit established in part 4900.0010, subpart 23, item D, but meeting the limit established in part 4900.0010, subpart 23, item E, shall have second priority for receipt of funds. These households will be eligible for a loan representing the share of approved expenses the household cannot afford as determined by MHFA, or the maximum assistance available, whichever is less. The agency will establish the manner of priority set aside and the manner in which affordability is calculated at the time funds become available.

Subp. 2. **Combined with other aid.** When an accessibility deferred loan is combined with assistance from other agency loan or grant programs, the requirements of those programs shall be met.

Subp. 3. **Limit on aid.** In no case shall the accessibility deferred loan for accessibility improvements, technical assistance, and related repairs inclusively exceed \$10,000 for a single structure.

Subp. 4. **Five-year limitation.** No property shall be eligible for an accessibility deferred loan if it has been improved through such assistance within the five-year period next preceding the date on which the application for such assistance is made, except in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the recipient, or a significant change in the handicapped person's physical condition which requires additional accessibility improvements to enable the handicapped person to function in the property.

Department of Labor and Industry

Occupational Safety and Health Division

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

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* 182.655 (1990). This notice proposes the adoption by reference of Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

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

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

John B. Lennes, Jr., Commissioner
Department of Labor and Industry

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

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

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978 and corrected in Volume 43, No. 216, November 7, 1979 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes prior to—January 1, 1991—June 1, 1991:

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

M. *Federal Register*, Vol. 55:

[For text of subitems (1) to (20), see M.R.]

(21) *Federal Register*, Vol. 55, No. 217, dated November 8, 1990: “Air Contaminants; Grant of Partial Stay for Nitroglycerin.”

(22) *Federal Register*, Vol. 55, No. 247, dated December 24, 1990: “Air Contaminants; Final Rule Interpretation for Grain Handling Industry.”

N. *Federal Register*, Vol. 56:

(1) *Federal Register*, Vol. 56, No. 48, dated March 12, 1991: “Occupational Exposure to Formaldehyde; Extension of Administrative Stay.”

(2) *Federal Register*, Vol. 56, No. 75, dated April 18, 1991: “Hazardous Waste Operations and Emergency Response; Corrections to Final Rule.”

(3) *Federal Register*, Vol. 56, No. 105, dated May 31, 1991: “Occupational Exposure to Lead; Corrections to Final Rule.”

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

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979, which incorporates changes, additions, deletions, and corrections made up to October 17, 1978, and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~January 1, 1991~~ June 1, 1991:

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

G. *Federal Register*, Vol. 56:

(1) *Federal Register*, Vol. 56, No. 15, dated January 23, 1991: “Safety Standards for Stairways and Ladders Used in the Construction Industry; Corrections to Final Rule.”

(2) *Federal Register*, Vol. 56, No. 26, dated February 7, 1991: “Safety Standards for Stairways and Ladders Used in the Construction Industry; Corrections to Final Rule.”

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

A) “Air Contaminants; Grant of Partial Stay for Nitroglycerin.” Federal OSHA reduced exposure limits for 375 toxic and hazardous substances on January 19, 1989; Minnesota OSHA adopted the revised limits on May 1, 1989. The new exposure limit for nitroglycerin (NG) of 0.1 mg/m³ measured as a 15-minute Short Term Exposure Limit (STEL) was stayed for the manufacture of NG and ng-based explosives and propellants for military and space use. The Transitional (prior) limit of a ceiling of 2 mg/m³ has remained in effect. On November 8, 1990, Federal OSHA partially extended the stay so that compliance with the new exposure limit by use of any reasonable means, including respiratory protection, is to be phased-in between November 1, 1990, and March 1, 1992, and the requirement for compliance using engineering controls is to be phased-in between December 31, 1992, and December 31, 1998.

Minnesota OSHA adopted the original partial stay on February 26, 1990. By this notice, Minnesota OSHA proposes to extend the partial stay for nitroglycerin to the new phased-in compliance dates adopted by Federal OSHA.

B) “Air Contaminants; Interpretation of Final Rule for the Grain Handling Industry.” Federal OSHA adopted a revised final rule on Air Contaminants on January 19, 1989; Minnesota OSHA adopted that final rule on May 1, 1989. That rule issued a new permissible

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exposure limit (PEL) for grain dust, defined as oat, wheat and barley dust, of 10 mg/m³ as an eight-hour time weighted average (TWA). It also specified PEL's for starch, sucrose and vegetable oil of 15 mg/m³ total dust and 5 mg/m³ respirable dust as TWA's. In addition, it established a limit for "particulates not otherwise regulated" (PNOR), which had previously been known as the nuisance dust limit, of 15 mg/m³ total dust and 5 mg/m³ respirable dust as TWA's. This PNOR limit applied to all dusts not otherwise regulated, including all grain dusts not covered by the specific grain dust limit.

A court challenge by the National Grain and Feed Association and the AFL-CIO resulted in a settlement which affirmed the above stated limits and an official interpretation of the Air Contaminants standard which applies only to the grain handling industries (those in SIC Codes 0723, 2041, 2044, 2046, 2047, 2048, 2075, 4221, and 5153). This interpretation applies only to exposure to grain dust, starch, sucrose, vegetable oil, and PNOR.

1) Between September 1, 1989 and December 31, 1992, the grain handling industry will have available all the alternatives for compliance made generally available to all other industries under the Air Contaminant Standard such that requirements may be met by any reasonable combination of engineering controls, work practices, and personal protective equipment; and

2) After December 31, 1992, the binding interpretations of 29 CFR 1910.1000(e) as published in the December 24, 1990, *Federal Register* shall apply to facilities in the grain handling industries.

By this notice, Minnesota OSHA proposes to adopt the interpretations published on December 24, 1990, as they apply to grain handling facilities.

C) "Occupational Exposure to Formaldehyde; Extension of Administrative Stay." On December 4, 1987, Federal OSHA adopted a revised Occupational Exposure to Formaldehyde Standard. In December 1988, in response to numerous comments concerning the confusion about the hazard warning provisions of the revised standard, Federal OSHA announced an administrative stay of paragraphs (m)(1)(i) through (m)(4)(ii) for nine months and requested comments concerning whether the paragraphs should be revoked and replaced by the requirements of the Hazard Communication Standard. That stay was subsequently extended several times with the most recent extension expiring on June 9, 1991.

Minnesota OSHA adopted the revised Occupational Exposure to Formaldehyde Standard on May 30, 1988 and the original administrative stay on February 6, 1989 along with all subsequent extensions. By this notice, Minnesota OSHA proposes to continue the administrative stay to coincide with the Federal OSHA extension.

D) "Hazardous Waste Operations and Emergency Response; Corrections to Final Rule." Federal OSHA published a final rule for Hazardous Waste Operations and Emergency Response (29 CFR 1910.120) on March 6, 1989. Corrections to the preamble and regulatory text of that final standard were published in the *Federal Register* on April 13, 1990. On April 18, 1991, additional corrections to paragraph (a)(3), the definition of "uncontrolled hazardous waste site" and to paragraph (e)(9) "certificate of equivalent training" were published.

Minnesota OSHA adopted the final 1910.120 standard on July 31, 1989; corrections to the preamble and regulatory text were adopted on July 16, 1990. By this notice, Minnesota OSHA proposes to adopt the additional changes published by Federal OSHA on April 18, 1991.

E) "Safety Standards for Stairways and Ladders Used in the Construction Industry." On November 14, 1990, Federal OSHA published the final standard revising and relocating the existing provisions for stairways and ladders into new Subpart X. Non-substantive corrections (i.e., correction of typographical errors) to the regulatory text were published in the *Federal Register* on January 23, 1991 and February 7, 1991.

Minnesota OSHA adopted the final Safety Standards for Stairways and Ladders Used in the Construction Industry on February 25, 1991. By this notice, Minnesota OSHA proposes to adopt the corrections as published in the *Federal Registers* dated January 23, 1991, and February 7, 1991.

F) "Occupational Exposure to Lead; Corrections to Final Rule." Federal OSHA adopted the Occupational Exposure to Lead Standard (29 CFR 1910.1025) on November 14, 1978. That standard was immediately challenged by both industry and labor in several U.S. Courts of Appeals. All cases were consolidated in the U.S. Court of Appeals for the District of Columbia Circuit. The court stayed a number of the standard's provisions on March 1, 1979, including the requirement of paragraph (e)(1) that employers implement engineering and work practice controls to achieve the permissible exposure limit (PEL). On August 15, 1980, the Court issued its decision upholding the standard in most respects and lifting the stay with regard to all provisions of the standard except paragraph (e)(1) as it applied to certain lead industries. On December 8, 1980, the U.S. Supreme Court issued a stay of the same provisions that had been stayed by the DC Circuit in March 1979, pending the filing and disposition of industry petitions for certiorari. On June 29, 1981, the Supreme Court denied the petition of certiorari, thus dissolving the stay and leaving in effect only the partial stay of paragraph (e)(1) that had been issued by the DC Circuit. Therefore, since June 29, 1981, every other provision of the lead standard has been in effect in all the lead industries. The Appendices to the published standard still refer to certain requirements of the standard as being stayed. Those references are obsolete and incorrect. By *Federal Register* notice published on May 31, 1991, Federal OSHA corrected those errors.

Minnesota OSHA adopted the Occupational Exposure to Lead Standard on July 7, 1980, along with the stayed provisions. Following issuance of the Supreme Court decision, Minnesota OSHA adopted the previously stayed provisions (with the exception of paragraph (e)(1) for certain industries) on March 22, 1982. Minnesota OSHA hereby proposes to adopt the corrections as published in the *Federal Register* on May 31, 1991.

Department of Natural Resources

Proposed Permanent Rules Relating to Travel Within Scientific and Natural Areas

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State of Minnesota intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* §§ 86A.05, subd. 5 and 86A.06.

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

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

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

Robert Djupstrom
500 Lafayette Road
Division of Fish and Wildlife
(612) 297-2357
St. Paul, Minnesota 55155

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed. [A copy of the proposed rule is attached to this notice.]

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Robert Djupstrom upon request.

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

Dated: 4 June 1991

Rodney W. Sando
Commissioner

Rules as Proposed

6135.4900 RESTRICTED USES AND ACTS.

[For text of subs 1 to 11, see M.R.]

Subp. 12. Travel by foot. Travel in a designated scientific and natural area is prohibited by any means other than foot, cross country ski, or snowshoe except in areas or on trails designated as allowing other specific uses.

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Proposed Rules

Pollution Control Agency

Proposed Permanent Rules Relating to Ash Management

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-referenced rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The Agency's authority to adopt the rules is *Minnesota Statutes* § 115A.97 (1990), as amended by Act of June 4, 1991, ch. 337, § 52.

The proposed rules establish standards for storage, transport, testing, and disposal of ash from mixed municipal solid waste combustors. The proposed rules apply to owners and operators of mixed municipal solid waste combustors and owners and operators of facilities which store, transport, or dispose of waste combustor ash. The proposed rules will provide standards and management methods that will ensure protection of human health and the environment.

All persons have until 4:30 p.m. on July 25, 1991, to submit comments to the Agency in support of or in opposition to the proposed rules 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 proposed rules within the comment period. If twenty-five 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 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* §§ 14.131 to 14.20 (1990).

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 the following dates at the stated locations:

- August 5, 1991, at the Agency board room, 520 Lafayette Road, St. Paul, Minnesota
- August 7, 1991, at the Mankato City Council Chambers, 202 East Jackson Street, Mankato, Minnesota
- August 12, 1991, at the Detroit Lakes City Council Chambers, 1025 Roosevelt Avenue, Detroit Lakes, Minnesota (Attendees are requested not to park directly in front of the council chambers building).

On all three dates, hearings will begin at 9:00 a.m. and proceed until there is no remaining testimony, or until 4:00 p.m. On August 5, 1991, an evening hearing will be held at the St. Paul location beginning at 7:00 p.m. and proceeding until there is no remaining testimony, or until 9:30 p.m. Additional hearings will be scheduled if necessary. To verify whether a hearing will be held, please call Carol Andrews of the Agency staff after July 26, 1991, at (612) 297-2759. Comments or written requests for a public hearing must be submitted to:

Carol Andrews
Minnesota Pollution Control Agency, GWSW/PD
520 Lafayette Road North
St. Paul, Minnesota 55155-3898
(612) 297-2759

The proposed rules 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 rules as noticed. One free copy of the rules is available upon request from Carol Andrews at the address and telephone number stated above.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 116.07, subd. 6 (1990), that the proposed rules will have only a negligible impact on the state's economy. Details of this finding are presented in section V "Economic Considerations" of the Statement of Need and Reasonableness.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1990), "Small business considerations in rulemaking," that the proposed rules may have minor impacts on small businesses which own or operate combustors which burn mixed municipal solid waste or dispose of ash from such facilities. Details of this finding are presented in section VI "Small Business Impacts" of the Statement of Need and Reasonableness.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.11, subd. 1 (1990), that the proposed rules may cost local agencies which own or operate mixed municipal solid waste combustors approximately \$30,000 to \$990,000 per year. The cost is dependent on the size of the waste combustor, the characteristics of the ash, and the location of the ash disposal facility.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.11, subd. 2 (1990), "Agricultural land," that the proposed

rules have no effect on agricultural lands. Details of this finding are presented in section VII "Impacts on Agricultural Lands" of the Statement of Need and Reasonableness.

A **Statement of Need and Reasonableness** that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Carol Andrews upon request.

If no hearing is required, upon adoption of the rules, the rules 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 rules as adopted, must submit a written request to Carol Andrews.

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Agency will hold a public hearing on the above-referenced matter at the following dates and locations:

- August 5, 1991, at the Agency board room, 520 Lafayette Road, St. Paul, Minnesota
- August 7, 1991, at the Mankato City Council Chambers, 202 East Jackson Street, Mankato, Minnesota
- August 12, 1991, at the Detroit Lakes City Council Chambers, 1025 Roosevelt Avenue, Detroit Lakes, Minnesota

On all three dates, hearings will begin at 9:00 a.m. and proceed until there is no remaining testimony, or until 4:00 p.m. On August 5, 1991, an evening hearing will be held at the St. Paul location beginning at 7:00 p.m. and proceeding until there is no remaining testimony, or until 9:30 p.m. Additional hearings will be scheduled if necessary.

The proposed rules establish standards for storage, transport, testing, and disposal of ash from mixed municipal solid waste combustors. The proposed rules apply to owners and operators of mixed municipal solid waste combustors and owners and operators of facilities which store, transport, or dispose of waste combustor ash. The proposed rules will provide standards and management methods that will ensure protection of human health and the environment.

All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements of briefs may be submitted without appearing at the hearing.

Please note, however, that the hearing will be canceled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Agency. To verify whether a hearing will be held, please call Carol Andrews of the Agency staff after July 26, 1991, at (612) 297-2759.

The matter will be heard before Administrative Law Judge Phyllis Reha, Office of Administrative Hearings, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, 612/341-7611. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* pts. 1400.0200 to 1400.1200. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed rules governing mixed municipal solid waste combustor ash management. The proposed rules consist of amendments to *Minnesota Rules* pts. 7001.0040 to 7001.3300 and 7035.0300 to 7035.2665, in addition to four all-new parts: 7001.3480, 7035.2885, 7035.2910, and 7035.2915. The proposed rules are authorized by *Minnesota Statutes* § 115A.97 (1990). The proposed rules are published below. One free copy of the proposed rules is available upon request by contacting:

Carol Andrews
Minnesota Pollution Control Agency, GWSW/PD
520 Lafayette Road North
St. Paul, Minnesota 55155-3898
(612) 297-2759

NOTICE IS HEREBY GIVEN that a **Statement of Need and Reasonableness** is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules.

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Proposed Rules

Copies of the Statement of Need and Reasonableness may be reviewed at the Agency offices or at the Office of the Administrative Hearings. Copies may be obtained from the Agency or the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rules in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after expiration of the comment period, the Agency and interested persons may respond in writing to any new information received during the comment period, however, no additional evidence may be submitted during this three-day period. Any written material or responses submitted must be received at the office no later than 4:30 p.m. on the final day of the period.

The Agency requests that any person submitting written views or data to the Administrative Law Judge prior to hearing or during the comment period also submit a copy of the written data to Carol Andrews at the address stated above.

The proposed rules may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rules.

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

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 116.07, subd. 6 (1990), that the proposed rules will have only a negligible impact on the state's economy. Details of this finding are presented in section V "Economic Considerations" of the Statement of Need and Reasonableness.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1990), "Small business considerations in rulemaking," that the proposed rules may have minor impacts on small businesses which own or operate combustors which burn mixed municipal solid waste or dispose of ash from such facilities. Details of this finding are presented in section VI "Small Business Impacts" of the Statement of Need and Reasonableness.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.11, subd. 1 (1990), that the proposed rules may cost local agencies which own or operate mixed municipal solid waste combustors approximately \$30,000 to \$990,000 per year. The cost is dependent on the size of the waste combustor, the characteristics of the ash, and the location of the ash disposal facility.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.11, subd. 2 (1990), "Agricultural land," that the proposed rules have no effect on agricultural lands. Details of this finding are presented in section VII "Impacts on Agricultural Lands" of the Statement of Need and Reasonableness.

PLEASE BE ADVISED that *Minnesota Statutes* ch. 10A (1990) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Charles W. Williams, Commissioner

Rules as Proposed

7001.0040 APPLICATION DEADLINES.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Preliminary application for new mixed municipal solid waste land disposal facility.** Applicants shall submit a preliminary permit application for a new mixed municipal solid waste or a new municipal solid waste combustor ash land disposal facility at least 90 days before the anticipated start of a detailed site investigation.

7001.3050 PERMIT REQUIREMENTS.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Permits-by-rule.** The owner or operator of the following facilities is deemed to have obtained a solid waste management facility permit without making application for it, unless the commissioner finds that the facility is not in compliance with the listed part:

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

F. storage sites for nonsludge wood waste generated from the wood preparation phase prior to processing or water treatment lime sludge and in compliance with part 7035.2855; ~~or~~

G. facilities receiving solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals provided that:

(1) the owner or operator does not accept waste for storage, processing, or disposal other than solid waste generated from the exploration, mining, milling, smelting, and refining of ores and minerals;

(2) the owner or operator has obtained a permit in accordance with part 7001.0020, item E; and

(3) the owner or operator is operating the facility in compliance with chapter 6130; or

H. facilities receiving five tons or less of municipal solid waste combustor ash for the purpose of researching in a laboratory ash treatment or utilization provided that ash is stored in compliance with part 7035.2855 and disposed of in compliance with part 7035.2885 or used in accordance with agency approvals, and provided that the facility owner or operator notifies the commissioner of the source and quantity of ash and the proposed method for managing the ash after research is complete; notification must also include a description of the research methods and intent, and must be received by the commissioner before ash is received at the facility.

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

7001.3075 SOLID WASTE MANAGEMENT FACILITY PERMIT APPLICATION.

Subpart 1. **Application submittals.** The application for a solid waste management facility permit must contain a final application with the appropriate supporting documents, and for mixed municipal solid waste and municipal solid waste combustor ash land disposal facilities, a preliminary application and detailed site evaluation report. The information requirements for the preliminary application are established in part 7001.3175 and for the detailed site evaluation in part 7001.3275. The information requirements for the final application are set forth in part 7001.3300. The applicant must also submit any information required in parts 7001.3375 to 7001.3475 with the final application.

Subp. 2. **Timing of application.** Applicants shall submit permit applications for existing and new solid waste management facilities or for reissuance of existing permits in accordance with part 7001.0040, except as provided in items A and B.

A. The applicant for a permit to construct a new mixed municipal solid waste or municipal solid waste combustor ash land disposal facility must submit a preliminary application at least 90 days before the work begins on the detailed site evaluation required by part 7001.3275.

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

7001.3275 DETAILED SITE EVALUATION REPORT.

Subpart 1. **Scope.** The applicant shall submit four copies of a detailed site evaluation report for all mixed municipal solid waste land disposal facilities. The report must include the information required in subparts 2 to 9 8 and supporting documentation. The report must discuss whether the site meets the requirements of part 7035.2815. The applicant shall submit four copies of a detailed site evaluation report for all municipal solid waste combustor ash land disposal facilities. The report must include the information required in subparts 2 to 8 with the exception of subpart 4, item D, along with supporting documentation. The report must discuss whether the site meets the requirements of part 7035.2885.

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

Subp. 3. **Soils for cover and liner construction.** The applicant must evaluate the availability and suitability of soil for cover and liner construction. This evaluation must include a description of the source and quantity of the soil, soil descriptions and unified classifications, particle size analyses, permeability at specified moisture and densities, Atterberg limits, and, for liner materials, cation exchange capacity. The determination must consist of the evaluations required in part 7035.2815, subpart 8. The evaluation must assess whether the available soils will meet the requirements of part 7035.2815, subparts 6 and 7 for a mixed municipal solid waste land disposal facility, and part 7001.2885, subparts 10 and 11 for a municipal solid waste combustor ash land disposal facility.

[For text of subps 4 to 8, see M.R.]

7001.3300 GENERAL INFORMATION REQUIREMENTS FOR FINAL APPLICATION.

The applicant shall submit to the commissioner four copies of the final application and supporting materials for any solid waste

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Proposed Rules

management facility. The applicant must use a horizontal scale of one inch equals 200 feet in all drawings and plans, unless otherwise specified. The applicant must mark all plans and reports with the initial date prepared. All subsequent revisions must be dated and include a notation of what revisions were made. The application must contain:

A. a general description of the facility;

B. an industrial waste management plan in accordance with part 7035.2535, subpart 5, to include a description of the waste types to be handled at the facility and the quantities of each waste type including a procedure for determining the analyses necessary to treat, store, or dispose of the waste properly in accordance with parts 7035.2525 to ~~7035.2875~~ 7035.2885. Municipal solid waste combustor ash land disposal facility applications must explain how the owner or operator will ensure that industrial wastes other than wastes specifically approved by the commissioner in accordance with part 7035.2885, subpart 3, will not be disposed of at the facility;

[For text of items C and D, see M.R.]

E. the contingency action plan required by part 7035.2615, including the information, if applicable, in parts 7035.2815, subpart 15, and 7035.2825 to ~~7035.2875~~ 7035.2885;

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

O. any additional geologic and other location information required to demonstrate compliance with parts 7035.2615, 7035.2815, subpart 15, and 7035.2825 to ~~7035.2875~~ 7035.2885;

P. an operations and maintenance manual that includes:

(1) the facility description and design parameters;

(2) emergency shutdown procedures;

(3) operation variables and procedures, including the proposed frequency and materials to be used for intermittent and intermediate cover;

(4) trouble-shooting procedures;

(5) preventive maintenance requirements;

(6) safety requirements and procedures;

(7) equipment maintenance records;

(8) site inspection records; and

(9) an inspection schedule for facility maintenance, such as controlling erosion, vegetation growth, and rodents;

Q. a construction inspection, quality control, and quality assurance plan showing a detailed inspection schedule for construction completed at the site; the sampling procedures including number and tests completed; the procedures for interpretation and submission of inspection and test results to the commissioner; and all other material required to comply with parts 7035.2525 to ~~7035.2875~~ 7035.2885; and

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

7001.3480 FINAL APPLICATION INFORMATION REQUIREMENTS FOR MUNICIPAL SOLID WASTE COMBUSTOR ASH LAND DISPOSAL FACILITIES.

The application for a municipal solid waste combustor ash land disposal facility permit must include the information in items A to I in addition to the information required by part 7001.3300.

A. A description of the ash and any other wastes proposed to be handled at the facility according to part 7035.2885, subpart 3, including the source and chemical and physical characteristics of the ash or other waste.

B. The proposed capacity of the site.

C. A description of how the requirements of part 7035.2885, subparts 4 and 5, regarding maximum leachable contaminant levels will be met.

D. A description of the status of the Environmental Assessment Worksheet or Environmental Impact Statement.

E. Detailed plans and an engineering report describing how the applicant will design, construct, operate, and maintain the facility to comply with the requirements of parts 7035.2525 to 7035.2805 and 7035.2885. The submission must address the following items as specified in part 7035.2885:

(1) the liner system, leak detection, and the leachate collection and removal system;

(2) control of run-off and run-on;

(3) management of collection, conveyance, and holding facilities associated with run-off and run-on control systems;

(4) control of wind dispersion of particulate matter;

(5) treatment of collected run-off, run-on, and leachate; and

(6) a phase development plan consistent with site capacity including two cross-sections per phase with a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet, perpendicular to one another, showing the existing grade, the excavation grade, final grade, the water table profile, and the profile and identity of the underlying geology according to part 7035.2885.

The submission must include the design specifications, materials and test data, the rationale for the design, and identification of elements critical to the performance of the design.

F. Geologic and hydrogeologic information necessary to demonstrate compliance with part 7035.2885, as submitted in the hydrogeologic report required in part 7001.3275, subpart 2.

G. An operation and maintenance manual detailing the procedures site personnel will follow in order to comply with parts 7035.2525 to 7035.2805 and 7035.2885.

H. A description of how the applicant will inspect the facility, including the liner and cover systems, in order to meet the requirements of part 7035.2885. The applicant must include this information in the inspection plan submitted under part 7001.3300, item D.

I. Detailed plans and an engineering report describing the final cover applied to each cell at closure under parts 7035.2525 to 7035.2805 and 7035.2885 and a description of how the applicant will maintain and monitor the facility after closure under parts 7035.2525 to 7035.2805 and 7035.2885. The applicant must include this information in the closure and postclosure plans submitted under part 7001.3300, item J.

7035.0300 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7035.0300 to ~~7035.2875~~ 7035.2915, the following terms have the meanings given them in this part.

[For text of subps 2 to 4, see M.R.]

Subp. 5. **Ash.** "Ash" means the incombustible material that remains after a fuel or solid waste is ~~incinerated~~ combusted.

[For text of subps 6 and 7, see M.R.]

Subp. 7a. **Bottom ash.** "Bottom ash" means the residues that remain in a combustion chamber after combustion. An owner or operator may include ash which is carried out of a combustion chamber by the flow of gases and captured by boiler tubes, economizers, or other equipment which captures particulate matter before gases enter air pollution control equipment.

[For text of subps 8 to 15, see M.R.]

Subp. 15a. **Combined ash.** "Combined ash" means ash which consists of a mixture of fly ash and bottom ash.

[For text of subparts 16 to 34, see M.R.]

Subp. 35. **Energy recovery facility.** "Energy recovery facility" means a ~~site~~ facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting it into an intermediate fuel product. Energy recovery facilities include, but are not limited to, municipal solid waste combustors.

Subp. 35a. **EPA Method 1311.** "EPA Method 1311" means the Toxicity Characteristic Leaching Procedure issued by the United States Environmental Protection Agency as EPA Method 1311 as provided by the Federal Register, volume 55, number 126, June 29, 1990.

Subp. 35b. **EPA Method 1312.** "EPA Method 1312" means the Synthetic Precipitation Leach Test for Soils, which is incorporated by reference in part 7035.0605.

Subp. 35c. **EPA SW-846.** "EPA SW-846" means Test Methods for Evaluating Solid Waste, EPA SW-846, Third Edition, which is incorporated by reference in part 7035.0605.

[For text of subps 36 to 38, see M.R.]

Subp. 38a. **Fly ash.** "Fly ash" means ash generated by a combustion facility which is carried out of the combustion chamber by

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Proposed Rules

the flow of gases and collected by air pollution control equipment before exhaust gases leave the facility. An owner or operator may include ash which is captured by boiler tubes, economizers, or other equipment which captures particulate matter before gases enter air pollution control equipment.

[For text of subps 39 to 48, see M.R.]

Subp. 49. **Intermittent cover.** "Intermittent cover" means cover material that is spread and compacted on the top and side slopes of compacted solid waste at least as often as the end of each operating week unless less frequent placement is approved according to part 7035.2885, subpart 10, item A, in order to control fire, infiltration, dust emissions, and erosion.

