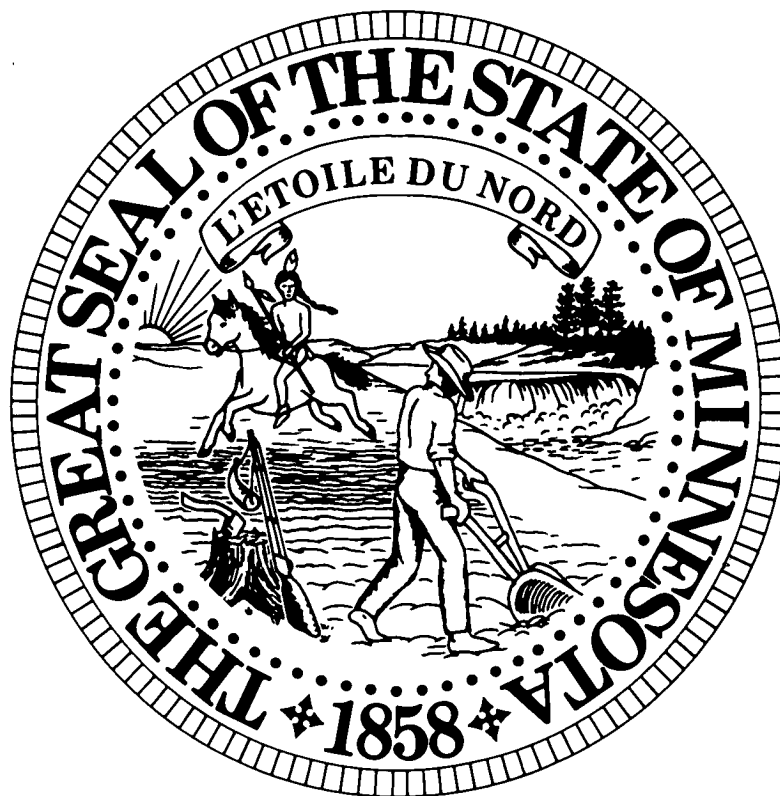


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The Minnesota
**State
Register**

Department of Administration—Print Communications Division



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Monday 14 October 1991
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State Register

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

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue 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. 16 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
16	Monday 30 September	Monday 7 October	Monday 14 October
17	Monday 7 October	Monday 14 October	Monday 21 October
18	Monday 14 October	Monday 21 October	Monday 28 October
19	Monday 21 October	Monday 28 October	Monday 4 November

*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:

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

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

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

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

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Proposed Rules

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

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

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

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

Department of Employee Relations

Proposed Permanent Rules Relating to Labor; Local Government Pay Equity Compliance

Notice of Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled rule will be held in Room 10, Ground Floor, State Office Building, 435 Park Street, St. Paul, Minnesota, on November 14, 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 department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to the presiding Administrative Law Judge, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the department and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the department may indicate in writing whether there are amendments suggested by other persons which the department is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50.

The matter will be heard before Administrative Law Judge Allen E. Giles, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 349-2543. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 (1990) and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1991). Questions about the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The proposed rules govern the procedures the Department of Employee Relations will use to determine compliance with the Local Government Pay Equity Act, *Minnesota Statutes*, sections 471.991 to 471.999. The rules define terms; specify the process for determining which jurisdictions are responsible; identify information which must be included in reports submitted to the department by local governments; specify the department's compliance review process; specify a statistical analysis test, an alternative analysis test, and other tests jurisdictions must pass in order to be found in compliance with the pay equity law; require notification to local governments of the compliance decision; specify the procedures for requesting and considering reconsideration of the department's decision; provide procedures for enforcing penalties for non-compliance; specify procedures for local governments to request reconsideration of the department's compliance decision, or to file a contested case appeal; and specify procedures for maintaining pay equity in the future.

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

Proposed Rules

The proposed rules are published below. One free copy of the rules is available on request by contacting Faith Zwemke, Department of Employee Relations, Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, (612) 296-2653. Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Faith Zwemke.

The agency's authority to adopt the proposed rules is contained in *Laws of Minnesota for 1991*, chapter 128, section 2.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

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 at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, 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, (612) 296-5148.

Dated: 26 September 1991

Linda M. Barton, Commissioner
Department of Employee Relations

Rules as Proposed (all new material)

3920.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Benefits.** "Benefits" means insurance programs to which a jurisdiction contributes on behalf of an employee. Benefits does not include pensions.

Subp. 3. **Compensation.** "Compensation" consists of salary, exceptional service pay, and benefits. Compensation does not include overtime pay, shift differentials, or uniform allowances, as defined in items A to C. Compensation also excludes any other payments not defined as salary, benefits, or exceptional service pay.

A. "Overtime pay" means payment to nonexempt employees when the payments are required by applicable state and federal overtime laws.

B. "Shift differential" means payment to employees for working other than the standard daytime weekday shift.

C. "Uniform allowance" means payment to employees for purchasing a specified, required uniform.

Subp. 4. **Department.** "Department" means the Minnesota Department of Employee Relations.

Subp. 5. **Employee.** "Employee" means a public employee as defined by *Minnesota Statutes*, section 179A.03, subdivision 14, except that employee also includes employees of charitable hospitals as defined by *Minnesota Statutes*, section 179.35, subdivision 3. Employee does not include employees of charitable hospitals who would be excluded under *Minnesota Statutes*, section 179A.03, subdivision 14, paragraphs (a) to (f).

Subp. 6. **Exceptional service pay.** "Exceptional service pay" means longevity pay or performance pay, as defined in items A and B.

A. "Longevity pay" means payment above the salary range maximum to employees with specified years of service or seniority.

B. "Performance pay" means payment above the salary range maximum to employees who meet specified performance or production standards.

Subp. 7. **In compliance, not in compliance.** "In compliance" means that the jurisdiction has established equitable compensation relationships and met the reporting requirements of *Minnesota Statutes*, sections 471.991 to 471.999, and this chapter. "Not in compliance" means that the jurisdiction has not established equitable compensation relationships, or has not met reporting requirements under the statute or rules.

Subp. 8. **Job evaluation system.** "Job evaluation system" means the system used to measure the comparable work value of work performed by each class of employees under *Minnesota Statutes*, section 471.994.

Subp. 9. **Jurisdiction.** "Jurisdiction" means a political subdivision, governmental subdivision, or public employer responsible for achieving equitable compensation relationships under *Minnesota Statutes*, sections 471.991 to 471.999. For purposes of pay equity compliance, jurisdiction means a public employer as defined by *Minnesota Statutes*, section 179A.03, subdivision 15, clause (c), except that jurisdiction also includes charitable hospitals as defined by *Minnesota Statutes*, section 179.35, subdivision 2.

Subp. 10. **Salary.** "Salary" consists of wages and additional cash compensation, as defined in items A and B.

A. "Wages" means all regular payments for routinely scheduled labor or services made by a jurisdiction to a class of employees, whether these payments are made on an hourly, monthly, or annual basis, except for payments defined as exceptional service pay, and except for payments excluded from the definition of compensation. Wages refers to the maximum monthly payment for a job class if there is an established payment range for the class, or to the highest actual monthly wage paid to any member of a class if there is no established payment range for that class.

B. "Additional cash compensation" means all payments made by a jurisdiction to a class of employees when the payments are made to all employees in the class and when the payments exceed the maximum of an established payment range. Additional cash compensation includes lump sum payments and bonus payments except as provided in subitems (1) and (2).

(1) Additional cash compensation does not include retroactive adjustments to wages when those adjustments do not exceed the reported wage maximum, and does not include retroactive contributions to benefits when those contributions do not exceed the reported benefits contribution limits.

(2) Additional cash compensation does not include payments defined as exceptional service pay, and does not include payments excluded from the definition of compensation.

Subp. 11. **Submit, submitted by, or submitted within.** To "submit" means to provide the department with the information specified. When this chapter requires that information be submitted by a specified date, "submitted by . . ." or "submitted within . . ." means postmarked on or before the specified date, or hand carried to the department and received by the department on or before the specified date. Hand carried materials will be accepted by the department only during regular business hours, from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays. The department's address is Second Floor Centennial Building, 658 Cedar Street, Saint Paul, Minnesota, 55155.

3920.0200 JURISDICTION DETERMINATION.

Subpart 1. **Scope.** This part explains how the department will proceed when there is a question or dispute about the jurisdiction responsible for establishing equitable compensation relationships and for meeting reporting requirements under *Minnesota Statutes*, sections 471.991 to 471.999, and this chapter.

Subp. 2. **Requesting a determination.** A person or entity may request a determination of the responsible jurisdiction by writing to the department. The request must specify the employee classes in question, and must identify the jurisdiction which the requester believes may be the responsible jurisdiction. In response to a request, the department must decide that a request is without merit and that no review of documents is necessary, or that the request may have merit and a review of documents is necessary, as explained in subpart 3.

In addition, the department may initiate a review of the responsible jurisdiction for the purpose of ensuring that a jurisdiction's implementation report has included all classes for which that jurisdiction is responsible and has not included any classes for which the jurisdiction is not responsible.

Subp. 3. **Documents to support determination.** If the department decides that the request may have merit, or if the department initiates a review, the department must determine the responsible jurisdiction for the employee classes specified by the requesters or the department, based on the documents listed in items A to D. The department may require the requesters, or one or more jurisdictions, to submit this information within a reasonable time set by the department as needed to make a jurisdiction determination.

A. Documents such as enabling legislation, ordinances, or resolutions which demonstrate that a particular jurisdiction has final budgetary approval authority for one or more employee classes.

B. Documents which demonstrate that a different jurisdiction has final budgetary approval authority for one or more employee classes.

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

C. Documents which identify how a jurisdiction's budget is established and how its budget is adopted.

D. Any other documents which identify the responsible jurisdiction as defined in part 3920.0100, subpart 9.

Subp. 4. **Notice to jurisdictions.** If the department undertakes a review of the responsible jurisdiction, it must send a written notice to the jurisdictions which may be affected by the review, and must provide an opportunity for those jurisdictions to submit any of the documents listed in subpart 3, within a reasonable time set by the department. When the department makes a jurisdiction determination, it must send a written notice to the affected jurisdictions and to the requester, if any.

Subp. 5. **Impact on compliance determination.** The department must follow the procedure explained in items A and B. Any jurisdiction found not in compliance as the result of a jurisdiction determination may request reconsideration as explained in part 3920.0900. If a jurisdiction is subject to a penalty, the jurisdiction may submit a request for suspension of penalty as explained in part 3920.1100, or a contested case appeal as explained in part 3920.1200, or both.

A. If the department determines that a jurisdiction is the responsible jurisdiction for one or more employee classes which were not included in the jurisdiction's implementation report, that report will be considered an incomplete report. Inaccurate and incomplete reports are subject to part 3920.0700, subpart 2.

B. If the department determines that a jurisdiction reported on one or more employee classes for which it is not the responsible jurisdiction, that report will be considered an inaccurate report. Inaccurate and incomplete reports are subject to part 3920.0700, subpart 2.

3920.0300 IMPLEMENTATION REPORTS.

Subpart 1. **Report required.** Each jurisdiction must submit a pay equity implementation report as provided by *Minnesota Statutes*, section 471.9981, subdivision 5a. The report must be submitted to the department by January 31, 1992. The report must be based on the jurisdiction's payroll as of December 31, 1991, except as otherwise provided in subpart 5, and it must include all of the information listed in subparts 3 to 8.

Subp. 2. **Report form.** The report must be submitted on a form provided by the department. In addition to the form, jurisdictions may submit all or part of the information on a computer diskette, in a format specified by the department.

Subp. 3. **Notice to employees.** The report must include a statement signed by the chief elected official verifying that employees have been notified, as provided in this subpart, that the report is public data under the Minnesota Government Data Practices Act, *Minnesota Statutes*, chapter 13. If there is no chief elected official, the statement must be signed by the chief appointed official of the jurisdiction.

The jurisdiction must send the notice to each exclusive representative, if any, for the jurisdiction. In addition, the jurisdiction must post the notice in a prominent location accessible to all employees. The notices must be sent and posted before the report is submitted to the department. Posted notices must remain posted for at least 90 days after the report is submitted to the department.

The written and posted notices must include the following information:

A. a statement that the jurisdiction has submitted its implementation report to the department as required by the Local Government Pay Equity Act; and

B. a statement that the report is public information available to anyone requesting this information.

Subp. 4. **Verifications.** The report must include a statement signed by the chief elected official or, if none, the chief appointed official of the jurisdiction verifying that:

A. all information in the report is accurate and complete to the best of the jurisdiction's knowledge;

B. the governing body of the jurisdiction has reviewed and approved the report; and

C. the job evaluation system used by the jurisdiction meets the criteria in subitems (1) and (2):

(1) the job evaluation system is based on the skill, effort, responsibility, and working conditions normally required in the performance of the work; and

(2) the same job evaluation system is used for determining comparable work value for all classes of employees in the jurisdiction.

Subp. 5. **Job class information.** The jurisdiction must submit the information listed in items A to H for each job class which had employees at any time in calendar year 1991, unless the class was abolished on or before December 31, 1991.

The information provided must be as of December 31, 1991, except that for classes which were vacant on that date the information must be as of the most recent date when the class was occupied, as specified in items B, C, D, and F.

A. Class title. If the jurisdiction has a two-tier pay system, and there were employees in both tiers on December 31, 1991, the jurisdiction must report each tier as a separate class. The information in items B to H must be reported separately for each tier.

“Two-tier pay system” means a pay practice in which two classes with the same duties, responsibilities, and general qualifications have different pay range minimums or maximums, or in which more recently-hired employees progress through the pay range at a different rate than less recently-hired employees.

B. Male employees. For classes which were vacant on December 31, 1991, the jurisdiction must report the number of male employees as of the most recent date when the class was occupied.

C. Female employees. For classes which were vacant on December 31, 1991, the jurisdiction must report the number of female employees as of the most recent date when the class was occupied.

D. Class type. The jurisdiction must identify the class type (male-dominated, female-dominated, or balanced) as defined by *Minnesota Statutes*, section 471.991. For classes which were vacant on December 31, 1991, the class type must be as of the most recent date when the class was occupied.

E. Comparable work value. The jurisdiction must report the job evaluation rating (comparable work value) of the class as determined by the job evaluation system.

F. Salary. The jurisdiction must report the minimum and maximum monthly salary, as determined by subitems (1) to (4). If there is no salary range for the class, the jurisdiction must note that information in the space provided on the form.

(1) For classes with an established hourly wage, jurisdictions must multiply the minimum and maximum hourly wages by 173.3 to determine the minimum and maximum monthly wage. When there is no established hourly wage, and there is only an annual wage, jurisdictions must divide the minimum and maximum annual wages by the number of months worked to determine the minimum and maximum monthly wages.

If the wage is for a class in which all employees work less than full-time equivalents, the minimum and maximum monthly wages must be adjusted to represent the full-time equivalent wage. The jurisdiction must make the adjustment by determining the minimum and maximum hourly wage and multiplying that amount by 173.3.

(2) If any employee in the class is paid less than the minimum of the wage range, or if no wage range exists, the jurisdiction must list the lowest wage actually paid any employee in the class as the minimum monthly salary. For classes which were vacant on December 31, 1991, and for which no wage range exists, the jurisdiction must list the lowest wage actually paid any employee in the class as of the most recent date when the class was occupied.

(3) If any employee in the class is paid more than the maximum of the wage range, or if no wage range exists, the jurisdiction must list the highest wage actually paid any employee in the class as the maximum. For classes which were vacant on December 31, 1991, and for which no wage range exists, the jurisdiction must list the highest wage actually paid any employee in the class as of the most recent date when the class was occupied.

(4) If any class received additional cash compensation at any time from July 1, 1991 through December 31, 1991, and if that payment resulted in pay above the wage range maximum, that payment must be prorated to determine a monthly equivalent. The prorated amount must be added to the wage range maximum in calculating the maximum monthly salary.

G. Years to maximum. The jurisdiction must report the number of years required to qualify for the maximum monthly salary. If no salary range exists, the jurisdiction must report the number of years of service in the class for the employee with the highest actual monthly salary.

H. Exceptional service pay. The jurisdiction must report the type of exceptional service pay received, if any employee in the class was receiving longevity or performance payments which resulted in pay above the salary range maximum.