[For text of subps 50 to 62, see M.R.]

Subp. 62a. **Maximum leachable contaminant levels.** "Maximum leachable contaminant levels" means the numerical standards for the levels in leachate of substances listed in part 7035.2885, subpart 5. They are used to determine design and operational requirements which apply to a municipal solid waste combustor ash land disposal facility.

[For text of subps 63 to 67, see M.R.]

Subp. 67a. **Municipal solid waste combustor ash.** "Municipal solid waste combustor ash" means ash from combustion of mixed municipal solid waste or refuse-derived fuel at a waste combustor. Municipal solid waste combustor ash does not include ash from waste combustors which accept hazardous waste except in household quantities as allowed by part 7045.0120, item A. Municipal solid waste combustor ash which is managed according to parts 7035.2885 to 7035.2915 is a solid waste, and is not subject to regulation under chapter 7045. Ash from a facility that burns a mixture of mixed municipal solid waste or refuse-derived fuel and infectious waste or other nonhazardous wastes such that 20 percent or more of its heat input is from mixed municipal solid waste or refuse-derived fuel is considered municipal solid waste combustor ash. Ash from a facility that burns a mixture of mixed municipal solid waste or refuse-derived fuel with coal or other fuels is considered municipal solid waste combustor ash if the percentage of mixed municipal solid waste or refuse-derived fuel is such that the facility is considered a waste combustor under applicable state and federal rules and statutes.

Subp. 67b. **Municipal solid waste combustor ash land disposal facility.** "Municipal solid waste combustor ash land disposal facility" means a facility used to dispose of municipal solid waste combustor ash in or on the land.

[For text of subps 68 to 88, see M.R.]

Subp. 89. **Refuse.** "Refuse" means putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

[For text of subps 90 to 93, see M.R.]

Subp. 93a. **Rolling data set.** "Rolling data set" means a set of data, such as test results, which represents a specified period of time; at a specified frequency the data set changes to include more recent data and exclude data which are older than the beginning of the specified time period.

[For text of subps 94 to 111, see M.R.]

Subp. 111a. **Treatment.** "Treatment" means the physical or chemical change of a waste for the purpose of reducing or controlling pollution or the release of contaminants into the environment.

[For text of subps 112 to 115, see M.R.]

Subp. 115a. **Waste combustor.** "Waste combustor" means any stationary source, emissions unit, or emission facility where waste or refuse-derived fuel is combusted, and includes incinerators, energy recovery facilities, or other combustion devices.

[For text of subps 116 to 121, see M.R.]

7035.0400 GENERAL REQUIREMENTS.

All solid waste must be stored, collected, transferred, transported, ~~utilized~~ used, processed, and disposed of, or reclaimed in a manner consistent with requirements of parts 7035.0300 to ~~7035.2875~~ 7035.2915. The agency is responsible for enforcement of these parts and encourages cooperation of municipalities which may adopt these parts for use in local laws, ordinances, or regulations.

7035.0600 VARIANCES.

Any person who applies for a variance from any requirement of parts 7035.0300 to ~~7035.2875~~ 7035.2915 shall comply with part 7000.0700. An application for a variance must be acted upon by the agency according to *Minnesota Statutes*, section 116.07, subdivision 5, and part 7000.0700. However, no variance may be granted that would result in noncompliance with applicable federal rules and regulations for solid waste.

7035.0605 AVAILABILITY OF REFERENCES.

The documents needed for analyzing and classifying soils as required in parts 7035.0300 to ~~7035.2875~~ 7035.2915 may be obtained

by contacting the Engineering Library of the University of Minnesota, through the Minitex interlibrary loan system, and requesting the standards from the American Society for Testing and Material, in the Annual Book of ASTM Standards, 1916 Race Street, Philadelphia, Pennsylvania 19103.

The publication for classification of wetlands, titled "Classification of Wetlands and Deep Water Habitats of the United States," may be obtained through the Minitex interlibrary loan system or by requesting the publication from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

Test Methods for Evaluating Solid Waste, EPA SW-846, Third Edition, November 1986, issued by the United States Environmental Protection Agency (EPA), is incorporated by reference. Sections of this document which are directly relevant to parts 7035.2885 to 7035.2915 are available through the Minitex interlibrary loan system. The entire document is available from EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, 45268. It is not subject to frequent change.

The document Standard Number 54: Flexible Membrane Liners, May 1990, issued by the National Sanitation Foundation, is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

EPA Document 600/4-79-020 Methods for Chemical Analyses of Water and Wastes, appearing in Code of Federal Regulations, title 40, section 136, 1990, is incorporated by reference. The document is available through the Minitex interlibrary loan system and EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, 45268. It is not subject to frequent change.

EPA Method 1312: the Synthetic Precipitation Leach Test for Soils (draft document, no date available) is incorporated by reference. The method is available through the Minitex interlibrary loan system. A copy of the method may also be obtained from the commissioner. The draft method is not subject to frequent change.

EPA Method 8290, November 1990, is incorporated by reference. The method is available through the Minitex interlibrary loan system and EPA Office of Solid Waste, Characterization and Assessment Division, Technical Assessment Branch, OS-331, Washington, D.C., 20460. The method is not subject to frequent change.

American Society of Testing and Materials (ASTM) Methods D3173 and D3174 are incorporated by reference. These methods are published in the Annual Book of ASTM Standards: Part 26, Gaseous Fuels; Coal and Coke; Atmospheric Analysis, 1981 Edition. This publication is available through the Minitex interlibrary loan system. The methods are not subject to frequent change.

7035.0700 STORAGE OF SOLID WASTE AT INDIVIDUAL PROPERTIES.

[For text of subs 1 to 5, see M.R.]

Subp. 6. **Municipal solid waste combustor ash.** Municipal solid waste combustor ash must be stored in a manner which minimizes the emission of fugitive dust and escape of liquid which has been in contact with ash. Liquid that drains from the ash must be collected and reused at the facility, unless the commissioner finds that reuse of the liquid is not feasible based on the design of the facility, in which case the commissioner may approve another management method. Floor or surface drains serving ash collection, storage, and handling areas must not be connected to uncontaminated storm water run-off drains. Except for ash samples collected and stored according to part 7035.2910, a municipal solid waste combustor may not store ash for more than 15 days after the date the ash was generated. The maximum amount of ash stored at the facility must not exceed 15 days of daily production.

7035.0800 COLLECTION AND TRANSPORTATION OF SOLID WASTE.

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

Subp. 2. **Containers or vehicles.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes, or refuse containing such materials, must be covered, leakproof, durable, and of easily cleanable construction. They must be cleaned to prevent nuisances, pollution, or insect breeding, and must be maintained in good repair.

Vehicles or containers used for the transportation of municipal solid waste combustor ash must be covered to prevent fugitive dust emissions and constructed to prevent leaking of fluid which has been in contact with ash.

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

7035.2525 SOLID WASTE MANAGEMENT FACILITIES GOVERNED.

Subpart 1. **General requirements.** Parts 7035.2525 to ~~7035.2875~~ 7035.2915 apply to owners and operators of all facilities that treat, transfer, store, process, or dispose of solid waste except as specifically provided otherwise in this part.

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

Proposed Rules

Subp. 2. **Exceptions.** Parts 7035.2525 to ~~7035.2875~~ 7035.2915 do not apply to the following solid waste management facilities, except as indicated:

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

7035.2535 GENERAL SOLID WASTE MANAGEMENT FACILITY REQUIREMENTS.

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

Subp. 2. **Required notices.** The owner or operator of a solid waste management facility must notify the agency before transferring ownership or operation of a solid waste management facility during its operating life or during the postclosure care period. The owner or operator must also notify the new owner or operator in writing of the requirements of parts 7035.2525 to ~~7035.2875~~ 7035.2915 and existing permit conditions. No ownership or operation transfer may occur without a permit modification as required in part 7001.0190, subpart 2. The facility must be in substantial compliance with all agency rules before the agency will approve a transfer.

Subp. 3. **Security.** During the active life of the solid waste management facility, the closure period, and postclosure care period, as required, the owner or operator must prevent, by use of a fence or similar device, the unauthorized entry of persons or livestock onto the facility, unless the owner or operator demonstrates to the commissioner that:

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

B. disturbance of the waste or equipment will not cause a violation of parts 7035.2525 to ~~7035.2875~~ 7035.2915.

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

Subp. 5. **Industrial solid waste management.** All industrial solid waste delivered to a solid waste management facility must be managed by the owner or operator to protect human health and the environment. The industrial solid waste management plan required under part 7001.3300 must address items A to C, except that the industrial solid waste management plan for a municipal solid waste combustor ash land disposal facility need not comply with items B and C.

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

7035.2545 PERSONNEL TRAINING.

Subpart 1. **General.** Solid waste management facility personnel must successfully complete a program of classroom instruction or on-the-job training. The program must prepare facility personnel to maintain compliance with parts 7035.2525 to ~~7035.2875~~ 7035.2915. Personnel must complete all training within six months after November 15, 1988, or within six months after the date of employment. The owner or operator must record all personnel training on the facility operating record and submit the dates of training in the annual report.

[For text of subps 2 to 4, see M.R.]

7035.2555 LOCATION STANDARDS.

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

Subp. 2. **Other location standards.** An owner or operator may not establish or construct a solid waste management facility in the following areas:

A. within a shoreland or wild and scenic river governed by chapters 6105 and 6120;

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

7035.2575 OPERATING RECORD.

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

Subp. 2. **Record information.** The owner or operator of a solid waste management facility must record and maintain the following information in the operating record for a minimum of five years after closure of the facility or until any pending enforcement action is resolved:

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

G. For a municipal solid waste combustor ash land disposal facility, the amount by volume or weight of municipal solid waste combustor ash received for each day from each ash generator which delivers ash to the facility, and the date received.

7035.2585 ANNUAL REPORT.

The owner or operator of a solid waste management facility shall prepare and submit a single copy of an annual report to the commissioner no later than February 1 for the preceding calendar year. A report form and instructions may be obtained from the commissioner. The annual report must cover all facility activities during the previous calendar year and must include the following information:

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

H. the summary evaluation of the groundwater monitoring program required under ~~part~~ parts 7035.2815, subpart 14, item Q; and 7035.2885, subpart 16;

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

7035.2625 CLOSURE.

Subpart 1. **Closure.** The owner or operator of a solid waste management facility must cease to accept waste and must immediately close the facility in compliance with this part; ~~part and parts~~ 7035.2635; and ~~parts~~ 7035.2815 to ~~7035.2875~~ 7035.2915, when:

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

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

Subp. 3. **Submittal and contents of closure plan.** The owner or operator of a solid waste management facility shall submit a closure plan with the permit application, or as required by a closure document, or in order to establish financial assurance mechanisms in accordance with part 7035.2695. For unpermitted land disposal sites, the owner or operator shall submit a closure plan within 90 days after November 15, 1988. The agency shall approve the closure plan as part of the permit issuance procedure or as part of a submittal required by a closure document or other enforcement action. Compliance with the approved closure plan must be a condition of any permit, order, closure document, or stipulation agreement issued for the facility. Before approving the closure plan, the agency must ensure that the closure plan is consistent with subparts 2, 4, and 5, part 7035.2635, and the applicable closure requirements of parts 7035.2665; 7035.2815, subpart 16; and 7035.2825 to ~~7035.2875~~ 7035.2915.

A copy of the approved closure plan and all revisions to the plan must be kept at the facility until closure is completed and certified under part 7035.2635. At the time of closure, the agency will issue a closure document in accordance with part 7001.3055. The plan must identify steps needed to close each fill phase, if appropriate, and the entire site at the end of its operating life. The closure plan must include:

A. A description of how and when each fill phase and the entire facility will be closed. The description must identify how the requirements of subparts 2 and 5, parts 7035.2635; and 7035.2815 to ~~7035.2875~~ 7035.2915 will be complied with. The description must include the estimated year of closure and a schedule for completing each fill phase.

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

[For text of subps 4 and 5, see M.R.]

7035.2635 CLOSURE PROCEDURES.

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

Subp. 2. **Closure procedures.** If one or more of the conditions of part 7035.2625, subpart 1 exists, the owner or operator must:

A. Complete the appropriate activities outlined in the approved closure plan, closure document, stipulation agreement, and parts 7035.2815 to ~~7035.2875~~ 7035.2915, as appropriate.

B. Complete final closure activities consisting of at least:

[For text of subitems (1) and (2), see M.R.]

(3) submitting to the county recorder and the commissioner a detailed description of the waste types, including mixed municipal, industrial, and demolition debris, accepted at the facility and what the facility was used for, together with a survey plat of the site. The plat must be prepared and certified by a land surveyor registered in Minnesota. The landowner must record a notation on the deed to the property; ~~attaching as built plans for the solid waste management facility~~, or on some other instrument normally examined during a title search, that will in perpetuity notify any potential purchaser of the property of any special conditions or limitations for use of the site, as set out in the closure plan and closure document.

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

7035.2645 POSTCLOSURE.

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

Subp. 2. **Postclosure plan.** The landowner and the facility owner must keep a copy of the approved plan and amendments at the facility until the postclosure care period begins. During the postclosure care period, the plan must be kept by the contact person identified in item C. This plan must identify the activities to be carried on during the postclosure care period and the frequency of these activities, and must include at least:

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Proposed Rules

A. A description, schedule, and estimated costs of planned monitoring activities to comply with ~~part~~ parts 7035.2815, subparts 10 and 14, and 7035.2885, subpart 16, during the postclosure care period.

B. A description, schedule, and estimated costs of the inspection and maintenance activities planned to ensure the integrity of the final cover and other containment systems according to ~~part~~ parts 7035.2815, subpart 13, and 7035.2885, subpart 15, and the function of the facility monitoring equipment according to ~~part~~ parts 7035.2815, subpart 14, and 7035.2885, subpart 16.

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

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

7035.2655 POSTCLOSURE CARE AND USE OF PROPERTY.

Subpart 1. **Postclosure care requirements.** Postclosure care requirements are as follows:

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

B. During the postclosure care period, based on the results of sampling, analysis, and other pertinent information, the commissioner may reevaluate and modify the closure document to the extent postclosure care is needed at a facility based on compliance with the requirements of item C; subpart 2; parts 7035.2565, and 7035.2815 to ~~7035.2875~~ 7035.2915; and gas, leachate, or ground and surface water monitoring results.

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

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

FINANCIAL REQUIREMENTS

7035.2665 SCOPE.

Parts 7035.2685 to 7035.2805 apply to owners and operators of mixed municipal solid waste land disposal facilities and municipal solid waste combustor ash land disposal facilities.

7035.2885 MUNICIPAL SOLID WASTE COMBUSTOR ASH LAND DISPOSAL FACILITIES.

Subpart 1. **Scope.** The requirements of subparts 2 to 18 apply to landowners and owners and operators of facilities that dispose of municipal solid waste combustor ash in or on the land, except as provided in subpart 2.

Subp. 2. **Exemptions.** Upon application to and approval by the commissioner, the owner and operator of a land disposal facility which disposes of waste combustor ash which meets the requirements of items A and B are exempt from the requirements of this part. The owner or operator must maintain evidence of compliance with this part in the operating record required by part 7035.2575.

A. The design of the land disposal facility at a minimum must comply with the requirements of part 7035.2815, subparts 6, item D, and 7, including consideration of whether leachate from the municipal solid waste combustor ash will be compatible with the liner system.

B. Results of ash testing must meet the requirements of subitems (1) to (3). Results must be calculated according to subitem (4). If the ash is a mixture of fly and bottom ash, then the fly ash tested alone must meet the requirements of this item.

(1) Results of total composition testing for dioxins and furans performed according to part 7035.2910, subpart 4, item A, subitem (3), expressed as total 2,3,7,8-TCDD equivalence, must be lower than one µg/kg.

(2) Results of testing ash using EPA method 1312 must be lower than one-half the maximum leachable contaminant levels given in subpart 5.

(3) If ash will be codisposed with acidic wastes or wastes that may produce acids as a result of decomposition, results of testing ash leaching potential using EPA method 1311 in accordance with part 7035.2910, subpart 12, item A, must be lower than twice the maximum leachable contaminant levels given in subpart 5.

(4) For the purpose of subitems (1) to (3), "results" means the upper 80 percent confidence limit of a rolling data set calculated according to units (a) to (c).

(a) The rolling data set must consist of results of the specified test for the preceding 12 months, or the time period since a change was made in waste combusted, waste combustor operations, or ash processing which significantly alters ash quality, whichever time period is shorter.

(b) If data from only one quarter are used to calculate results, the owner or operator must calculate the upper 80 percent confidence limit for the data using equations for random sampling shown in Table 9-1 of EPA SW-846. Part 7035.0605 incorporates this document by reference and establishes its availability.

(c) If data from two or more quarters are used to calculate results, the owner or operator must calculate the upper 80 percent confidence limit for the data using equations for stratified random sampling shown in Table 9-1 of EPA SW-846, using each

quarter as a stratum. The fraction of the population represented by each stratum (W_i) must be selected based on the number of quarters of data to be used and the relative amounts of ash produced during each quarter.

Subp. 3. **Acceptable wastes.** Only municipal solid waste combustor ash and other wastes approved by the commissioner according to the procedures in this subpart may be disposed of in a waste combustor ash land disposal facility.

The owner or operator must submit requests for approval to codispose of other wastes to the commissioner in writing. Requests must state the physical and chemical characteristics of the waste, including results of EPA Method 1311 leach test, EPA Method 1312 leach test, and total composition analysis. The waste must be analyzed for total composition for the parameters in part 7035.2910, subpart 4, item A, tables (1) and (2). Leach test samples must be analyzed for all parameters detected by total composition analysis. The request must also include an assessment of the potential for the waste to affect the leaching potential of waste combustor ash and other wastes previously approved for codisposal. The commissioner shall determine whether a waste is acceptable for codisposal based on the potential for the waste to increase the quantity or toxicity of leachate generated at the facility, to cause failure of engineered systems such as the liner and leachate collection system, or to increase potential for fugitive dust emissions.

Subp. 4. **Limitation of leachable contaminants.** After January 1, 1993, the owner or operator of a waste combustor ash land disposal facility may not dispose of ash which exceeds the maximum leachable contaminant levels of subpart 5, unless the facility design meets or exceeds the requirements of subparts 10, item C, subitem (3); and 11, item O or P, whichever applies. Compliance with this subpart must be based on results of testing ash using EPA Method 1312 as required by part 7035.2910, except as provided by items B to D. Alternatively, the commissioner may approve treatment within the land disposal facility if treatment reduces contaminant mobility so that any pollutants detected in leachate will not exceed the maximum leachable contaminant levels of subpart 5. A request for approval of an in-place treatment method must include results of a pilot scale demonstration of the effectiveness of the treatment method.

A. For the purpose of this subpart, "results" means the upper 80 percent confidence limit of a rolling data set consisting of results of EPA Method 1312, or actual leachate according to items B and C, calculated as specified in subpart 2, item B, subitem (4).

B. The owner or operator may calculate results as required by item A using actual leachate analyses rather than EPA Method 1312 analyses for ash from a given waste combustor for one or more quarters if the following conditions are all true:

(1) the leachate analyzed was from a land disposal facility phase which was filled to one-half or more of the phase capacity, where a phase is an area of a land disposal facility which is served by a leachate collection system which may be sampled independently;

(2) ash from the waste combustor makes up 90 percent or more of the waste in the phase;

(3) ash generated by the waste combustor during the quarter was disposed in the phase;

(4) the leachate analyzed was collected during the quarter and more than 60 days after collection of leachate samples which are also used to calculate results to determine compliance with this part; and

(5) the leachate samples were collected according to a water quality and leachate monitoring protocol approved by the commissioner as part of the operations manual required under parts 7001.3480, item G; and 7035.2815, subpart 14, item G.

C. If a municipal solid waste combustor ash land disposal facility has a cell which contains 90 percent or more ash from only one waste combustor, and analyses of actual leachate samples from that cell exceeds EPA Method 1312 analyses of ash samples collected during the same quarter, actual leachate analyses must be used in place of EPA Method 1312 ash analyses for that quarter for calculating results to determine compliance with this subpart.

D. If an owner or operator demonstrates an inability to meet the requirements of this subpart, the commissioner may grant an extension of up to two years if the commissioner determines that the owner or operator has attempted to meet the requirements of this part, and the agency, through no fault of the owner or operator, has not taken final action on applications for permits or other agency approvals needed to comply with this part.

E. A municipal solid waste combustor ash land disposal facility which accepts ash which has not been tested according to part 7035.2910 must place the ash over a liner that complies at a minimum with the design requirements of subpart 11, item O, unless:

(1) the waste combustor ash will be treated before disposal to reduce the leaching potential to such a degree that the treated ash will not exceed the maximum leachable contaminant levels established in subpart 5; or

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Proposed Rules

(2) the owner or operator demonstrates, based on ash testing data from a similar waste combustor, where similarity is based on design, operation, and characteristics of waste combusted, that the ash which has not been tested is not likely to exceed the maximum leachable contaminant levels of subpart 5, and the ash is placed over a liner which complies with the design requirements of subpart 11, item L, M, or N, whichever applies to the type of ash to be disposed of. If this subitem applies, the ash must be considered in storage and the commissioner shall not approve disposal of the ash until four quarters of ash and leachate testing have been completed. If results of ash or leachate testing for the four quarters exceed the maximum leachable contaminant levels, the commissioner may require that the ash be removed from the land disposal facility.

Subp. 5. Maximum leachable contaminant levels. The maximum leachable contaminant levels are as follows:

<u>Substance</u>	<u>Maximum leachable contaminant level (mg/l)</u>
<u>Arsenic</u>	<u>750</u>
<u>Barium</u>	<u>30,000</u>
<u>Boron</u>	<u>9,000</u>
<u>Cadmium</u>	<u>60</u>
<u>Chromium</u>	<u>450</u>
<u>Copper</u>	<u>15,000</u>
<u>Lead</u>	<u>300</u>
<u>Manganese</u>	<u>9,000</u>
<u>Mercury</u>	<u>30</u>
<u>Nickel</u>	<u>2,100</u>
<u>Selenium</u>	<u>300</u>
<u>Silver</u>	<u>300</u>
<u>Tin</u>	<u>60,000</u>
<u>Zinc</u>	<u>21,000</u>

Subp. 6. Location. The owner or operator must locate a waste combustor ash land disposal facility according to parts 7035.2555 and 7035.2815, subpart 2.

Subp. 7. Hydrogeologic evaluations. The owner or operator must complete a hydrogeologic evaluation of the site according to part 7035.2815, subpart 3.

Subp. 8. Groundwater performance standards. The owner or operator must design, construct, operate, and maintain the facility to achieve compliance with part 7035.2815, subpart 4.

Subp. 9. General design requirements. A waste combustor ash land disposal facility must meet the design requirements of part 7035.2815, subpart 5, items A, B, D, E, F, and G in addition to the following general design requirements:

A. The fill area at a waste combustor ash land disposal facility must be located at least 200 feet from the nearest property line, unless a shorter distance is approved by the commissioner as sufficient for performing facility monitoring, performing any necessary remedial activities, and minimizing deposition of dust on adjacent property, based on filling procedures, facility design, facility geographic location, existing land restrictions and results of monitoring dust emissions at the facility or a similar existing facility.

B. The facility design must include:

- (1) cover systems according to subpart 10;
- (2) a liner system according to subpart 11;
- (3) a leachate collection and treatment system according to subpart 13; and
- (4) a water monitoring system according to subpart 16.

Subp. 10. Cover system. The owner or operator must design and maintain a cover system capable of minimizing infiltration of precipitation into the fill areas, preventing surface water ponding on fill areas, preventing erosion of surface and side slopes, minimizing the creation and movement of dust, retaining slope stability, reducing effects of freeze-thaw and other weather conditions, maintaining vegetative growth while minimizing root penetration of the low permeability cover layer, discouraging vector and burrowing animal intrusion into the site, and attenuating contaminants contained in leachate. A complete cover system must consist of intermittent, intermediate, and final covers as outlined in items A to C.

A. The owner or operator must place intermittent cover on all exposed ash according to the approved operation and maintenance manual for the site and subitems (1) to (4).

(1) The owner or operator of a facility which disposes of bottom ash or combined ash must place intermittent cover frequently enough so that the bottom ash or combined ash is not left uncovered for more than 48 hours. The percent moisture of

exposed ash must not be less than ten percent at any time. In the active work area, newly delivered waste combustor ash may be used to cover previously placed ash.

(2) The owner or operator of a facility which disposes of fly ash must cover the fly ash immediately after it is placed and compacted. Fly ash must be treated to minimize emission of fugitive dust before it is placed in the land disposal facility.

(3) The commissioner may approve less frequent cover placement based on a demonstration by the owner or operator that the alternative frequency would not increase the potential for damage to human health or the environment. The commissioner, in approving the proposed alternative cover system, must consider the characteristics of the proposed cover material, the characteristics of the waste, the design and operation of the facility, moisture content of the ash, screening or other engineered methods for preventing dust production, and season of the year.

(4) The cover materials used and cover depth must be sufficient to cover the ash completely.

B. The owner or operator must place intermediate cover on all filled surfaces of the facility where no additional ash will be deposited within 30 days. The intermediate cover must be at least six inches deep if soil or similar material is used, cover the ash completely, and be graded to prevent surface water ponding.

C. The owner or operator must place final cover according to the requirements of subitems (1) to (3) and part 7035.2815, subpart 6, item D, subitems (1), (2), and (6) to (9). A final cover system must consist of at least three layers: a barrier layer, a drainage layer, and a top layer.

(1) If the final cover uses a barrier layer constructed of soils or similar materials, the barrier layer must be at least 24 inches thick. The barrier layer must have a maximum permeability no greater than 1×10^{-6} centimeters per second. At least the top six inches of a barrier layer must not contain waste products which could contaminate water collected by the drainage layer. The drainage layer must be at least six inches thick and have an in-place permeability no less than 1×10^{-2} centimeters per second. The top layer must be at least 42 inches thick, of which at least the top six inches is topsoil, and of sufficient depth to contain the vegetative roots and protect the barrier layer from freezing. The top layer must have an available water-holding capacity that will promote vegetative growth. An alternative cover system may be approved by the commissioner if the owner or operator demonstrates that the barrier layer will be at least 24 inches thick, constructed of soils or similar materials, and have a maximum permeability no greater than 1×10^{-7} centimeters per second. The top layer of the alternative cover system must be at least 18 inches thick.

(2) If the final cover uses a synthetic membrane as the barrier layer, the membrane must be at least 30/1000 of an inch thick and meet the physical property standards for the material type developed by National Sanitation Foundation, Standard Number 54, Flexible Membrane Liners, May 1990, Ann Arbor, Michigan. Part 7035.0605 incorporates this document by reference and establishes its availability. The drainage layer must be at least six inches thick and have an in-place permeability no less than 1×10^{-2} centimeters per second. The top layer must be at least 18 inches thick, of which at least the top six inches is topsoil, and of sufficient depth to contain the vegetative roots. The top layer must have an available water-holding capacity that will promote vegetative growth.

(3) According to subpart 4, if results of testing ash placed in the land disposal facility phase to be covered or results of analysis of actual leachate from the phase exceed the maximum leachable contaminant levels established under subpart 5, the final cover system must consist of:

(a) a barrier layer consisting of at least 24 inches of compacted soils or similar materials with a permeability no greater than 1×10^{-6} centimeters per second, overlain by a synthetic membrane liner which is at least 30/1000 of an inch thick and meets the physical property standards developed by the National Sanitation Foundation, Standard Number 54, Flexible Membrane Liners, May 1990, Ann Arbor, Michigan;

(b) a drainage layer consisting of at least six inches with a permeability no less than 1×10^{-2} centimeters per second;
and

(c) a top layer which is at least 42 inches thick, of which the top six inches is topsoil, and of sufficient depth to contain the vegetative roots and protect the barrier layer from freezing. The top layer must have an available water-holding capacity that will promote vegetative growth.

Subp. 11. Liners. All waste combustor ash land disposal facilities must be lined. A liner installed at a waste combustor ash land disposal facility after the effective date of these rules must meet the requirements of items A to K and part 7035.2815, subpart 7, items B, C, F, G, I, K, L, M, and N. In addition, waste combustor ash land disposal facilities must comply with the design standards of item L, M, N, O, or P, based on the requirements identified in Table 1.

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Table 1: Identification of Applicable Liner Design Standards

	Bottom Ash	Combined Ash	Fly Ash
Before Jan. 1, 1993:			
(1) Leach results < MLCL	L	M	N
(2) MLCL ≤ Leach Results < EP	L	M	P
(3) Leach Results ≥ EP	L	M	P
After Jan. 1, 1993:			
(1) Leach results < MLCL	L	M	N
(2) MLCL ≤ Leach results < EP	O	O	P
(3) Leach Results ≥ EP	P	P	P

Key: Leach results must be determined according to subpart 4.

MLCL means the maximum leachable contaminant levels established in subpart 5.

EP means the maximum concentration of contaminants for characteristic of extraction procedure (EP) toxicity established in part 7045.0131, subpart 8.

A. If a waste combustor ash land disposal facility is constructed adjacent to a mixed municipal solid waste land disposal facility, the waste combustor ash land disposal facility must be separated from the mixed municipal solid waste land disposal facility adequately to prevent leachate from the mixed municipal solid waste land disposal facility from entering the waste combustor ash land disposal facility.

B. The liner system must consist of at least the following (listed in order, starting from the lowest layer):

(1) a smooth, stable subgrade for placement of the barrier layer by means of the placement of protective material over the existing subgrade, the removal of abrasive objects, organic matter, and vegetation in the subgrade, and regrading;

(2) where required by items O and P, a secondary liner and leachate collection and leak detection system;

(3) a barrier layer capable of containing leachate generated at the facility and surface water that has come in contact with waste; and

(4) a drainage layer above the barrier layer to rapidly convey surface water and leachate from the fill area, and to protect the barrier layer from puncture or other disturbances that might disrupt the integrity of the barrier layer.

C. The liner system must minimize the amount of leachate leaving the fill site to the soil and groundwater below the site.

D. The liner system must be compatible with waste combustor ash and waste combustor ash leachate.

E. Synthetic membranes used as part of the liner system must meet the specifications of the National Sanitation Foundation, Standard Number 54, Flexible Membrane Liners, May 1990, Ann Arbor, Michigan. Part 7035.0605 incorporates this document by reference and establishes its availability.

F. The owner or operator must construct the facility in accordance with subpart 14 and certify construction in accordance with part 7035.2610.

G. The owner or operator must design, construct, and maintain synthetic membranes in direct continuous contact with the soil layers beneath them to the greatest extent feasible.

H. Drainage layers must consist of at least 12 inches of suitable soil or an equivalent synthetic material. Drainage layers must not contain sharp stones or other sharp objects which may puncture the synthetic membrane, and must be resistant to clogging.

I. The owner or operator must design the liner and leachate collection system to minimize the number of places where the liner is penetrated.

J. When calculating efficiency as required for compliance with items L to P, the owner or operator must consider the liner thickness, the liner slope, the saturated hydraulic conductivity of the liner and drainage layer, the drainage layer thickness, the permeability of the drainage layer and liner, the porosity of the drainage layer, the flow distance to collection pipes, and the amount of leachate to be generated and collected based on annual infiltration and groundwater inflow.

K. In the engineering report required in part 7001.3480, item E, the owner or operator must discuss the design of the liner system and address at least the following:

(1) the source and quantity of natural soils capable of meeting the requirements of this subpart;

(2) the likelihood and consequences of failures caused by puncture, tear, creep, freeze-thaw, thermal stress, abrasion, swelling, extraction, oxidative degradation, exposure to ultraviolet radiation, acidic and alkaline conditions, concentration of ions, organic constituents, pressure, and the presence of gases, rodents, microbes, and root penetration;

(3) the composition of the drainage layer and liner including the soil gradations, percent fines, mineral composition, and solubility under acidic to alkaline conditions; and

(4) the calculations and assumptions used in choosing the particular design proposed for the facility.

L. The liner of a bottom ash land disposal facility must comply with subitems (1) to (3), unless item O or P applies.

(1) The barrier layer must be a composite liner which includes a synthetic membrane which is at least 60/1000 of an inch thick placed over a layer of recompactd clay or other natural material with a permeability of no more than 1×10^{-7} centimeters per second which is at least one foot thick.

(2) The liner system must be designed to have a leachate collection efficiency of at least 95 percent of the precipitation falling on the fill area before final cover placement.

(3) The liner system in combination with the cover system must achieve an overall site efficiency of at least 98.5 percent collection or rejection of the precipitation that falls on the disposal area.

M. The liner of a combined ash land disposal facility must comply with subitems (1) to (3), unless item O or P applies.

(1) The barrier layer must be a composite liner which includes a synthetic membrane which is at least 60/1000 of an inch thick placed over a layer of recompactd clay or other natural material with a permeability of no more than 1×10^{-7} centimeters per second which is at least two feet thick.

(2) The liner system must be designed to have a leachate collection efficiency of at least 95 percent of the precipitation falling on the fill area before final cover placement.

(3) The liner system in combination with the cover system must achieve an overall site efficiency of at least 98.5 percent collection or rejection of the precipitation that falls on the disposal area.

N. The liner of a fly ash land disposal facility which accepts ash which does not exceed the maximum leachable contaminant levels of subpart 5 must comply with subitems (1) to (3).

(1) The barrier layer must be a composite liner which includes a synthetic membrane which is at least 60/1000 of an inch thick placed over a natural soil layer which is at least three feet thick.

(2) The liner system must be designed to have a leachate collection efficiency of at least 98 percent of the precipitation falling on the fill area before final cover placement.

(3) The liner system in combination with the cover system must achieve an overall site efficiency of at least 99.5 percent collection or rejection of the precipitation that falls on the disposal area.

O. As provided by subpart 4, after January 1, 1993, the liner of a bottom ash or combined ash land disposal facility that accepts ash which exceeds the maximum leachable contaminant levels of subpart 5 must comply with subitems (1) to (3).

(1) The liner must be a double liner which includes at a minimum, from top to bottom:

(a) a drainage layer which complies with item H;

(b) a synthetic membrane which is at least 60/1000 of an inch thick;

(c) a secondary drainage layer which complies with item H;

(d) a synthetic membrane which is at least 30/1000 of an inch thick; and

(e) a compacted clay layer which is at least two feet thick with a permeability no greater than 1×10^{-7} centimeters per second.

(2) The liner system must be designed to have a leachate collection efficiency of at least 98.5 percent of the precipitation falling on the fill area before final cover placement.

(3) The liner system in combination with the cover system must achieve an overall site efficiency of at least 99.8 percent collection or rejection of the precipitation that falls on the disposal area.

P. The liner of a waste combustor ash land disposal facility that accepts fly ash which exceeds the maximum leachable contaminant levels of subpart 5, or bottom or combined ash which exceeds the maximum concentration of contaminants for characteristic of extraction procedure (EP) toxicity established in part 7045.0131, subpart 8, must comply with subitems (1) to (3).

(1) The liner must be a double composite liner which includes at a minimum, from top to bottom:

(a) a drainage layer which complies with item H;

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(b) a synthetic membrane which is at least 60/1000 of an inch thick;
(c) a recompacted soil layer which is at least two feet thick with a permeability no greater than 1×10^{-7} centimeters per second;
(d) a secondary drainage layer which complies with item H;
(e) a synthetic membrane which is at least 30/1000 of an inch thick; and
(f) a recompacted clay layer which is at least two feet thick with a permeability no greater than 1×10^{-7} centimeters per second.

(2) The liner system must be designed to have a leachate collection efficiency of at least 99 percent of the precipitation falling on the fill area before final cover placement.

(3) The liner system in combination with the cover system must achieve an overall site efficiency of at least 99.9 percent collection or rejection of the precipitation that falls on the disposal area.

Subp. 12. Cover and liner materials evaluation. The owner or operator must evaluate soils intended for use as cover or liner material as appropriate for the properties shown in part 7035.2815, subpart 8.

Subp. 13. Leachate detection, collection, and treatment. The facility must include a leachate detection, collection, and on-site or off-site treatment system designed in accordance with the requirements of part 7035.2815, subpart 9.

Subp. 14. Construction requirements. The owner or operator must follow the construction requirements of items A to C and part 7035.2815, subpart 12. The owner or operator must incorporate all applicable construction requirements into project specifications for all major design features.

A. Clay barrier layers must be compacted in lifts which are not deeper than the feet on the equipment used to compact the liner, or six inches after compaction, whichever is less.

B. Clay barrier layers must be bladed and rolled smooth after the final lift is compacted.

C. An on-site inspector qualified by training and experience must be present during construction of liner systems and final cover.

Subp. 15. Operation and maintenance requirements. The owner or operator must operate the facility according to items A to V.

A. A waste combustor ash land disposal facility must be operated by a certified operator, as defined in parts 7048.0100 to 7048.1300. A certified operator must be present during the time that the facility is open to accept ash.

B. Ash must be spread and compacted in layers which are one foot or less in depth before compaction.

C. Appropriate compacting equipment must be used to achieve compaction adequate to prevent settlement.

D. To determine compliance with subpart 10, item A, subitem (1), the moisture content of ash in areas where intermittent cover has not been placed must be tested. The sampling procedures of subitems (1) to (4) must be followed.

(1) Ash moisture content must be tested at least monthly.

(2) Ash moisture content at six or more locations on the exposed ash surface must be tested using random methods to select the horizontal location of moisture testing samples.

(3) If the moisture content of ash samples is not analyzed immediately, samples must be protected from changes in composition due to exposure to precipitation, wind, sun, absorbent materials, and extremes of temperature.

(4) Testing must be performed by persons qualified by training and experience.

E. Ash must be placed and compacted at a moderate slope to promote drainage off the fill area while achieving good compaction.

F. Ash must be covered in accordance with the approved intermittent cover system required in subpart 10, item A.

G. When no ash will be placed on a fill area for 30 days or more, intermediate cover, as defined in subpart 10, item B, must be placed over the ash.

H. Each fill phase must be covered when it reaches final permitted waste elevations, according to subpart 10, item C, as soon as possible, considering limitations such as weather conditions.

I. Each fill phase must be outlined with grade stakes or another marking method before placing waste in the phase.

J. Resource recovery operations, including but not limited to ferrous metal recovery, must be confined to designated areas approved in the facility permit. Storage areas must be kept as small as practical; they must not interfere with normal disposal operations.

K. The facility must be inspected according to the schedule identified in the facility's operations manual and approved by the

commissioner for at least the following items: dust emissions, uncontrolled vegetative growth, soil erosion on slopes and completed areas, vandalism on the monitoring systems, rodents and burrowing animals, malfunctions in the leachate detection and collection systems, and settlement in completed areas.

L. Leachate must be sampled and analyzed according to subpart 16.

M. The leachate collection system must be cleaned annually.

N. The amount of leachate collected must be monitored and recorded.

O. Corrective actions must be performed to repair any conditions not in compliance with parts 7035.2525 to 7035.2885.

P. Groundwater must be sampled and analyzed according to subpart 16.

Q. During wet weather conditions liners, covers, and other design features that might be disrupted by additional loads in a saturated condition must be protected.

R. The fill area must be surveyed annually before November 1 by a land surveyor registered in Minnesota. An updated existing conditions plan must be submitted with the annual report required in part 7035.2585. The plan must show the elevations of completed fill areas, areas partially filled, and all design features that changed in elevation due to facility operations or settlement. The remaining fill capacity must be calculated and its location shown on the plan.

S. All fill areas must be marked with permanent markers which clearly show the location of disposed ash.

T. At least three feet of ash or other approved material must be placed on all lined areas by December 1 of each year to protect the liner from freezing. No disposal may take place after December 1 in areas which have not met this requirement without first testing the liner integrity and receiving approval from the commissioner for the disposal.

U. All closure costs expended under part 7035.2625, all postclosure care cost expenditures made under part 7035.2645, and all corrective action expenditures made under part 7035.2615 must be recorded in the operating record.

V. The sequence and direction of below-grade operations must be conducted to prevent surface water from entering the fill area.

Subp. 16. Ground water, surface water, and leachate sampling and analysis. The owner or operator must design, install, and maintain a water monitoring system in compliance with part 7035.2815, subpart 10. The owner or operator must collect and analyze groundwater samples, leachate samples and, where required in permits, orders, or stipulation agreements, surface water samples, according to part 7035.2815, subpart 14, items A, B, and D to Q.

Until the commissioner has established facility-specific monitoring requirements as required by part 7035.2815, subpart 14, item B, the owner or operator must comply with the monitoring requirements of items A and B.

A. Groundwater quality monitoring points at the facility must be sampled at least three times per year at the times specified in the facility permit. For one of the three sampling events, the owner or operator must provide the field measurements, laboratory analysis, and field and laboratory observations listed in subitems (1) and (2). For the other two sampling events, the owner or operator must provide only the measurements and observations listed in subitem (1) for all groundwater monitoring points. Where existing monitoring points may be unsuitable for sampling some or all of the listed substances, the commissioner may make appropriate changes in the monitoring requirements.

(1) Routine list of groundwater parameters:

(a) Alkalinity, total as CaCO₃,

(b) Aluminum, dissolved

(c) Ammonia Nitrogen

(d) Arsenic, dissolved

(e) Cadmium, dissolved

(f) Calcium, dissolved

(g) Chloride

(h) Copper, dissolved

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- (i) Dissolved Solids, total
- (j) Iron, dissolved
- (k) Lead, dissolved
- (l) Magnesium, dissolved
- (m) Manganese, dissolved
- (n) Mercury, dissolved
- (o) Nickel, dissolved
- (p) Nitrate + Nitrite, as N
- (q) Potassium, dissolved
- (r) Selenium, dissolved
- (s) Sodium, dissolved
- (t) Sulfate
- (u) Suspended Solids, total
- (v) Zinc, dissolved
- (w) Appearance (a)
- (x) pH (b)
- (y) Specific Conductance (b)
- (z) Temperature (b)
- (aa) Water Elevation (c)

In subitems (a) to (aa), (a) means visual observation, in field and laboratory, noting conditions such as the following, if present: color, cloudiness, floating films, other liquid or gas phases, odor; (b) means two measurements: in the field, immediately after obtaining the sample, and in the laboratory; (c) means as measured in the field before pumping or bailing, to the nearest 0.01 foot.

(2) Extended list of groundwater parameters:

- (a) Barium, dissolved
- (b) Boron
- (c) Chromium, total dissolved
- (d) Silver, dissolved
- (e) Tin, dissolved

B. Leachate monitoring points at the facility must be sampled at least quarterly at the times specified in the facility permit. For one of the sampling events the owner or operator must provide the field measurements, laboratory analysis, and field and laboratory observations listed in subitems (1) and (2). For at least two years, and thereafter at least every other year or on a schedule determined by the commissioner based on results of previous analyses, the owner or operator must analyze leachate samples from one of the quarterly sampling events for the parameters listed in subitem (3). For the other sampling events, the owner or operator must provide only the measurements and observations listed in subitem (1).

(1) Routine list of leachate parameters:

- (a) Alkalinity, total as CaCO₃
- (b) Aluminum, total
- (c) Ammonia Nitrogen
- (d) Arsenic, total
- (e) Boron
- (f) Barium, total
- (g) Biological Oxygen Demand (BOD)
- (h) Cadmium, total
- (i) Calcium, total

- (j) Chloride
- (k) Chromium, total
- (l) Chemical Oxygen Demand (COD)
- (m) Copper, total
- (n) Dissolved solids, total
- (o) Iron, total
- (p) Lead, total
- (q) Magnesium, total
- (r) Manganese, total
- (s) Mercury, total
- (t) Nickel, total
- (u) Nitrate + Nitrite, as N
- (v) Potassium, total
- (w) Selenium, total
- (x) Silver, total
- (y) Sodium, total
- (z) Sulfate
- (aa) Suspended Solids, total
- (bb) Tin, total
- (cc) Zinc, total
- (dd) Appearance (a)
- (ee) pH (b)
- (ff) Specific Conductance (b)
- (gg) Temperature (b)

In subitems (a) to (gg), (a) means visual observation, in field and laboratory, noting conditions such as the following, if present: color, cloudiness, floating films, other liquid or gas phases, odor; (b) means two measurements: in the field, immediately after obtaining the sample, and in the laboratory.

(2) Extended leachate sampling parameters:

- (a) Benzo(a)pyrene
- (b) Benzo(b)fluoranthene
- (c) Benzo(k)fluoranthene
- (d) Benzo(g,h,i)perylene
- (e) Chrysene
- (f) Hexachlorobenzene
- (g) Indeno(1,2,3-cd)pyrene
- (h) Pyrene
- (i) Pentachlorophenol
- (j) Acetone
- (k) Vinyl Chloride

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(3) Dioxins and Furans:

- (a) 2,3,7,8-TCDD
- (b) Tetrachlorodibenzodioxin
- (c) Pentachlorodibenzodioxin
- (d) Hexachlorodibenzodioxin
- (e) Heptachlorodibenzodioxin
- (f) Tetrachlorodibenzofuran
- (g) Pentachlorodibenzofuran
- (h) Hexachlorodibenzofuran
- (i) Heptachlorodibenzofuran

Subp. 17. Contingency action. The owner or operator must implement actions necessary to repair site features or to control, recover, or treat polluted ground or surface waters and explosive or toxic gases according to part 7035.2815, subpart 15.

Subp. 18. Closure and postclosure care. The owner or operator must comply with the closure and postclosure care requirements of part 7035.2815, subpart 16.

7035.2910 MUNICIPAL WASTE COMBUSTOR ASH TESTING REQUIREMENTS.

Subpart 1. Definitions. As used in subparts 1 to 12, the following terms have the meaning given them in this subpart.

A. "Analysis sample" means a sample which is to be delivered to a laboratory for analysis.

B. "Composite sample" means a sample that is formed by mixing two or more samples together to create a sample which is representative of a longer time period or a greater amount of material.

C. "Grab sample" refers to a sample collected at one time or location.

Subp. 2. Scope. Subparts 1 to 12 apply to owners and operators of municipal solid waste combustors.

Subp. 3. Frequency. The owner or operator must collect ash samples at least quarterly. Sample collection must be begun within seven days of January 15, April 15, July 15, and October 15, unless otherwise approved by the commissioner. Quarterly samples and an annual composite sample formed from equal portions of the quarterly samples must be analyzed according to subpart 5. Quarterly samples must be analyzed within appropriate sample holding times, or 45 days after sample collection is completed, whichever is less.

Subp. 4. Test methods. The owner or operator must analyze samples for total composition, leaching potential, and physical characteristics for the following testing parameters, using test methods issued by the United States Environmental Protection Agency or the American Society of Testing and Materials unless the method is approved as provided by item D. The test methods must obtain detection limits equal to or less than those specified in this subpart.

A. Total composition:

(1) Table 1: Quarterly Testing Parameters:

<u>Parameter</u>	<u>Maximum Detection Limit</u>
<u>(a) Aluminum</u>	<u>2.0 mg/kg</u>
<u>(b) Arsenic</u>	<u>1.7 mg/kg</u>
<u>(c) Cadmium</u>	<u>0.16 mg/kg</u>
<u>(d) Lead</u>	<u>0.8 mg/kg</u>
<u>(e) Manganese</u>	<u>2.4 mg/kg</u>
<u>(f) Mercury</u>	<u>0.08 mg/kg</u>
<u>(g) Nickel</u>	<u>5.6 mg/kg</u>
<u>(h) Selenium</u>	<u>1.3 mg/kg</u>
<u>(i) Zinc</u>	<u>56 mg/kg</u>
<u>(j) Other parameters listed in subitem (2) or (3) which are required by the commissioner based on results of previous testing.</u>	

(2) Table 2: Annual Testing Parameters:

<u>Parameter</u>	<u>Maximum Detection Limit</u>
(a) <u>Barium</u>	<u>4 mg/kg</u>
(b) <u>Boron</u>	<u>4 mg/kg</u>
(c) <u>Calcium</u>	<u>40 mg/kg</u>
(d) <u>Chloride</u>	<u>40 mg/kg</u>
(e) <u>Chromium</u>	<u>0.72 mg/kg</u>
(f) <u>Copper</u>	<u>0.8 mg/kg</u>
(g) <u>Iron</u>	<u>0.4 mg/kg</u>
(h) <u>Magnesium</u>	<u>0.4 mg/kg</u>
(i) <u>Silver</u>	<u>0.8 mg/kg</u>
(j) <u>Sodium</u>	<u>4 mg/kg</u>
(k) <u>Strontium</u>	<u>2.0 mg/kg</u>
(l) <u>Sulfate</u>	<u>40 mg/kg</u>
(m) <u>Tin</u>	<u>1.2 mg/kg</u>

(3) Table 3: Special Annual Testing Parameters:

<u>Parameter</u>	<u>Method</u>	<u>Maximum Detection Limit</u>
(a) <u>Dioxins</u>	<u>EPA 8290</u>	<u>10 ng/kg</u>
(b) <u>Furans</u>	<u>EPA 8290</u>	<u>10 ng/kg</u>

(4) EPA Method 3050 for metals digestion must be used for total composition analysis.

B. Leaching potential: use EPA Method 1312, the Synthetic Precipitation Leach Test for Soils, with extraction fluid no. 2 (pH = 5.0) to satisfy the leaching potential testing requirements of this part.

(1) Table 1: Quarterly Testing Parameters:

<u>Parameter</u>	<u>Maximum Detection Limit</u>
(a) <u>Aluminum</u>	<u>1000 µg/l</u>
(b) <u>Arsenic</u>	<u>25 µg/l</u>
(c) <u>Cadmium</u>	<u>4 µg/l</u>
(d) <u>Lead</u>	<u>20 µg/l</u>
(e) <u>Manganese</u>	<u>20 µg/l</u>
(f) <u>Mercury</u>	<u>2 µg/l</u>
(g) <u>Nickel</u>	<u>20 µg/l</u>
(h) <u>Selenium</u>	<u>20 µg/l</u>
(i) <u>Zinc</u>	<u>20 µg/l</u>
(j) <u>pH</u>	<u>+/-0.1 pH units</u>

(k) Other parameters listed in subitem (2) which are required by the commissioner based on results of previous testing.

(2) Table 2: Annual Testing Parameters:

<u>Parameter</u>	<u>Maximum Detection Limit</u>
(a) <u>Alkalinity</u>	<u>1000 µg/l</u>
(b) <u>Barium</u>	<u>100 µg/l</u>
(c) <u>Boron</u>	<u>100 µg/l</u>

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(2) Table 2: Annual Testing Parameters:

<u>Parameter</u>	<u>Maximum Detection Limit</u>
(d) <u>Calcium</u>	<u>1000 µg/l</u>
(e) <u>Chemical Oxygen Demand</u>	<u>4000 µg/l</u>
(f) <u>Chloride</u>	<u>1000 µg/l</u>
(g) <u>Chromium</u>	<u>18 µg/l</u>
(h) <u>Copper</u>	<u>20 µg/l</u>
(i) <u>Iron</u>	<u>10 µg/l</u>
(j) <u>Magnesium</u>	<u>10 µg/l</u>
(k) <u>Silver</u>	<u>20 µg/l</u>
(l) <u>Sodium</u>	<u>100 µg/l</u>
(m) <u>Strontium</u>	<u>50 µg/l</u>
(n) <u>Sulfate</u>	<u>1000 µg/l</u>
(o) <u>Tin</u>	<u>30 µg/l</u>

(3) EPA SW-846 Method 3050 must be used for metals digestion.

C. Physical characteristics:

<u>Parameter</u>	<u>Method</u>
(1) <u>Moisture content</u>	<u>ASTM D3173</u>
(2) <u>Percent combustible</u>	<u>ASTM D3174</u>

D. The owner or operator may propose alternative test methods for the commissioner's review and approval. The owner or operator must demonstrate that the proposed alternative methods are equivalent in terms of accuracy and precision to the methods required by this subpart.

E. The owner or operator may move a parameter from the quarterly parameter lists of item A, subitem (1), and item B, subitem (1), to the annual parameter lists of item A, subitem (2), and item B, subitem (2), if the parameter has not been detected above the detection limits specified in this subpart for eight or more consecutive sampling events. The owner or operator must report changes in the parameter lists as part of the annual report required by subpart 10.

Subp. 5. Number of analyses. Unless bottom ash and fly ash are mixed as part of an internal, mechanical process, the owner or operator must collect and analyze fly ash and bottom ash samples separately according to item A. In cases where bottom and fly ash are mixed, collect and analyze samples according to item B. If ash treatment occurs prior to disposal, collect samples after treatment.

A. Owners and operators of facilities which manage bottom and fly ash separately must test ash quarterly according to subitem (1), and annually according to subitem (2).

(1) At a minimum the following number of samples must be analyzed: four samples of bottom ash and two samples of fly ash for total composition for the parameters listed in subpart 4, item A, subitem (1); three samples of bottom ash and three samples of fly ash for leaching potential for the parameters listed in subpart 4, item B, subitem (1); and three samples of bottom ash and three samples of fly ash for the physical characteristics tests listed in subpart 4, item C.

(2) At a minimum the following number of analyses of the annual composite samples must be performed: four samples of bottom ash and two samples of fly ash for total composition for the parameters listed in subpart 4, item A, subitem (2); two samples of fly ash for total composition for the parameters listed in subpart 4, item A, subitem (3); three samples of bottom ash and three samples of fly ash for leaching potential for the parameters listed in subpart 4, item B, subitem (2), and three samples of bottom ash and three samples of fly ash for moisture content in accordance with subpart 4, item C, subitem (1). For at least the first two years of sampling and analyses performed in accordance with this part, annual composite samples must be analyzed for the quarterly testing parameters listed in subpart 4, item A, subitem (1), and item B, subitem (1), in addition to the annual parameters required by this subitem.

B. Owners and operators of facilities which manage combined ash must test ash quarterly according to subitem (1), and annually according to subitem (2).

(1) At a minimum the following number of samples must be analyzed: six samples for total composition for the parameters listed in subpart 4, item A, subitem (1); six samples for leaching potential for the parameters listed in subpart 4, item B, subitem (1); and six samples for the physical characteristics tests listed in subpart 4, item C.

(2) At a minimum the following number of analyses of the annual composite sample must be performed: six samples for total composition for the parameters listed in subpart 4, item A, subitem (2); two samples for total composition for the parameters

listed in subpart 4, item A, subitem (3); six samples for leaching potential for the parameters listed in subpart 4, item B, subitem (2), and six samples for moisture content in accordance with subpart 4, item C, subitem (1). For at least the first two years of sampling and analyses performed in accordance with this part, analyze annual composite samples for the quarterly testing parameters listed in subpart 4, item A, subitem (1) and item B, subitem (1), in addition to the annual parameters required by this subitem.

Subp. 6. Ash sampling plan. The owner or operator must perform ash sampling according to an ash sampling plan approved by the commissioner. Proposed changes to sampling equipment or procedures must be submitted to the commissioner for review and approval. The plan must contain at least the following information:

- A. specification of the training and experience qualifications of persons who collect ash samples;
- B. description of equipment used to collect, process, and store ash samples;
- C. identification of sampling equipment cleaning procedures and other actions taken to prevent sample contamination;
- D. identification of the location or locations where ash samples are collected;
- E. description of procedures used to collect grab samples;
- F. description of procedures used to process grab samples to form composite samples;
- G. description of chain-of-custody and sample storage procedures; and
- H. identification of ash sampling quality assurance and quality control measures.