Subp. 6. **Benefits.** The jurisdiction must report whether or not eligibility for benefits, or the jurisdiction's contribution limit for benefits, is different for any male-dominated and female-dominated classes of comparable work value. Classes are of comparable work value for purposes of this subpart if their job evaluation ratings are within ten percent of each other in the range of evaluation ratings in the jurisdiction.

The total range of evaluation ratings is determined by subtracting the lowest rating assigned to any class from the highest rating assigned to any class. The rating corresponding to ten percent of that amount is determined by dividing the total range by ten.

To determine whether differences exist, jurisdictions must compare benefits eligibility and contribution limits for each female-dominated class to benefits eligibility and contribution limits for each male-dominated class within an evaluation range extending from ten percent below the female-dominated class to ten percent above the female-dominated class.

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If differences exist, and if the differences represent a disadvantage for any female-dominated class, the jurisdiction must report the following information for all classes:

- A. eligibility or lack of eligibility for each benefit program; and
- B. the amount of the employer's contribution limit for each benefit program, prorated to determine monthly value.

Subp. 7. **Performance differences.** If a jurisdiction without salary ranges for any of its classes wants the department to consider documented performance differences which may explain compensation differences between male-dominated and female-dominated classes, as explained in part 3920.0600, subpart 7, the jurisdiction's report must so indicate. In addition, the report must include a statement that documentation about performance differences is available at the department's request.

Subp. 8. **Total payroll.** The jurisdiction must state the amount of its total annual payroll for the year ending December 31, 1991.

3920.0400 COMPLIANCE REVIEW.

Subpart 1. **Compliance requirements.** This part identifies the tests a jurisdiction must pass to be found in compliance. If a jurisdiction fails any of the tests which apply to that jurisdiction, as described in items A to D, the department must find the jurisdiction not in compliance.

A. A jurisdiction with six or more male-dominated classes and one or more salary ranges must pass the statistical analysis test described in part 3920.0500.

B. A jurisdiction with four or five male-dominated classes and one or more salary ranges, and a jurisdiction with more than three male-dominated classes and no salary ranges, must pass the statistical analysis test described in part 3920.0500 or, if that test is not passed, the alternative analysis test described in part 3920.0600.

C. A jurisdiction with three or fewer male-dominated classes must pass the alternative analysis test described in part 3920.0600.

D. All jurisdictions must pass all the other tests described in part 3920.0700.

Subp. 2. **Basis for analysis.** The statistical analysis test and the alternative analysis test are based on the maximum monthly salaries and on the job evaluation ratings listed in the jurisdiction's implementation report, except as provided in items A and B.

A. If a jurisdiction has no salary ranges, the analysis is based on the highest actual salary paid for each class.

B. If a jurisdiction provides different benefits to male-dominated and female-dominated classes of comparable work value as explained in part 3920.0300, subpart 6, and if those differences represent a disadvantage to any female-dominated class, the department must add the jurisdiction's benefits contribution limit to the maximum monthly salary or to the highest salary actually paid for each class.

3920.0500 STATISTICAL ANALYSIS TEST.

Subpart 1. **Scope.** This part applies to a jurisdiction with more than three male-dominated classes.

Subp. 2. **Criteria for statistical analysis test.** To pass this test, analysis of the jurisdiction's implementation report must show:

- A. an underpayment ratio of 80.0 percent or more; or
- B. an underpayment ratio less than 80.0 percent, and:

(1) for a jurisdiction with six or more male-dominated classes and with one or more salary ranges, an average pay difference which is the same for male-dominated and female-dominated classes or which does not represent a disadvantage for female-dominated classes;

(2) for a jurisdiction with six or more male-dominated classes and with one or more salary ranges, an average pay difference which represents a disadvantage for female-dominated classes, and a determination that the difference is not statistically significant; or

(3) for a jurisdiction with fewer than six male-dominated classes, and for a jurisdiction that has no salary ranges for any of its classes, a determination that the jurisdiction meets the alternative analysis test described in part 3920.0600.

Subp. 3. **Steps in statistical analysis.** For each jurisdiction with more than three male-dominated classes, the department must conduct a statistical analysis. The analysis includes determining and analyzing the following data: predicted pay, underpayment ratio, average pay difference, and statistical significance of the average pay difference as described in subparts 4 to 9.

Subp. 4. **Determining predicted pay.** The department must determine predicted pay for each male-dominated and female-dominated class in the jurisdiction. Predicted pay means predicted salary for those jurisdictions which do not have different benefits for male-dominated and female-dominated classes of comparable work value, as described in part 3920.0300, subpart 6. For those jurisdictions which do have different benefits for male-dominated and female-dominated classes of comparable work value, predicted pay means the total predicted amount of salary plus benefits contribution limits.

The department must determine predicted pay by creating a window, drawing a regression line within the window, and identifying

a predicted pay point on the regression line. The process described in items A to D is continued until pay has been predicted for each male-dominated and female-dominated class in the jurisdiction.

A. Creating a window. The analysis creates a window around the class. The window defines classes of comparable work value for purposes of the statistical analysis. The window must represent at least 20 percent of the range of job evaluation ratings in the jurisdiction, determined by subtracting the lowest rating assigned to any class from the highest rating assigned to any class. In addition, the window must meet the criteria in subitems (1) to (4).

(1) The lower limit of the window is at least ten percent below the class being analyzed and the upper limit is at least ten percent above the class being analyzed. If the class being analyzed is rated in the bottom nine percent of the total evaluation range, the lower limit of the window is the lowest point value assigned to any class in the jurisdiction and the upper limit is the point level at least 20 percent above the lower limit.

(2) The window must include at least three male-dominated job classes.

(3) The window must include at least two male-dominated job classes with different job evaluation ratings.

(4) The window must include at least one-fifth of all the male-dominated classes in the jurisdiction.

B. Expanding the window. If any of the criteria in item A are not met, the window is expanded in increments of five percent of the range of job evaluation ratings on either side of the previous window, until the criteria are met. That is, in the first expansion the lower limit becomes the rating level 15 percent below the class being analyzed and the upper limit becomes the rating level 15 percent above the class being analyzed. The window is increased using these five percent increments as many times as necessary until the criteria are met.

C. Drawing a line. Using conventional statistical regression techniques, the analysis fits a linear regression line to all male-dominated classes in the window. The regression line represents the relationship between job evaluation ratings and salary, or between job evaluation ratings and salary plus benefits in the case of jurisdictions with different benefits for male-dominated and female-dominated classes of comparable work value, as explained in part 3920.0300, subpart 6. The line is weighted to reflect the number of employees in each male-dominated class.

D. Predicting pay. The analysis predicts pay for the class being analyzed by determining the dollar value on the regression line which corresponds to the job evaluation rating of the class being analyzed.

Subp. 5. **Determining underpayment ratio.** The analysis tabulates the number of female-dominated and male-dominated classes which are paid below predicted pay for their job evaluation ratings. The analysis then calculates female-dominated classes paid below predicted pay as a percentage of all female-dominated classes in the jurisdiction, and male-dominated classes paid below predicted pay as a percentage of all male-dominated classes in the jurisdiction, as follows:

A. the number of male-dominated classes which are paid below predicted pay is divided by the total number of male-dominated classes, and the result is multiplied by 100;

B. the number of female-dominated classes which are paid below predicted pay is divided by the total number of female-dominated classes, and the result is multiplied by 100; and

C. the result from item A is divided by the result from item B, and the quotient is multiplied by 100. This is the underpayment ratio.

Subp. 6. **Analyzing underpayment ratio.** If the underpayment ratio is 80.0 percent or more, the department must find that the jurisdiction passes the statistical analysis test. If the underpayment ratio is less than 80.0 percent, the department must continue the compliance review as explained in items A to C.

A. If the underpayment ratio is less than 80.0 percent, and the jurisdiction has fewer than six male-dominated classes, the department must use the alternative analysis test described in part 3920.0600. The department must not continue the statistical analysis as described in subparts 7 to 9.

B. If the underpayment ratio is less than 80.0 percent, and the jurisdiction has no salary ranges for any of its classes, the department must use the alternative analysis test described in part 3920.0600. The department must not continue the statistical analysis as described in subparts 7 to 9.

C. If the underpayment ratio is less than 80.0 percent, and the jurisdiction has six or more male-dominated classes and one or more salary ranges, the department must continue the statistical analysis as described in subparts 7 to 9.

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Subp. 7. **Determining average pay difference.** For a jurisdiction described in subpart 6, item C, the department must determine and analyze the average pay difference. The average pay difference is the dollar amount of the average difference from predicted pay, calculated as follows:

A. The number of employees in each female-dominated class is multiplied by the dollar amount of the difference from predicted pay for that class. Both positive amounts (above predicted pay) and negative amounts (below predicted pay) are included.

B. The sum of the amounts in item A is divided by the total number of employees in female-dominated classes. The result is the average difference from predicted pay for female-dominated classes.

C. The process explained in items A and B is repeated for male-dominated classes. The result is the average difference from predicted pay for male-dominated classes.

Subp. 8. **Analyzing average pay difference.** The department must evaluate the average pay difference as explained in items A and B.

A. If the average pay difference is the same for male-dominated and female-dominated classes, or if the average pay difference does not represent a disadvantage for female-dominated classes, the department must find that the jurisdiction passes the statistical analysis test.

B. If the average pay difference represents a disadvantage for female-dominated classes, the department must continue the analysis as described in subpart 9.

Subp. 9. **Significance of average pay difference (t-test).** If the average pay difference represents a disadvantage for female-dominated classes, a standard test of statistical significance called the t-test must be applied to this finding. The department must evaluate the results as explained in items A and B.

A. The t-test is applied using conventional statistical techniques. Significance is determined at the five percent level for a one-tailed test. The sample t table is taken from a standard statistical text: Blalock, *Social Statistics*, Second Edition 1972, published by McGraw-Hill, page 559. The degrees of freedom is the total number of employees in male-dominated and female-dominated classes, minus two. To be significant, the value of t for a jurisdiction must be at or above the level listed, except that for degrees of freedom not listed, the required level of t is taken from a standard normal distribution table.

Distribution of t (five percent significance)	
Degrees of Freedom	Value of t
1	6.314
2	2.920
3	2.353
4	2.132
5	2.015
6	1.943
7	1.895
8	1.860
9	1.833
10	1.812
11	1.796
12	1.782
13	1.771
14	1.761
15	1.753
16	1.746
17	1.740
18	1.734
19	1.729
20	1.725
21	1.721
22	1.717
23	1.714
24	1.711
25	1.708

Distribution of t (five percent significance)

Degrees of Freedom	Value of t
26	1.706
27	1.703
28	1.701
29	1.699
30	1.697
40	1.684
60	1.671
120	1.658
infinity	1.645

B. If the t-test is not significant, the department must find that the jurisdiction has passed the statistical analysis test. If the t-test is significant, the department must find that the jurisdiction has failed the statistical analysis test and is not in compliance.

3920.0600 ALTERNATIVE ANALYSIS TEST.

Subpart 1. **Scope.** This part applies to:

- A. a jurisdiction with three or fewer male-dominated classes;
- B. a jurisdiction with four or five male-dominated classes, when the jurisdiction has an underpayment ratio of less than 80.0 percent as explained in part 3920.0500, subpart 6; and
- C. a jurisdiction with no salary ranges for any of its classes, when the jurisdiction has an underpayment ratio of less than 80.0 percent as explained in part 3920.0500, subpart 6.

Subp. 2. **Criteria for alternative analysis test.** To pass the alternative analysis test, a jurisdiction must meet one of the following criteria:

- A. an initial review shows that salary, or salary plus benefits, for female-dominated classes is not consistently below that of male-dominated classes of comparable work value, as described in subpart 4;
- B. for classes with no salary ranges, differences in years of service explain the underpayment for all underpaid female-dominated classes, as described in subpart 6;
- C. for classes with no salary ranges, differences in performance, separately or in combination with differences in years of service, explain the underpayment for all underpaid female-dominated classes, as described in subpart 7; or
- D. for classes with no salary ranges, combined differences in years of service and performance explain the underpayment for some of the underpaid female-dominated classes, and the remaining number of underpaid female-dominated classes is 20.0 percent, or less, of female-dominated classes in the jurisdiction, as explained in subparts 6 and 7.

Subp. 3. **Basis for alternative analysis.** The analysis is based on the maximum monthly salaries and job evaluation ratings listed in the jurisdiction's implementation report, except as described below. If the jurisdiction has no salary ranges, the analysis is based on the highest actual salary paid for each class. If a jurisdiction provides different benefits to male-dominated and female-dominated classes of comparable work value, and if those differences represent a disadvantage to any female-dominated class, the analysis is based on the jurisdiction's benefits contribution limit plus the maximum monthly salary, or on the jurisdiction's benefits contribution limit plus the highest salary actually paid for each class.

Subp. 4. **Initial review.** The department must conduct an initial review to determine whether salary, or salary plus benefits, for female-dominated classes is not consistently below that of male-dominated classes of comparable work value. The department must examine salary or salary plus benefits for each female-dominated class using the criteria in items A to D, and must identify each female-dominated class which is underpaid. For purposes of this part, "underpaid" means paid less than the level established by these criteria.

The department must count the number of underpaid female-dominated classes and calculate underpaid female-dominated classes as a percentage of all female-dominated classes in the jurisdiction. If 20.0 percent or a smaller percentage of female-dominated classes are underpaid according to the criteria in items A to D, the department must find that the jurisdiction has passed the alternative

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analysis test. If more than 20.0 percent of female-dominated classes are underpaid according to these criteria, the department must proceed as explained in subpart 5.

A. If there are any female-dominated classes with higher job evaluation ratings than male-dominated classes, and there are no male-dominated classes with ratings higher than those female-dominated classes, the amount of salary or salary plus benefits for each of those female-dominated classes must be equal to or higher than the amounts for each lower-rated male-dominated class.

B. If there are any female-dominated classes with job evaluation ratings falling between lower-rated and higher-rated male-dominated classes, the amount of salary or salary plus benefits for each of the female-dominated classes must fall between the amounts for the male-dominated classes.

C. If there are any female-dominated classes with the same job evaluation ratings as male-dominated classes, the amount of salary or salary plus benefits for each of those female-dominated classes must be equal to or higher than the amounts for any of the male-dominated classes. This criterion does not apply if there are any male-dominated classes which are rated higher than the female-dominated class, but which receive salary or salary plus benefits amounts equal to or lower than the amounts for the female-dominated class.

D. If there are any female-dominated classes with job evaluation ratings lower than all male-dominated classes, those female-dominated classes must be compensated as reasonably in proportion to their job evaluation ratings as other classes in the jurisdiction.

Subp. 5. Failure to meet initial review standard. If more than 20.0 percent of female-dominated classes are underpaid according to the criteria in subpart 4, the department must determine whether the jurisdiction has salary ranges for its classes.

A. If there are no salary ranges for the underpaid female-dominated class or for any of the male-dominated classes with which the female-dominated class is being compared, the department must analyze years of service under subpart 6.

B. If there are salary ranges for the underpaid female-dominated class and for all male-dominated classes with which the female-dominated class is being compared, the department must find that the jurisdiction has failed the alternative analysis test and is not in compliance.

Subp. 6. Years of service. The department must analyze the years of service for employees in female-dominated and male-dominated classes in the situation described in subpart 5, item A. For each of the underpaid female-dominated classes, the department must determine whether differences in years of service explain the underpayment.

The department must then count the remaining number of underpaid female-dominated classes for which years of service do not explain the underpayment, and evaluate the result as explained in items A to C.

A. If the remaining number of underpaid female-dominated classes is 20.0 percent or a smaller percentage of female-dominated classes in the jurisdiction, the department must find that the jurisdiction has passed the alternative analysis test.

B. If the remaining number of underpaid female-dominated classes is more than 20.0 percent of female-dominated classes, and if the jurisdiction has no salary ranges for any of its classes, the department must request and analyze any documents about performance differences submitted by the jurisdiction, as explained in subpart 7.

C. If the remaining number of underpaid female-dominated classes is more than 20.0 percent of female-dominated classes, and if the jurisdiction has salary ranges for some or all of its classes, the department must find that the jurisdiction has failed the alternative analysis test and is not in compliance.

Subp. 7. Performance. In the situation described in subpart 6, item B, if a jurisdiction reported that documentation of performance differences is available, as explained in part 3920.0300, subpart 7, the department must request the documentation from the jurisdiction. The department must find that a jurisdiction which does not submit this information within the time set by the department has submitted an incomplete or inaccurate report, as explained in part 3920.0700, subpart 2.