Subp. 7. Sampling equipment requirements. Equipment used for ash sampling must comply with items A to D.

- A. Sampling equipment must be constructed of materials which are compatible with ash and will not contaminate samples.
- B. Containers which are used to hold analysis samples must be prepared according to standard laboratory procedures identified in EPA SW-846, chapter three, for metallic analytes and chapter four for organic analytes, and EPA Document 600/4-79-020 "Methods for Chemical Analyses of Water and Wastes." Part 7035.0605 incorporates these documents by reference and establishes their availability.
- C. Sampling equipment must be cleaned before use each quarter. During the sampling event, equipment must be cleaned before each use or cover it to protect it from exposure between uses.
- D. Sampling equipment must be used which is large enough to collect a reasonably complete range of ash particle sizes. The size of the opening of sampling equipment used before screening ash samples must be at least three times the diameter of the largest ash particle or 12 inches, whichever is smaller. Equipment used after samples have been screened must have an opening size of at least two inches.

Subp. 8. Sample collection methods. Methods used to collect samples to satisfy the requirements of this part must comply with items A to H.

- A. Samples must be collected that represent the average quality of ash produced at the waste combustor during the sampling event. Factors which affect the content of samples, such as timing of fly ash addition to bottom ash and sample collection locations must be considered.
- B. Samples must be collected at times and locations which have been selected before sample collection begins for that quarter.
- C. Samples must be collected by persons who meet the training and experience qualifications specified in the approved sampling plan.
- D. Samples must be protected from changes in composition due to exposure to precipitation, wind, sun, absorbent or reactive materials, and extremes of temperature. Samples must be stored in covered containers.
- E. The circulation of air through sampling equipment must be minimized to prevent the loss of fines and moisture. If a cement mixer or similar equipment is used to mix samples as required by subpart 9, items A and G, cover the equipment during mixing.
- F. Grab samples must be collected according to subitems (1) to (3). Analysis samples must be taken from composite samples formed by processing and mixing grab samples according to subpart 9.
 - (1) Samples must be collected over a time period of at least one week. Samples must be collected every day that a facility operates during a week unless the commissioner approves otherwise. If the waste combustor is unable to operate for the entire week,

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sample collection must be resumed after operation begins so that the final composite sample includes ash collected on each day of the operating week.

(2) Grab samples must be collected at least eight times per day at evenly-spaced intervals of no less than one hour if samples are collected from a conveying system. If samples are collected from a location where ash collects over time, such as a storage building or truck, samples must be collected from different locations so that samples represent ash produced over at least eight hours.

(3) Grab samples must be collected of approximately equal volume. Grab samples of bottom ash or combined ash must consist of a minimum of 15 pounds (seven kilograms) of ash. Grab samples of fly ash must consist of a minimum of one pound (one-half kilogram) of ash if the waste combustor produces less than ten tons of fly ash in one week, and two pounds (one kilogram) of ash if the waste combustor produces ten tons or more of fly ash per week.

G. A minimum of three pounds (one and one-half kilograms) of each ash composite sample must be retained for at least one year. These samples must be held in moisture-tight containers which are filled as full as possible, protected from sunlight and extremes of temperature, and kept in a secure place.

H. All analysis samples must be refrigerated and the samples retained according to item G.

Subp. 9. Sample processing. The owner or operator must process bottom and combined ash samples according to items A to H. Fly ash samples must be processed according to items A and H.

A. Grab samples must be thoroughly mixed together to form one composite sample for each type of ash collected.

B. Samples must be screened using a three-eighths inch screen. All or a portion of the composite sample may be screened. At a minimum, 35 pounds of ash must be screened.

C. The weight of ash which passes through the screen and the weight of ash which does not pass through the screen must be recorded.

D. The size of friable pieces of ash which are larger than three-eighths inch must be reduced.

E. All ash which was caught by the screen initially must be rescreened to separate ash which has been reduced to less than three-eighths inch by the process in item D.

F. The weight of ash which remains on the screen and ash which passes through the screen must be recorded.

G. Ash which passes through the screen after size reduction must be combined and thoroughly mixed with the ash which originally passed through the screen.

H. Bottom and combined ash analysis samples from the composite ash sample formed by the process in item G must be taken. Fly ash analysis samples from the composite sample formed by the process in item A must be taken. Ash which will be retained according to subpart 8, item G, must also be taken from this ash.

Subp. 10. Annual ash testing report. The owner or operator must submit an annual ash testing report to the commissioner by March 15 of each year. The report must include the information in items A to F.

A. Results of quarterly and annual analyses of ash as required by this part. Total composition results must be reported on a dry weight basis.

B. Discussion of the data, including identification of trends observed by comparing the most recent year's results with those of previous years.

C. Data quality assurance assessment, including the following:

(1) precision and accuracy of each method used;

(2) representativeness of the samples;

(3) potential effect of any field or laboratory contamination on the sampling results; and

(4) qualification or rejection of data based on the results of quality control samples.

D. Information summarizing operation of the waste combustor during the ash sampling periods, and data regarding ash sample processing recorded according to subpart 9.

E. Certification by the owner or operator that samples analyzed to fulfill the requirements of this part were collected according to the plan required by subpart 6, and that no actions were taken during the sample collection period to intentionally affect the results of ash sample analysis so that the results would not be representative of ash typically generated by the waste combustor. Such actions may include, for example, altering the type of waste combusted during the sampling period.

F. Identification of any changes in test methods or parameters made in accordance with subpart 4, items D and E.

Subp. 11. Special requirements for new facilities. Waste combustors which begin operation after the effective date of this part, must comply with the requirements of this subpart.

A. The ash sampling plan required by subpart 6 must be submitted to the commissioner for review and approval at least 90 days before the first time waste is fired in the combustor.

B. Samples must begin to be collected within 60 days after reaching the maximum continuous rating for the waste combustor, but not more than 180 days after waste is first fired in the combustor.

C. The first four quarterly samples must be analyzed for the parameters listed in subpart 4, item A, subitems (1), (2), and (3), item B, subitems (1) and (2), and item C, subitems (1) and (2).

D. Quarterly testing reports to the commissioner must be submitted for the first four quarters. A report for each quarter within three months after the first day of sample collection for that quarter must be submitted. The contents of the reports must comply with the requirements of subpart 10, items A, C, D, and E.

Subp. 12. Requirements for exemption from part 7035.2885. Owners and operators of waste combustors who apply for exemption from the ash disposal requirements of part 7035.2885 using the exemption process described in part 7035.2885, subpart 2, must comply with the ash testing requirements of this subpart.

A. If part 7035.2885, subpart 2, item B, subitem (3) applies, in addition to the testing required under subparts 4 and 5, the owner or operator must analyze quarterly, using EPA Method 1311, the Toxicity Characteristic Leaching Procedure, a minimum of six samples of each type of ash (bottom, fly, or combined) which is to be exempted.

B. The owner or operator must submit the results of the testing required by item A to the commissioner as part of the annual report required by subpart 10.

C. The owner or operator must notify the commissioner within 48 hours after the owner or operator determines that the results of testing ash as required by item A or subparts 4 and 5 exceed the limits identified in part 7035.2885, subpart 2.

7035.2915 REQUIREMENTS FOR TEMPORARY PROGRAM TYPE I and II STORAGE FACILITIES.

Subpart 1. Definitions. As used in subparts 1 to 4, the following terms have the meanings given them in this subpart.

A. "Temporary program" means the Temporary Management Program for Mixed Municipal Solid Waste Incinerator Ash approved by the agency board under the authority of Minnesota Statutes, section 115A.97, subdivision 4.

B. "Type I ash storage facility" means a facility which has been designed according to part 17.0 of the temporary program where municipal solid waste combustor ash is stored for a limited period of time and all ash will be removed from the facility at closure.

C. "Type II ash storage facility" means a facility designed according to part 18.0 of the temporary program which was classified under the temporary program as a storage facility, pending adoption of parts 7035.0300 to 7035.2915.

Subp. 2. Scope. Subparts 1 to 3 apply to owners and operators of type I ash storage facilities. Subparts 1, 2, and 4 apply to owners and operators of type II ash storage facilities.

Subp. 3. Type I ash storage facilities. The owner or operator must design, maintain, and operate a type I ash storage facility in compliance with item A. Type I ash storage facilities must be closed in compliance with item B.

A. The owner or operator must design, maintain, and operate a type I ash storage facility in compliance with the solid waste storage facility requirements of part 7035.2855, subparts 3 and 4, the requirements of the facility permit, and applicable parts of the temporary program.

B. Within 18 months after the effective date of this part the owner or operator must close a type I ash storage facility according to parts 14 and 15 of the temporary program, the facility permit, the site closure plan and subitems (1) to (4), or according to a closure document approved by the commissioner under part 7001.3055. In cases where requirements of the aforementioned documents conflict with each other, the most recent requirements shall apply.

(1) The owner or operator must notify the director at least 90 days before facility closure activities are to begin.

(2) The owner or operator must remove from the site all municipal solid waste combustor ash and contaminated portions of the storage area, including the liner and underlying or surrounding soils. The owner or operator must take samples of the liner and

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underlying soils and analyze these samples to determine the extent of contamination according to a plan approved by the commissioner. The owner and operator must submit a liner and soils removal plan to the commissioner for review and approval at least 90 days before closure activities are scheduled to begin. In approving the plan the commissioner shall consider whether the proposed number of samples and parameters to be tested will determine the extent of pollutant migration.

(3) The owner or operator must dispose of, store, or use all removed ash and contaminated portions of the storage area at permitted facilities or locations.

(4) The owner or operator must close the storage facility in a manner that minimizes the release of pollutants to ground water, surface waters, soils, and the atmosphere during the closure and postclosure period. Moisture must be added to the ash or soils if necessary to control fugitive dust emissions.

Subp. 4. Type II ash storage facilities. Type II ash storage facilities are classified as municipal solid waste combustor ash land disposal facilities. As such, all operations and new construction other than liner or final cover construction must comply with part 7035.2885 and all other applicable parts of this chapter within 45 days after the effective date of this part. Liners and final cover constructed more than nine months after the effective date of this part must meet the requirements of part 7035.2885. At least nine months before the anticipated date for beginning construction of a new cell at the facility the owner or operator of a type II ash storage facility must submit to the commissioner for review and approval amendments to the facility's approved engineering plans, engineering reports, and operations manual showing changes necessary to comply with part 7035.2885.

Technical Colleges Board

Proposed Permanent Rules Relating to Teacher Licenses: Postsecondary Related Subjects; Computer Programming, Computer Operations

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Technical Colleges intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Section 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 136C.04, Subdivision 9.

All persons have 30 days until 4:30 p.m., Friday, July 26, 1991, in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed.

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

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

Glenda Moyers, Supervisor
State Board of Technical Colleges
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: 612-296-9446

Georgia Pomroy, License Revision Specialist
State Board of Technical Colleges
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: 612-296-0680

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

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

A **Statement of Need and Reasonableness** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Glenda Moyers and Georgia Pomroy at the above address and phone, upon request.

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

wish to receive a copy of the adopted rule must submit the written request to either Glenda Moyers or Georgia Pomroy at the above-mentioned address.

Helen Henrie, Deputy Chancellor
State Board of Technical Colleges

Rules as Proposed (all new material)

3515.6005 POSTSECONDARY RELATED SUBJECTS INSTRUCTOR.

Subpart 1. **Licensure requirement.** A person holding a position as a postsecondary related subjects instructor must be licensed under part 3515.5700 and this part when responsible for instructing students in foundational areas or occupational personal development areas in cooperation with instructional personnel in major occupational areas.

Subp. 2. **Licensure criteria for foundational areas (mathematics, science, communications).** An applicant:

A. must be a graduate of an accredited college with a four-year degree, including a major in the area of licensure to be taught, or the equivalent, as verified by a teacher education institution that grants such degrees;

B. shall have completed 4,000 hours of occupational experience in an area other than education; and

C. shall meet the requirements of the postsecondary vocational teacher education sequence in parts 3515.1400 to 3515.2000.

Subp. 3. **Recency exemption.** When applying for this license, an applicant who qualifies under subpart 2 and who is currently licensed and practicing as a postsecondary technical college instructor in an occupational continuous program or continuous general studies area need not comply with the recency requirement listed in the special needs licensure chart in parts 3515.9940 to 3515.9942 and the recency requirement in part 3515.0100, subpart 25.

Subp. 4. **License criteria for occupational personal development (for example, job seeking, interviewing, personal dynamics).**

Option one: An applicant:

A. shall be a graduate of an accredited college with a four-year degree, including a major in the area of licensure to be taught (for example, industrial relations, personnel management, employment counseling, business administration), or the equivalent, as verified by an institution that grants such degrees;

B. shall have completed 4,000 hours of occupational experience in an area other than education; and

C. shall meet the requirements of the postsecondary vocational teacher education sequence in parts 3515.1400 to 3515.2000.

Option two: An applicant shall have completed 8,000 hours of occupational experience in an area related to occupational personal development other than education, and shall meet the requirements of the postsecondary vocational teacher education sequence in parts 3515.1400 to 3515.2000.

3700.0381 COMPUTER PROGRAMMING; COMPUTER OPERATIONS.

An applicant holding a postsecondary technical college continuous program license in computer programming or computer operations may apply for a license in microcomputer support and network administration under the following conditions:

A. the applicant has a certificate of completion in BME5390 Special Topics in Technical Updating: Advanced Microcomputing Technology, from the University of Minnesota, Business and Marketing Division; and

B. application is made to the licensing section of the State Board of Technical Colleges within two years after completing the course described in item A.

LICENSE TRANSFER. A person who at the time of the repeal of *Minnesota Rules*, part 3700.0320 is holding a license issued under part 3700.0320, may continue to use the license and the license is fully effective until the time for renewal of the license. At the time for renewal, the renewal must be issued according to part 3700.0315, Banking and Finance Operations.

REENACTMENT AND VALIDATION. *Minnesota Rules*, parts 3515.5700, 3515.5900, 3515.6000, 3515.6100, 3515.6200, and 3515.6700 are reenacted effective March 18, 1990, to be continuously in effect. Licenses issued since the effective date of the reenactment are fully effective from the date of their issuance.

REPEALER. *Minnesota Rules*, parts 3515.5050, 3515.6000, and 3700.0320, are repealed. *Minnesota Rules*, part 3700.0381, is repealed June 30, 1993.

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Transportation Regulation Board

Proposed Permanent Rules Relating to Practice and Procedure

Notice of Hearing

NOTICE IS HEREBY GIVEN that the Transportation Regulation Board will hold a public hearing in the above-mentioned matter at the Transportation Regulation Board, Room 254, 100 Stockyards Road, South St. Paul, MN 55075, commencing at 9:00 a.m., July 25, 1991, and continuing until all interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted to the presiding Administrative Law Judge, as hereinafter indicated, without appearing at the hearing.

The matter will be heard before Administrative Law Judge Bruce Campbell, Office of Administrative Hearings, 500 Flour Exchange Bldg., 310-4th Ave. So., Minneapolis, MN 55415, (612) 341-7602. The rule hearing procedure is governed by *Minnesota Statutes* sections 14.14 to 14.20 (1988) and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1985). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed rules governing practice and procedure, *Minnesota Rules*, parts 8920.0100-4000. The rules include topics such as Definitions; how time periods are computed; how proceedings are initiated; who are parties; who is an intervenor; who is a protestant; how is a complaint filed; what information must be in a complaint; when is a case referred for contested case hearing; how are exceptions filed and oral argument requested; and how can a party petition for further action after a final order from the Board. The proposed rules are authorized by *Minnesota Statutes* sections 174A.06 (1990). One free copy of the rules is available on request by contacting the TRB's administrator:

Mary Swanson
Transportation Regulation Board
Room 254
100 Stockyards Road
South St. Paul, MN 55075
(612) 297-4362

The Rules, as proposed, were published in the *State Register* on March 18, 1991, Vol. 15, No. 38, pp. 2096 through 2104.

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

Any person may present his or her views on the proposed rules in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the TRB and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

The Board requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to Mary Swanson at the TRB address stated above.

The proposed rules may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rules.

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

The adoption of these rules by the TRB will not require expenditure of public monies by local public bodies nor have a direct impact on agricultural land. Therefore, *Minnesota Statutes* section 14.11 (1988) is inapplicable to this rulemaking proceeding.

Please be advised that *Minnesota Statutes* ch. 10A (1988) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* section 10A.01, subd. 11(a) (1990) as an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

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

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 No. Robert St., St. Paul, MN 55101-2520, phone 612/296-5148.

Written material may be submitted and recorded in the hearing record for five working days after the public hearing ends, a statement that the comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing, a statement that the comments received during the comment period shall be available for review at the Office of Administrative Hearings, and a statement that the agency and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period.

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

Minnesota Statutes Section 14.115, subd. 2 (1988) requires the Board, when proposing rules which may affect small businesses, to consider certain methods of reducing the impact on small businesses.

Minnesota Statutes Section 14.115, subd. 1 (1989 Supp.) defines small business as:

Definition. For purposes of this section, "small business" means a business entity, including farming and other agricultural operations and its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross annual sales of less than \$4,000,000. For purposes of a specific rule, an agency may define small business to include more employees if necessary to adapt the rule to the needs and problems of small businesses.

Small business regulated by the board are not exempt from this statute.

Minnesota Statutes Section 14.115, subd. 7 (1989 Supp.) states:

Applicability. This section does not apply to:

(1) emergency rules adopted under section 14.29 to 14.36;

(2) agency rules that do not affect small businesses directly, including, but not limited to, rules relating to county or municipal administration of state and federal programs;

(3) service businesses regulated by government bodies, for standards and costs, such as nursing homes, long-term care facilities, hospitals, providers of medical care, day care centers, group homes, and residential care facilities, but not including businesses regulated under chapter 216B or 237; and

(4) agency rules adopted under section 16.085.

Currently, there are some Department of Transportation Motor Bus and Truck Rules which relate to small businesses, such as *Minnesota Rule* 7805.0500 Motor Carrier Accounting Rules. *Minnesota Statutes* § 221.031 Subd. 1 also relates to an exemption from filing an annual report for carriers with gross revenues of less than \$50,000 per calendar year.

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Proposed Rules

The Board has considered (a) through (e) of Subd. 2 of *Minnesota Statutes* § 14.115 and has concluded that it cannot regulate effectively if it established less stringent compliance or reporting requirements, schedules or deadlines, consolidation or simplification of compliance or reporting requirements, establishment of different performance standards, or exemptions for small business.

Adopted Rules

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

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

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

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

Board of Chiropractic Examiners

Adopted Permanent Rules Relating to Examination Procedures

The rules proposed and published at *State Register*, Volume 15, Number 41, pages 2217-2219, April 8, 1991 (15 SR 2217) are adopted as proposed.

Department of Public Safety

Office of Pipeline Safety

Adopted Permanent Rules Relating to a Model Pipeline Setback Ordinance

The rules proposed and published at *State Register*, Volume 15, Number 32, pages 1722-1725, February 4, 1991 (15 SR 1722), are adopted with the following modifications:

Rules as Adopted

7535.0100 DEFINITIONS.

Subp. 6. **Pipeline easement.** "Pipeline easement" means the existing easement or ~~the negotiated~~ a subsequent easement resulting from ~~a blanket the negotiation of a change in the boundaries of the existing~~ easement.

7535.0500 MODEL SETBACK ORDINANCE.

Subp. 3. **Setback.** Buildings and places of public assembly subject to this ordinance ~~must be designed to accommodate a setback from the pipeline equal to or greater than the pipeline easement boundaries~~ shall not be constructed closer to the pipeline than the boundary of the pipeline easement.

Subp. 4. **Variances.** Variance procedures adopted by the local unit of government under *Minnesota Statutes*, sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365, shall apply.

Public Utilities Commission

Adopted Permanent Rules Relating to Telephone Assistance Plan

The rules proposed and published at *State Register*, Volume 15, Number 38, pages 2092-2096, March 18, 1991 (15 SR 2092) are adopted with the following modifications:

Rules as Adopted

7817.0100 DEFINITIONS.

Subp. 12a. **Service order record change charge.** "Service order record change charge" means the fee that a telephone company charges to a subscriber for making a change in the subscriber's billing record for local service.

Commissioners' Orders

Department of Natural Resources

Commissioner's Order No. 2412: Regulations for the Taking of Turkeys During the Fall of 1991

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97A.045, 97A.435, 97B.711, 97B.723, 97B.725, and other applicable law, I, Rodney W. Sando, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of turkeys during the fall of 1991. Unless otherwise specified, all dates and time periods in this order are inclusive.

Section 1. DEFINITIONS.

(a) **Legal firearms:** Only shotguns 20 gauge or larger, or muzzleloading shotguns 12 gauge or larger, using fine shot size No. 4, 5, or 6 shall be used.

(b) **Legal bow and arrow:** Bows must have a pull of no less than 40 pounds at or before full draw. It shall be unlawful to hunt turkeys with any poisoned arrow or arrow with explosive tip. The bow may not be drawn, held, or released by mechanical means, except for permits issued under *Minnesota Statutes* { 97B.106, or except that a person may use a mechanical device attached to the bowstring if the person's own strength draws, holds, and releases the bowstring. Arrowheads must:

(1) **be sharp**, have a minimum of two metal cutting edges, be of a barbless broadhead design, and have a diameter of at least seven-eighths inch; or

(2) **be of a blunthead design.**

(c) **Legal turkey:** A turkey of any sex and any age.

(d) **Drawings:** Computerized random drawings will be conducted by the Department of Natural Resources to determine those who will be eligible to apply for a fall turkey license. Beginning with the 1990 fall hunt drawing, preference in the fall drawings will be given to each applicant based upon the number of times he or she has correctly applied for a fall permit but has been unsuccessful in the drawing.

(e) **Agricultural or grazing land means land:** (1) that is plowed or tilled; (2) that has standing crops or crop residues; or (3) within a maintained fence for the purpose of enclosing domestic livestock.

(f) **Party hunting:** Party hunting (shooting a turkey for another member of your hunting party or tagging a turkey shot by someone else) is not allowed for turkey hunting.

Sec. 2. LICENSE ELIGIBILITY.

A person is not eligible for a turkey license unless the person:

(a) **is at least** 16 years of age or possesses a valid Minnesota Firearms Safety Certificate prior to October 16, 1991;

(b) **has maintained** a legal residence in Minnesota for a period of 60 days immediately preceding October 16, 1991; and

(c) **has not had** any small game hunting privileges revoked within one year prior to August 9, 1991.

Sec. 3. TURKEY HUNT DRAWING.

(a) **License application drawings:** Persons desiring to hunt turkeys must take part in one of the computerized license application drawings conducted by the Department of Natural Resources. The drawings shall be subject to the quotas set forth in Sec. 6. All persons selected by the drawings may apply for a license to hunt turkeys, as set forth in Sec. 4.

(b) **Participation in drawings:** All persons desiring to take part in one of the turkey license application computer drawings must complete an official application form for either the general turkey hunt or, if appropriate pursuant to paragraph (c) of this section, for the resident landowner-tenant turkey hunt.

(1) **All information** requested on the forms must be supplied. Applicants age 16 or over by October 16, 1991 must provide their individual Minnesota drivers license number of 13 characters or an official State of Minnesota Identification number of 13 characters issued by the Department of Public Safety. Applicants age 12 to 15 by October 16, 1991 may supply either of the above numbers or must provide a Minnesota Firearms Safety Certificate number, except that individuals who apply with a Minnesota Firearms Safety Certificate issued before January 1, 1991 and are unsuccessful will not gain preference in the 1992 drawing. Persons submitting the landowner-tenant form must provide a complete and accurate description of the qualifying land. All applicants must choose one of the four zones.

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.

Commissioners' Orders

(2) **Applications** for a group must all be for the same zone and time period. At least two, but not more than four, persons desiring to hunt together may apply as a group by submitting their drawing applications in one envelope. The individual within a group with the lowest preference rating will determine the preference rating of the group. Properly completed applications which are submitted in one envelope will either all be selected or none selected. Mixing landowner-tenant applications with general applications will not be permitted for purposes of applying as a party.

(3) **Any person who** makes a faulty application or who applies as a landowner or tenant but does not live on at least 40 acres of agricultural or grazing land or does not live within the zone applied for will be ineligible for both the landowner-tenant fall drawing and general fall drawing.

(4) **Applications must** be returned to the DNR License Bureau, Box 26 DNR Building, 500 Lafayette Road, St. Paul, MN 55155-4026. If mailed, applications must be postmarked no later than July 1, 1991. If hand delivered, applications must be delivered no later than 4:30 p.m., July 1, 1991.

(c) **Special landowner or tenant drawing:** A special landowner-tenant license application drawing will be held subject to the following restrictions:

(1) **Applicants must** be able to meet all eligibility requirements in Sec. 2 of this order.

(2) **Applicants must** be a landowner or tenant, or a member of their immediate family, living on, as their primary residence, 40 acres or more of agricultural or grazing land, defined by Section 1 of this order, which is located within the zone for which the application is made.

(3) **For each zone** and time period, not more than twenty percent of the successful participants shall be drawn from the special landowner-tenant applications.

(4) **Individual participants** in the landowner-tenant drawing may submit only one drawing application and only for the turkey zone in which they reside.

(5) **Valid applications** of participants unsuccessful in the landowner-tenant drawing will be included in the general drawing.

(6) **Applicants for** the landowner-tenant drawing that are determined to be ineligible for the landowner-tenant drawing will be disqualified from the entire 1991 fall turkey computer drawing.

(7) **All participants** who are successful in the special landowner-tenant drawing must allow turkey hunting on their lands. The commissioner will provide descriptions of these lands to licensed turkey hunters.

(d) **Application fee:** Each applicant must submit along with his/her application a cashier's check, money order, or personal check in the amount of \$3.00 payable to the Minnesota Department of Natural Resources. Any checks that are returned to the Department of Natural Resources for non-payment shall invalidate the application and the check will be destroyed. Refunds of application fees shall not be made for any reason.

(e) **Penalties:** No person shall submit more than a total of one application for participation in the drawings. Any person who submits more than one application for the fall season shall be ineligible to receive a turkey license in that season and shall be guilty of a misdemeanor.

Sec. 4. LICENSING.

(a) **Only applicants** successful in a computerized drawing will be notified.

(b) **Applicants successful** in the drawing will receive a license application with instructions for obtaining their licenses. Successful applicants who do not return the license application and the fee according to the provisions specified on the license application or who do not provide all of the requested information will be disqualified. All accumulated preference for the fall hunt is lost upon issuance of a fall turkey hunting license.

(c) **Before hunting turkeys**, participants successful in a drawing must:

(1) **Apply for and receive** a 1991 fall turkey hunting license; and

(2) **Possess a valid** Minnesota Firearms Safety Certificate if not age 16 or older prior to October 16, 1991.

Sec. 5. SEASON DATES, ZONES, HOURS AND WEAPONS.

(a) **Dates:** The 1991 fall turkey season is open in four zones during the following dates:

October 16-20, 1991 or October 23-27, 1991. Each hunter may hunt only during the five day period designated on his or her license. All dates are inclusive.

(b) **Zones:** Each hunter may hunt only within the zone designated on his or her license.

(1) **Turkey Zone 1.**

That portion of the state lying within the following described boundary:

Beginning at the intersection of State Trunk Highway (STH) 16 and the eastern boundary of the state; thence along STH 16 to STH 44; thence along STH 44 to County State Aid Highway (CSAH) 4, Houston County; thence along CSAH 4 to the southern boundary of the state; thence along the southern boundary of the state to the eastern boundary of the state; thence along the eastern boundary of the state to the point of beginning.

(2) Turkey Zone 2.

That portion of the state lying within the following described boundary:

Beginning at the intersection of State Trunk Highway (STH) 16 and the eastern boundary of the state; thence along STH 16 to STH 44; thence along STH 44 to County State Aid Highway (CSAH) 4, Houston County; thence along CSAH 4 to the southern boundary of the state; thence along the southern boundary of the state to CSAH 28, Fillmore County; thence along CSAH 28 to STH 43; thence along STH 43 to Interstate 90; thence along Interstate 90 to CSAH 33, Winona County; thence along CSAH 33 to STH 248; thence along STH 248 to CSAH 31, Winona County; thence along CSAH 31 to CSAH 28, Winona County; thence along CSAH 28 to CSAH 25, Winona County; thence along CSAH 25 to the intersection of CSAH 25 and U.S. Highway 61; thence due east to the eastern boundary of the state; thence along the eastern boundary of the state to the point of beginning.

(3) Turkey Zone 3.

That portion of the state lying within the following described boundary:

Beginning at the intersection of U.S. Highway 52 and U.S. Highway 14; thence along U.S. Highway 14 to County State Aid Highway (CSAH) 7, Olmsted County; thence along CSAH 7 to Interstate 90; thence along Interstate 90 to State Trunk Highway (STH) 43; thence along STH 43 to CSAH 28, Fillmore County; thence along CSAH 28 to the southern boundary of the state; thence along the southern boundary of the state to U.S. Highway 63; thence along U.S. Highway 63 to U.S. Highway 52; thence along U.S. Highway 52 to the point of beginning.

(4) Turkey Zone 4.

That portion of the state lying within the following described boundary:

Beginning at the intersection of Interstate 90 at County State Aid Highway (CSAH) 7, Olmsted County; thence along CSAH 7 to State Trunk Highway (STH) 42; thence along STH 42 to the intersection of STH 42 and U.S. Highway 61; thence along U.S. Highway 61 to the Zumbro River; thence along the Zumbro River to the Mississippi River; thence due east to the eastern boundary of the state; thence along the eastern boundary of the state to a point lying directly east of the intersection of U.S. Highway 61 and CSAH 25, Winona County; thence due west to the intersection of CSAH 25 and U.S. Highway 61; thence along CSAH 25 to CSAH 28, Winona County; thence along CSAH 28 to CSAH 31, Winona County; thence along CSAH 31 to STH 248; thence along STH 248 to CSAH 33, Winona County; thence along CSAH 33 to Interstate 90; thence along Interstate 90 to the point of beginning.

(c) Hours and weapons: Legal turkeys may be taken by licensed hunters using legal shotgun or legal bow and arrow, as defined in Section 1, from one-half hour before sunrise to sunset daily during the dates and within the zones described in this section.

Sec. 6. QUOTAS.

The following quotas on hunter numbers are established for each zone and time period. These quotas may be subject to modification in order to accommodate party members if the last applicant to be drawn for a zone is a member of a party.

<u>Zones and Quotas</u>				
<u>Time Period</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Oct. 16-20	200	400	400	100
Oct. 23-27	200	400	400	100

GRAND TOTAL: 2,200

Sec. 7. SPECIAL PROVISIONS.

(a) Bag limit: No hunter shall: take more than one legal turkey; tag a turkey that he or she did not take; or tag a turkey with the tag of another hunter. All turkeys taken must be killed before being removed from the site where taken.

(b) Assisting: Only a turkey hunter licensed for the same zone and time period may assist any other licensed turkey hunter in hunting turkeys.

(c) 12-15 year olds: A licensed turkey hunter who is not age 16 or older prior to October 16, 1991 must have a valid Minnesota Firearms Safety Certificate in possession. Licensed turkey hunters age 12 or 13 must be accompanied by a parent or guardian while turkey hunting. "Guardian" is a legal guardian or any person age 18 or older authorized by the parent or legal guardian to supervise the person age 12 or 13. Licensed turkey hunters age 14 or 15 may hunt turkeys unaccompanied by a parent or guardian.

(d) Tagging: Immediately after taking a turkey, hunters must punch date of kill, sign, and attach the tag to the turkey. This tag must remain attached to the turkey during transit.

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(e) **Registration:** Every person taking a turkey must register the turkey at a designated registration station no later than 24 hours after the time when taken. The feathers, head, and feet must remain on the turkey until it is registered. No unregistered turkey shall be possessed outside the zone where taken unless it is being transported in a direct route to a registration station. Registration stations will include the following. If necessary, additions, deletions, or changes to this list may be made.

- | | |
|------------------|---|
| 1. Caledonia | B&M Service Center (Mobil Gas Station)
128 N. Kingston |
| 2. LaCrescent | Tri-State Bait and Tackle
103 Hillview Blvd. |
| 3. Rushford | Larry's Mobil
Jct. Hwys. U.S. 16 and STH 43 |
| 4. Chatfield | Chatfield Motor Mart
302 S. Main |
| 5. Lanesboro | Root River Oil Co.
U.S. Hwy. 16 |
| 6. Rochester | Wild Goose Sports
1117 N. Broadway |
| 7. Houston | Halverson Standard Oil
Hwy. 16 E. |
| 8. Spring Valley | Fowler Standard Oil
221 N. Section |
| 9. Harmony | Harmony Amoco
Hwy. 52 |
| 10. Winona | West End Bait Co.
950 W. 5th St. |
| 11. Elba | Mauer Bros. Liquor
Hwy. 74 |
| 12. Kellogg | Prairie Bait Shop
Co. Rd. 30
(old Hwy. 61) |

Registration stations normally open at 8 a.m.

(f) **Turkeys may not** be taken with the aid of dogs. No person shall be accompanied by a dog or dogs while hunting or assisting in hunting turkeys.

(g) **Turkeys may not** be taken with the aid of any electronic device.

(h) **Use of live decoys** is prohibited.

(i) **While afield hunting** turkeys, no person shall have in his or her possession or control any firearm or bow and arrow except those defined by Section 1 of this order as legal for taking turkeys.

(j) **No turkeys shall** be taken in any manner in any area of the state except as herein expressly provided or as otherwise provided by statute or commissioner's order.

(k) **Except as specifically** provided herein, none of the provisions of this order shall be construed as modifying or superseding any order establishing legal refuges within the state nor as permitting the taking of any wild animals within such refuges or within state parks.

(l) **The Lost Lake Refuge** in Fillmore County is open for the taking of turkeys during the 1991 fall turkey hunt.

Dated at St. Paul, Minnesota, this 7th day of June, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 76: Verlyn Marth Memorial Prairie Scientific and Natural Area

WHEREAS, certain lands in Stevens County, Minnesota, described as:

That part of the Southwest Quarter (SW ¼) of Section Six (6), Township One Hundred Twenty-six (126) North, Range Forty-two (42) West described as follows: Beginning at a point 96 rods East of the southwest corner of said Southwest Quarter; thence West 96 rods to the southwest corner; thence North 60 rods along the section line; thence East 63 rods; thence in a straight line at an angle to the point of beginning.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain the only known occurrence of native prairie in Stevens County. The site contains undisturbed examples of dry to mesic prairie; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Verlyn Marth Memorial Prairie Scientific and Natural Area. Furthermore, the Verlyn Marth Memorial Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 77: Otter Tail Prairie Scientific and Natural Area

WHEREAS, certain lands in Otter Tail County, Minnesota, described as:

The Northeast Quarter (NE ¼) of Section Seventeen (17), Township One Hundred Thirty-one (131) North, Range Forty-four (44) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain undisturbed examples of mesic blacksoil prairie as well as the following rare, endangered or threatened plant or animal species: northern gentian (*Gentiana affinis*); greater prairie chicken (*Tympanuchus cupido*); upland sandpiper (*Bartramia longicauda*); and marbled godwit (*Limosa fedoa*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to the Otter Tail Prairie Scientific and Natural Area. Furthermore, the Otter Tail Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 78: Compass Prairie Scientific and Natural Area

WHEREAS, certain lands in Nobles County, Minnesota, described as:

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That part of the Southeast Quarter of the Southwest Quarter (SE ¼ SW ¼) of Section Three (3), Township One Hundred One (101), Range Forty-one (41), being more particularly described as follows: Commencing at the south quarter corner of said section, said point also being the point of beginning of this description; thence South 89° 57' 47" West, assumed bearing, along the south line of said section a distance of 1272.27 feet; thence North 01° 29' 15" East a distance of 339.50 feet; thence North 60° 36' 07" East a distance of 1276.28 feet; thence North 24° 10' 51" East a distance of 185.67 feet to the north-south quarter line of said section; thence South 03° 48' 22" East along the north-south quarter line of said section a distance of 1136.94 feet to the point of beginning.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain undisturbed example of mesic blacksoil prairie in Nobles County as well as the following rare, endangered or threatened plant species: Compass plant (*Silphium Laciniatum*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Compass Prairie Scientific and Natural Area. Furthermore, the Compass Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 79: Clinton Prairie Scientific and Natural Area

WHEREAS, certain lands in Big Stone County, Minnesota, described as:

The Southeast Quarter (SE ¼) of Section Sixteen (16), Township One Hundred Twenty-three (123), Range Forty-seven (47).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain undisturbed examples of Northwest mesic and wet blacksoil prairie as well as the following rare, endangered or threatened animal species: upland sandpiper (*Bartramia longicauda*); chestnut-collared longspur (*Calcarius ornatus*); and Poweshiek skipper (*Oarisma poweshiek*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Clinton Prairie Scientific and Natural Area. Furthermore, the Clinton Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 80: Cannon River Trout Lily Scientific and Natural Area

WHEREAS, certain lands in Rice County, Minnesota, described as:

The West Quarter of the Northeast Quarter of the Southwest Quarter (W $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Sixteen (16), Township One Hundred Ten (110), Range Twenty (20).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an undisturbed example of Southern maple-basswood forest community as well as the state endangered Minnesota dwarf trout lily (*Erythronium propullans*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Cannon River Trout Lily Scientific and Natural Area. Furthermore, the Cannon River Trout Lily Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 81: Mound Prairie Scientific and Natural Area

WHEREAS, certain lands in Houston County, Minnesota, described as:

All those lands in the West Half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$), the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) and the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Thirty-four (34) and the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Thirty-three (33) as shown on the attached Exhibit A and as posted, ALL IN Township One Hundred Four (104) North, Range Five (5) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain undisturbed examples of "Bluff prairie" as well as the following rare, endangered or threatened plant species: white false indigo (*Baptisia leucantha*); goat's-rue (*Tephrosia virginiana*); narrow-leaved milkweed (*Asclepias stenophylla*); shooting-star (*Dodecatheon amethystinum*); and Ohio spiderwort (*Tradescantia ohiensis*); and

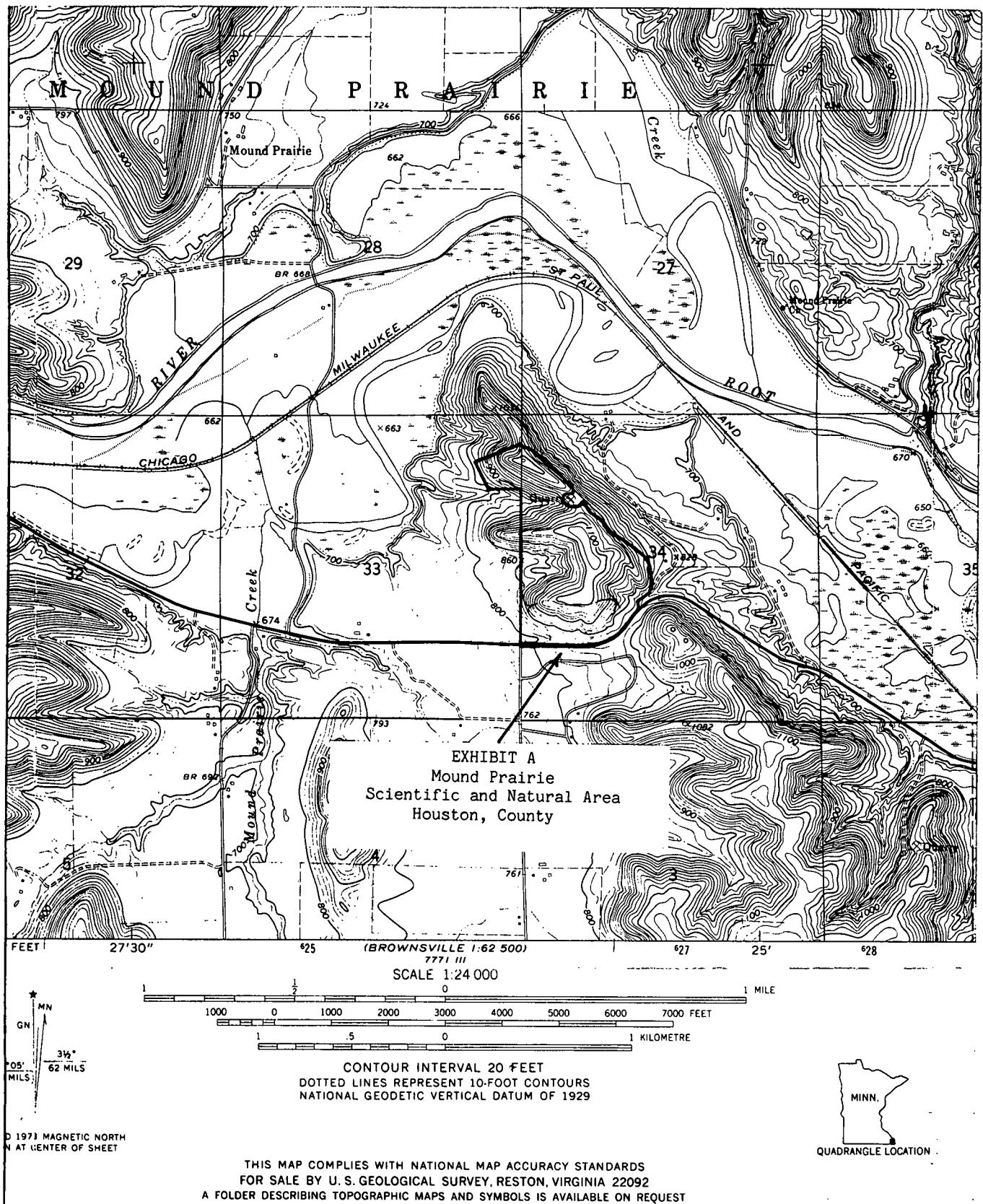
WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Mound Prairie Scientific and Natural Area. Furthermore, the Mound Prairie Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that dogs are permitted and public hunting shall be permitted during legal open seasons.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources



Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 82: Rushford Sand Barrens Scientific and Natural Area

WHEREAS, certain lands in Fillmore County, Minnesota, described as:

All those lands in the South Half of the Southeast Quarter of the Southwest Quarter (S ½ SE ¼ SW ¼) and the South Half of the Southwest Quarter of the Southeast Quarter (S ½ SW ¼ SE ¼) of Section Twenty-one (21) and the North Half (N ½) of Section Twenty-eight (28) as shown on the attached Exhibit A and as posted, ALL IN Township One Hundred Four (104) North, Range Eight (8) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain examples of Dry Sand Savanna—Jack Pine and Oak subtypes, Bluff Prairie and Mixed Oak Forest as well as the following rare, endangered or threatened plant and animal species: Rough-seeded fameflower (*Talinum rugospermum*); Clasp milkweed (*Asclepias amplexicaulis*); Goat's-rue (*Tephrosia virginiana*); Witch-hazel (*Hamamelis virginiana*); Long-bearded Hawkweed (*Hieracium longipilum*); Old field Toadflax (*Linaria canadensis*); Canada Frostweed (*Helianthemum canadense*); Canadian Forked Chickweed (*Paronychia canadensis*); Sea-beach-needle grass (*Aristida tuberculosa*); Wild Indigo (*Baptisia leucophaea*); Cliff goldenrod (*Solidago sciaphila*); Ohio Spiderwort (*Tradescantia ohiensis*); Compass-Plant (*Silphium laciniatum*); and the Six-lined racerunner (*Cnemidophorus sexlineatus*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Rushford Sand Barrens Scientific and Natural Area. Furthermore, the Rushford Sand Barrens Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that dogs are permitted and public hunting shall be permitted during legal open seasons.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources



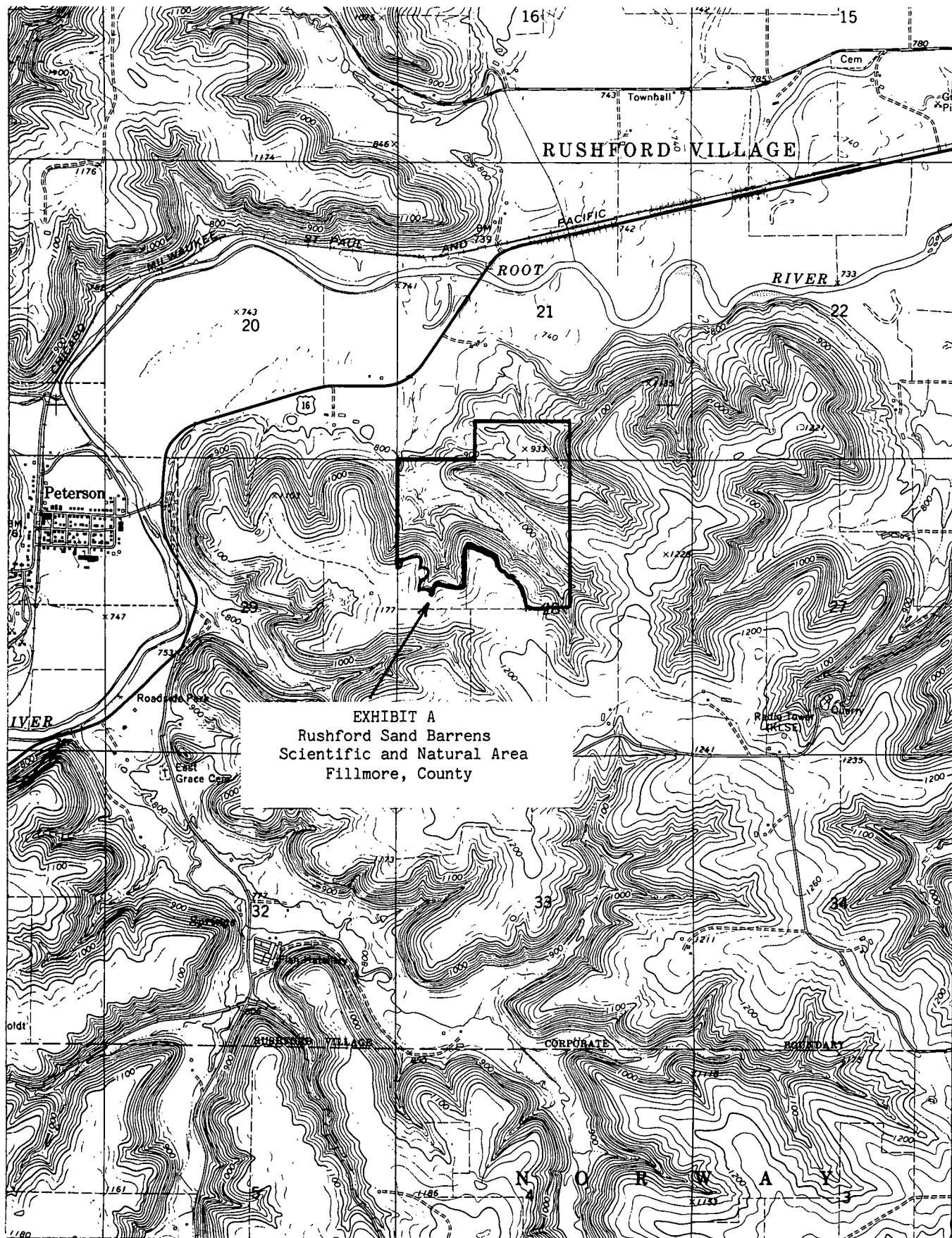
Community Waste Education Manual available at Minnesota's Bookstore

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.

Waste Education Campaigns

The **COMMUNITY WASTE EDUCATION MANUAL** offers practical guidance to help communities develop waste education campaigns. Tremendous step-by-step guide to organizing volunteers, planning a budget, working with media and more. Includes camera-ready art and copy for media and publication needs. 82 pp. Produced by the Minnesota Office of Waste Management. Stock #5-7. \$22.95.

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Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 83: Maurice H. O'Link Ribbed Fen Scientific and Natural Area

WHEREAS, certain lands in Beltrami County, Minnesota, described as:

The Southwest Quarter (SW ¼) of Section Five (5), Township One Hundred Fifty-five (155), Range Thirty-three (33).

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain undisturbed examples of a ribbed fen natural community as well as the following rare, endangered or threatened plant species: linear-leaved sundew (*Drosera linearis*); English sundew (*Drosera anglica*); and yellow-eyed grass (*Xyris montana*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Maurice H. O'Link Ribbed Fen Scientific and Natural Area. Furthermore, the Maurice H. O'Link Ribbed Fen Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area, except that dogs are permitted and public hunting shall be permitted during legal open seasons.

Dated at St. Paul, Minnesota, this 26th day of February, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 84: Burntside Islands Scientific and Natural Area

WHEREAS, certain lands in St. Louis County, Minnesota, described as:

Government Lot 7 of Section Twenty-nine (29) and Government Lots 13 and 15 of Section Thirty (30), ALL IN Township Sixty-three (63) North, Range Thirteen (13) West.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain old growth examples of Great Lakes pine and spruce fir forest; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Burntside Islands Scientific and Natural Area. Furthermore, the Burntside Islands Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 15th day of May, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 85; Amending Order No. 53: Savage Fen Scientific and Natural Area

WHEREAS, additional lands in Scott County, Minnesota, described as:

The West 498 feet (as measured at right angles to the west line thereof) of the Northeast Quarter of the Northwest Quarter (NE ¼ NW ¼) of Section Sixteen (16), Township One Hundred Fifteen (115) North, Range Twenty-one (21) West, EXCEPT the South 315 feet thereof.

Together with the right of ingress and egress, in common with others, for road purposes over and across the East 60 feet of the West 558 feet (as measured at right angles to the west line thereof of said Northeast Quarter of the Northwest Quarter, EXCEPT the South 315 feet thereof).

Subject to easements created by Document No. 82129 filed July 24, 1954, in Book 130, pages 463-64, office of the county recorder, Scott County Minnesota; subject to easements granted in favor of Williams Pipeline Company by instrument dated May 4, 1988. Subject to reservation for the benefit of Tract D, Registered Land Survey 81, Scott County, Minnesota, an easement forever. Subject to easement in favor of the City of Savage for sanitary sewers and other municipal utilities recorded January 24, 1979 in Scott County Recorder's Office as Document No. 167691. Subject to easement in favor of Northern States Power Company recorded February 2, 1962 in Book 153 of Deeds, page 478, Scott County Recorder.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain a calcareous fen plant community and provides habitat for the rare, threatened, endangered or special concern plant species: sticky false asphodel (*Tofieldia glutinosa*), Twig rush (*Cladium mariscoides*), Valerian (*Valeriana ciliata*), Hair-like Beak-rush (*Rhynchospora capillacea*), and Nut-rush (*Scleria verticillata*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as an addition to Savage Fen Scientific and Natural Area. Furthermore, the Savage Fen Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 15th day of May, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 86: Cottonwood River Prairie-Prairie Sky Unit Scientific and Natural Area

WHEREAS, certain lands in Brown County, Minnesota, described as:

That part of the Southwest Quarter (SW ¼) and the Southwest Quarter of the Southeast Quarter (SW ¼ SE ¼) of Section Thirty-three (33), Township One Hundred Nine (109) North, Range Thirty-five (35) West, Brown County, Minnesota, described as follows: Beginning at the southwest corner of said Southwest Quarter; thence on a bearing based on the Brown County Coordinate System of 1983, of North 00° 50' 02" East along the west line of said Southwest Quarter 2057.49 feet; thence South 89° 59' 04" East 2586.98 feet; thence South 00° 00' 56" West 1526.57 feet; thence South 89° 59' 04" East 334.16 feet; thence South 00° 00' 56" West 536.42 feet to the south line of said Southwest Quarter of the Southeast Quarter; thence North 89° 52' 53" West along said south line 310.42 feet to the southwest corner thereof; thence North 89° 52' 22" West along the south line of said Southwest Quarter 2640.11 feet to the point of beginning; EXCEPTING THEREFROM that part lying southwesterly of the northeasterly right-of-way line of the Dakota Minnesota Eastern Railroad.

are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain an example of glacial till hill prairie and habitat supporting the prairie bush clover (*Lespedeza leptostachya*), a state endangered species; and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Cottonwood River Prairie-Prairie Sky Unit Scientific and Natural Area. Furthermore, the Cottonwood River Prairie-Prairie Sky Unit Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 15th day of May, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Scientific and Natural Area Order No. 87: Falls Creek Scientific and Natural Area

WHEREAS, certain lands in Washington County, Minnesota, described as:

The West Half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Seven (7), Township Thirty-two (32) North, Range Nineteen (19) West and the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Twelve (12), Township Thirty-two (32), Range Twenty (20) East of State Highway 95, EXCEPT that part of the Southeast Quarter of the Northeast Quarter of Section 12, Township 32 North, Range 20 West, described as follows:

Commencing at the northeast corner of the Southeast Quarter of the Northeast Quarter of Section 12; thence West $0^{\circ}00'$, assumed bearing, along the north line of the Southeast Quarter of the Northeast Quarter a distance of 490.2 feet; thence South $10^{\circ}09'10''$ West a distance of 20.32 feet to the point of beginning on a line drawn parallel with and distant 20 feet South of the north line of the Southeast Quarter of the Northeast Quarter; thence continuing South $10^{\circ}09'10''$ West a distance of 587.8 feet; thence North $79^{\circ}50'50''$ West a distance of 493.2 feet to the center line of Trunk Highway No. 95; thence northerly along said highway center line a distance of 510 feet, more or less, to the point of intersection with a line drawn parallel with and distant 20 feet South of the north line of the Southeast Quarter of the Northeast Quarter of Section 12; thence East $0^{\circ}00'$ along said parallel line a distance of 452 feet, more or less, to the point of beginning, containing 6.0 acres, more or less, and subject to Trunk Highway No. 95, along the westerly line and also subject to a 13 foot easement lying southerly of and adjacent to the north line of the tract herein described, ALL IN Township 32 North, Range 20 West.

EXCEPT from both of the above-described tracts a strip of land 1 rod wide, running from the so-called Otisville-Taylors Falls Road to Lot 5 of Section 7, being a strip of land 8.25 feet on each side of the center of that certain road as now travelled over and across said real property, subject to the restrictions as shown in a quit claim deed recorded in Book 119 of Deeds, page 128.

Said land subject to easements for state highway purposes and for a power transmission line running to said Lot 5 of Section 7. are under the control and possession of the Department of Natural Resources; and

WHEREAS, such lands contain examples of mature white pine and mesic hardwood forests and bluff prairie plant communities that support kitten-tails (*Besseyia bullii*), a state threatened plant species, and the Louisiana waterthrush (*Seiurus motacilla*); and

WHEREAS, the most effective means by which such lands can be protected and perpetuated in their natural state and used for educational and research purposes in such a manner as will leave them conserved for future generations is by designation as a Scientific and Natural Area;

NOW THEREFORE, I, Rodney W. Sando, Commissioner of Natural Resources, pursuant to authority vested in me by *Minnesota Statutes* §§ 84.033, 86A.05, subd. 5, and other applicable law, do hereby designate the above-described lands as Falls Creek Scientific and Natural Area. Furthermore, the Falls Creek Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.

IT IS FURTHER ORDERED that the provisions of *Minnesota Rules* pts. 6135.4500 through 6135.5000 shall apply to the above-designated area.

Dated at St. Paul, Minnesota, this 15th day of May, 1991.