The department must analyze the documentation in each case where a female-dominated class is underpaid according to subpart 4. For each of these female-dominated classes, the department must decide whether differences in performance explain the underpayment, separately or in combination with information about years of service for classes without salary ranges.

The department must then count the remaining number of underpaid female-dominated classes for which neither years of service nor performance explain the underpayment, and evaluate the result as explained in items A and B.

A. If the remaining number of underpaid female-dominated classes represents 20.0 percent or a smaller percentage of female-dominated classes in the jurisdiction, the department must find that the jurisdiction has passed the alternative analysis test.

B. If the remaining number of underpaid female-dominated classes represents more than 20.0 percent of female-dominated classes, the department must find that the jurisdiction has failed the alternative analysis test and is not in compliance.

3920.0700 OTHER TESTS.

Subpart 1. Scope. This part describes additional tests to be passed in the compliance review. If a jurisdiction fails any of the tests which apply to that jurisdiction as explained in subparts 2 to 5, the department must find the jurisdiction not in compliance.

Subp. 2. **Complete and accurate information test.** Each jurisdiction must report accurately and completely all of the information required by *Minnesota Statutes*, sections 471.991 to 471.999, and this chapter. If a jurisdiction fails to submit a report by January 31, 1992, the department must find that jurisdiction not in compliance.

Any person or entity may submit a complaint about the accuracy or completeness of a jurisdiction's report by writing to the department. The complaint must specify the information believed to be inaccurate or incomplete. In response to a complaint, the department must decide either that the complaint is without merit and that no review is necessary, or that the complaint may have merit and a review is necessary.

In addition, the department may initiate a review of the accuracy and completeness of a jurisdiction's report for the purpose of ensuring that the compliance review is based upon correct and complete information.

If the department decides that a review is necessary, the department must notify the jurisdiction in writing that a review is being undertaken. The department's notice must identify the missing information, the information which may be inaccurate, and any information required to demonstrate the completeness and accuracy of the report. The department must establish and notify the jurisdiction of a reasonable time period for the jurisdiction to submit missing information or to verify the information.

If the jurisdiction does not respond within the established time period, or if the department determines after reviewing the response that the report remains inaccurate or incomplete, the department must find the jurisdiction not in compliance.

Subp. 3. **Reopening department determinations.** If the conditions listed in items A and B are met, the department must reopen the jurisdiction determination under part 3920.0200, the compliance review under part 3920.0400, the reconsideration review under part 3920.0900, or the request for suspension of penalty review under part 3920.1100. The appropriate review process must be reopened if:

A. after making a jurisdiction determination, a compliance determination, a reconsideration determination, or a determination on a request for suspension of penalty, the department becomes aware that information submitted by a jurisdiction may be inaccurate or incomplete; and

B. the department has reason to believe that the completing or correcting the information is likely to affect one of those determinations.

If any of the review processes are reopened, the department must use the procedure in subpart 2. In addition, the department must consider the evidence, notify the jurisdiction, and undertake all other procedures appropriate for the affected review process.

Jurisdictions found not in compliance as the result of reopening a review process may submit a reconsideration request under part 3920.0900. Jurisdictions subject to a penalty as the result of reopening a review process may submit a request for suspension of penalty under part 3920.1100, a contested case appeal as provided in part 3920.1200, or both.

Subp. 4. **Salary range test.** The average number of years required for female-dominated classes to qualify for the maximum monthly salary may not be consistently larger than the average number of years required for male-dominated classes to qualify for the maximum monthly salary. If a jurisdiction provides a different number of years to qualify for the maximum monthly salary for male-dominated and female-dominated classes, the department must evaluate this information as follows. The evaluation is limited to classes with an established number of years to reach maximum salary.

A. Calculate the average years to maximum for female-dominated classes by adding the years to maximum for female-dominated classes and dividing the result by the number of female-dominated classes.

B. Calculate the average years to maximum for male-dominated classes by adding the years to maximum for male-dominated classes and dividing the result by the number of male-dominated classes.

C. Divide the result from item B by the result from item A, and multiply the result times 100. If this amount is 80.0 percent or more, the department must find that the jurisdiction has passed the salary range test. If this amount is less than 80.0 percent, the department must find that the jurisdiction has failed the salary range test and is not in compliance.

Subp. 5. **Exceptional service pay test.** The percentage of female-dominated classes receiving exceptional service pay may not be consistently below the percentage of male-dominated classes receiving exceptional service pay. If employees in male-dominated classes receive exceptional service pay, the department must evaluate the information as provided in items A to D.

A. Count the number of male-dominated classes in which employees are receiving some form of exceptional service pay. Divide the sum by the total number of male-dominated classes, and multiply the quotient by 100.

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B. If the result from item A is 20.0 percent or less, the department must find that the jurisdiction has passed the exceptional service pay test. If the result from item A is more than 20.0 percent, the department must continue the evaluation.

C. Count the number of female-dominated classes in which employees are receiving some form of exceptional service pay. Divide the sum by the total number of female-dominated classes, and multiply the quotient by 100.

D. Divide the result from item C by the result from item A, and multiply the quotient by 100. If the result is 80.0 percent or more, the department must find that the jurisdiction has passed the exceptional service pay test. If the result is less than 80.0 percent, the department must find that the jurisdiction has failed the exceptional service pay test and is not in compliance.

3920.0800 COMPLIANCE NOTIFICATION.

Subpart 1. **Written notice.** When the department makes a compliance decision, it must notify the jurisdiction in writing.

Subp. 2. **Jurisdictions in compliance.** If a jurisdiction is in compliance, the department must notify the jurisdiction of the date on which the next implementation report must be submitted to ensure that pay equity is maintained under part 3920.1300, subpart 2.

Subp. 3. **Jurisdictions not in compliance.** If a jurisdiction is not in compliance, the department must provide a detailed description of the basis for the finding, specific recommended actions to achieve compliance, an estimated cost of compliance, a date by which compliance must be achieved to avoid a penalty, and a date by which the jurisdiction must submit a revised report for reexamination by the department.

The revised report must consist of the same information required in the original implementation report, except that the information must be revised to be current as of the date by which compliance must be achieved to avoid a penalty. The date by which the jurisdiction must submit a revised report must be 30 days after the date by which compliance must be achieved to avoid a penalty.

In setting the date by which compliance must be achieved to avoid a penalty, the department must consider the basis for the noncompliance finding and the actions recommended to achieve compliance.

Subp. 4. **Report to legislature.** The department must list all jurisdictions found not in compliance in its annual pay equity report to the legislature.

Subp. 5. **Next steps.** If a jurisdiction found not in compliance disagrees with the compliance decision or the date by which compliance must be achieved to avoid a penalty, the jurisdiction may request reconsideration of the decision under part 3920.0900. If a jurisdiction found not in compliance agrees with the compliance decision, it must act to come into compliance and it must submit a revised report by the date specified in the compliance notice.

After the date specified in the compliance notice, the department must examine the revised report and make a revised compliance decision by the methods explained in parts 3920.0400 to 3920.0700.

A. If the department finds the jurisdiction in compliance as of the date specified, based on the revised report, no penalty may be imposed. The department must notify the jurisdiction that it is in compliance and must specify the date on which the next report must be submitted to ensure that pay equity is maintained under part 3920.1300, subpart 2.

B. If the department finds the jurisdiction not in compliance as of the date specified, based on the revised report, the department must notify the jurisdiction that the jurisdiction is not in compliance and that a penalty will be imposed under part 3920.1000. The department must provide a detailed description of the basis for the finding, specific recommend actions to achieve compliance, and an estimated cost of compliance. The jurisdiction may submit a request for suspension of penalty under part 3920.1100, a contested case appeal as explained in part 3920.1200, or both.

3920.0900 RECONSIDERATION.

Subpart 1. **Scope.** If a jurisdiction disagrees with the department's compliance decision or with the time provided by the department to achieve compliance, it may request reconsideration of the decision. As the result of a reconsideration, the department must decide, based on the written information described in subparts 7 to 9:

A. that its original noncompliance decision and date for achieving compliance were correct;

B. that the original noncompliance decision was incorrect and the jurisdiction is in compliance; or

C. that the original noncompliance decision was correct but that more time will be provided for the jurisdiction to achieve compliance.

Subp. 2. **Initiating a reconsideration request.** To initiate a reconsideration request, the jurisdiction must give written notice to the department. The reconsideration request must be submitted within 30 days after the date of the noncompliance notice sent by the department.

Subp. 3. **Submitting information.** The jurisdiction must submit written information to support the request within 60 days after the date of the noncompliance notice sent by the department.

A. A jurisdiction requesting reconsideration must submit the information listed in subpart 5, notice to employees.

B. A jurisdiction requesting reconsideration of the time provided to achieve compliance, but not requesting reconsideration of the original compliance decision, must also submit the information listed in subpart 8, compliance plan.

C. A jurisdiction may also submit any of the information listed in subpart 9, evidence for reconsideration.

Subp. 4. **Burden of proof.** During the reconsideration process, the burden of proof is on the jurisdiction to demonstrate to the department that the compliance decision was incorrect or that the time allowed to achieve compliance should be extended.

Subp. 5. **Notice to employees.** Reconsideration requests must include:

A. a statement signed by the chief elected official, or if none, the chief appointed official, verifying that exclusive representatives and employees have been notified of the reconsideration request, as explained in subpart 6; and

B. a copy of the notice sent and posted, as explained in subpart 6.

Subp. 6. **Notice requirements.** A jurisdiction requesting reconsideration must send a written notice to each exclusive representative, if any, for employees of the jurisdiction. The jurisdiction must also post the notice in a prominent location accessible to all employees.

The notices must be sent and posted before the request for reconsideration is submitted to the department. Posted notices must remain posted for at least 90 days after the reconsideration request is submitted to the department.

The written and posted notices must include the following information:

A. a statement that the jurisdiction has been found not in compliance with the Local Government Pay Equity Act and that the jurisdiction is requesting a reconsideration of that decision or a longer period of time to achieve compliance;

B. a description of the grounds for the reconsideration request;

C. a statement that the department's determination and the materials submitted in support of the reconsideration request are public information available to anyone requesting the information;

D. a statement that any comments concerning the reconsideration request may be submitted to the department; and

E. the department's address and telephone number.

Subp. 7. **Comments.** A person or entity may submit a complaint about the accuracy or completeness of a jurisdiction's reconsideration request by writing to the department. The complaint must specify the information believed to be inaccurate or incomplete. In response to a complaint, the department must decide either that the complaint is without merit and that no review is necessary, or that the complaint may have merit and a review is necessary.

In addition, the department may initiate a review of the accuracy and completeness of a jurisdiction's reconsideration request for the purpose of ensuring that the reconsideration is based upon correct and complete information. If the department decides that a review is necessary, it must follow the procedures in part 3920.0700, subpart 2.

Subp. 8. **Compliance plan.** If a jurisdiction agrees that it is not in compliance, but requests reconsideration of the time allowed to achieve compliance, it must submit the following information to the department in writing:

A. a plan for achieving compliance, including the jurisdiction's proposed actions and response to the department's recommendations;

B. a proposed date for achieving compliance and a revised report for department review; and

C. a statement by the chief elected official or, if none, the chief appointed official, that the plan and proposed date have been approved by the jurisdiction's governing body.

Subp. 9. **Evidence for reconsideration.** In submitting a request for reconsideration of the compliance decision or for reconsideration of the time allowed to achieve compliance, the jurisdiction may submit written evidence concerning any of the facts in items A to H.

A. **Nongender-based inequities.** A jurisdiction may demonstrate that compensation inequities between male-dominated and female-dominated classes are not gender-based. The jurisdiction may submit any relevant information.

B. **Recruitment difficulties.** A jurisdiction may demonstrate that one or more female-dominated classes receive lower compensation than male-dominated classes because of recruitment difficulties in male-dominated classes. The jurisdiction may submit information documenting that:

(1) recruitment problems in female-dominated classes would be identified, evaluated, and treated the same as recruitment problems in male-dominated classes; and

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(2) the higher compensation for male-dominated classes is needed to attract qualified candidates for those classes.

C. Retention difficulties. A jurisdiction may demonstrate that one or more female-dominated classes receive lower compensation than male-dominated classes because of retention difficulties in male-dominated classes. The jurisdiction may submit information documenting that:

(1) retention problems in female-dominated classes would be identified, evaluated, and treated the same as retention problems in male-dominated classes; and

(2) the higher compensation for male-dominated classes is needed to retain employees in those classes.

D. Recent arbitration. A jurisdiction may demonstrate that one or more female-dominated classes receive lower compensation than male-dominated classes because of recent arbitration awards that are inconsistent with equitable compensation relationships. The jurisdiction may submit any relevant information.

E. Good faith. A jurisdiction may demonstrate that it has made a good faith effort to achieve compliance. The jurisdiction may submit any information supporting subitems (1) to (3).

(1) Since 1984, the jurisdiction has substantially reduced the frequency or amount of compensation inequities for female-dominated classes in comparison with male-dominated classes.

(2) Since 1984, a substantial portion of funds available for compensation increases has been spent on reducing compensation inequities for female-dominated classes.

(3) There is other evidence of the jurisdiction's good faith efforts to achieve compliance.

F. Continued progress. A jurisdiction may demonstrate its continued progress toward compliance. The jurisdiction may submit any relevant information.

G. Constraints. A jurisdiction may demonstrate any constraints it faces. The jurisdiction may submit any information supporting subitem (1) or (2).

(1) severe fiscal constraints have made implementation difficult or impossible; or

(2) there are other constraints which have made implementation of pay equity difficult or impossible.

H. Other evidence. A jurisdiction may submit any other information to demonstrate that the department's compliance decision was incorrect or that more time should be provided to achieve compliance.

Subp. 10. **Reconsideration decision and notice.** The department must notify the jurisdiction in writing of its decision after reconsideration.

A. If the department decides that the original noncompliance decision was incorrect and the jurisdiction is in compliance, the department must notify the jurisdiction of that decision. The notice must specify the date on which the next implementation report must be submitted to ensure that pay equity is maintained under part 3920.1300, subpart 2.

B. If the department decides that the original noncompliance decision and date for achieving compliance were correct, the department must notify the jurisdiction of that decision. The notice must include a detailed description of the basis for the finding, specific recommended actions to achieve compliance, and an estimated cost of compliance, if any of that information is revised from the department's original noncompliance notice. If the jurisdiction does not achieve compliance and submit a revised report by the date specified in the department's original compliance notice, a penalty will be imposed under part 3920.1000.

C. If the department decides that the original noncompliance decision was correct but that more time will be provided to achieve compliance, the department must notify the jurisdiction of that decision. The notice must specify the revised date by which compliance must be achieved to avoid a penalty under part 3920.0800, subpart 3. In addition, the notice must include a detailed description of the basis for the finding, specific recommended actions to achieve compliance, and an estimated cost of compliance, if any of that information is revised from the department's original noncompliance notice.

Subp. 11. **Next steps.** If a reconsideration results in a time extension for achieving compliance, the jurisdiction must submit a revised report by the date established by the department. The department must examine the revised report by the methods in parts 3920.0400 to 3920.0700, and make a revised compliance decision.

A. If a reexamined jurisdiction is found in compliance, the department must notify the jurisdiction of the date on which the next implementation report must be submitted to ensure that pay equity is maintained under part 3920.1300, subpart 2.

B. If a reexamined jurisdiction is again found not in compliance, the department must notify the jurisdiction that a penalty will be imposed under part 3920.0800, subpart 5, item B.

3920.1000 PENALTIES.

Subpart 1. **Department of Revenue notification.** If a reexamined jurisdiction is found not in compliance, the department must

notify the Department of Revenue and the jurisdiction that the jurisdiction is subject to a financial penalty under *Minnesota Statutes*, section 471.9981, subdivision 6, paragraph (c).

Subp. 2. **Enforcement conditions.** The Department of Revenue must enforce the penalty beginning in calendar year 1992, except that the penalty may not be enforced until after the end of the first regular legislative session in which the jurisdiction was listed not in compliance. In addition, the penalty must be suspended under the circumstances in part 3920.1100, subpart 8, item A, and no penalty may be imposed under the circumstances in part 3920.1200, subpart 3.

Subp. 3. **Enforcement procedure.** The Department of Revenue must enforce the penalty by deducting aid or by fining the jurisdiction. For purposes of this part, "aid" means amounts otherwise payable under *Minnesota Statutes*, section 124A.23, 273.1398, or 477A.011 to 477A.014. The Department of Revenue must determine which of the amounts in items A and B is larger, and deduct the aid or assess the fine accordingly:

A. an amount equivalent to five percent of the aid otherwise payable for calendar year 1992, calculated from January 1, 1992, added to an amount equivalent to five percent of the aid otherwise payable for all additional years after 1992, in which the department certifies that the jurisdiction remains not in compliance; or

B. an amount equivalent to \$100 a day, calculated from January 1, 1992, until the date the department certifies to the Department of Revenue that the jurisdiction has achieved compliance.

3920.1100 REQUEST FOR SUSPENSION OF PENALTY.

Subpart 1. **Scope.** A jurisdiction which has been notified that it is subject to a penalty under *Minnesota Statutes*, section 471.9981, subdivision 6, paragraph (c), may submit a request for suspension of penalty with the department. A jurisdiction is not required to submit a reconsideration request before submitting a request for suspension of penalty.

Subp. 2. **Evidence for request.** The department may suspend the penalty for a specified time if a jurisdiction provides written evidence to the department demonstrating that:

A. the failure to implement equitable compensation relationships was attributable to circumstances beyond its control or to severe hardship; or that

B. noncompliance results from facts unrelated to the sex of the members dominating the affected classes and that the subdivision is taking substantial steps to achieve compliance to the extent possible.

Subp. 3. **Initiating a request.** To initiate a request for suspension of penalty, the jurisdiction must submit written notice to the department within 30 days after the date of the penalty notice sent by the department.

Subp. 4. **Burden of proof.** During the request for suspension of penalty process, the burden of proof is on the jurisdiction to demonstrate to the department that the penalty should be suspended.

Subp. 5. **Notice to employees.** A request for suspension of penalty must include:

A. a statement signed by the chief elected official or, if none, the chief appointed official, verifying that exclusive representatives and employees have been notified of the request for suspension of penalty, as explained in subpart 6; and

B. a copy of the notice sent and posted as explained in subpart 6.

Subp. 6. **Notice requirements.** A jurisdiction submitting a request for suspension of penalty must send a written notice to each exclusive representative, if any, for employees of the jurisdiction. The jurisdiction must also post the notice in a prominent location accessible to all employees.

The notices must be sent and posted before the request for suspension of penalty is submitted to the department. Posted notices must remain posted for at least 90 days after the request for suspension of penalty is submitted to the department.

The written and posted notices must include the following information:

A. a statement that the jurisdiction is subject to a penalty for noncompliance with the Local Government Pay Equity Act and that the jurisdiction is submitting a request for suspension of penalty;

B. a description of the grounds for the request;

C. a statement that the department's determination and the materials submitted in support of the request for suspension of penalty are public information available to anyone requesting the information;

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- D. a statement that any comments concerning the request for suspension of penalty may be submitted to the department; and
- E. the department's address and telephone number.

Subp. 7. **Comments.** A person or entity may submit a complaint about the accuracy or completeness of a jurisdiction's request for suspension of penalty by writing to the department. The complaint must specify the information believed to be inaccurate or incomplete. In response to a complaint, the department must decide either that the complaint is without merit and that no review is necessary, or that the complaint may have merit and a review is necessary.

In addition, the department may initiate a review of the accuracy and completeness of a jurisdiction's request for suspension of penalty for the purpose of ensuring that the department's suspension decision is based upon correct and complete information. If the department decides that a review is necessary, it must follow the procedures in part 3920.0700, subpart 2.

Subp. 8. **Decision on request.** The department must make a finding on the request for suspension of penalty, based on the evidence in subparts 2 and 7, and must provide written notice of the finding to the jurisdiction.

A. If the department finds that the penalty should be suspended, it must notify the Department of Revenue of its decision. In this case, the department must extend the time to achieve compliance and notify the jurisdiction of the date when a second revised report will be required. The department must review the second revised report according to parts 3920.0400 to 3920.0700.

B. If the department finds that the penalty should not be suspended, the Department of Revenue must enforce the penalty except as provided under part 3920.1200.

3920.1200 CONTESTED CASE APPEAL.

Subpart 1. **Scope.** A jurisdiction which has been notified that it is subject to a penalty may file an appeal to be decided as a contested case. A jurisdiction is not required to submit a reconsideration request or a request for suspension of penalty before filing a contested case appeal.

Subp. 2. **Initiating a contested case appeal.** To initiate a contested case appeal, the jurisdiction must submit written notice to the department within 30 days after the date of the penalty notice sent by the department.

Subp. 3. **No penalty pending appeal.** When it receives a contested case appeal notice, the department must notify the Department of Revenue that the appeal is pending. No penalty may be imposed while an appeal is pending.

Subp. 4. **Contested case procedure.** When it receives a contested case appeal notice, the department must initiate a contested case proceeding under *Minnesota Statutes*, sections 14.57 to 14.62.

3920.1300 MAINTAINING PAY EQUITY.

Subpart 1. **Scope.** After the original implementation date and reporting date, a jurisdiction must maintain equitable compensation relationships and submit additional reports as required by the department. The department must monitor compliance on an on-going basis and must report to the legislature annually. This part explains procedures for monitoring pay equity after the first implementation cycle.

Subp. 2. **Future reports.** The department must establish a schedule for future reporting, providing that approximately one-third of all jurisdictions must report each year beginning in 1994.

A. The department must give a jurisdiction at least one year's notice of the date when its next scheduled report will be due.

B. The department must require, and a jurisdiction must submit, the same information required in the original implementation report, except that the information must be revised to be current as of the date 30 days before the new report. In addition, a jurisdiction must:

(1) submit information on lump sum payments and bonus payments made at any time in the 12 months before the new report; and

(2) verify that the jurisdiction has notified the department if the jurisdiction has adopted a new job evaluation system, or substantially modified an existing system, at any time after December 31, 1991.

Subp. 3. **Future compliance reviews and notifications.** The department must review the reports and make compliance decisions according to parts 3920.0400 to 3920.0700, and notify jurisdictions of its decisions according to part 3920.0800.

Subp. 4. **Future reconsideration and appeal.** A jurisdiction which was found in compliance at one time, but which is found not in compliance at a future date, may initiate the reconsideration request under part 3920.0900. If a jurisdiction is subject to a penalty after reexamination, the jurisdiction may initiate the request for suspension of penalty under part 3920.1100, and the contested case appeal described in part 3920.1200. The department must consider the evidence and make decisions as provided in parts 3920.1100 and 3920.1200.

Subp. 5. **Future penalties.** A jurisdiction which was found in compliance at one time, but which is found not in compliance at a

future date, and which remains not in compliance after reexamination, is subject to the penalties in part 3920.1000, except that the penalty applies only to the period the jurisdiction is found not in compliance under subpart 6.

Subp. 6. Enforcement conditions for future penalties. The Department of Revenue must enforce the penalty beginning in the calendar year in which the department finds the jurisdiction not in compliance, except that the penalty may not be enforced until after the end of the first regular legislative session in which the jurisdiction was listed not in compliance. In addition, the penalty must be suspended under the circumstances in part 3920.1100, subpart 8, item A, and the penalty may not be imposed under the circumstances in part 3920.1200, subpart 3.

Subp. 7. Enforcement procedures for future penalties. The Department of Revenue must enforce the penalty by deducting aid or fining the jurisdiction. For purposes of this part, "aid" means amounts otherwise payable under *Minnesota Statutes*, section 124A.23, 273.1398, or 477A.011 to 477A.014. The Department of Revenue must determine which of the amounts in items A and B is larger, and deduct the aid or assess the fine accordingly:

A. an amount equivalent to five percent of the aid otherwise payable for the calendar year in which the department finds the jurisdiction not in compliance, added to an amount equivalent to five percent of the aid otherwise payable for all additional years in which the department certifies that the jurisdiction remains not in compliance; or

B. an amount equivalent to \$100 a day, calculated from the date the department finds the jurisdiction not in compliance until the date the department certifies that the jurisdiction has achieved compliance.

Gambling Control Board

Proposed Permanent Rules Relating to Lawful Gambling

Notice of Intent to Repeal Existing Rules and Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing With Respect to the Proposed Amendments, and Notice of Intent to Cancel Hearing on the Proposed Rules if Fewer Than 25 Persons Request a Hearing With Respect to the Proposed Rules

I. EXPLANATION OF ALTERNATIVE NOTICES.

The Minnesota Lawful Gambling Control Board (hereinafter "Board") hereby gives notice of its intent to repeal its existing rules (*Minnesota Rule* pts. 7860.0700) and notice of its intent to adopt rules without a public hearing under the non-controversial rulemaking procedure of *Minnesota Statutes*, section 14.22 to 14.28 (1990). However, in the event 25 or more persons request a hearing with respect to the proposed amendments to the rules, thereby necessitating that one be held pursuant to *Minnesota Statutes*, section 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time giving notice of a hearing on the proposed rules pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1990). The hearing on the proposed rules will, of course, be cancelled if 25 or more people do not request that a hearing be held with respect to the proposed rules. With the comment period closing on November 15, 1991, there will be 14 days before the scheduled hearing date. This 14-day period will give interested persons time to contact the Board to find out whether the hearing will be held or cancelled.

II. NOTICE OF INTENT TO REPEAL AND ADOPT RULES WITHOUT A PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that the Minnesota Lawful Gambling Control Board (hereinafter "Board") proposes to repeal its existing rule and to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Board has determined that the proposed rules will be non-controversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28 (1990).

Interested persons shall have until November 15, 1991 to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request **in writing** during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to

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Proposed Rules

the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific portion of the rules on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held if 25 or more persons submit **in writing** requests for a hearing on the proposed rules or a portion thereof by November 15, 1991. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.14 to 14.20 (1990), and the hearing notice provided before.

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

Harry W. Baltzer, Director
Lawful Gambling Control Board
1711 West County Road B
Suite 300 South
Roseville, Minnesota 55113

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes*, section 349.151, subdivision 4 (1990).

The proposed rules will be published in the *State Register* issue of October 14, 1991, and a copy of the rules may be obtained from the Board by writing to Harry W. Baltzer at the address listed above.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by contacting Harry W. Baltzer at the address listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11 (1990).

The Board is subject to *Minnesota Statutes*, section 14.115 (1990), regarding small business considerations in rulemaking. The Board's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2 (1990), for reducing the impact of the proposed rules on small businesses are addressed in the **STATEMENT OF NEED AND REASONABLENESS**.

Upon completion of proposed rules without a public hearing, the rules as proposed, this notice, the **STATEMENT OF NEED AND REASONABLENESS**, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 should submit a written request to Harry W. Baltzer at the address listed above.

III. NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING ON THE PROPOSED RULES IF 25 OR MORE PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED RULES.

Please note that if 25 or more persons submit written requests for a public hearing with respect to the proposed above-captioned rules within the comment period pursuant to the notice given in Part II above, a hearing will be held on December 5 and, if necessary, December 6, 1991, in accordance with the following notice of public hearing.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned rule will be held pursuant to *Minnesota Statutes*, sections 14.14 to 14.20 (1990) on December 5, 1991, commencing at 9:00 a.m. until 4:30 p.m., or until all interested persons have been heard, in Room 15 of the State Capitol Building, St. Paul, Minnesota. If necessary, the hearing will continue at 9:00 a.m. until 4:30 p.m. on December 6, 1991.

The hearing will continue, if necessary, at additional times and places as determined during the hearing by the Administrative Law Judge. The Administrative Law Judge assigned to conduct the hearing is Peter Erickson. Judge Erickson can be reached at the Office of Administrative Hearings, 500 Flour Exchange Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone number (612) 341-7615.

All interested or affected persons, including representatives of associations or other interested groups, 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 the Administrative Law Judge. Unless a longer period, not to exceed 20 calendar days, is ordered by the Administrative Law Judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. All written materials submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board 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. This rules hearing procedure is governed by *Minnesota Statutes*, sections 14.14 to 14.20 (1990), and by *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1991). Questions about procedure may be directed to the Administrative Law Judge.

The proposed rules will be published in the *State Register* issue of October 14, 1991, and a copy of the rules may be obtained from the Board by writing Harry W. Baltzer at the address listed above in Part II of this notice.

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes*, section 349.151, subdivision 4 (1990).

The proposed rules may be modified as a result of the rules hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore encouraged to participate in the process.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone number (612) 296-5148.

NOTICE IS HEREBY GIVEN that a **STATEMENT OF NEED AND REASONABLENESS** is now available for review at the Board and at the Office of Administrative Hearings. This **STATEMENT OF NEED AND REASONABLENESS** includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. The **STATEMENT OF NEED AND REASONABLENESS** may be reviewed at the Board by contacting Harry W. Baltzer at the address listed above in Part II of this Notice or it may be reviewed at the Office of Administrative Hearings, and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

PLEASE NOTE that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Board 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 require notification of the date on which any 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 Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes*, section 14.11 (1990).

The Board is subject to *Minnesota Statutes*, section 14.115 (1990), regarding small business considerations in rulemaking. The Board's evaluation of the applicability of the methods contained in *Minnesota Statutes*, section 14.115, subdivision 2 (1990), for reducing the impact of the proposed rules on small businesses are addressed in the **STATEMENT OF NEED AND REASONABLENESS**.

IV. NOTICE OF INTENT TO CANCEL THE HEARING WITH RESPECT TO THE RULES IF FEWER THAN 25 PERSONS REQUEST A HEARING WITH RESPECT TO THE PROPOSED RULES.

Please note that the hearing, notice of which is given in Part III above, will be cancelled with respect to the proposed rules if fewer than 25 persons request a hearing with respect to the proposed rules in response to the notice given in Part II above.

To be informed whether a hearing notice in Part III above will be held, please contact Harry W. Baltzer at the address listed above in Part II of the Notice before November 15, 1991, and provide your name, address, and telephone number. You will be notified after November 15, 1991, if the hearing has been cancelled. You may also call Mr. Baltzer at (612) 639-4000 after November 15, 1991, for oral confirmation regarding the scheduled hearing.

Dated: 16 September 1991

Harry W. Baltzer, Director
Minnesota Lawful Gambling Control Board

Rules as Proposed (all new material)

GENERAL PROVISIONS

7861.0010 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meaning given them in this part. Where not otherwise defined in this chapter, terms have the meaning given them in *Minnesota Statutes*, sections 349.11 to 349.23.

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Subp. 2. **Compensation.** "Compensation" means wages, salaries, and all other forms of remuneration for services rendered.

Subp. 3. **Fraternal organization.** "Fraternal organization" means a nonprofit organization which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The term does not include college and high school fraternities and sororities.

Subp. 4. **Lawful gambling.** "Lawful gambling" is the operation, conduct, or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs. Lawful gambling does not include the conduct of a combination of any of the five activities listed in this subpart where the outcome of one of the activities is dependent on the outcome of one of the other activities. Lawful gambling does not include betting related to the outcome of an athletic event.

Subp. 5. **Leased premises.** "Leased premises" means a building or place of business, or a portion of a building or place of business not owned by a gambling organization, that is leased in its entirety by a gambling organization for the sole purpose of conducting lawful gambling.

Subp. 6. **Master flare.** "Master flare" is used in conjunction with sealed groupings of up to 100 paddleticket cards. The master flare must describe the paddletickets in the group, have a list of all the paddleticket card numbers in that group, and have a state registration stamp affixed to it bearing the number of the first paddleticket card in the group.

Subp. 7. **Net receipts.** "Net receipts" are gross receipts less prizes actually paid out.

Subp. 8. **Other nonprofit organization.** "Other nonprofit organization" means one of the following:

A. an organization other than a fraternal, religious, or veterans organization, whose nonprofit status is evidenced by a current letter of exemption from the Internal Revenue Service recognizing it as a nonprofit organization exempt from payment of income taxes or which is incorporated as a nonprofit corporation and registered with the secretary of state under *Minnesota Statutes*, chapter 317A; or

B. an affiliate, subordinate, or chapter of a statewide parent organization that meets the criteria of item A. This type of other nonprofit organization is recognized only for purposes of conducting lawful gambling pursuant to *Minnesota Statutes*, section 349.166.

Subp. 9. **Paddleticket.** "Paddleticket" is a preprinted ticket on a paddleticket card that has printed on it a paddleticket card number and one or more numbers corresponding to the numbers on a paddlewheel.