Rodney W. Sando, Commissioner
Department of Natural Resources

Official Notices

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

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

Department of Agriculture

Agronomy Services Division

Notice of Proposed Addition to the Permanent List of Priorities Among Releases or Threatened Releases of Hazardous Substances, Pollutants or Contaminants

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture (MDA) is publishing for comment a proposed addition to the Permanent List of Priorities (PLP) among releases or threatened releases of hazardous substances, pollutants, or contaminants for which the MDA may take removal or remedial actions under the Minnesota Environmental Response and Liability Act (MERLA), *Minnesota Statutes* ch. 115B. The statutory basis for and explanation of the PLP is discussed below.

Pursuant to MERLA, *Minnesota Statutes* ch. 115B.17 (1990), the MDA is authorized with regard to agricultural chemicals as defined in *Minnesota Statutes* section 18D.01, subd. 3, to do the following. MDA may take any removal or remedial action necessary to protect the public health, welfare, or environment whenever there is a release, or substantial threat of release, from a facility of any pollutant or contaminant determined to be an agricultural chemical which presents an imminent and substantial danger to the public health, welfare, or environment. In addition, whenever a hazardous substance that is an agricultural chemical is released or there is a threat of its release from a facility, the MDA may also take removal or remedial action.

Minnesota Statutes § 115B.17, subd. 13 (1990), creates a permanent priority list. Before any addition to the PLP is adopted, it must be published in the *State Register* to allow for a 30-day public comment period. This notice is published to inform the public that the MDA is proposing to add the Howe Chemical Soil Contamination Site, Martin County, Minnesota to the PLP, and is soliciting comment in regard to that site.

This proposed addition to the PLP was developed according to the process set forth in *Minnesota Rules* pt. 7044.0400 (1988). The proposed site has been ranked using the modified Hazard Ranking System (HRS) method as required by *Minnesota Rules* pt. 7044.1000. This site has also passed the prescreening test for eligibility as required by *Minnesota Rules* pt. 7044.1200 (1988).

The numerical score generated by the HRS scoring process does not represent an exact number priority. The score indicates the relative ranking and general classification of this site. Sites on the PLP with scores within approximately ten points of each other may be considered roughly equivalent in terms of a known or possible public health or environmental threat.

The Howe Chemical Soil Contamination Site, Martin County, has been assigned to response action classes C & D as required by *Minnesota Rules* pt. 7044.0300.

Additional information on the proposed addition of the Howe Chemical Soil Contamination Site, Martin County, to the PLP is available for public review at the Minnesota Department of Agriculture's office at 90 West Plato Boulevard, St. Paul, Minnesota 55107. Please call (612) 297-5731 to schedule a time to review public documents.

The MDA invites the public to submit written comments on the proposed addition to the PLP. To be considered, all written comments must be received no later than 4:30 p.m., July 26, 1991. Written comments should be submitted to Robert Anderson, Agronomy Service Division, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107.

Elton Redalen, Commissioner
Minnesota Department of Agriculture

State of Minnesota

Environmental Response and Liability Act

Proposed Addition to the Permanent List of Priorities

CLASS C SITES

Response Actions Necessary or in Progress

First Year Operation and Maintenance

Site	Score
Howe Chemical Soil Contamination Site, Martin County	12

CLASS D SITES

Remedial Investigations/Feasibility Studies Necessary or in Progress

Site	Score
Howe Chemical Soil Contamination Site, Martin County	12

NOTES:

Score-Hazard Ranking System score.

Department of Human Services

Public Notice Regarding Changes in the Medical Assistance (MA) Program and the General Assistance Medical Care Program (GAMC)

NOTICE IS HEREBY GIVEN to recipients and providers of Minnesota Medical Assistance (MA) and to the public of certain changes affecting the MA program that were enacted by the 1991 Legislature. This notice is published pursuant to *Code of Federal Regulations*, Title 42, section 447.205. The purpose of this notice is to inform the public of changes in the MA program due to changes in state law. The payment rate changes in section III and IV of this notice are expected to result in an estimated increase in MA expenditures of \$47,600,000 for State fiscal years 1992 and 1993.

Changes were made in the following areas:

- I. MA eligibility
- II. MA services
- III. MA payment rates
- IV. Provider surcharges
- V. GAMC changes
- VI. Other

Information related to implementation of these provisions will be sent to local human services agencies through instructional and informational bulletins and manual updates, to MA recipients with their identification cards, and to health care providers through newsletters, bulletins and updates to the provider manuals.

Health and Human Services Omnibus Appropriations Bill, H.F. 719, Chapter 292

I. MA ELIGIBILITY

- Effective July 1, 1991, a human services referee may terminate MA eligibility or services before issuance of a final written order in an appeal, if a recipient's appeal is based solely on a change in law. Amends *Minnesota Statutes* § 256.045, subd. 10.
- Effective July 1, 1991, the state or county may recover from a recipient the cost of care paid for by MA from the proposed effective date of the action to the time a final order is issued, if the recipient's appeal is unsuccessful. Amends § 256.045, subd. 10.
- Effective July 1, 1991, the Commissioner will make "level of care" determinations for children eligible under the "TEFRA" option. The TEFRA option is an eligibility category consisting of persons under age 19 who live at home but require a level of care provided in a hospital, nursing facility or ICF/MR, and for whom home care is cost-effective. This section amends § 256B.055, subd. 12.
- Effective July 1, 1991, all children born on or after October 1, 1983 whose family income is at or less than 100% of the federal poverty guidelines will be eligible for MA, regardless of family assets. This provision amends § 256B.057, subd. 2.
- Effective July 1, 1991, infants born on or after January 1, 1991 whose mothers were receiving MA at the time of birth will remain eligible up to one year regardless of the mother's income, as long as the infant remains in the mother's household. This provision amends § 256B.055, subd. 10 and § 256B.057, subd. 1.
- Effective January 1, 1991, the income maximum for qualified medicare beneficiaries was raised to 100% of federal poverty guidelines, instead of 95%. This provision amends § 256B.057, subd. 3.
- Effective retroactive to the publication of federal poverty guidelines in February 1991, the adjustment to the MA income maxima due to changes in federal poverty will no longer be delayed until the following July 1. These provisions amend § 256B.057. This will affect the following eligibility groups:

Official Notices

- Pregnant women and infants with income at or less than 185% of poverty.
- Children ages 1 through 5 with income at or less than 133% of poverty.
- Qualified working disabled adults with income at or less than 200% of poverty.
- Qualified medicare beneficiaries and children over age 5 born on or after October 1, 1983 with income at or less than 100% of poverty.
- Some widows, widowers and surviving divorced spouses who are at least age 50, who were eligible for Supplemental Security Income (SSI), and who have become eligible for Retirement, Survivors, and Disability Insurance (RSDI) based on their disability will remain on MA until they become eligible for Medicare. This provision amends *Minnesota Statutes*, § 256B.057.
- There are two new post-eligibility income disregards for people who are in nursing facilities, hospitals, or intermediate care facilities for the mentally retarded. Veterans without a spouse or child may keep up to \$90 of the veteran's pension instead of the \$52 personal needs allowance. This is effective in the same month the Veterans Administration decreases the pension for this group to \$90. Also, effective January 1, 1991, reparations payments from the Federal Republic of Germany will not be applied toward the cost of care. This provision amends § 256B.0575.
- Effective July 1, 1991, initial applications for MA for pregnant women and children will be taken at federally qualified health centers and certain hospitals. This provision amends § 256B.08.
- Effective July 1, 1991, § 256B.19 is amended to add a subdivision to require local agencies to, upon due notice from DHS, investigate and determine MA eligibility for GAMC and Children's Health Plan recipients. If the local agency does not take appropriate action within 90 days from the date notice is issued, the local agency is responsible for the entire cost of GAMC or Children's Health Plan services from the date the notice is issued until the date the local agency takes appropriate action.

The local agency is also required to investigate and determine eligibility and determine MA eligibility for an infant born to an MA recipient enrolled in a health plan, upon due notice by DHS, within 90 days from the date notice is issued. If the local agency does not comply, DHS may determine MA eligibility for two months, and the local agency will be responsible for the cost of MA for that infant, plus a fee of \$100 for processing the case.

Penalties shall be deducted from the state reimbursement of the county share of MA costs under § 256B.19, subd. 1.

- Effective July 1, 1991, § 252.27 is amended to reduce the parental contribution to the cost of MA for children who are eligible without consideration of parental income. The new contribution schedule is as follows:
 - For the amount of adjusted gross income over 200% of poverty, but not over \$50,000, 10%;
 - For the amount of adjusted gross income over 200% of poverty, and over \$50,000, up to \$60,000, 12%;
 - For the amount of adjusted gross income over 200% of poverty, and over \$60,000, up to \$75,000; 14%; and
 - For the amount of adjusted gross income over 200% of poverty, and over \$75,000, 15%.

II. MA SERVICES

- By October 1, 1991, the drug formulary committee must review legend and non-legend drug classes and advise the Commissioner of formulary changes and prior authorization requirements necessary to provide a \$1.3 million savings in MA and GAMC for the 1992-1993 biennium.
- By December 31, 1991, the drug formulary committee shall review DHS's Drug Utilization Review (DUR) program, and other DUR programs to determine which program best ensures the appropriate use of pharmaceutical products for MA, GAMC and Children's Health Plan recipients. The committee must report its findings to the Commissioner by December 31, 1991.
- For the 1992-1993 biennium, the nonfederal share of the costs of case management services provided to persons with mental retardation or related conditions who are relocated from nursing homes and receiving home and community-based services funded through a federal waiver shall be provided from state MA funds.
- For inpatient hospital admissions on or after July 1, 1991, and until the implementation date of the new Medicaid Management Information System, certified registered nurse anesthetists may be paid independently by MA, if the hospital's base year did not include the cost of these services, and if the hospital notifies the Commissioner in writing by July 1, 1991. This provision amends § 256.969, subd. 6a.
- For discharges occurring on or after July 1, 1991 to December 31, 1991, for recipients who were admitted during that time period, and for each calendar year thereafter, individual hospital payments, when combined with recipient and third party payments, shall not exceed, in the aggregate, the charges for the MA services paid for the same period of time to the hospital. This provision amends § 256.969, subd. 3a.
- Effective July 1, 1991, MA covered drugs must be dispensed by a licensed pharmacist, or by a physician enrolled in the MA program as a dispensing physician. This provision amends § 256B.0625, subd. 13.

- Effective July 1, 1991, the drug clozapine may be dispensed in a quantity that is less than a 30-day supply. This provision amends § 256B.0625, subd. 13.

- Effective July 1, 1991, MA covers the services of certified adult nurse practitioners and certified geriatric nurse practitioners in independent practice, if the services are otherwise covered by MA and are within the scope of the practitioner's license. This provision amends § 256B.0625, subd. 28.

- Effective July 1, 1991, MA covers public health clinic services and the services of clinic that meet criteria established by administrative rule. This provision amends § 256B.0625, subd. 30.

- Effective January 1, 1992, 50% of the nonfederal share of MA costs of placement of severely emotionally disturbed children in regional treatment centers shall be paid by the county, and 50% shall be paid by the State. This provision amends § 256B.19.

- Effective July 1, 1991, § 256B.064, subd. 2 is amended to require that a MA provider who requests a contested case due to a sanction or recovery by the MA program pursuant to § 256B.064 must file a written request for appeal with the Commissioner no later than 30 days after the date the notice of sanction or recovery was mailed to the vendor.

- The Commissioner is required to revise existing rules governing case management for adults with serious and persistent mental illness by July 1, 1992. Until the rule amendments are adopted, in-county travel by case managers is reimbursable under the MA program subject to the six-hour limit on case management services. This provision amends § 245.4711.

- Effective July 1, 1991, providers of special transportation must receive and maintain a current physician's order by the recipient's attending physician. This provision amends § 256B.0625, subd. 17.

- Effective October 1, 1991, all MA reimbursed home care services beyond certain limits must be prior authorized. Those limits are a total combination of 40 home health aide visits, skilled nurse visits, nurse health promotions, or nurse health assessments and up to ten hours of personal care nursing supervision. The Commissioner shall determine the medical necessity of home care services, the level of skill of the caregiver, the institutional comparison, and the amount, scope, and duration of the services.

- Effective October 1, 1991, the Commissioner shall limit the amount of personal care services available up to two times the average number of direct care hours provided in nursing facilities for the recipient's case mix, or up to three times the average number of direct care hours for recipients who have complex medical needs, or up to 60% of the average regional treatment center (RTC) reimbursement for complex behavior, or up to the reimbursement rate for RTC for recipients referred to the Commissioner by an RTC preadmission evaluation team, or up to the MA reimbursement for facility care for clients referred by a PAS team (nursing facility or ICF/MR).

- Effective July 1, 1991, *Minnesota Statutes*, § 256B.091 was replaced by § 256B.0911. It includes provision for nursing home reimbursement for all county preadmission screenings, instead of the previous reimbursement for persons who are applicants or residents.

- Effective October 1, 1991, the Commissioner shall limit the amount of private duty nursing services to no more than 16 hours per day.

III. MA PAYMENT RATES

- Effective July 1, 1991, the Commissioner will approve a two percent increase in the payment rates for day training and habilitation services to be used for increasing salaries of personnel below top management by at least three percent. This provision amends *Minnesota Statutes*, § 252.24.

- Effective January 1, 1992, the Commissioner will increase payment rates for day training and habilitation services by two percent. No other cost of living increase will be granted in the biennium ending June 30, 1993. This provision amends *Minnesota Statutes*, § 252.46.

- Effective immediately, variances to the payment rates for day training and habilitation services are limited to those necessary to assure vendor compliance with licensure requirements. This provision amends *Minnesota Statutes*, § 252.46, subd. 6.

- Effective July 1, 1991, first approvals for special needs rate exceptions are limited to a maximum of six months with one six month renewal. No more than 720 hours of direct service staff can be included in the costs of a six month approval. This provision amends *Minnesota Statutes*, § 256B.501, subd. 8.

- Effective July 1, 1991, the Commissioner may continue the operating cost payment rate of a ICF/MR under receivership beyond the receivership period where a change of ownership has occurred.

- Effective July 1, 1991, the Commissioner will not be required to recover nonallowable federal MA payments made between October 1, 1986 and December 31, 1988 from nursing facilities declared on January 1, 1989, as institutions for mental disease.

- Effective July 1, 1991, the Commissioner will postpone the implementation of the new client based reimbursement system for the program operating cost payment rates as provided in *Minnesota Statutes*, § 256B.501, subd. 3g, until October 1, 1993. In preparation for implementation, the commissioner of the Department of Health shall continue client assessments. New admission assessments will continue to be completed by the interdisciplinary team.

Official Notices

- Effective July 1, 1991, *Minnesota Statutes*, § 144A.071, subd. 3 clarifies an existing exception to the nursing home moratorium related to beds moved from a state nursing home. This section was also amended to allow a non-certified but licensed boarding care home to become certified if this will result in a net annual savings of \$200,000 or more in state dollars.
- Effective July 1, 1991, *Minnesota Statutes*, § 256I.04 is amended to prohibit counties from approving new negotiated rate facility beds paid for by GA or MSA with certain exceptions.
- Effective July 1, 1991, *Minnesota Statutes*, § 144A.071, is amended to allow the commissioner of health to certify licensed nursing home beds for MA if the beds meet certification requirements and the facility enters into an agreement with the Commissioner of Human Services that MA reimbursement will not be requested for a greater number of residents than the facility had MA certified beds on April 1, 1991.
- Effective July 1, 1991, *Minnesota Statutes*, § 144A.10, subd. 4, is amended and directs the Commissioner to require nursing homes to use efficiency incentive payments to correct violations.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431, subd. 21, is amended and updates the reference to the index to be used in determining annual adjustments for nursing home operating costs.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431 establishes special reimbursement limits for the rate year beginning July 1, 1991, for facilities that specialize in treating persons with Huntington's disease. The higher limit is available for up to 35 residents if more than 25 percent of the nursing facility's licensed beds are used to serve Huntington's residents.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431 requires the reduction or elimination of the nursing facility efficiency incentive for homes with serious uncorrected rule violations, except for violations related to physical plant. Any forfeiture is limited to the amount necessary to correct the violation.
- Effective July 1, 1991, *Minnesota Statutes*, § 256.431 creates special rates for former short-length-of-stay facilities for the rate year beginning July 1, 1992.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431, subd. 3e extends the period during which a facility may continue hospital-attached status to five years from three years. During the fourth and fifth years the higher rate is phased down at 60 percent and 30 percent of the difference respectively.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431, subd. 3f, updates the reference to the index to be used in determining annual adjustments to the replacement-cost-new per bed limit for nursing homes.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431, subd. 14 is amended to allow the continuation of the nursing home property-related payment rate in effect on June 30, 1991 for two rate years with certain exceptions.
- Certain chain organizations which have a change of ownership or reorganization of provider entity between July 1, 1991 and June 30, 1993 shall receive the property rate in effect at the time of the sale or reorganization. This section is not effective until the Commissioner receives state plan approval.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.50, subd. 1d clarifies that providers must file appeals of DHS determinations with both the office of administrative hearings and DHS, and that submissions must be timely. Revises existing language, to allow the DHS to transfer appeal items presenting similar adjustments to the contested case procedure.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.501, subd. 8 provides additional criteria for authorizing MA payment for very dependent persons with special needs. This subdivision also allows the Commissioner to terminate rate exceptions at any time under conditions set out in rule, or if certain specified criteria are met.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.501, subd. 11 updates the reference to the index to be used in determining annual adjustments to the investment per bed limit for ICF's/MR. Also, delays ICF/MR development on projects projected to be operational after July 1, 1991. Certain exceptions are stated.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.501 subd. 12 provides a one and one half percent rate increase to provide certain salary increases above inflation. This section also requires a retroactive review with recovery, to ensure the increase and part of the inflationary adjustment is given to facility staff.
- Effective July 1, 1991, *Minnesota Statutes* 1990, § 256I.05 sets a maximum rate for uncertified boarding care homes of 65 percent of the nursing home level "A" rate, beginning July 1, 1992.
- Effective July 1, 1991, *Minnesota Statutes*, § 256I.05, subd. 2 strikes language exempting a residence meeting specified criteria from the negotiated rate limit. Clarifies exemption language for institutions for mental diseases (IMDs). Extends the exclusion from the rate limit until June 30, 1992 (July 1, 1991 is the current expiration date). Requires the Commissioner to take certain actions relating to nursing homes and boarding care facilities declared to be IMD's.
- Effective July 1, 1991, *Minnesota Statutes*, § 246.18 establishes a separate account for depositing funded depreciation payments received by certain state-operated community programs for the developmentally disabled.

- Effective July 1, 1991, *Minnesota Statutes* § 252.293 allows the Commissioner to transfer ICF/MR beds and establishes interim payment rates in certain emergencies.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.0641 is amended to limit new owner liability where the facility is subject to certain receivership requirements, and is later sold to an unrelated organization.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431 is amended by authorizing nursing facilities that are IMDs with fewer than 23 licensed beds to reduce beds to 16 by July 1, 1992 and to notify the Commissioner of health by April 1, 1992. An eligible facility which desires the rate effect of this provision effective July 1, 1991, may obtain it by giving proper notice by June 28, 1991.
- Effective July 1, 1991, *Minnesota Statutes*, § 256B.431 is amended by adding language that specifies that nursing homes which decertify MA beds after January 1991 are not eligible for the exemption from the negotiated rate cap in chapter 256I.
- Effective for the fiscal year beginning July 1, 1992, rates for services provided through the Community Alternatives for Disabled Individuals (CADI), the Community Alternative Care (CAC), and the Elderly Waiver programs, shall not be adjusted for inflation. *Minnesota Statutes*, § 256B.49, subd. 4.
- Effective for the 1992-1993 biennium, rates for services provided through the home and community-based services waivers for persons with developmental disabilities shall not be adjusted for inflation, except that for the fiscal year beginning July 1, 1991, rates shall be increased to reflect a 3% increase in salaries, payroll taxes and fringe benefits of personnel below top management employed by agencies under contract with the county board to provide these services. The rate increase will be based on DHS' estimate of the portion of the fiscal year 1991 rate that is attributable to those costs. Rates shall be reduced in any contract period subsequent to a contract period for which the county board determines that the rate increase was not spent appropriately. The reduction shall reflect the amount of money not spent appropriately. *Minnesota Statutes*, § 256B.491, subd. 3.
- Effective for the fiscal year beginning July 1, 1992, rates for personal care assistant services and private duty nursing services shall not be adjusted for inflation. *Minnesota Statutes*, § 256B.0625, subd. 19.
- Effective July 1, 1991, mental health services provided by masters-prepared mental health practitioners and practitioners licensed at the masters level will be reimbursed at 65% of the rate paid to doctoral-prepared practitioners. This does not include services provided by community mental health centers.
- Effective July 1, 1991, rates paid for anesthesiology services provided by physicians and certified registered nurse anesthetists (CRNAs) shall be according to the formula utilized in the Medicare program. For physicians, a conversion factor at the percentile of the calendar year set by the legislature for physicians services shall be used. For CRNAs, the conversion factor shall be that used by Medicare.
- Implementation of the reduced rate for therapy services provided by a physical or occupational therapy assistant, to 65% of the rate paid for services provided by a physical or occupational therapist, will be implemented in conjunction with DHS's complete therapy code conversion project, or January 1, 1992, whichever occurs first.
- Effective July 1, 1991, § 256B.031, subd. 4 is amended to clarify that DHS has final control over the capitation rates paid to the health plans under contract to provide MA services. Effective July 1, 1991, these health plans may limit any payments to non-participating providers to the MA rates paid on behalf of recipients not enrolled in health plans.
- Effective July 1, 1991, the rates paid to providers of special transportation services for those who require a wheelchair lift or stretcher-equipped vehicle and for those who do not require such a vehicle shall not exceed an average of \$12.50 for the base rate and \$1.00 per mile. This provision amends § 256B.0625, subd. 17.
- Effective July 1, 1990, § 256B.0625, subd. 30, governing rates paid to federally qualified health centers, is amended to require the reporting of estimated and actual costs and submission of final cost reports within 90 days of the end of a reporting period. The final report must include allowable costs incurred for the period, the number of visits for services furnished, and other information as required by the Commissioner, or the most recent Medicare cost report filed with the Medicare intermediary for the reporting year which supports the costs claimed on the cost report to the Commissioner.
- For inpatient hospital admissions on or after July 1, 1991, the Commissioner shall make indigent care payments to Minnesota and local trade area hospitals, except Indian Health Service facilities and regional treatment centers. The payment will be 10% of the amount of MA payments issued to the hospital for inpatient services in a given calendar quarter or month, excluding the indigent care payment, divided by the number of related admissions, or patient days if applicable, and multiplying the result by 111%. Medicare crossovers are excluded from MA payments used to calculate the indigent care payment, and are excluded from indigent care payments. This provision creates a new § 256B.82.
- For outpatient hospital services provided on or after July 1, 1991, the Commissioner shall reimburse outpatient facility fees at 80% of the mean of charges submitted for the same service in calendar 1990, not to exceed the Medicare upper payment limit. This rate methodology will not apply to emergency room facility fees, clinic facility fees, and those services for which there is a federal maximum allowable payment. § 256B.82.

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- For physician services provided on or after July 1, 1992, reimbursement shall be as follows:

Payment for level one Health Care Financing Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient medical services," preventive medicine new and established patient," "delivery, antepartum and postpartum care," caesarean delivery, and pharmacologic management provided to psychiatric patients and HCPCS level three codes for enhanced services for prenatal high risk shall be calculated at the lower of (1) submitted charges, or (2), the median charges in 1989 minus 20%. If the median minus 20% results in a decrease to rates in effect on June 30, 1991, for obstetrical and prenatal services, the rate on those codes in effect on June 30, 1991 shall be increased by 5%.

Payment for level one HCPCS codes titled "critical care" initial or subsequent visits only shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 30%.

Payments for all other services shall be calculated at the lower of (1) submitted charges, or (2) the median charges in 1989 minus 40%.

In addition, rates for obstetrical services shall be adjusted by the previous increases in 1989 and 1990, and for pediatric services, by the previous increase in 1990. § 256B.82.

- For rate years beginning on or after July 1, 1991, the payment rates for nursing facilities shall be as follows:

A capital allowance of \$1.44 per resident day shall be paid.

The maximum efficiency incentive per diem payment shall be increased to \$2.10 effective July 1, 1991 and to \$2.20 effective July 1, 1992. § 256B.82.

- For dental services provided on or after July 1, 1992, reimbursement shall be increased as follows:

For preventative services, by 20%; and

For all other services; by 5%. § 256B.82.

• Effective July 1, 1991 for health plans under contract to provide MA services, the monthly capitation rate cells shall be adjusted by the amount necessary to accommodate the equivalent value of the indigent care payments for inpatient hospital services, the increase in outpatient hospital reimbursement, and effective July 1, 1992, the increases in reimbursement for physician and dental services. § 256B.82.

• The Commissioner shall not adjust the above payments marked with an asterisk as long as the surcharges listed below are in effect. The Commissioner must implement the above payments and the surcharges listed below without complying with the rulemaking requirements of *Minnesota Statutes*, chapter 14. The Commissioner is required to begin the emergency rulemaking process within 30 days, and has the authority to adopt permanent rules. § 256B.82.

• Certain payment rate increases, and the surcharges below, are effective only as long as federal financial participation under Title XIX of the Social Security Act is available for the above MA payments. If federal funds are denied for these payments, the Commissioner is required to: (1) discontinue surcharges collections from providers; (2) eliminate certain rate changes; and (3) implement additional budget reductions. Rate changes due to loss of federal funds will be published in the *State Register* if and when they become effective. § 256B.82.

IV. MA PROVIDER SURCHARGES

• Effective July 1, 1991, each nursing facility shall pay to the Commissioner an annual surcharge equal to \$500 per bed licensed on the previous April 1. Payments are due in monthly installments due on the 15th of each month, beginning August 15, 1991. This provision creates a new § 256.9657.

• Effective July 1, 1991, each Minnesota and local trade area hospital, except facilities of the federal Indian Health Service and regional treatment centers, shall pay a surcharge equal to 10% of MA payments issued to that provider for the month beginning six months prior to the month in which the payment is due. The first payment, due September 15, 1991 is based on the MA payments issued in the calendar quarter ending March 31, 1991. Medicare crossovers and indigent care payments are excluded from the amount of MA payments issued. § 256.9657.

• Effective July 1, 1991, each Minnesota and local trade area hospital, except facilities of the federal Indian Health Services and regional treatment centers, shall pay a surcharge equal to 5% of MA payments issued to that provider for outpatient services according to the same payment schedule as the inpatient surcharge. Medicare crossovers and indigent care payments are excluded from the amount of MA payments issued. § 256.9657.

• Effective July 1, 1991, each health plan under contract with the Commissioner to provide MA services shall pay a surcharge equivalent to the value of the inpatient and outpatient hospital surcharge for each rate cell payment. The surcharge for each quarter or month of a fiscal year shall be calculated based on the payments due in the same fiscal year for inpatient and outpatient hospitals. The first payment is due September 15, 1991, with subsequent payments due on the fifteenth of each month. § 256.9657.

- Surcharge payments are not an allowable cost for purposes of the MA program. § 256.9657.

- The Commissioner is required to notify each provider of the surcharge due at least 30 days prior to the due date. A provider may request a contested case hearing within 30 days of receipt of the Commissioner's notice, but must pay the surcharge by the due date. A settle-up will occur at the time the appeal is resolved. § 256.9657.

- The Commissioner shall bring action in district court to collect surcharge payments that are more than 30 days in arrears. § 256.9657.

V. GAMC CHANGES

- For inpatient hospital admissions occurring in the biennium ending June 30, 1993, the hospital cost index shall not be effective in the GAMC program. This provision amends § 256.969, subd. 1.

- For discharges occurring on or after July 1, 1991 to December 31, 1991, for recipients who were admitted during that time period, and for each calendar year thereafter, individual hospital payments, when combined with recipient and third party payments, shall not exceed, in the aggregate, the charges for the GAMC services paid for the same period of time to the hospital. This provision amends § 256.969, subd. 3a.