Subp. 10. **Paddleticket card.** "Paddleticket card" means a card to which is attached paddletickets bearing all the numbers on a paddlewheel. A paddleticket card must have a stub attached that has preprinted on it a paddleticket card number, the cost per paddleticket, space for the date played, a facsimile of a state registration stamp which has the distributor's license number printed in place of the paddleticket card number, and a space in which the winning number is written.

Subp. 11. **Paddleticket card number.** "Paddleticket card number" means the unique number preprinted by the manufacturer on a paddleticket card and its paddletickets.

Subp. 12. **Religious organization.** "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances.

Subp. 13. **Veterans organization.** "Veterans organization" means any congressionally chartered organization within this state, or any branch, lodge, or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States.

7861.0020 LICENSED ORGANIZATION.

Subpart 1. **License required.** No person shall engage in the conduct of lawful gambling without having obtained a license under this part. An organization shall make application to the board to be licensed to conduct lawful gambling. An application shall be considered by the director pursuant to the provisions of this part.

Subp. 2. **Licensing qualifications.** In addition to the qualifications contained in *Minnesota Statutes*, section 349.16, subdivision 2, the director shall not issue a license to:

A. an organization that has not been licensed to conduct lawful gambling within the preceding 12 months if its current chief executive officer and individual who will be its gambling manager have not completed a gambling manager seminar;

B. an organization which has not established a permanent location in Minnesota where the gambling records required to be maintained by this chapter will be kept and which has not established a gambling bank account within Minnesota for each gambling premises;

C. an organization which has as an officer or member of its governing body who (i) within the last five years has been convicted in federal or state court of a felony or gross misdemeanor, (ii) has ever been convicted of a crime involving gambling, or (iii) has had a license issued by the board revoked for a violation of law or rule;

D. an organization whose conduct of lawful gambling is or would be inconsistent with *Minnesota Statutes*, sections 349.11 to

349.23, as indicated by (i) lack of financial responsibility, (ii) demonstrated lack of control of lawful gambling, or (iii) consent order requirements that have not been completed;

E. an organization that does not have a gambling manager who will be licensed by the board at the time the organization obtains its license; or

F. an organization that will not obtain at least one premises permit at the time the organization obtains its license.

Subp. 3. Contents of organization application. The application must contain the following information with respect to the applicant:

A. the official legal name of the organization and any other names used;

B. the business address and telephone number of the organization;

C. a Minnesota tax identification number, if any;

D. the full names, titles, dates of birth, and business telephone numbers of the organization's chief executive officer, treasurer, and other members of the organization's governing body;

E. the home address of the organization's chief executive officer;

F. a designation of whether the organization is a fraternal, veterans, religious, or other nonprofit organization and the number of years the organization has been in existence;

G. the name and home or business address of the gambling manager;

H. the class of license for which application is made;

I. the number of active members in the organization;

J. the current status of the organization's license, if any;

K. a list of lawful purpose expenditures for which the organization proposes to expend net gambling funds;

L. a list of the organization's other sources of income and income activities;

M. the day and time of the regular meetings of the organization;

N. an acknowledgment that a membership list of the organization will be available within seven days after it is requested by the board;

O. an acknowledgment that the organization will file an appropriate license termination plan in the event the organization terminates lawful gambling; and

P. such additional information as is necessary to properly identify the applicant and to ensure compliance with *Minnesota Statutes*, sections 349.11 to 349.23.

Subp. 4. Attachments to application. The applicant must attach the following to the application:

A. a copy of its internal control system on a form provided by the board;

B. proof of Minnesota or Internal Revenue Service income tax exempt status or a current certificate of nonprofit status from the secretary of state;

C. a copy of a charter of the parent organization, if chartered;

D. a compensation schedule identifying duties and rate of compensation for each duty in the conduct of lawful gambling on a form provided by the board;

E. a registration form and current photograph for each employee receiving compensation for the conduct of lawful gambling;

F. a statement listing the permanent location within Minnesota of the organization's gambling records and the bank in Minnesota where the organization will maintain a separate gambling account; and

G. a signed, notarized affidavit of the chief executive officer, treasurer, and members of the governing body of the organization on a form provided by the board.

Subp. 5. Changes in application information. If any information submitted in the application changes, the organization must notify the board within ten days of the change.

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Subp. 6. **Fees.** There is no application fee for an organization license.

Subp. 7. **Issuance and denial.** The following items apply to the issuance and denial of licenses:

A. The director may issue a license to an organization which submits the information required by subparts 3 and 4 and is eligible to receive a license pursuant to subpart 2 and *Minnesota Statutes*, section 349.16. The license must be issued at the same time as the gambling manager's license and any premises permits being renewed or applied for at the time the organization is applying for a license. Licenses issued by the director pursuant to this part are effective on the first day of a month.

B. The director shall deny the application of an organization ineligible to hold a license pursuant to subpart 2 or *Minnesota Statutes*, section 349.16.

C. An organization that has never been licensed to conduct lawful gambling or an organization whose application for renewal of its license was submitted after the expiration of its license may appeal the denial of a license application by notifying the board within 15 days of the date it receives notice that its application has been denied. The appeal must be made in writing and must contain a complete copy of the application and a statement describing the reasons the license should not be denied.

The board may refer the appeal to the executive committee which shall review the appeal within ten days of receipt. The executive committee shall issue a written decision within ten days of its consideration of the appeal. If the committee reverses the director's decision, it shall instruct the director to issue a license to the organization effective the first day of the month following the committee's written decision. The executive committee's decision is a final agency decision.

Subp. 8. **Renewals.** The following items apply to license renewals:

A. To renew a license at the end of a term, an organization must submit to the board a complete renewal application on a form prescribed by the board at least 75 days before the expiration of the organization's existing license. A renewal application is not complete until it contains the information required by subparts 3 and 4 and a completed expense calculation on a form prescribed by the board.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing license will be considered pursuant to this part but, if the applicant is entitled to a renewed license, the license need not be renewed by the director until the first day of the month following the expiration of 75 days after the board has received the complete application. An organization shall not continue gambling after the expiration of its license unless and until it receives a renewed license.

B. An application for renewal of a license must be denied if:

- (1) the applicant is ineligible for a license pursuant to subpart 2 or *Minnesota Statutes*, section 349.16, subdivision 2;
- (2) the applicant has expended a greater portion of its gross profits from lawful gambling on allowable expenses than is permitted by *Minnesota Statutes*, section 349.15;
- (3) the director determines that the organization applying for renewal is:
 - (a) not in compliance with a law or rule governing lawful gambling; or
 - (b) delinquent in filing tax returns or paying taxes required by *Minnesota Statutes*, chapter 349; or
- (4) it remains incomplete for more than 90 days after its initial submission.

C. An organization that has had its application denied pursuant to item B may reapply for renewal of its license once it has remedied that portion of its renewal application which resulted in the denial. In the case of a renewal application that has been denied because the organization has expended a greater portion of its gross profits from gambling on allowable expenses than is permitted by *Minnesota Statutes*, section 349.15, the organization may remedy the problem by transferring sufficient nongambling funds into its gambling account to bring it into compliance with *Minnesota Statutes*, section 349.15. Nothing in this subpart prevents the board from pursuing disciplinary action against a licensee for violations of law or rule which warranted the denial of a renewal application but were subsequently remedied in a sufficient manner to allow renewal of the organization's license.

D. An organization that the director determines has failed to submit a complete renewal application at least 75 days before the expiration of its existing license may appeal that determination by filing a written request for a contested case hearing with the board before the expiration of the organization's existing license. The director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing license. The sole issue at the hearing is whether the applicant submitted a complete application at least 75 days before the expiration of the applicant's existing license.

An organization whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to *Minnesota Statutes*, chapter 14. The request must be made in writing and received by the board no later than ten days after the organization receives the denial of its renewal application. Upon receipt of the request, the director shall schedule a contested case

hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of Notice and Order of Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the organization's existing license.

Subp. 9. **License termination.** If an organization voluntarily or involuntarily terminates all of its gambling activities, it shall submit a license termination plan to the board for approval on a form provided by the board. The plan must be submitted within 15 days of the termination date of all gambling activities. The plan must provide for the disposal of all registered gambling equipment in the organization's possession and for the distribution of profit carryover in its general gambling bank account. The board may require the organization to revise the plan if it does not meet with board approval. Board approval must be based on the following criteria:

- A. documentation accounting for the lawful expenditure of all remaining funds in the gambling account; and
- B. documentation of the return or disposal of all unused registered gambling equipment in the possession of the organization.

7861.0030 GAMBLING MANAGER.

Subpart 1. **License required.** No person shall act as a gambling manager without having obtained a license under this part. An individual shall make annual application to the board to be licensed as a gambling manager. Applications must be considered by the director pursuant to this part.

Subp. 2. **Licensing qualifications.** In addition to the qualifications in *Minnesota Statutes*, section 349.167, the director shall not issue a gambling manager's license to:

- A. a member of the immediate family or an employee of a person from whom the organization leases a gambling premises;
- B. a person who is not an active member of the organization;
- C. a person who is the treasurer of the organization;
- D. a person who is the chief executive officer of the organization;
- E. a person who has not satisfactorily completed a course of instruction conducted by the board on the duties and responsibilities of the gambling manager, except that a gambling manager who replaces a previous gambling manager during the term of the organization's license may receive a license if the new gambling manager completes the training within 90 days of being issued a license; or
- F. a person who is the gambling manager or an assistant gambling manager for another organization.

Subp. 3. **Nontransferable.** A gambling manager's license is not transferable to another organization or an individual.

Subp. 4. **Length of license.** The gambling manager's license expires one year from the effective date of the license. If a licensed gambling manager discontinues employment with the licensed organization, the gambling manager's license expires on the date that the employment terminates.

Subp. 5. **Contents of gambling manager application.** The application must contain the following information with respect to the applicant:

- A. the applicant's full name, date of birth, and social security number;
- B. the applicant's full home or business address and business telephone number;
- C. the date the applicant became a member of the organization;
- D. the name, address, and telephone number of the organization;
- E. the current status of the gambling manager's license and the dates of attendance at the gambling manager's seminar;
- F. the name of the insurance company and the bond number for the gambling manager's \$10,000 fidelity bond; and
- G. the signature of the gambling manager.

Subp. 6. **Attachments to application.** There must be attached to the gambling manager's application a signed, notarized affidavit on a form prescribed by the board stating that the applicant:

- A. has never been convicted of a felony;

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B. has not committed a violation of law or board rule within the past five years that resulted in the revocation of a license issued by the board;

C. has never been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling;

D. has never been convicted of assault, a criminal violation involving the use of a firearm, or making terroristic threats;

E. agrees that suits and actions related to the gambling manager's license, or acts or omissions, may be commenced against the gambling manager; and

F. authorizes the department of public safety to conduct a criminal background check.

Subp. 7. Changes in application information. If any information submitted in the application changes, the board must be notified within ten days of the change.

Subp. 8. License fees. The fee for a gambling manager's license is \$100. License fees are not prorated, refundable, or transferable.

Subp. 9. Gambling manager duties. A gambling manager's duties include but are not limited to:

A. determining the product to be purchased and put into play;

B. reviewing and monitoring the conduct of games;

C. supervising, hiring, firing, and disciplining all gambling employees;

D. verifying all receipts and disbursements;

E. verifying all inventory;

F. supervising all licensing and reporting requirements;

G. assuring that the licensed organization is in compliance with all laws and rules related to lawful gambling; and

H. assuring that illegal gambling is not conducted at any premises where the organization is permitted to conduct lawful gambling.

Subp. 10. Issuance and denial. The following items apply to the issuance and denial of a gambling manager's license:

A. The director may issue a gambling manager's license to a person who submits the information required by subparts 5 and 6 and pays the \$100 fee pursuant to subpart 8 if that person is eligible to receive a license pursuant to subpart 2 and *Minnesota Statutes*, section 349.167. The license must be issued at the same time as the organization's license and any premises permits being renewed or applied for at the time the person is applying for a gambling manager's license. A license issued by the director pursuant to this part is effective on the first day of a month.

B. The director shall deny the application of a person ineligible to hold a license pursuant to subpart 2 or *Minnesota Statutes*, section 349.167.

C. A person who has never been licensed as a gambling manager or a person whose application for renewal of a gambling manager's license was submitted after the expiration of the license may appeal the denial of a gambling manager's license by notifying the board within 15 days of the date the person receives notice that the application has been denied. The appeal must be in writing and must contain a complete copy of the application and a statement describing the reasons the license should not be denied.

The board may refer the appeal to the executive committee which shall review the appeal within ten days of receipt. The executive committee shall issue a written decision within ten days of its consideration of the appeal. If the committee reverses the director's decision, it shall instruct the director to issue a license to the organization effective the first day of the month following the committee's written decision. The executive committee's decision is a final agency decision.

Subp. 11. Renewals. The following items apply to renewals of a gambling manager's license:

A. To renew a license at the end of a term, a licensed gambling manager must submit a complete renewal application on a form prescribed by the board to the board at least 75 days before the expiration of the gambling manager's existing license. A renewal application is not complete until it contains the information required by subparts 5 and 6.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing gambling manager's license will be considered pursuant to this part but, if the applicant is entitled to a renewed license, the license need not be renewed by the director until the first day of the month following the expiration of 75 days after the board has received the complete application. A person may not continue acting as a gambling manager after the expiration of the person's license and until the person has received a renewed license.

B. An application for renewal of a license must be denied if:

(1) the applicant is ineligible for a license pursuant to subpart 2 or *Minnesota Statutes*, section 349.167;

(2) the organization which employs the gambling manager is no longer licensed or is being denied a renewed license; or

(3) the application remains incomplete for more than 90 days after its initial submission.

C. A gambling manager who has had an application denied pursuant to item B may reapply for renewal of the license once the portion of the renewal application which resulted in denial has been remedied. The reapplication must be accompanied by an additional fee pursuant to subpart 8. Nothing in this part prevents the board from pursuing disciplinary action against a licensee for violations of law or rule which warranted the denial of a renewal application but were later remedied in a sufficient manner to allow renewal of the gambling manager's license.

D. Appeals:

(1) A gambling manager whom the director determines has failed to submit a complete renewal application at least 75 days before the expiration of an existing license may appeal that determination by filing a written request for a contested case hearing with the board before the expiration of the gambling manager's existing license. The director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing license. The sole issue at the hearing is whether the applicant submitted a complete application at least 75 days before the expiration of the applicant's existing license.

(2) A gambling manager whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to *Minnesota Statutes*, chapter 14. The request must be made in writing and received by the board no later than ten days after the gambling manager receives the denial of a renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the gambling manager's existing license.

Subp. 12. **Assistant gambling managers.** The following items apply to assistant gambling managers:

A. An assistant gambling manager is a person who performs a substantial number of the duties for which a gambling manager is responsible in subpart 9.

B. An organization may employ one or more assistant gambling managers if:

(1) each assistant gambling manager is subject to the direct supervision and direction of the organization's licensed gambling manager;

(2) each assistant gambling manager is an active member or employee of the organization; and

(3) no assistant gambling manager participates in the conduct of lawful gambling for more than one organization.

C. No license is required for an assistant gambling manager.

7861.0040 PREMISES PERMITS.

Subpart 1. **Premises permit required.** An organization may conduct lawful gambling only on premises it owns or leases. A permit must be obtained for each premises where lawful gambling is to be conducted. An application must be considered by the director pursuant to this part.

Subp. 2. **Length of permit.** A premises permit expires on the expiration date of the organization's license. An organization may apply for additional premises permits at any time during the term of its license.

Subp. 3. **Contents of premises permit application.** A premises permit application must include:

A. the legal name, business address, and telephone number of the organization;

B. the name, title, home or business address, and business telephone number of the organization's chief executive officer;

C. the name and home or business address of the organization's gambling manager;

D. the class of premises permit, which must correspond to the organization's class of license;

E. the current status of the premises permit;

F. the name and street address of the proposed gambling premises;

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- G. the city and county or township and county where the proposed gambling premises is located;
- H. the name and business or home address of the lessor;
- I. the name of the legal owner of the premises;
- J. either or both of the following:
 - (1) the amount of monthly rent;
 - (2) rent per bingo occasion and the total square footage leased;
- K. the days and hours of each bingo occasion, if any;
- L. the address of any storage space for gambling equipment, if different than the leased premises;
- M. the bank name, address, and account number for the bank account into which gross receipts from gambling are deposited, and the name, title, and address of all persons authorized to make deposits into and withdrawal from the account;
- N. an authorization permitting the board to inspect the bank records of the gambling account;
- O. a statement providing consent to local law enforcement officers, the board or its agents, and the commissioners of revenue and public safety and their agents to enter the premises to inspect and enforce the law;
- P. an acknowledgment signed by the chief executive officer; and
- Q. an acknowledgment that the appropriate unit of government received the premises permit application.

Subp. 4. **Attachments to application.** The following must be attached to the premises permit application:

- A. A copy of the lease must be submitted. A lease must be on a form prescribed by the board and must contain at a minimum the following information:
 - (1) the name, business address, and telephone number of the lessor;
 - (2) the name, business address, and license number of the licensed organization;
 - (3) the name and street address of the leased premises;
 - (4) the term of the agreement, which must be one year;
 - (5) the type of gambling activity to be conducted;
 - (6) the monetary consideration, if any, expressed in terms of number of dollars per month or number of dollars per bingo occasion, whichever is applicable;
 - (7) the dimensions of the leased premises and the total number of square feet leased;
 - (8) the days and hours of each bingo occasion, if any;
 - (9) all obligations between the organization, its employees or agents, and the lessor and its employees or agents;
 - (10) an irrevocable consent from the lessor that:
 - (a) the board and its agents, the commissioners of revenue and public safety and their agents, and law enforcement personnel have access to the permitted premises at any reasonable time during the business hours of the lessor;
 - (b) the organization has access to the permitted premises during any time reasonable and when necessary for the conduct of lawful gambling on the premises;
 - (c) the owner of the premises or the lessor will not manage or participate in the conduct of gambling at the premises;
 - (d) the lessor, the lessor's immediate family, and any agents or gambling employees of the lessor will not participate as players in the conduct of lawful gambling on the premises;
 - (11) a clause that provides for the termination of the lease if the premises is the site where gambling, liquor, prostitution, or tax evasion violations have occurred;
 - (12) any other agreements between the organization and the lessor.
- B. A copy of the sketch of the floor plan with dimensions showing what portion is being leased and the total square footage.
- C. A copy of the resolution from the local unit of government approving the premises permit.

Subp. 5. **Changes in application information.** If any information submitted in the application changes, the organization must notify the board and the local governing body in writing within ten days of the change.

Subp. 6. **Renegotiated leases.** A lease that is renegotiated during the term of the premises permit must be furnished to the board at least ten days before the effective date of the lease.

Subp. 7. **Premises permit fees.** The fees for a premises permit are as follows:

- A. A class A permit, bingo, raffles, paddlewheels, tipboards, and pull-tabs, is \$400.
- B. A class B permit, raffles, paddlewheels, tipboards, and pull-tabs, is \$250.
- C. A class C permit, bingo only, is \$200.
- D. A class D permit, raffles only, is \$150.

Premises permit fees are not prorated, refundable, or transferable.

Subp. 8. **Local approval or denial.** The following items apply to local approval or denial of premises permits:

- A. The organization must take the premises permit application to the local unit of government and request that the local unit of government pass a resolution approving the premises permit application.
- B. The resolution must have been adopted no more than 60 days before the date the application is received by the board.
- C. The organization must attach a copy of the resolution approving the premises permit to the application when submitting the application to the board.
- D. The director shall not issue a premises permit to an applicant that has been denied by the local unit of government.

Subp. 9. **Issuance and denial.** The following items apply to the issuance or denial of premises permits:

A. The director shall issue a premises permit to any organization that submits the information required in subparts 3 and 4, pays the premises permit fee required by subpart 7, and obtains local approval in the manner required by subpart 8. A permit issued by the director pursuant to this part is effective on the first day of a month. An organization which applies for a class A organization license may apply for a class A, B, C, or D premises permit. An organization which applies for a class B organization license may apply for class B, C, or D premises permits. An organization which applies for a class C organization license may apply only for class C premises permits. An organization which applies for a class D organization license may apply only for class D premises permits.

B. Notwithstanding the provisions of item A, the director shall deny a premises permit application when:

- (1) the applying organization does not have a licensed gambling manager or person who will be issued a gambling manager's license at the time the premises permit is issued;
- (2) the applying organization does not have a license to conduct lawful gambling or will not have a license to conduct lawful gambling at the time the premises permit is issued; or
- (3) the proposed site is a site where illegal gambling has occurred within the last 12 months or the lessor has been convicted of illegal gambling within the last 12 months.

C. An organization that has never obtained a premises permit for the proposed site or whose application for renewal of a premises permit was submitted after the expiration of its permit may appeal the denial of a permit application by notifying the board within ten days of the date it receives notice that its application has been denied. The appeal must be made in writing and must contain a complete copy of the application and a statement describing the reasons the permit should not be denied.

The board may refer the appeal to the executive committee which shall review the appeal within ten days of receipt. The executive committee shall issue a written decision within ten days of its consideration of the appeal. If the committee reverses the director's decision, it shall instruct the director to issue a premises permit to the organization effective the first day of the month following the committee's written decision. The executive committee's decision is a final agency decision.

Subp. 10. **Renewals.** The following items apply to renewals of premises permits:

A. To renew a permit at the end of a term, an organization must submit to the board a complete renewal application on a form prescribed by the board at least 75 days before the expiration of the organization's existing permit. A renewal application is not complete until it contains the information required by subparts 3 and 4, the fee required by subpart 7, and local approval in the manner required by subpart 8.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing permit will be considered pursuant to this part but the permit need not be renewed by the director until the first day of the month following the expiration of 75 days after the board has received the complete application. An organization shall not conduct gambling at a site where an existing permit has expired unless and until it receives a renewed permit.

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B. An application for renewal of a premises permit must be considered in the same manner as an application for an initial permit pursuant to subpart 9. In addition, any application for renewal of a premises permit must be denied if it remains incomplete for more than 90 days after its initial submission.

C. An organization that has had a premises permit renewal application denied pursuant to item B may reapply for a renewal of its permit once it has remedied that portion of its renewal application which resulted in its denial. A reapplication must be accompanied by an additional fee as provided in subpart 7 and new local approval pursuant to subpart 8.

D. Appeals:

(1) An organization that the board determines has failed to submit a complete renewal application at least 75 days before the expiration of its existing premises permit may appeal that determination by filing a written request for a contested case hearing with the board no later than 30 days before the expiration of the organization's existing premises permit. The director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing premises permit. The sole issue at the hearing is whether the applicant submitted a complete application at least 75 days before the expiration of the applicant's existing premises permit.

(2) An organization whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to *Minnesota Statutes*, chapter 14. The request must be made in writing and received by the board no later than ten days after the organization receives the denial of its renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the organization's existing premises permit.

7861.0050 ILLEGAL GAMBLING.

Subpart 1. **Prohibition.** Illegal gambling may not be conducted at a premises where a licensed organization has been permitted to conduct lawful gambling.

Subp. 2. **Discipline.** The board shall suspend an organization's premises permit for one year for any violation of this part. The board may suspend or revoke an organization's license if the organization or its agents participated in the illegal gambling prohibited by subpart 1.

7861.0060 CONDUCT OF LAWFUL GAMBLING.

Subpart 1. **General restrictions.** The following items are general restrictions on the conduct of lawful gambling:

A. No person under the age of 18 may conduct or participate in playing the games of pull-tabs, tipboards, or paddlewheels.

B. All playing of lawful gambling must be on a cash basis, in advance of any play. Traveler's checks and money orders are acceptable.

C. The conduct of lawful gambling, including the redemption of prizes related to lawful gambling, must occur exclusively on the permitted premises.

D. At each permitted premises, the organization shall have:

(1) a current inventory list of gambling equipment;

(2) a sketch with dimensions of the leased premises available for review;

(3) a clear, physical separation or a tangible divider between the organization's gambling equipment and the lessor's business equipment; and

(4) the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the premises.

Subp. 2. **Restrictions for gambling on leased premises.** The following items are restrictions for gambling on leased premises:

A. An organization shall not enter into a lease agreement which imposes implicit or explicit restrictions on the organization with respect to providers of gambling-related equipment and services or in the use of net profits for lawful purposes.

B. An organization may not pay rent to itself for the conduct of gambling on premises which is owned by the organization or its affiliates.

C. No amount may be paid by an organization to a lessor based on the number of participants attending a bingo occasion or on the gross receipts or profit received by the organization.

D. The amount of rent an organization may pay for the conduct of lawful gambling may not exceed:

(1) \$1,000 per month for all forms of lawful gambling other than bingo;

(2) for bingo and all other gambling activities which occur during that bingo occasion, \$200 for leased premises of not more than 6,000 square feet, \$300 for leased premises of not more than 12,000 square feet, and \$400 for leased premises of more than 12,000 square feet; and

(3) an organization may not use nongambling funds to directly or indirectly supplement rent above the amounts provided in this subpart.

E. An organization shall not permit the lessor's business activities to be conducted on the leased premises.

F. An organization shall not permit the lessor, the lessor's immediate family, or the lessor's employees to participate as players in the conduct of lawful gambling on the leased premises.

G. Gambling employees of a licensed organization may not participate as players in any lawful gambling at the leased premises.

H. An organization may not employ as a gambling manager the lessor, a member of the lessor's family, or an employee of the lessor.

I. If the organization is a sublessee, the restrictions also apply to the sublessee.

Subp. 3. **Posting of flare.** The odds, house percentages, or number of tickets must be displayed on the flare accompanying each deal of pull-tabs, tipboards, or the master flare for a group of up to 100 paddleticket cards.

Subp. 4. **Posting of information.** A licensed organization must prominently post the following information at the permitted premises:

A. the name of the licensed organization;

B. the license number of the licensed organization and the premises permit number;

C. the expiration date of the premises permit;

D. the notice of compulsive gambling information which must at a minimum include the toll-free telephone number established by the commissioner of human services for the Minnesota hotline for compulsive gambling; and

E. the house rules governing the conduct of gambling at the premises. The sign on which this information is posted must be adequately lighted, legible, and must at least 18 inches by 24 inches in size.

Subp. 5. **Advertising.** Any promotional material, sign, or advertising of lawful gambling must identify the licensed organization permitted to conduct gambling at the premises, its license number, and the premises permit number for the premises.

Subp. 6. **Storage of equipment.** Gambling equipment may be stored on the leased premises. The gambling equipment must be stored in an area that is under the control of the organization.

Subp. 7. **Exchange of gambling equipment prohibited.** A licensed organization may not exchange, sell, or otherwise provide gambling equipment, with the exception of a bingo ball selection device, to any other organization.

7861.0070 BINGO.

Subpart 1. **Restrictions.** The following items are restrictions on the conduct of bingo:

A. An organization may not allow an employee who works during a bingo occasion to play in a bingo game conducted by that organization during that bingo occasion.

B. An employee who works during a bingo occasion may not have direct contact with the employee's immediate family members involving the play of bingo during the bingo occasion. "Immediate family" is defined as consisting of the employee's spouse, child, parent, brother, or sister.

C. For purposes of this subpart, the term "employee" includes a volunteer.

Subp. 2. **Bingo equipment to be used.** The conduct of bingo must include the following items:

A. A machine or other device from which balls are withdrawn.

B. A set of 75 balls bearing the numbers 1 to 75 and the letters B, I, N, G, O. The 75 balls must be available for inspection by the players before a bingo occasion begins to determine that all are present and in operating condition. Each numbered ball must be equal in size, weight, shape, balance, and all other characteristics that control their selection, must be free from any defects, and be present in the receptacle before each game begins.

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Subp. 3. **Numbering of cards.** Each set of disposable bingo cards or sheets must be consecutively numbered from the first card to the last card, or from the first sheet of cards to the last sheet of cards, or be consecutively numbered through the set. Each card or sheet must have printed on its face both its individual card or sheet number, and the series and individual face number of the card number assigned by the manufacturer to that set of disposable bingo cards.

Subp. 4. **Cards not preprinted but completed by player.** Bingo cards must contain five horizontal rows of spaces with each row, except the central one, containing five figures. The central row must have four figures with the word "free" marked in the center space. The remaining spaces must be of uniform color and size.

Subp. 5. **Manner of conducting bingo.** A bingo game must be conducted in the following manner:

A. The organization shall post a notice on the site containing the house rules governing the conduct of bingo, including the method and procedure for prompt payment and collection of money for the cards or sheets sold.

B. If an organization has duplicate hard cards in play, the organization shall conspicuously post that fact or notify all players before their purchase of cards for a game or number of games that will have duplicate bingo cards in play.

C. An organization shall not reserve any bingo cards or sheets for use by players except braille cards for use by legally blind players.

D. Legally blind players may use personal braille cards when an organization does not provide these cards. The organization may inspect, and reject, any personal braille card.

E. Bingo cards or sheets must be sold and paid for on the premises immediately before the start of a specified game or specified number of games.

F. Two or more sets of disposable bingo cards or sheets may not be used at the same time if they have identical faces.

G. The particular arrangement of numbers required to be covered in order to win the bingo game must be clearly described and announced to the players immediately before each game is begun.

H. Immediately following the drawing of each ball in a bingo game, the caller shall display the letter and number on the ball to the players.

I. The letter and number on the ball must be called out before the drawing of the next ball.

J. After the letter and number are called, the corresponding letter and number on the flashboard, if any, must be lit for player viewing.

K. A bingo prize may not be determined other than by the matching of letters and numbers on a bingo card or sheet with the letters and numbers called by the organization.

L. A player shall not separate a disposable bingo card or sheet when there are two or more cards on one sheet.

M. A player shall not play more bingo cards or sheets than the player has purchased or received in free plays.

N. A winner is determined when a specified pattern of called numbers appears on a card or sheet.

O. If there are multiple winners on the last called number, the following apply:

(1) If the designated prize consists of cash, the total amount of the prize must be divided equally between or among the verified winners. The organization has the option of rounding fractional dollars to the higher dollar.

(2) If the designated prize consists of an item other than cash and the designated prize cannot be divided, the organization shall award substitute prizes to each verified winner. The substitute prizes must be of equal value.

P. When a bingo player declares a winning combination of letters and numbers on the card, cards or sheets for a game with a prize of \$100 or more, the serial number of the winning card or sheet number shall be stated aloud by an organization employee. Every winning card or sheet shall be verified by an organization employee and at least one neutral player.

Q. A prize receipt form prescribed by the board must be completed for a winning prize of \$100 or more. The prize receipt form must include the following information:

(1) the winner's name, address, and driver's license number, including state of license registration, unless the winner does not have a driver's license, in which case the winner's full name and full address from another form of picture identification;

(2) the series number of the winning card or sheet;

(3) the date and the amount of the prize won; and

(4) the name of the gambling premises.

R. Upon a bingo player declaring a winning bingo, the next ball out of the machine must be removed from the machine before shutting the machine off and must be the next ball to be called in the event the declared winning bingo is not valid.

S. One or more checkers are required for each bingo occasion. The checker or checkers must record on a form prescribed by the board the number of cards or sheets played in each game, the registration or card or sheet number of each winning card or sheet, and the prizes awarded to the recorded cards or sheets. Each checker must certify that the figures are correct to the best of the checker's knowledge.

T. No person shall engage in any act, practice, or course of operation that would affect the integrity or adversely affect the outcome of any bingo game.

Subp. 6. **Gross receipts compared and discrepancies reported.** The gross receipts of each bingo occasion must be compared to the checkers' records by an employee of the organization who did not sell cards or sheets for the occasion. If a discrepancy of more than \$20 is found between the gross receipts as reported by the checkers and the gross receipts determined by totaling the cash receipts, a copy of the comparison must be provided to the board within five days of the bingo occasion.

Subp. 7. **General bingo records.** For each bingo occasion, the following records must be kept for a period of 3-1/2 years:

- A. the total number of players in attendance;
- B. the total amount wagered;
- C. the total prizes, including cash and market value of noncash prizes, awarded;
- D. a copy of the schedule of games and their prizes;
- E. the number and price of cards or sheets sold by type;
- F. the inventory of disposable bingo cards purchased by the organization; and
- G. for any bingo game with a prize valued at \$100 or more, a prize receipt as provided in subpart 5, item Q.