- A person must be 18 years of age to be eligible for GAMC. This provision amends § 256D.03, subd. 3.

- Effective July 1, 1991, special transportation is not a covered service for a GAMC recipient, unless he or she resides in an institution for mental diseases. § 256D.03, subd. 3.

V. OTHER

• H.F. 1442, Chapter 298, Transportation

The Regional Transit Board and DHS must conduct a study to determine the feasibility of consolidating Metro Mobility and MA special transportation rides. A report to the Legislature is due December 31, 1991.

Department of Human Services

Additions, Changes and Deletions to Notice of Health Services Requiring Prior Authorization for MA/GAMC

THE FOLLOWING ARE additions, changes and deletions to the list of services requiring prior authorization which was published in the April 2, 1990 *State Register* Vol. 14, #40, pages 2365-2377. The newly added codes will require prior authorization for services provided on or after July 1, 1991.

III. MEDICAL SUPPLIES AND EQUIPMENT; PROSTHETICS AND ORTHOTICS

In addition to the specific supplies and equipment listed in this section, providers must obtain prior authorization for items in the following general categories:

CHANGE:

1. Durable medical equipment when the purchase or projected cumulative rental cost exceeds \$350.00, except oxygen, oxygen supplies, oxygen equipment, and wheelchair rental.

2. All wheelchairs and specified wheelchair accessory procedure codes (see list). This includes wheelchair rentals that exceed two consecutive months.

3. Prostheses and orthoses when the purchase or projected cumulative rental cost exceeds \$2000.00, except custom orthopedic footwear, which requires prior authorization regardless of cost.

4. Repairs and adaption to durable medical equipment, prostheses, and orthoses when the cost exceeds \$300. This includes charges for parts and labor.

6. Any individual item for which a specific HCPCS code has not been assigned, e.g., E1399, or any other HCPCS code ending in '99' when the charge exceeds \$25.00.

	<u>SERVICE CODE</u>	<u>SERVICE DESCRIPTION</u>
ADD:	E0958	Wheelchair attachment to convert any chair to one-arm drive
	E0967	Wheelchair hand rims with 8 vertical rubber-tipped projections, pair
	E0968	Commode seat, wheelchair
	E0969	Narrowing device, wheelchair

Official Notices

SERVICE

CODE

SERVICE DESCRIPTION

E0973	Adjustable height detachable arms, desk or full-length, wheelchair
E0974	"Grade aid" (device to prevent rolling back on an incline) for wheelchair
E0975	Reinforced seat upholstery, wheelchair
E0976	Reinforced back, wheelchair, upholstery or other material
E0980	Safety vest, wheelchair
E0990	Elevating leg rest, each
E1065	Power attachment (to convert any wheelchair to motorized wheelchair, e.g., solo)
E1066*2	Battery charger
E1225	Semi-reclining back for customized wheelchair
E1226	Full reclining back for customized wheelchair
E1227	Special height arms for wheelchair
E1228	Special back height for wheelchair
E1296	Special wheelchair seat height from floor
E1297	Special wheelchair seat depth, by upholstery
E1298	Special wheelchair seat depth and/or width by construction
Q0080	Seat lift mechanism incorporated into a combination lift chair

CHANGE: *2 Prior authorization is required if provided more than once in 5 years

V. ALL OTHER SERVICES

SERVICE

CODE

SERVICE DESCRIPTION

ADD:	X5355*12	Cardiac rehabilitation program; including physician services, per session
	X5356*12	Cardiac rehabilitation program; excluding physician services, per session
	17106	Destruction of cutaneous vascular proliferative lesions (e.g., laser technique); less than 10 sq. cm.
	17107	.... 10.00-50.0 sq. cm.
	17108	.... over 50.0 sq. cm.

ADD: DRUGS THAT REQUIRE PRIOR AUTHORIZATION

1. Epoetin Alfa/erythropoietin (Epogen and Procrit)
Epogen: treatment of anemia associated with dialysis and chronic renal failure
Procrit: treatment of anemia associated with AIDS, cancer therapy and chronic renal failure

2. Thorazine spansule

3. L-Carnitine

4. Declomycin

5. Clozapine

CHANGE:	J7190*10	
	J7194*10	
	X0691*11	
	21462*7	
	33212*13	
	67999*8	
	99199*9	
	*7	PA is required if this code is used more than 30 days after documented fracture
	*8	PA is required for chemodenervation of the eyelids
	*9	PA is required for Clozaril

SERVICE CODE	SERVICE DESCRIPTION
*10	PA is required if product is for continuous use and exceeds 9,999 units per month. PA is not required in emergency situations
*11	PA is required for day treatment in excess of 390 hours
*12	PA is required in excess of 36 sessions per calendar year
*13	This procedure code includes two services; the insertion or replacement of a pacemaker pulse generator or automatic implantable cardioverter-defibrillator pulse generator. When using this code to bill for the insertion or placement of pacemaker pulse generator, note this service in the Procedure box of the Practitioner Invoice, as this specific service does not require PA.

VI. PROCEDURES NO LONGER REQUIRING PRIOR AUTHORIZATION (PA)

ADD:	88230	Tissue culture for chromosome analysis; Lymphocyte
	88233	....; skin or other solid tissue biopsy
	88237	....; bone marrow (Myeloid) cells
	88239	....; other tissue
	88260	Chromosome analysis; count 5 cells, screening, with banding
	88261	....; count 5 cells, 1 Karotype
	88262	....; count 15-20 cells, 2 Karotypes
	88263	....; count 45 cells for Mosaicism, 2 Karotypes
	88280	Chromosome analysis, additional Karotypes
	88283	....; additional specialized banding technique
	88285	....; additional cells counted
	88289	....; additional high resolution study
	88299	Unlisted cytogenic study
	J1050	Medroxyprogesterone Acetate, up to 100 mg. (Depo Provera)
	V2622	Prosthetic eye, glass, custom
	V2623	Prosthetic eye, plastic, custom
	92330	Prescription, fitting and supply of ocular prosthesis (artificial eye) with medical supervision of adaption
	92335	Prescription of ocular prosthesis (artificial eye) and direction of fitting and supply by independent technician, with medical supervision of adaption
	92393	Supply of ocular prosthesis (artificial eye)

Department of Human Services

Notice of Change in the Sliding Fee Scale for the Consolidated Chemical Dependency Treatment Fund (CCDTF)

Minnesota Statutes, section 254B.04, subdivision 3, requires the Commissioner of Human Services to adopt a sliding fee scale for the CCDTF. *Minnesota Rules*, part 9530.7020, subpart 3 requires the department to adjust the sliding fee scale annually, and publish the adjustments in the *State Register*.

Minnesota Statutes, section 254B.04, subdivision 1(c), requires that "Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served."

Because funds available for CCDTF services in SFY 1992 are not sufficient to provide services to any persons who would be responsible for a sliding fee payment, no revised sliding fee is published for that year.

Official Notices

Department of Labor and Industry

Labor Standards Division

Notice of Correction to Prevailing Wage Rates

Prevailing wage rates certified June 1, 1991 for class code 407 and 202 in the following appropriate counties have been corrected, Carver, Hennepin, Scott commercial and Anoka, Carver, Hennepin, Scott, Wright Highway/Heavy.

Copies of the corrected certifications may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155, or calling (612) 296-6452.

John Lennes, Commissioner
Department of Labor and Industry

Judicial Branch

State Law Library

Notice of Law Library Filing Fees

Pursuant to *Minnesota Statutes* 134A.10, the following law library fees are published. Civil fees include probate matters. Criminal conviction includes felonies, gross misdemeanors, and misdemeanors EXCEPT as noted. These fees are effective July 1, 1991.

<u>County</u>	<u>Civil</u>	<u>Conciliation</u>	<u>Criminal Conviction</u>	<u>Petty Misdemeanor</u>	<u>Notes:</u>
Faribault	10	10	10	2	\$5 on Misdemeanors.
Fillmore	12	8	12	2	\$5 on Misdemeanors. SEE NOTE BELOW.
Olmsted	10	10	5	2	Nothing on parking tickets.
Sibley	7	7	—	—	\$5 on all traffic violations.

Fillmore County fees remain as previously set but serves notice "that Law Library fees be charged on ordinance convictions at a commensurate level had the offense been charged statutorily." The effective date of this court order is also July 1, 1991.

Department of Public Service

Energy Division

Amended Notice of Intent to Solicit Outside Opinion Regarding the Minnesota Energy Code

The notice of Intent to Solicit Outside Opinion regarding *Minnesota Rules* Chapter 7670 governing building design and construction standards regarding heat loss control, illumination and climate control within the State Building Code published on 20 May 1991 (15 S.R. 2498) is hereby amended to reference new legislation and change the solicitation date.

This notice is given pursuant to *Laws of Minnesota 1991* Chapter No. 149 (H.F. No. 132) Section 4, Subdivisions 1 and 2, and *Laws of Minnesota 1991* Chapter No. 235 (H.F. No. 1246) Article 1, Section 5.

All statements of information and opinions will be accepted until the amended date of **November 1, 1991**. Any written material received by the agency 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: 5 June 1991

Krista L. Sanda, Commissioner
Department of Public Service

Office of the Revisor of Statutes

Notice of Publication of *Minnesota Rules 1991*

Minnesota Rules 1991 is now available. This publication is based on *Minnesota Rules 1989* and incorporates compiled rules of state agencies adopted from April 10, 1989 to February 4, 1991. The cost of the 11-volume set of *Minnesota Rules 1991* is \$200. Individual

volumes may be purchased for \$20 each while supplies are available. *Minnesota Rules 1991* (Stock #18-100) may be purchased from Minnesota's Bookstore, Department of Administration—Print Communications Division, 117 University Avenue, St. Paul, MN 55155. Telephone: (612) 297-3000 or Toll free within Minnesota 1-800-652-3757. Orders must be prepaid. FAX credit card orders to (612) 296-2265.

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, July 25, 1991, at 5:30 p.m. in Hearing Room 5, Ground Floor, State Office Building, 100 Constitution Ave., St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines and commentary regarding the ranking for new and amended crimes and other action to address legislation passed during the 1990 legislative session.

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

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

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On July 30, 1991, the Commission will meet at 4:30 p.m. at the University Club, 420 Summit Avenue, St. Paul, Minnesota to formally adopt or reject the proposed modifications. *If adopted, the modifications will become effective August 1, 1991.*

Proposed Modifications to Commentary II.A.03. (Offenses excluded from the Offense Severity Reference Table)

10. Crime committed for benefit of gang—609.229, subd. 3 (a)

Proposed Modifications to Section II. D. Factors that may be used as reasons for departure:

b. Aggravating Factors:

(7) The offender committed a crime against the person for the benefit of a gang as defined in Minnesota Statutes § 609.229, subd. 1, in furtherance of criminal activity by an organized gang. An "organized gang" is defined as an association of five or more persons, with an established hierarchy, formed to encourage gang members to perpetrate crimes or to provide support to gang members who do commit crimes.

(8) ~~The offender was convicted of a controlled substance offense in violation of chapter 152 and the offense was committed in a park zone or in a school zone as defined in chapter 152.01.~~

~~This aggravating factor shall not apply to an offender convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.~~

~~This aggravating factor shall not apply to an offender convicted under chapter 152.022, subdivision 1, clause (5), (ii) or under chapter 152.023, subdivision 2, clause (5).~~

It is proposed that factor (8) be removed from the list of aggravating factors because the elements have been incorporated into the first four degrees of controlled substance crimes. The severity levels for these new provisions are proposed to be ranked at the current severity levels for each respective degree.

Proposed Modifications to Section II. E. Mandatory Sentences: When an offender has been sentenced according to Minnesota Statutes § 609.11, subd. 5a the presumptive duration of the prison sentence is the mandatory minimum term for dangerous weapon involvement plus the mandatory minimum term for the second or subsequent controlled substance offense or the duration of prison sentence provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer.

Proposed Modifications to Section II. G. Convictions for Attempts or Conspiracies: For persons convicted of attempted offenses or conspiracies to commit an offense or for persons convicted of Solicitation of Juveniles under Minnesota Statutes § 609.494, subd. 2 (b), the presumptive sentence is determined by locating the Sentencing Guidelines Grid cell defined by the offender's criminal history score and the severity level of the completed or intended offense, and dividing the duration contained therein by two, but such sentence shall not be less than one year and one day except that for Conspiracy to Commit a Controlled Substance offense as per Minnesota Statutes § 152.096, in which event the presumptive sentence shall be that for the completed offense.

Proposed Modifications to Section V. Offense Severity Reference Table:

VI

Controlled Substance Crime in the Third Degree—152.023, subd. 1 and subd. 2 (3), (4), (5), & (6), & (7)

Official Notices

III	Firearm Silencer (public housing, school, or park zone)—609.66, subd. 1a (1)
	Hinder Logging (great bodily harm)—609.591, subd. 3 (1)
II	Discharge of Firearm (public housing, school, or park zone)—609.66, subd. 1a (2)
	Furnishing a Dangerous Weapon—609.66, subd. 1c
	Furnishing Firearm to Minor—609.66, subd. 1b
	Duty to Render Aid (death or great bodily harm)—609.662, subd. 2 (b) (1)
	Assault 4—609.2231, subd. 1 & 2
I	Crime Committed for Benefit of Gang—609.229, subd. 3 (c)
	Discharge of Firearm—609.66, subd. 1a (3) (2)
	Duty to Render Aid (substantial bodily harm)—609.662, subd. 2 (b) (2)

In addition, the Legislature amended the felony provisions for Obstructing Legal Process, *Minnesota Statutes* § 609.50 to include the intentional disarming of a peace officer. The Commission proposes this new provision be included at the current severity level ranking of III. Also, the Legislature increased the statutory maximum penalty from 5 years to 20 years for Theft of a Firearm and Receiving Stolen Property involving a firearm. The Commission proposes to leave these offenses ranked at the current severity level ranking of III.

Department of Transportation

Notice of Appointment of State Aid Variance Committee and Open Meeting

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Thursday, July 11, 1991, at 10:00 a.m. in the second floor conference room at the St. Paul Downtown Airport, 644 Bayfield Street, St. Paul, MN 55107.

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

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

The agenda will be limited to these questions:

1. Petition of the City of Minneapolis for a variance from minimum standards as they apply to a proposed reconstruction project on MSAS 225 (12th Street South) between 3rd Avenue South and 4th Avenue South and the Freeway Entrance so as to permit design speeds of 25, 15 and 15 miles per hour for three horizontal curves instead of the required minimum of 30 miles per hour.

2. Petition of the City of Minneapolis for a variance from minimum standards as they apply to a proposed reconstruction project on MSAS 218 (5th Street North) from 200 feet south of Second Avenue North and Second Avenue North so as to permit a design speed and posted speed of 25 miles per hour instead of the required minimum of 30 miles per hour.

3. Petition of the City of Rochester for a variance from the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds so as to permit the use of state aid funds to finance SAP 159-138-01, a proposed reconstruction project on MSAS 138 (Essex Parkway) from West River to Watson Complex.

4. Petition of the City of Rochester for a variance from the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds so as to permit the use of state aid funds to finance SAP 159-107-12, a proposed reconstruction project on MSAS 107 (7th Avenue SW) from Memorial Parkway to 11th Street SW.

5. Petition of the City of New Ulm for a variance from minimum standards as they apply to a proposed reconstruction project on MSAS 115 (North Broadway) between 22nd North Street and Milford Township Road T119 so as to permit a 15 inch clearance from the face of curb to fixed objects instead of the required minimum of two feet.

6. Petition of the County of Red Lake for a variance from rule as they apply to a proposed reconstruction project on CSAH 5 between First Avenue in Oklee, Minnesota to the north county line so as to permit a 29.3 foot wide bridge (Bridge No. 63502); instead of the required minimum of 30 feet; to remain in place.

7. Petition of the City of Stillwater for a variance on a proposed reconstruction project on MSAS 104 (Myrtle Street) between North 3rd Street and Main Street and on MSAS 106 (2nd Street) between Chestnut Street and Mulberry Street so as to permit a right of way width of 50 feet instead of the required minimum of 60 feet; and for a variance from 8820.2800 which is the requirement that only those projects for which plans are approved by the State Aid Engineer prior to the award of contract are eligible for state-aid construction funds.

State Contracts and Advertised Bids

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

10:00 a.m.	City of Minneapolis
10:40 a.m.	City of Rochester
11:10 a.m.	City of New Ulm
11:30 a.m.	County of Red Lake
11:45 a.m.	City of Stillwater

Dated: 12 June 1991

E. H. Cohoon
Deputy Commissioner
Minnesota Department of Transportation

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: Sampling/testing equipment

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 26

Agency: Pollution Control Agency

Deliver to: St. Paul

Requisition #: B 32100-27455

Commodity: Test equipment—Schaevitz Manufacturing

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 28

Agency: Department of Transportation

Deliver to: Maplewood

Requisition #: B 79000-14885

Commodity: Power meter

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 26

Agency: Department of Transportation

Deliver to: North St. Paul

Requisition #: B 79000-14914

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 26

Agency: Department of Transportation

Deliver to: St. Cloud

Requisition #: B 79350-01138

Commodity: Door, frame, hardware

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 26

Agency: Correctional Facility

Deliver to: St. Cloud

Requisition #: B 78830-10905

Commodity: Centrifuge extractors

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 28

Agency: Department of Transportation

Deliver to: Maplewood

Requisition #: B 79000-14891

Commodity: Bridge expansion joint

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 26

Agency: Department of Transportation

Deliver to: St. Cloud

Requisition #: B 79350-01135

Commodity: Genuine mobile drill repair parts

Contact: Dale Meyer 296-3773

Bid due date at 2pm: June 28

Agency: Various

Deliver to: Various

Requisition #: Price contract

Commodity: Genuine central mine drill repair parts

Contact: Dale Meyer 296-3773

Bid due date at 2pm: June 28

Agency: Various

Deliver to: Various

Requisition #: Price contract

State Contracts and Advertised Bids

Commodity: Purchase of a trail groomer tractor

Contact: Mary Jo Bruski 296-3772

Bid due date at 2pm: July 5

Agency: Natural Resources Department

Deliver to: Grand Rapids

Requisition #: 29000-56474 (RFP)

Commodity: Anti-freeze permanent type

Contact: Dale Meyer 296-3773

Bid due date at 2pm: July 9

Agency: Various

Deliver to: Various

Requisition #: Price contract

Commodity: Genuine parmanco earth drill repair parts

Contact: Dale Meyer 296-3773

Bid due date at 2pm: July 8

Agency: Various

Deliver to: Various

Requisition #: Price contract

Commodity: Genuine heil dump bodies repair parts

Contact: Dale Meyer 296-3773

Bid due date at 2pm: July 8

Agency: Various

Deliver to: Various

Requisition #: Price contract

Commodity: Paradyne maintenance

Contact: Teresa Ryan 296-7556

Bid due date at 2pm: July 1

Agency: Department of Jobs & Training

Deliver to: St. Paul

Requisition #: B 21200-41247

Commodity: Arjo bathing equipment

Contact: Teresa Ryan 296-7556

Bid due date at 4:30pm: June 27

Agency: Brainerd Regional Human Services Center

Deliver to: St. Cloud

Requisition #: B 55304-08850

Commodity: Modulator—channel eliminator filter

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: June 27

Agency: Academy for the Deaf

Deliver to: Faribault

Requisition #: B 37001-11282

Commodity: Poultry for August delivery

Contact: Linda Parkos 296-3725

Bid due date at 4:30pm: July 10

Agency: Correctional Facility

Deliver to: St. Cloud

Requisition #: B 78830-10909

Commodity: Self-stick packing list envelopes

Contact: Linda Parkos 296-3725

Bid due date at 4:30pm: June 28

Agency: Minnesota State Lottery

Deliver to: Roseville

Requisition #: B 99997-00154

Commodity: Medical packaging system (unit dose)

Contact: Teresa Ryan 296-7556

Bid due date at 4:30pm: June 27

Agency: Fergus Falls Regional Treatment Center

Deliver to: Fergus Falls

Requisition #: B 55101-01275

Commodity: Casework

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: July 1

Agency: Center for Arts Education

Deliver to: Golden Valley

Requisition #: B 25000-10665

Commodity: Security system

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: July 5

Agency: Department of Revenue

Deliver to: St. Paul

Requisition #: B 67120-34512

Commodity: Radial arm saw

Contact: Linda Parkos 296-3725

Bid due date at 4:30pm: June 28

Agency: Department of Transportation

Deliver to: Bemidji

Requisition #: B 79200-04025

Commodity: Magnifiers, illuminated

Contact: Teresa Ryan 296-7556

Bid due date at 4:30pm: June 28

Agency: MN Department of Jobs & Training

Deliver to: St. Paul, MN 55104

Requisition #: B 21701-35666

Commodity: Miscellaneous medical furniture and supplies

Contact: Teresa Ryan 296-7556

Bid due date at 4:30pm: June 28

Agency: Willmar R.T.C.

Deliver to: Willmar, MN 56201

Requisition #: B 55106-07676

Commodity: Tissue culture tubes

Contact: Bernadette Vogel 296-3778

Bid due date at 4:30pm: June 28

Agency: MN Department of Health

Deliver to: Minneapolis, MN 55414

Requisition #: B 12400-80108

Commodity: Laser speed detection system

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: July 02

Agency: Department of Public Safety/Finance

Deliver to: St. Paul, MN 55155

Requisition #: B 07500-11280

Commodity: Redo roof edge

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: July 02

Agency: MN Academy for the Blind

Deliver to: Faribault, MN 55021

Requisition #: B 37001-11266

Commodity: Channel controller

Contact: Pam Anderson 296-1053

Bid due date at 4:30pm: July 02

Agency: MN Academy for the Deaf

Deliver to: Faribault, MN 55021

Requisition #: B 37001-11281

Commodity: Software—Quattro

Contact: Joan Breisler 296-9071

Bid due date at 4:30pm: June 28

Agency: Office of the State Auditor

Deliver to: St. Paul, MN 55103

Requisition #: B 61000-81319

Commodity: Polar telemetry equipment

Contact: Teresa Ryan 296-7556

Bid due date at 4:30pm: June 28

Agency: Bemidji State University

Deliver to: Bemidji, MN 56001

Requisition #: B 26070-14457

State Contracts and Advertised Bids

Commodity: Shiva Modem
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 28
Agency: Department of Finance
Deliver to: St. Paul, MN 55155
Requisition #: B 10000 04301

Commodity: 386/33 computer
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: June 28
Agency: Community College Board Office
Deliver to: Thief River Falls, MN 56701
Requisition #: B 27149-48249

Commodity: AV equipment
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: June 28
Agency: Itasca Community College
Deliver to: Grand Rapids, MN 55744
Requisition #: B 27144-44342

Commodity: Lumber
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: June 28
Agency: MN Academy for the Deaf
Deliver to: Faribault, MN 55021
Requisition #: B 37001-11274

Commodity: Radio equipment
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: July 02
Agency: MN Department of Transportation
Deliver to: North St. Paul, MN 55128
Requisition #: B 79000-14875

Commodity: Software
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: June 28
Agency: MN Department of Transportation
Deliver to: St. Paul, MN 55155
Requisition #: B 79000-14925

Commodity: Printing supplies
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: June 29
Agency: MN Academy for the Deaf
Deliver to: Faribault, MN 55021
Requisition #: B 37001-11278

Commodity: All terrain vehicle
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: July 02
Agency: Division of Youth Programs
Deliver to: Grand Rapids, MN 55744
Requisition #: B 29000-56440

Commodity: Bituminous maintenance unit
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: July 02
Agency: MN Department of Transportation
Deliver to: Willmar, MN 56201
Requisition #: B 79382-02265

Commodity: Copier lease
Contact: Jack Bauer 296-2621
Bid due date at 2pm: June 27
Agency: MN Department of Employee Relations
Deliver to: St. Paul, MN 55155
Requisition #: B 24000-21149-1

Commodity: Motor drill/breaker
Contact: Mary Jo Bruski 296-3772
Bid due date at 4:30pm: July 02
Agency: MN Department of Transportation
Deliver to: St. Paul, MN 55155
Requisition #: B 79000-14878

Commodity: Ballasts: electronic & energy saving electro-mechanical types
Contact: Patricia Anderson 296-3770
Bid due date at 2pm: July 8
Agency: All
Deliver to: Various
Requisition #: Price Contract

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: "Fishing ... Get In The Habitat", 28-page booklet + cover, 8½"x17" folded to 8½"x11", about 34M copies, camera ready, black + 1-color, saddle stitch
Contact: Printing Buyer's Office
Bids are due: June 27
Agency: Natural Resources Department
Deliver to: St. Paul
Requisition #: 16877

Commodity: State flower label, 5M sheets 2¼"x2¼", pressure sensitive gold foil, kiss cut or die cut, type to be set, 1-sided
Contact: Printing Buyer's Office
Bids are due: June 27
Agency: Agriculture Department
Deliver to: St. Paul
Requisition #: 16972

Commodity: 1991 Minnesota income tax & property tax refund booklets: about 4 million booklets total for seven individual booklets, camera ready, 8½"x11" soybean based ink, saddle stitch,—includes labeling and mailing
Contact: Printing Buyer's Office
Bids are due: June 27
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 16945

State Contracts and Advertised Bids

Commodity: Children's mental health brochure, 250M 8½"x14" folded to 3½"x8½", camera ready, 2-colors soybean ink
Contact: Printing Buyer's Office
Bids are due: June 27
Agency: Human Services Department
Deliver to: St. Paul
Requisition #: 16958

Commodity: OCR scannable wage collection form, 400M 8½"x11", type to set, 2-sided
Contact: Printing Buyer's Office
Bids are due: June 27
Agency: Jobs & Training Department
Deliver to: St. Paul
Requisition #: 16943

Commodity: License, 100M, fan fold 3-up, 11", camera ready + negs, 1-sided
Contact: Printing Buyer's Office
Bids are due: June 27
Agency: Administration Department—InterTech Group
Deliver to: St. Paul
Requisition #: 16936

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 Health

Request for Proposals and Qualifications to Provide Temporary Management Services for Nursing Homes Operated Under the Provisions of the Involuntary Receivership Law or to Provide Monitoring Services for a Nursing Home

A. SCOPE OF PROJECT AND TASKS

In the event that the Commissioner of Health exercises the authority, under *Minnesota Statutes 1990* § 144A.15, to place a nursing home under involuntary receivership, or to exercise the authority, under *Minnesota Statutes 1990* § 144A.155 to place a monitor in a nursing home, the Commissioner intends to contract with individuals, corporations or other business entities to provide the necessary services for the facility. This request is intended to solicit proposals for the management or monitoring of the Horizon West Health Care Center, a 96 bed nursing home located at 1620 Oak Park Avenue North, Minneapolis, Minnesota 55411.

The Horizon West Health Care Center will be terminated from the Medicare and Medicaid program on June 25, 1991. The facility has appealed this termination decision and can remain open during the appeal period of up to 120 days. The facility serves a population with physical and mental health needs. The individual or entity selected by the Commissioner to manage or monitor the facility will need to demonstrate expertise in providing nursing home services and services to persons with mental illness.

• Involuntary Receivership Services

The implementation of the involuntary receivership provisions is subject to the approval of the District Court. If such authority is granted, the Commissioner will enter into a contract to provide for the management of the facility. The contractor will be responsible for the operation of the facility in a manner which assures compliance with all state licensure and federal certification requirements.

Professional, Technical & Consulting Contracts

The powers and duties of the receiver are described in *Minnesota Statutes 1990* § 144A.15 and will be specified in the contract between the State of Minnesota and the contractor. The duration of the contract will vary depending on the individual circumstances but in no instance will the contract exceed a period of eighteen months. The contractor shall be paid a management fee amount on a per month/per bed basis. This fee shall be subject to the approval of the District Court.