7861.0080 PULL-TABS.

Subpart 1. **Restrictions.** The following items are restrictions on pull-tabs:

- A. Pull-tabs must not be dispensed from any coin-operated or mechanical dispensing device.
- B. A gambling employee of an organization shall not purchase pull-tabs at the site of the employee's place of employment. For purposes of this subpart, the term "employee" includes a volunteer.
- C. An organization may not change the flare or use a flare that it receives in an altered or defaced condition. A pull-tab deal may not be placed out for play when the value of the prizes or the cost of the pull-tabs differs from the flare.
- D. The pull-tab seller shall not assist players in the opening of purchased pull-tabs.

Subp. 2. **Operation of pull-tab game.** The following rules apply to the game of pull-tabs:

A. An organization may not purchase deals of pull-tabs that have the same game serial number, or obtain, possess, or allow upon a site a deal of pull-tabs or portion thereof with the same serial number and color trim combinations as any other deal of pull-tabs or portion thereof in its possession. This does not prevent an organization from retaining upon the site pull-tabs remaining from a deal removed from play for the purposes of complying with state statute or rule if the organization:

- (1) has defaced each pull-tab removed and retained immediately upon removal of the pull-tabs from play;
- (2) has made a written record of the game serial number, color trim, and the number of pull-tabs remaining in the deal immediately upon removing the deal from play; and
- (3) the written record is maintained upon the site while the deal is in play, and available on demand, for a period of 3-1/2 years once the deal is removed from play.

B. No organization shall place a deal of pull-tabs in play unless the game serial number of the deal of pull-tabs corresponds to the game serial number written on the state registration stamp. If the game serial number does not correspond to the number written on the registration stamp, the organization shall return the deal of pull-tabs to the distributor. The registration stamp must not be altered or removed from the flare.

C. No deal of pull-tabs may be placed out for play in the original package, box, or other container in which it was received. When a deal of pull-tabs is received in two or more packages, boxes, or other containers, all of the pull-tabs from the respective

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packages, boxes, or other containers must be placed out for play at the same time. The entire deal of pull-tabs must be dumped into the container and mixed.

D. An organization shall not put into play any pull-tab that has been marked, defaced, altered, tampered with, or otherwise operated in a manner which tends to deceive the public or affects the chances of winning or losing.

E. No deal of pull-tabs may be placed out for play unless the cost to the player for each pull-tab is clearly posted on the flare.

F. Each pull-tab must be sold for the single ticket price indicated on the flare and no pull-tab may be provided to a player free of charge or for any other consideration. This item does not apply to the winning of a free play.

G. The organization must clearly identify the play of pull-tabs as a single deal or a commingled deal.

H. House rules governing the sale of pull-tabs must be posted in such a manner that players have access to the house rules before buying any pull-tabs.

I. An organization may not pay a player any prize unless the player redeems an actual winning pull-tab. A prize payout must not be made to any player for a lost, marked, defaced, or altered pull-tab.

J. An organization may not pay a player a prize when the winning pull-tab has left the site where the deal is in play.

K. The pull-tab seller shall deface each winning pull-tab which is redeemed.

L. The prize receipt form must be completed according to subpart 6, item C.

M. At each permitted premises the organization shall maintain a copy of the distributor's invoice for each pull-tab deal in play and for each pull-tab deal on the premises and shall make the invoices available for inspection by the board and its agents and the commissioners of revenue and public safety and their agents.

Subp. 3. **Single deals.** The following items apply to single deals of pull-tabs:

A. The flare, with the state registration stamp affixed, for the deal of pull-tabs in play shall be affixed to the receptacle containing the entire deal of pull-tabs.

B. Separate cash banks must be maintained for each deal.

Subp. 4. **Commingled deals.** The following items apply to commingled deals of pull-tabs:

A. Two or more single deals of pull-tabs may be commingled in one receptacle subject to the following:

- (1) the deals must be identical as to a particular type of game and as to the number of pull-tabs per game;
- (2) each deal must have a separate flare displaying the state registration stamp and manufacturer's serial number; and
- (3) the flares must be identical as to the price per ticket, the amount of prizes, and the denominations of prizes.

B. The flares of all the deals in play must be affixed to the receptacle containing the pull-tabs.

C. Commingled deals must be removed from play at the end of each month for the purpose of reporting the result of the games in the same month's tax return. Commingled deals may be returned to play once the information required has been determined.

D. The board may prohibit an organization from commingling deals of pull-tabs if it determines that the organization has excessive or abnormal cash shortages.

Subp. 5. **Pull-tab prize and cost per ticket limits.** Prizes and bets must be limited, awarded, and controlled in the following manner:

A. The maximum value of a prize for a winning pull-tab must not exceed \$250. If two or more winning combinations are possible, including the last sale prize on a single pull-tab, the total value of all winning combinations must not exceed \$250.

B. Each pull-tab must not be sold for more than \$2.

C. All prizes must be awarded in cash, merchandise, or in free plays as designated on the flare.

(1) All merchandise prizes must be displayed in full view in the immediate vicinity of the pull-tab game.

(2) When a winner of a merchandise prize is determined, the organization shall remove that prize from any display and award it to the winner immediately.

D. An organization may not substitute cash for merchandise prizes which have been won.

E. When a player wins a cash prize of \$50 or more or receives a cash prize for redeeming the last ticket sold in a pull-tab game for which the distributor has modified the flare to contain a last sale value of \$20 or more, the organization shall record the win according to subpart 6, item C.

Subp. 6. **Records.** An organization shall maintain the following information for a period of 3-1/2 years.

A. All records, reports, and receipts relating to a deal of pull-tabs in play must be retained at the gambling premises and

thereafter retained by the organization and made available on demand to the board.

B. For each deal of pull-tabs the flare, with the state registration stamp affixed, and all winning, unopened, and unsold pull-tabs segregated by game serial number. Commingled deals of pull-tabs are not required to be segregated by game serial number. The organization shall not open any unsold or defective pull-tabs.

C. All completed prize receipt forms for any winning pull-tab valued at \$50 or more or for any prize for redeeming the last ticket sold in a pull-tab game for which the distributor has modified the flare to contain a last sale value of \$20 or more. A prize receipt form prescribed by the board shall include at a minimum the following information:

(1) The pull-tab seller must legibly print in ink on the receipt the following:

- (a) the name of the gambling premises;
- (b) the registration stamp number and the game serial number of the deal of pull-tabs from which the prize was won;
- (c) the name of the game of that deal of pull-tabs;
- (d) the date the prize was won;
- (e) the value of the prize won; and

(f) the winner's name and driver's license number including state of license registration, unless the winner does not have a driver's license, in which case the winner's full name and full address obtained from a picture identification.

(2) The receipt must be legibly signed in ink by the pull-tab seller paying the winner.

D. An organization must complete a detailed monthly report in a standard format approved by the commissioner of revenue for each deal of pull-tabs removed from play during that month (schedule B), as required by part 7861.0120, subpart 3, item D. The report must contain the following information:

- (1) the premises permit number and name of the premises;
- (2) the month and year the report is prepared;
- (3) the name of the preparer;
- (4) the name of each deal of pull-tabs and the number of pull-tabs in the deal;
- (5) the state registration stamp number;
- (6) the game serial number;
- (7) the date put into play;
- (8) the date removed from play;
- (9) the cost of each pull-tab;
- (10) the ideal gross receipts;
- (11) the ideal prizes which includes last sale;
- (12) the dollar amount of unsold and defective pull-tabs;
- (13) the actual gross receipts;
- (14) the actual prizes, including cash and merchandise;
- (15) the net receipts;
- (16) the actual cash profit or loss resulting from each deal of pull-tabs removed from play; and
- (17) the cash long or short stated numerically.

E. Reports must provide sufficient detail to determine the actual net receipts, actual cash profit, and the cash long and short for each deal of pull-tabs.

Subp. 7. **Disposal of pull-tabs.** The organization may dispose of played deals of pull-tabs when the retention period of 3-1/2 years expires, unless the organization is notified to retain the pull-tabs because an audit, compliance review, or investigation is being conducted. The disposal must result in complete destruction such as shredding or burning.

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7861.0090 TIPBOARDS.

Subpart 1. **Restrictions.** The following items are restrictions on tipboards:

A. No gambling employee of an organization shall purchase tipboards at the site of the employee's place of employment. For purposes of this subpart, the term "employee" includes a volunteer.

B. No organization shall sell or put out for play any tipboard which does not have the tipboard tickets for that tipboard attached to it.

C. An organization may not purchase tipboards that have the same game serial number, or obtain, possess, or allow upon a site a tipboard or portion thereof with the same serial number as any other tipboard or portion thereof in its possession.

D. Each tipboard must have a serial number with the same serial number on each ticket attached to the tipboard.

E. An organization may not change the serial number written on the state registration stamp by the distributor or the manufacturer.

F. An organization shall not pay a player unless the player redeems an actual winning tipboard ticket. A prize may not be paid out to any player for a lost, marked, defaced, or altered ticket.

G. A tipboard may not be played unless the flare for that tipboard is posted in the area of the permitted premises where the tipboard tickets are offered for sale.

H. An organization shall not modify the designation of prizes printed on the tipboard or use a tipboard that is altered or defaced. The prize awarded must be the prize printed on the tipboard.

Subp. 2. **Operation of tipboards.** The following items apply to the game of tipboards:

A. All tipboard tickets must be placed out for play at the same time.

B. The tipboard must have printed on it the cost per ticket, the value of the prizes for the winning tickets, the number of prizes, the seal prize and consolation, prize or prizes, and the number of total tickets.

C. House rules governing the conduct of the sale of tipboards must be posted in such a manner that the players have access to the house rules before buying a tipboard ticket.

D. At each permitted premises a copy of the distributor's invoice for each tipboard deal in play and for each tipboard on the premises must be available for inspection by the board and its agents and the commissioners of revenue and public safety and their agents.

E. A tipboard may not be put out for play unless the flare for the tipboard has a state registration stamp which has been affixed to it by a licensed distributor or a licensed manufacturer.

F. A tipboard may not be put out for play unless the serial number on the individual flare for that tipboard matches the serial number printed on the tipboard and the tipboard tickets. If the serial numbers do not correspond, the organization shall return the tipboard to the distributor.

Subp. 3. **Tipboard prize and cost per ticket limits.** The cost per ticket and the value of the prizes must be as follows:

A. Each tipboard ticket may not be sold for more than \$2.

B. Each tipboard ticket must be sold for the single ticket price indicated on the flare and no tipboard ticket may be provided to a player free of charge or for any other consideration.

C. A prize or any combination of prizes may not have a value exceeding \$500. The winner is determined by removing the seal on the tipboard.

D. A prize must be awarded in cash, merchandise, or free plays as indicated on the tipboard and the flare.

(1) All merchandise prizes must be displayed in full view in the immediate vicinity of the tipboard game.

(2) When a winner of a merchandise prize is determined, the organization shall immediately remove the prize from any display and award it to the winner.

E. An organization may not substitute cash for merchandise prizes which may have been won.

Subp. 4. **Records.** At each permitted premises the organization shall maintain a copy of the distributor's invoice for each tipboard in play and for each tipboard on the premises and shall make the invoices available for inspection by the board and its agents and the commissioners of revenue and public safety and their agents. Information pertaining to the sale of tipboards must be recorded in the same manner as for pull-tabs, according to part 7861.0080, subpart 6.

Subp. 5. **Disposal of played tipboards.** A played tipboard and the accompanying flare with the state registration stamp affixed must be retained for 3-1/2 years following the end of the month in which the tipboard was played and reported. The organization may

dispose of a played tipboard when the retention period expires, unless the organization is notified to retain the tipboard because an audit, compliance review, or investigation is being conducted. The disposal must result in complete destruction, such as by shredding or burning.

7861.0100 PADDLEWHEELS.

Subpart 1. **Restrictions.** No gambling employee of an organization shall purchase paddletickets at the site of the employee's place of employment. For purposes of this subpart, the term "employee" includes a volunteer.

Subp. 2. **Conducting paddlewheels.** The following items apply to the game of paddlewheels:

A. The playing of paddlewheels must always be played using paddletickets.

B. Each paddleticket card must have a paddleticket card number preprinted on the stub and on each individual ticket. Each paddleticket card must have a different number. An organization may not have two paddleticket cards with the same number in its possession at the same time.

C. Each paddleticket stub must have a facsimile of the registration stamp imprinted on the stub. The facsimile must bear the license number of the distributor who sells the paddleticket card.

D. All the paddletickets on a paddleticket card must be sold prior to the spinning of the wheel. A new paddleticket card must be sold for every spin of the wheel.

E. Each sealed grouping of up to 100 paddleticket cards must have a state registration stamp affixed to the master flare accompanying the group with the paddleticket card numbers written in by the distributor on the space provided on the master flare. No paddleticket card will be played unless the master flare for that card is posted in a conspicuous place in the immediate area of the permitted premises where the paddlewheel being played is located.

An organization may not use paddletickets:

(1) that do not have a state registration stamp affixed to the master flare accompanying the group;

(2) when the paddle ticket card number written on the master flare differs from the actual paddleticket card number preprinted on the tickets;

(3) when the paddleticket card number preprinted on the stub does not match the paddleticket card number preprinted on the individual tickets; and

(4) that are not attached to the paddleticket card.

F. The organization must post house rules on the play of paddlewheels. The wheel must make at least four revolutions before stopping at the winning number. If four revolutions are not made, a nonspin must be declared and the wheel must be spun again.

Subp. 3. **Paddlewheel prize and cost per ticket limits.** The value of the prizes and the amount of bets are limited as follows:

A. Bets may not exceed \$2 per paddleticket.

B. Prizes may not exceed \$70 in value.

Subp. 4. **Retention of played paddletickets.** Paddleticket stubs and the accompanying master flare with the state registration stamp affixed must be retained for 3-1/2 years.

Subp. 5. **Records.** The use of paddletickets must be recorded in the same manner as for pull-tabs according to part 7861.0080, subpart 6.

7861.0110 RAFFLES.

Subpart 1. **Conducting raffles.** The following items apply to the conduct of raffles:

A. A raffle ticket must constitute an equal chance to win.

B. A person may not be required to purchase more than one ticket, or to pay for anything other than the ticket, in order to enter a raffle.

C. A person may not be required to be present at a raffle drawing in order to be eligible for the prize drawing.

D. Each ticket seller shall return to the organization the stubs or other detachable section of all tickets sold before the drawing.

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E. No tickets may be sold after the first drawing.

F. Before drawing, the organization shall place each stub or other detachable section of each ticket sold into a receptacle from which the winning tickets are to be drawn.

G. The receptacle must be designed so that each ticket placed in it has an equal chance to be drawn.

Subp. 2. **Raffle prizes.** An organization conducting a raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner, without lien or interest of others, of all the real or personal property before the drawing at which the winners of the prizes are to be determined.

Subp. 3. **Raffle ticket requirements.** The following items are raffle ticket requirements:

A. Raffle tickets shall have a detachable section and be consecutively numbered. The detachable section of the ticket must bear a duplicate number corresponding to the number on the ticket and must contain the purchaser's name, complete address, and telephone number. Both parts must be imprinted with sequential numbers commencing with the number "1" through the maximum number of tickets to be sold. The following information must be printed upon each ticket:

- (1) the date and time of the drawing;
- (2) the location of the drawing;
- (3) the name of the organization conducting the raffle;
- (4) the license number, if any, or exemption number;
- (5) the price of the ticket; and
- (6) the prize or prizes to be awarded.

B. A log book must be maintained, which at a minimum includes the following:

- (1) the name of the organization;
- (2) the total number of tickets printed;
- (3) the price per ticket;
- (4) the date of the raffle drawing;
- (5) the names and telephone numbers of all persons to whom tickets were given to be sold;
- (6) the number of tickets given to each person for sale;
- (7) the consecutive numbers of the tickets given to each person for sale;
- (8) the number of tickets each person sold;
- (9) the number of tickets each person returned unsold;
- (10) the actual gross proceeds reported by each person to whom tickets were given to be sold;
- (11) the actual cash received from each person to whom tickets were given to be sold; and
- (12) the cash long or short reported by each person to whom tickets were given to be sold.

Subp. 4. **Prize and cost per ticket limits.** Prizes and cost per ticket for a raffle may not exceed the following limits:

A. Total prizes for all raffles conducted by a licensed organization may not exceed a total value of \$100,000 per organization in a calendar year, for exempted organizations may not exceed a total of \$50,000 in a calendar year for all lawful gambling prizes, and for excluded organizations may not exceed \$750 a year.