• Monitoring Services

The duties of the monitor, as specified in *Minnesota Statutes 1990* § 144A.155, are to observe the operation of the nursing home, provide advice to the home on methods of complying with federal and state regulatory requirements and periodically reporting to the Commissioner on the conditions of the facility. The duration of the contract with the monitor will be dependent on conditions found in the facility, or changes in the ownership or management of the facility.

B. PROPOSAL REQUIREMENTS

Any party that would like to be considered as eligible for providing these services should submit the following information, in writing, to the Department:

1. Name and address.
2. An indication as to whether the proposal is for the provision of temporary management services, monitoring services or both.
3. Description of the management experience for nursing homes or mental illness programs which shall include:
 - a. A listing of the nursing home(s) or mental illness program(s) currently managed or managed within the last three years;
 - b. Total length of time involved in management and the number and sizes of managed homes or programs;
 - c. Qualifications of the key personnel who would be or have been involved in the provision of temporary management services or monitoring services, the role of these individuals in the provision of services, verification of any required licenses to perform these services in the State of Minnesota, and the experience of these individuals in operating homes or programs subject to the Minnesota licensure and reimbursement laws and regulations;
 - d. A description of any experience as a receiver, temporary manager or monitor of a health care facility; and
 - e. Information evidencing the ability to provide temporary management or monitoring services which will not impede or interfere with the management of health facilities or programs currently operated or managed by the contractor.
 - f. If the responder to this proposal is a manager of programs for persons with mental illness, information identifying how the responder will obtain the personnel and expertise to operate the facility in accordance with the state and federal requirements for nursing homes must be provided. If a contractual agreement with a nursing home organization to provide these services is required, the name of that entity and the information required under this paragraph shall be provided. (If the proposal is for the provision of monitoring services only, the proposal shall identify how the expertise for assessing and observing nursing home programs shall be made).
4. A description of the experience in providing services to persons with mental illness and, for prospective temporary managers, the ability to provide services directly or indirectly to nursing home residents with mental illness. This description shall include:
 - a. A listing of the programs or facilities currently managed or managed within the last three years;
 - b. The total length of time involved in the management of these programs and the number and sizes of the programs;
 - c. Qualifications of the key personnel who would be or have been involved in the provision of these services, the role of these individuals, verification of any required licenses to perform these services in the State of Minnesota, and the experience of these individuals in operating facilities or programs subject to the Minnesota licensure and reimbursement laws and regulations.
5. The proposed management or monitoring fee.

C. CONTACT

Prospective responders who have any questions regarding this proposal may call or write:

Linda Sutherland, Director
Division of Health Resources
Central Medical Building
P.O. Box 64900
393 North Dunlap
Saint Paul, Minnesota 55164-0900
(612) 643-2171
Facsimile # (612) 643-2593

D. SUBMISSION OF PROPOSALS

All proposals must be received by the Department of Health at the address listed above, by 4:00 p.m. on July 15, 1991.

Professional, Technical & Consulting Contracts

E. ADDITIONAL INFORMATION

A copy of the correction orders and federal deficiencies as well as the results of the follow-up visits involved in the decision leading to the termination of the facility can be obtained by contacting Margie Jacques at (612) 643-2122.

F. EVALUATION

All proposals received by the deadline will be evaluated by representatives of the Department of Health. In some instances, an interview may be part of the evaluation process. Factors upon which the proposals will be evaluated include, but are not limited to the following:

1. Nursing Home or Mental Illness Program Management Experience (20 points)

Factors will include:

- a. The total number of years of experience and number and sizes of nursing homes or mental illness programs managed;
- b. The compliance history of the facilities based on records maintained by the Department of Health or other state licensure agencies.

2. Experience in providing services to nursing home residents with mental illness. (20 points)

Factors will include:

- a. Total number of years of experience in providing these services;
- b. Nature of the programs offered to persons with mental illness.

3. Resources necessary to assume additional responsibilities as a manager or monitor. (10 points)

Factors will include:

- a. Qualifications of key staff responsible for the provision of the management or monitoring services;
- b. Ability to assume responsibilities in addition to currently owned or managed homes;
- c. Ability to assume additional financial responsibility during the period of the contract.

4. Proposed Fee (10 points)

The evaluation and selection will be completed by July 29, 1991. Results will be sent immediately by mail to all responders.

State Board of Investment

Notice of Request for Money Management Firms

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

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

Minnesota State Lottery

Notice of Intent to Solicit Bids on a Variety of Original Artworks

The Minnesota State Lottery will purchase a variety of original artwork by Minnesota artists for its headquarters and regional offices. The works for each office will be the work of artists living in the region served by the individual office.

Artwork considered includes, but is not limited to, flat art media such as oil, watercolor, acrylic, handmade paper, and photography. Three-dimensional works considered will include pottery, sculpture, fiber art, weaving, and mixed media collages.

Professional, Technical & Consulting Contracts

The Lottery will publish its formal solicitation for artwork for each office in the *State Register* and other publications, but arts organizations or artists interested in being included in a direct mailing should submit their name, address and a contact person to:

Colleen Machacek
Minnesota State Lottery
2645 Long Lake Road
Roseville, MN 55113

To be included in the direct mailing, information should be received by the Lottery no later than July 15, 1991. The formal request for proposal (RFP) will be published after that date.

Artists whose works are considered must provide proof that they live and/or work in a county served by a lottery office. Artists who live in a region different from the one in which they generally create work, should select the region for which they would like their work considered. An artist's work can be considered for only one region; however, the Lottery does reserve the right to select the work of any artist for its headquarters office and to relocate or rotate any work among Lottery offices once it is the property of the Lottery.

Lottery regions are comprised of the following counties:

Region 1—Carlton, Cook, Itasca, Koochiching, Lake, Pine, and St. Louis

Region 2—Becker, Beltrami, Clay, Clearwater, Douglas, Grant, Kittson, Lake of the Woods, Mahnommen, Marshall, Norman, Ottertail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Traverse, and Wilkin

Region 3—Big Stone, Brown, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Martin, McLeod, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rock, Sibley, Swift, Watonwan, and Yellow Medicine

Region 4—Aitkin, Benton, Cass, Crow Wing, Hubbard, Kanabec, Meeker, Mille Lacs, Morrison, Sherburne, Stearns, Todd, and Wadena

Region 5—Blue Earth, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Olmsted, Rice, Steele, Wabasha, Waseca, and Winona

Region 6—Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, and Washington

Department of Transportation

Division of Technical Services

Notice of Potential Availability of Contracts for a Variety of Highway Related Technical Activities

The Minnesota Department of Transportation (Mn/DOT) is carrying out an expanded highway program. To assist it with the implementation of this program, Mn/DOT may require the services of qualified consultants for work which may include but not be limited to:

Category A: Preliminary Design (Environmental Studies, Project Development Reporting and Geometric Layouts).

Category B: Detail Design & Plan Preparation

1. Highway
2. Lighting
3. Signing
4. Traffic Signals
5. Landscaping
6. Hydraulics

Category C: Field Surveys (Control, Design)

Category D: Geotechnical Investigation

1. Soils Survey/Borings
2. Soils Analysis/Recommendations
3. Foundation Survey/Borings

Professional, Technical & Consulting Contracts

4. Foundation Analysis/Recommendations
5. Geotechnical Survey/Analysis/Recommendations

Category E: Special Services

1. Contamination/Hazardous/Analysis/Recommendations
2. Land Use Study (Planning)
3. Chemical Disposal and Recycle
4. Endangered Species
5. Building Condition Survey
6. Traffic Forecasting and Analysis
7. Water
8. Air
9. Noise
10. Hydrologic
11. Vibration (Blasting, Pile Driving)
12. Expert Witness
13. Pavement Management

Category F: Construction

1. Management
2. Inspection
3. Staking

Category G: Other Specialties for Transportation Agencies

1. Marketing
2. Underwater Inspections
3. Miscellaneous

Those Consultants who wish to be considered for any potential projects, please furnish the following information in the sequence provided:

1.0 Provide Company Name, Business Address, the Contact Person's Name, Telephone Number, Fax Number, Federal Tax I.D. Number, and Minnesota Tax I.D. Number (if applicable).

2.0 Indicate whether your firm has a Certification of Compliance from the Minnesota Department of Human Rights. *Minnesota Statutes 363.073.*

3.0 Indicate if your firm is certified with the State of Minnesota as a Disadvantaged Business Enterprise (DBE).

4.0 Indicate if your firm qualifies as a Small Business Enterprise within the definition contained in *Minnesota Statutes 645.445.*

5.0 Indicate in which fields your key personnel hold Minnesota Professional Registrations or have related certifications (Engineer, Architect, OSHA, etc.).

6.0 Indicate if your firm is certified with the Department of Administration as a Small Targeted Business (STB).

7.0 Federal Forms 254 and 255 and your company brochure if you have one.

a. Detail Minnesota Office separately.

8.0 Indicate the category of activity in which you are qualified and wish to be considered on a company basis (Example: B-1-5-6, C).

a. Detail Minnesota Office separately.

9.0 Provide representative samples of work in each category you have chosen. Samples, for example, could be one or two representative 11 x 17 plan sheets or a section from a report. This packet should not exceed 20 sheets.

10.0 Where applicable to the categories of work you have chosen, provide the following information:

a. Description of your CADD system.

Professional, Technical & Consulting Contracts

b. Description of the methods used in the preparation of plan sheets.

c. Description of the computer software used to develop earthwork computations, cross sections, and alignments.

11.0 Description of your Company's Accounting System. The description shall include answers to the following questions:

a. Is your accounting system a cash or an accrual based system?

b. How are direct expenses reported? Are direct expenses segregated from overhead costs?

c. How are bonuses distributed to employees?

This is not a request for proposal. All expressions of interest in being considered shall be delivered to the address indicated below not later than three o'clock (3:00 p.m.) July 16, 1991. A qualified reference list will be developed from the responses and will remain in effect until June 30, 1992. Submittals after July 16, 1991 will be accepted until October 15, 1991 (3:00 p.m.), but will not be added to the reference listing before November 1, 1991. No further updates will be made.

Send responses to:

Gabriel S. Bodoczy, P.E.
Consultant Agreements Engineer
Transportation Building, Room 720-S
395 John Ireland Boulevard
St. Paul, Minnesota 55155
Telephone: (612) 296-3051

Department of Transportation

Program Management Division

Office of Aeronautics

Notice of Availability of Maintenance Contract for Lighting Systems

The State of Minnesota will award one or two maintenance contracts for electric and electronic equipment throughout the state. The contractor shall be familiar with the following airport lighting equipment: Visual Approach Slope Indicators, Rotating Beacons, Electronic Runway End Identifier Lights, Constant Current Regulators and other similar equipment. Contract award will be based on the contractor's experience and hourly rate.

The Department estimates that the cost of this project need not approach but shall not exceed \$45,000 for the biennium and contract period, July 1, 1991 to June 30, 1993.

For further information contact:

Herman Hamre
Office of Aeronautics
Minnesota Department of Transportation
Room 417 Transportation Building
395 John Ireland Boulevard
Saint Paul, Minnesota 55155

Proposals must be received at the above address no later than 2:00 p.m., July 15, 1991.

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Council

Request for Proposals to Perform Financial Management Study

The Metropolitan Council solicits a proposal for entering into a contract to perform a financial management study of its Department of Administration. The study is to focus on the Council's financial forecasting, cash management, financial and information management system integration and internal management reporting.

Six copies of the proposal should be submitted to the Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul, MN 55101. Attention: Ron Scherman, contract manager. The final deadline is 4:00 p.m., July 15, 1991.

The Council, by this RFP, does not promise to accept the lowest, or any other, proposal, and specifically reserves the right to reject any or all proposals, waive any formal requirements, reject any provision in any proposal, obtain new proposals, or proceed to do the work otherwise.

Targeted group businesses are encouraged to submit proposals. No proposer shall be subjected to discrimination on the basis of race, color, creed, sex, age, affectional preference, religion, disability, public-assistance status, marital status, national origin or political affiliation.

Request a copy of the RFP from Ron Scherman at 612/291-6492.

State Grants

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

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

Department of Corrections

Notice of Availability of Funds for Battered Women and Their Children

The Minnesota Department of Corrections, Victim Services Unit, announces the availability of grant funds for special projects for battered women and their children. Priority will be given to special projects which accomplish one or more of the following: project has a statewide impact, focuses on systems change, can be replicated, addresses emerging issues, results in a usable product.

A total of \$115,000 is available for a nine month period, October 1, 1991 through June 30, 1992. Nine month short term projects and 21 month extended projects will be considered. Additional funds are available for FY93 to support extended projects and new short term projects. These funds are being made available through appropriation by the Minnesota State Legislature.

Short term special projects should be time limited with no expectation for funding past June 30, 1992. Extended special projects will receive continued funding through June 30, 1993 upon successful completion of FY92 goals and objectives. Extended special projects are also time limited with no expectation for funding past June 30, 1993.

Private or nonprofit organizations or local units of government including currently DOC funded programs are eligible to apply. The deadline for grant proposal submission is **Thursday, August 15, 1991, 4:30 p.m.** To receive a request for proposal which describes how you apply for funding, contact: Dolores Brueske, Minnesota Department of Corrections, Victim Services Unit, 300 Bigelow Building, 450 North Syndicate Street, St. Paul, Minnesota 55104; Telephone: (612) 642-0251.

Dated: June 1991

Housing Finance Agency

Notice of Fund Availability and Request for Proposals for the Homesharing Program

Introduction

The Minnesota Housing Finance Agency announces the availability of \$490,000 in grant funds to eligible sponsors for the purpose of establishing and/or operating Home Sharing Programs within the State of Minnesota. These funds were appropriated by the 1991 Minnesota Legislature. An additional \$10,000 will be made available to organizations representing homesharing service providers for the purpose of providing technical assistance to these providers in the operation and promotion of homesharing programs.

The MHFA will award grant funds to selected nonprofit organizations for the development and/or operation of homesharing programs throughout Minnesota. These programs should match low and moderate income homeowners with homeseekers who contribute rent or services in exchange for sharing the home. At least one of the persons matched must be elderly, handicapped, or developmentally disabled. This income and/or service should help homeowners stay in their homes longer than they would have without the tenants. No two homesharing situations are alike; each is tailored to meet the need and desires of the people involved.

Applicant and Project Eligibility

Eligible grant applicants include nonprofit organizations that operate or propose to operate homesharing programs within the State of Minnesota. Eligible applicants also include housing authorities and units of local government.

Availability of Funds

Applicants may request any size grant to operate their program for two years beginning September 1, 1991. However, it is the intent of this program to assist in the development of homesharing programs in both urban and rural sections of the state with as wide a distribution as possible.

Those sponsors selected to participate in this program should receive one-eighth (12½%) of their grant amount by September 1, 1991. The balance will be released in seven equal quarterly payments for the term of the program, based upon quarterly program progress reports from the sponsors.

Procedure

Applicants may request application packets by contacting staff at the MHFA. Any questions concerning the program or the application forms should be directed to MHFA staff.

Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN 55101
Attention: Mary Domres (612) 296-9841

This Request for Proposals (RFP) is subject to all applicable federal, state, and municipal laws, rules, and regulations and may be amended from time to time. MHFA reserves the right to modify or withdraw this RFP at any time and is not able to reimburse any applicant for costs incurred in the preparation or submittal of applications.

Applications are due by 4:00 p.m. on August 9, 1991. Selections should be made by the end of August and all applicants will be notified at that time.

Department of Jobs and Training

Notice of Request for Proposals for Funding Independent Living Programs

I. INTRODUCTION

Consistent with its State Plan for Independent Living Rehabilitation Services, Minnesota State Services for the Blind and Visually Handicapped (SSB), has available \$14,400 to grant to local public agencies and private non-profit organizations for the conduct of independent living programs. The criteria used to award funds under this grant procedure will provide *priority* in the awarding of funds to those agencies and organizations which are directed and managed to a substantial degree by qualified individuals with severe handicaps. The specific independent living program or programs to be funded under this grant process are to provide public education and referral. SSB may make up to two awards, with total award of one or two grants not exceeding \$14,400. The grant contract is to be started no later than 9/30/91 and continue to 3/31/92.

State Grants

II. REQUIREMENT SUMMARY

A. Objective

1. To develop a public awareness, education and referral system which identifies persons who are blind or visually disabled in Minnesota and who are potential clients of SSB's Independent Living programs.
2. Provides such identified persons with information about agencies and organized support and advocacy groups in Minnesota that provide services to persons who are blind or visually handicapped.
3. Provide referral to SSB.

B. Applicants Requirements

1. Local public or private non-profit organization.
2. Provider of a proposal which is clear as to objectives and methods.
3. Demonstrated experience directing a paid staff.
4. Knowledgeable regarding agencies that provide services to persons who are blind and visually handicapped.
5. Knowledgeable regarding organized support and advocacy groups for persons who are blind and visually handicapped.

III. APPLICANTS WILL SUBMIT APPLICATIONS specifying in appropriate detail how they will fulfill the above requirements. The proposal must include an abstract, work plan, Staff Plan Form, Budget Summary Form, project narrative, and budget narrative. To obtain a complete copy of the request for proposals contact:

Bill Kazee
State Services for the Blind
1745 University Avenue West
St. Paul, MN 55104
Telephone: 643-0504

An original and two copies of the completed proposal must be received by Bill Kazee at the above address no later than the close of business on July 19, 1991. If possible, the applicant should submit six braille copies *or* a disk done in Word Perfect 5.0 *or* 5.1 *or* Multimate or Ascii for braille production. Reviewers will be members of the SSB Independent Living Committee.

Minnesota Pollution Control Agency

Water Quality Division

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

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

In 1987, the Minnesota Legislature established the Clean Water Partnership Program (*Minnesota Statutes* Sections 103F701 through 103F761) to protect and improve surface and ground water in Minnesota through financial and technical assistance to local units of government.

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

Applications will be accepted from June 24 through October 30, 1991. All applications must be received by 4:30 p.m. on October 30, 1991.

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

An information package is available for all interested parties. This package includes: 1) the CWP grant application, 2) a copy of *Minnesota Rules* Parts 7076.0100 through 7076.0290, 3) a copy of *Minnesota Statutes* Sections 103F701 through 103F761, and 4) other guidance documents.

Request additional information and the CWP Application Information Package from:

Mr. Jeff Stollenwerk
Nonpoint Source Section
Water Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155
Phone: (612) 296-8385

Announcements

New Judgeship in Tenth Judicial District: The Commission on Judicial Selection announced the approval and certification of a new District Court Judgeship by the 1991 Minnesota Legislature and Minnesota Supreme Court, respectively. The judgeship will be chambered at Mora, Minnesota, in Kanabec County, effective July 1, 1991. *Minnesota Statute* 480B.01, Subd. 8, requires the Commission on Judicial Selection to solicit, in writing, recommendations from attorney associations in the judicial district where a vacancy occurs, as well as from organizations that represent minority or women attorneys in the judicial district who have requested solicitation. Anyone learned in the law who is a resident of the Tenth Judicial District may request an application by calling 612-296-0015 or write to: Thomas Heffelfinger, Chairman of the Commission on Judicial Selection, 130 State Capitol, St. Paul, MN 55155. All applicants for this vacancy must submit an application. Applications and letters of recommendation must be submitted to the preceding address no later than July 19, 1991. Those who have previously applied for judicial appointment are advised that letters of recommendation submitted less than two years ago are still on file. Applicants are asked not to contact the Commission members individually, as interviews will be conducted by the nine at-large members and four District members at a later date which has not yet been determined.

Metro Council Appointments: The Metropolitan Council on Thursday made appointments to the Metropolitan Parks and Open Space Commission, Regional Transit Board and Metropolitan Waste Control Commission. The Council appointed **Roberta Opheim**, Stillwater, to chair the *parks commission*. Others appointed or reappointed to the parks commission are: **Trudy Dunham**, St. Paul; **Thomas Dwight**, Mahtomedi; **Sandra Colvin Roy**, Minneapolis; and **Barbara Johnson**, Minneapolis. Their terms end in January 1995. To serve on the *Regional Transit Board*, the Council appointed **Sharon Feess**, Brooklyn Park; **Ruth Franklin**, Anoka; **Thomas Workman**, Chanhassen; and **Don Scheel**, Afton. Their terms end in January 1995. Also appointed to the *transit board*, to fill out an unexpired term, was **Maryann Campo** of Minneapolis. Her term will expire in January 1993. To serve on the *waste control commission*, the Council appointed **Judith Schotzko**, St. Paul; **John Schneeman**, White Bear Lake; **Roy Taylor**, Minneapolis; and **John Irving**, Crystal. The new commissioners' terms will end in January 1995. The *parks commission* assists the Council in developing a long-range plan, and an acquisition and development program, for the regional park and recreation open space system in the Metro Area. The *transit board* is responsible for short-range transit planning in the region, and allocates funds to public and private transit operators. The *waste control commission* owns and operates the regional sewage collection and treatment system in the Metro Area.

Ruffed Grouse Cycle Starting Downswing: Minnesota's ruffed grouse population is on the wane according to wildlife biologist Bill Berg with the Department of Natural Resources. Ruffed grouse numbers rise and fall over an approximate 10-year cycle. Grouse numbers have been at peak levels the past two years. This year, the overall population is down 25 percent from last year. The ruffed grouse is Minnesota's number one game bird, with hunters harvesting more of this species than any other. DNR roadside drumming counts indicate grouse numbers are down 32 percent in the main grouse range of north-central Minnesota this year. Elsewhere, grouse numbers are also down. For grouse hunters, the survey suggests fewer flushes this fall. In 1989, hunters harvested 1.2 million ruffed grouse. This represents one of the top five harvests in state history. Statistics haven't been compiled for the 1990 hunting season, but Berg suspects the harvest will be down slightly from 1989. "I don't know of a single hunter who flushed more birds in 1990 than he did in 1989," said Berg. "This means the two peak population years were 1989 and 1990. The next peak will come about the year 2000." Sharp-tailed grouse were abundant in Minnesota back in the 1930s and '40s, but their numbers declined as row crops consumed more acres and brushlands grew into forests. In recent years, however, sharptails have made a slight comeback, Berg said. These days, hunters harvest about 20,000 birds annually. This compares with 3,000 to 5,000 birds a year in the mid-1980s.

**It's
Never
O.K.**

Social workers', counselors' and therapists' guides and directories

It's Never OK. A handbook for professionals on sexual exploitation by counselors and therapists. It covers the therapeutic and prevention issues and employer responsibilities, plus recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16. \$19.95 + tax.

Chemical Dependency Programs Directory 1989. Features comprehensive listings for programs ranging from prevention/intervention services to a wide range of treatment services. Each type of program includes a listing of facilities and description of programs. Stock No. 1-12, \$15.00 + tax.

Process parenting—Breaking the Addictive Cycle. This training manual provides parent education and treatment techniques for professionals working with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, \$15.00 + tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.

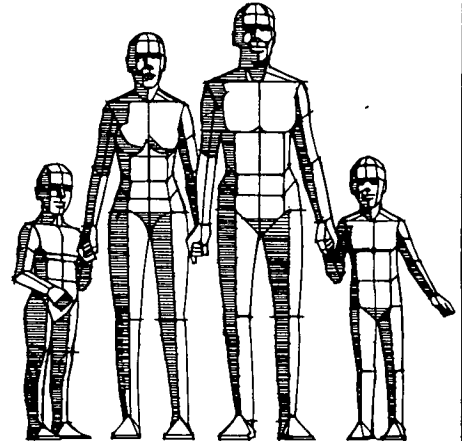
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Adoption and Process Parenting

Adoption Resource Directory. This comprehensive resource directory to adoption services and laws will be your best friend if you are looking into adoption. Over 300-pages of research by the Minnesota Dept. of Human Services Adoption Unit make this a valuable tool that includes federal and state adoption laws and policies, information on Minnesota's adoption program and child placement resources. It goes into detail listing support groups, advocacy groups; health, education, social service and vocational resources; and a whole range of assorted community and state resources, and legal services including IRS information. Stock #1-16, \$12.45 + 75¢ tax.

Process Parenting: Breaking the Addictive Cycle. This is a curriculum and training manual designed to help chemical dependency treatment counselors to incorporate parent education into their on-going programs. It focuses on positive parent-child interactions and parenting strengths to assist chemically dependent persons develop a more positive view of self, feelings of greater control or influence over situations, understanding of self-defeating behaviors, and increased responsibility within one's social/community situation. 163 pages plus appendices. Stock #5-4, \$15.00 + 90¢ tax.

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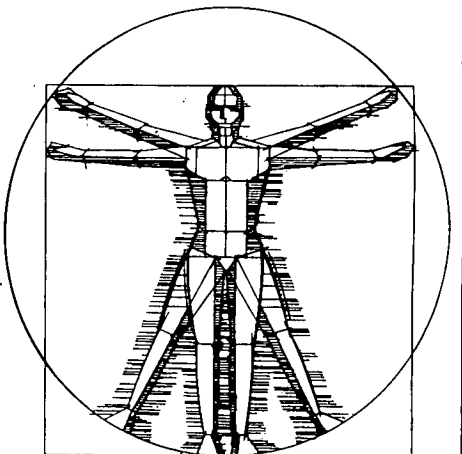


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A Helping Hand for the Chemically Dependent Directory of Chemical Dependency Programs in Minnesota.

This 250-page directory lists prevention and intervention programs including county social service agencies, mental health centers, other information and referral programs, self-help programs and employee assistance programs. It also lists DWI (Driving While Intoxicated) clinics and detoxification centers. Outlining Minnesota's continuum of care, the Minn. Dept. of Human Services Directory lists treatment services under three headings: **Primary Residential Programs**—freestanding facilities, hospital-based facilities and state regional treatment centers; **Intermediate/Extended Residential Programs**—halfway houses, extended care facilities, and board and lodging facilities; **Non-Residential Programs**—freestanding facilities and hospital-based facilities. Stock #1-12, \$15.00 + 90¢ tax.

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1990 Minnesota Session Laws. Two volume set includes laws passed during the 1990 session and the 1989 Special Session. Stock #18-6, \$40.00 + \$2.40 tax.

Community Waste Education Manual. Practical guide helps communities develop waste education campaigns with organizing volunteers, planning a budget, working with media and more. Includes camera-ready art and copy for media and publication needs. Stock #5-7, \$22.95 + \$1.38 tax.

School District Profile 1988-89. Comparative enrollment, staffing and financial data on Minnesota's school districts, evaluation of the statistical content with commentary on trends and patterns. Stock #5-3, \$5.00 + 30¢ tax.

The School Book 1990-91. Comprehensive guide to elementary schools in the Twin Cities: school addresses/phone, staffing information, and MTC bus connections at schools. Lists class size, student/teacher ratio, grading and curriculum. 554 pages. Stock #40-9, \$12.95 + 78¢ tax.

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

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

It's Never Okay: A Handbook for Professionals on Sexual Exploitation by Counselors and Therapists. Therapeutic and prevention issues and employer responsibilities are discussed in this task force report, as well as recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16, \$19.95

OTHER PUBLICATIONS

Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23, \$13.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11, \$3.50 plus tax.

Landscaping for Wildlife. Attract songbirds, deer, butterflies, hummingbirds, pheasants, and other wildlife to your property by using the tips in this 144-page, 4-color book. Stock #9-15, \$8.95 plus tax.

Woodworking for Wildlife. Variety of game bird and mammal box designs, including details on placement in proper habitat areas and maintenance. Stock #9-14, \$3.95 + tax.

Wildlife Set. Both books above, save 15%. Code #9-20, \$10.95 + tax.

Minnesota Manufacturer's Directory, 1991. More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchase managers, and four manufactured products. Stock #40-2, \$85.00.

SUBSCRIPTIONS:

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription: Monday edition only \$140; Monday and Thursday's State Contract Supplement \$195; 13-week trial (includes both Monday and Thursday editions) \$60.00.

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