B. Cash prizes may not exceed \$12,000, which may be awarded:

- (1) as the total amount of cash prizes for a single raffle; or
- (2) as the total amount of prizes for several complete raffles, the drawings for which are conducted on the same day.

C. Real and personal property prizes must be valued at actual market value or suggested market value, whichever is less.

D. Cash is defined for purposes of this subpart as currency, coinage, and negotiable instruments.

E. Each ticket must be sold for the same price and no ticket may be provided free of charge or for any other consideration.

Subp. 5. **Prizes must be awarded.** All raffle prizes must be awarded on the date indicated on the raffle ticket unless a different date is approved by the board. The board shall extend the date for the drawing if:

A. weather has caused a postponement of the event at which the drawing was to occur; or

B. not enough tickets were sold to cover the cost of the prizes, and an extension will make a material difference. The fact that a desired level of profit will not be attained is not a basis for an extension of the date of the drawing.

Subp. 6. **Records.** An organization shall maintain the following records for a period of 3-1/2 years:

- A. the total amount of proceeds received from a raffle;
- B. all allowable expenses deducted from the net receipts of a raffle;
- C. the winning ticket stubs; and
- D. the log book showing to whom the tickets were given to be sold.

7861.0120 ORGANIZATION OPERATIONS, ACCOUNTS, AND REPORTS.

Subpart 1. **Internal accounting and administrative controls required.**

A. An organization must establish, implement, and have available for review a written system of internal accounting and administrative controls relative to its lawful gambling operations, which includes procedures for:

- (1) inventory acquisition and control;
- (2) gaming operations control;
- (3) fund control and records; and
- (4) accounting and monthly reports.

The board shall require that the organization revise its internal accounting and administrative control system if it is not sufficient to protect the integrity of the lawful gambling operation or does not meet accounting control system objectives of item B or the administrative control objectives of item C. Failure to respond to the board's notice that the organization must revise its internal accounting and administrative control system may result in the board taking disciplinary action.

B. The system of accounting control for the gambling operations must provide a description of the procedures and records so that the following objectives will be met:

- (1) that transactions are made with management's authorization;
- (2) that gambling revenue transactions are recorded as necessary to record gambling revenue and properly maintain accountability for assets;
- (3) that access to assets is only permitted with management's authorization; and
- (4) that the recorded gambling funds and equipment are monitored on an on-going basis and discrepancies are resolved.

C. The system of administrative control relative to gambling operations must include a complete plan of organization that will provide appropriate segregation of functional responsibilities and sound practices to be followed in the performance of these duties by competent and qualified personnel. The plan of organization must include a diagram and a narrative which describe the interrelationship of functions and the division of responsibilities upon which the system of internal control of the gambling operations is based.

D. Changes in internal controls must be submitted to the board ten days before their effective date.

Subp. 2. **Method of accounting.** The following items are general accounting considerations:

- A. Gross receipts must be determined using the cash basis method.
- B. Allowable expenses must be determined using the cash basis method, except:
 - (1) Deals of pull-tabs, paddletickets, and tipboards must be determined on the accrual basis.
 - (2) The tax imposed by *Minnesota Statutes*, section 349.212, must be deducted on the accrual basis.

Subp. 3. **Records and reports required.** The following items apply to records and reports:

A. Each organization shall maintain complete, accurate, and legible general accounting records with detailed supporting subsidiary records sufficient to furnish information regarding all gambling transactions. The monthly accounting records must be sufficient to adequately reflect gross receipts, prizes, net receipts, expenses, and all other accounting transactions.

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B. A monthly report must be made to the members of the organization. The monthly report must contain the following information:

- (1) the gross receipts from each form of lawful gambling conducted;
- (2) the cost of all prizes paid out for each form of lawful gambling conducted;
- (3) full details on all expenses related to each form of lawful gambling conducted;
- (4) records that show in detail how the profit from gambling activity was expended for lawful purpose;
- (5) detailed records of gambling equipment purchases, which include type, quantity, unit cost, and from whom purchased;
- (6) a physical inventory taken at the end of each month, which includes a list of all games, the registration stamp number, serial number, name of game, and cost for each game (any games in play are considered in inventory); and
- (7) a bank reconciliation done each month, which lists outstanding checks, deposits in transit, and beginning and ending book balances for the month which correspond to the profit carryover.

C. The following information must be filed with the board monthly on forms prescribed by the board or quarterly in the case of a licensed organization that does not report more than \$1,000 in gross receipts from lawful gambling in any calendar quarter:

- (1) a record of lawful purpose expenditures (schedule C);
- (2) a record of board-approved expenditures (schedule D); and
- (3) the acknowledgment and recipient forms completed for each lawful purpose expenditure included on the appropriate C or D schedules.

The reports required by this item are due on or before the 20th day of the month following the close of the month in which the activity being reported took place.

D. The following tax return and schedules must be filed monthly with the Department of Revenue on forms prescribed by the commissioner of revenue:

- (1) monthly lawful gambling activity summary and tax return (form G-1);
 - (a) The unpaid liabilities of the licensee on allowable expenses shall be reported to the commissioner of revenue on its monthly gambling tax return.
 - (b) The gambling manager and the chief executive officer of the organization, or their respective designees, and the person who completed the tax return must sign the tax return. The organization shall inform the commissioner of revenue in writing of the identity of the designees.
- (2) summary of receipts and expenses per site (schedule A);
- (3) summary of games played and receipts per game (schedule B); and
- (4) combined receipts tax schedule (schedule E).

E. When an organization has a fund loss by questionable means of its inventory or cash, the organization may apply to the board, on a form prescribed by the board, for an adjustment of its gambling banking checking account. The organization shall file a fund loss report with the Department of Revenue, which will make a recommendation to the board. The fund loss report must include the following:

- (1) a local law enforcement report which was filed within ten days of the discovery of the loss. If a report was not filed with the local law enforcement agency within ten days of the discovery of the loss, the request for adjustment will not be considered;
- (2) a completed fund loss report which includes the following information:
 - (a) the name and address of the organization;
 - (b) the license number, premises permit numbers, and effective date;
 - (c) a description of the loss, including amount, date, location, and a summary of how the loss occurred, including if a safe was broken into or stolen;
 - (d) a description of how the loss was verified using schedule B if necessary;
 - (e) internal controls and personnel changes that have been made to prevent future losses;
 - (f) when the organization received the funds; and
 - (g) signatures of the chief executive officer and the gambling manager; and
- (3) all fund losses by questionable means must be reimbursed to the gambling banking checking account from nongambling funds, unless an adjustment to the gambling account is approved by the board.

F. Each licensed organization that files with the United States Department of the Treasury any forms that are required for organizations exempt from the payment of income tax shall retain a copy of those forms for 3-1/2 years, and make them available to the board or the Department of Revenue upon request.

Subp. 4. **Bank accounts.** The following items apply to bank accounts:

A. Each organization must maintain a separate gambling bank account at a financial institution, located within Minnesota.

(1) All expenditures of gambling funds must be made from the separate gambling bank account, except in case of expenditures previously approved by the organization's membership for emergencies. For the purposes of this item, "emergencies" means a financial obligation due and payable which if not met would require the organization to cease gambling.

(2) Gambling funds may not be transferred to the organization's general bank accounts for any expenditures without board approval.

(3) Nongambling funds may not be deposited in the gambling bank account unless required by the board.

(4) All checks for expenditures from the gambling bank account must contain two signatures of active members of the organization. The treasurer of the organization may not sign the checks.

(5) Interest income from gambling proceeds must be included in gross receipts.

(6) Each organization shall furnish to the board on a form prescribed by the board an "Authorization to Inspect Bank Records," which authorizes the board and its agents, and the commissioners of revenue and public safety and their agents, to inspect the bank records of the organization's gambling bank accounts.

B. Deposits of gambling receipts:

(1) Deposit tickets showing receipts from deals of pull-tabs, tipboards, and paddlewheels must contain the state registration stamp number, the amount of actual cash profit for each game, and the permit number of the premises.

(2) Deposit tickets showing receipts from bingo occasions must contain the date of each separate bingo occasion, the amount of actual cash profit generated by each occasion, and the permit number of the premises.

(3) Deposit tickets showing receipts from raffles must contain the date of the raffle, actual cash profit from the sale of raffle tickets, and the permit number of the premises.

Subp. 5. **Expenditures.** The following items apply to expenditures of gambling funds:

A. The expenditure of gambling funds must be authorized by the members of the organization at a regular meeting of the organization and recorded in the minutes of that meeting before the expenditure is made. Copies of the authorization must be sent to the board upon request.

B. Allowable expenses:

(1) Except as provided in this subpart, an organization may expend gambling gross profits for expenses directly related to the conduct of lawful gambling, provided the total percentage does not exceed the percentages specified in this subpart and *Minnesota Statutes*, section 349.15.

(2) An organization may not spend gambling gross profits for:

(a) Advertising.

(b) Legal fees or damages that relate to the conduct of lawful gambling incurred in defending the organization against the board, the attorney general, the United States attorney, the commissioner of revenue, or a county or city attorney.

(3) Percentage of profit to be used for allowable expenses:

(a) Not more than 60 percent of the gross profit, less the tax imposed by *Minnesota Statutes*, section 349.212, subdivision 1, from bingo, and not more than 50 percent of the gross profit may be expended for allowable expenses related to lawful gambling.

(b) Compliance with the maximum percentage of profits expended for allowable expenses must be determined on an annual basis for the organization as a whole. Compliance is not determined by each premises.

C. Lawful purpose expenditures include one or more of the following:

(1) A contribution to an organization which:

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- (a) is classified as tax exempt under United States Code, title 26, section 501(c)(3);
 - (b) spends at least 70 percent of its gross revenue on programs related to its primary purpose and 30 percent or less on administration and operation expenses;
 - (c) does not exist primarily for the purpose of receiving and distributing gambling profits;
 - (d) does not have more than 49 percent of its membership in common with the contributing organization; and
 - (e) does not have an officer, director, or other person in a managerial position who is also an officer, director, or management person in the contributing organization.
- (2) An expenditure by a licensed organization which is classified as tax exempt under United States Code, title 26, section 501(c)(3), if that expenditure is directly related to the primary purpose of the organization.
- (3) A contribution to an individual or family to relieve the effects of poverty, homelessness, or physical or mental disability.
- (4) A contribution to an individual for treatment of delayed posttraumatic stress syndrome if the individual has documentation that the individual has been diagnosed by a licensed medical doctor as suffering from posttraumatic stress syndrome.
- (5) A contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler. For purposes of this item, a recognized program is a program which has:
- (a) qualified health and addictions treatment personnel as recognized by a state or national licensing body; or
 - (b) met the minimum standards set by the National Council on Problem Gambling Certification Board and the Minnesota Council on Compulsive Gambling.
- (6) A contribution to or an expenditure on a public or private nonprofit educational institution registered with or accredited in Minnesota or any other state.
- (7) A contribution to a scholarship fund for defraying the cost of education to individuals, if:
- (a) the funds are awarded through an open and fair selection process that does not discriminate based on race or gender;
 - (b) the scholarship is not limited to members of the organization or their immediate families;
 - (c) the criteria for the selection process is communicated to all participants and to all members of the organization; and
 - (d) the names of the individuals awarded scholarships are communicated to all members of the sponsoring organization.
- (8) A contribution to an organization or governmental entity for the cost of activities recognizing humanitarian or military service to the United States, the state of Minnesota, or a community provided:
- (a) the contribution is not used by or intended for the personal benefit of any individual member of the organization;
- and
- (b) the contribution, if made to a unit of government, must be acknowledged on a form provided by the board showing the request from the unit of government to expend gambling funds and attached to the monthly schedule C report.
- (9) A contribution of recreational, community, and athletic facilities and activities intended primarily for the use of persons under the age of 21, if the following conditions have been met:
- (a) the facilities and activities do not discriminate on the basis of gender and the opportunity to participate reflects each gender's demonstrated interest in the activity;
 - (b) equal opportunity is provided for:
 - i. the provision of equipment and supplies;
 - ii. the scheduling of activities, including games and practice times;
 - iii. the supply and assignment of coaches or other adult supervisors;
 - iv. the provision and availability of support facilities; and
 - v. demonstrated interest in the activity;
 - (c) for purposes of this item, "primarily" must be demonstrated by written documentation that programs for persons under the age of 21 are given priority scheduling consideration;
 - (d) educational institutions or other entities are excepted from the above requirements as identified in the Higher Education Act amendments of 1976, United States Code, title 20, section 1681; and
 - (e) the board is notified 15 days prior to the expenditure of the gambling funds for the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for recreational, community, or athletic facilities.

(10) Local gambling taxes paid to a statutory or home rule city or county, provided the tax does not exceed three percent of the gross receipts less prizes actually paid out by the organization at the permitted premises.

(11) Taxes imposed by the United States on receipts from lawful gambling, but not including the federal tax stamp required for gambling employees.

(12) Taxes imposed by *Minnesota Statutes*, section 349.212, subdivisions 1 and 4.

(13) Taxes imposed on unrelated business income by *Minnesota Statutes*, section 290.05, subdivision 3.

(14) Real estate taxes and assessments on permitted gambling premises wholly owned by the licensed organization, provided the expenditure does not exceed:

(a) for organizations which conduct pull-tabs, tipboards, raffles, and/or paddlewheels, \$15,000 per year;

(b) for organizations which conduct bingo, \$200 for premises of not more than 6,000 square feet, \$300 for owned bingo premises of not more than 12,000 feet, and \$400 for premises of more than 12,000 square feet times the number of bingo occasions conducted in a calendar year, based on the space actually used for bingo.

(15) A contribution to the United States, the state of Minnesota or any of its political subdivision, or any agency or instrumentality thereof, provided:

(a) that for a contribution to a unit of government, the contribution is documented by a form prescribed by the board showing the request from a unit of government to expend gambling funds; and

(b) that for expenditures involving environmental projects, the contribution is documented by a form prescribed by the board and attached to the monthly schedule C showing prior review by the Department of Natural Resources.

(16) A contribution to, or expenditure by, a nonprofit organization, church, or body of communicants gathered in common membership for mutual support and identification in piety, worship, or religious observances.

(17) Repair or maintenance of real property of capital assets when the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and no rental fee is charged for the use, provided:

(a) "extensively" must be demonstrated by written documentation that the facility has been used free of charge by at least one group as described in this subitem;

(b) a board-prescribed form is completed; and

(c) approval of the board is obtained before to the expenditure.

(18) The erection or acquisition of a comparable building to replace a building owned by the organization which was destroyed or made uninhabitable by fire or natural disaster, provided the expenditure, mortgage payment, or other debt service payment is only for that part of the replacement cost not reimbursed by insurance and the building was insured at least at replacement cost value, and:

(a) a board-prescribed form is completed;

(b) board approval is obtained;

(c) the replacement structure:

i. is used for the same or similar purposes as the original building;

ii. has essentially the same square footage as the original building; and

(d) the following may be included:

i. additional costs for building code requirements enacted by the local unit of government after the original building was built; and

ii. additional costs for landscaping and parking lot code requirements enacted by the local unit of government after the original building was built.

(19) The erection or acquisition of a comparable building to replace a building owned by the organization taken by eminent

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domain or sold under the threat of eminent domain, provided the expenditure, mortgage payment, or other debt service payment is only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced, and:

- (a) a board-provided form is completed;
- (b) approval of the board is obtained;
- (c) the replacement structure:
 - i. is used for the same purposes as the original building;
 - ii. has the same square footage; and

iii. cost is substantially the same as the value of the original building except for additional costs for building code requirements enacted by the local unit of government after the original building was built and additional costs for landscaping and parking lot code requirements enacted by the local unit of government after the original building was built.

(20) Payment of one-half of the reasonable costs of an audit required in *Minnesota Statutes*, section 349.19, subdivision 9.

D. Lawful purpose expenditures do not include the following:

- (1) an expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office;
- (2) a contribution for promoting or defeating a ballot question;
- (3) a contribution for any activity intended to influence an election or a governmental decision-making process;
- (4) a direct contribution to a law enforcement or prosecutorial agency.

E. A contribution by a licensed organization to a parent organization, foundation, or affiliate of the contributing licensed organization is allowed under the following conditions: the contributing licensed organization must submit a written statement that the parent organization, foundation, or affiliate has not provided to the contributing licensed organization a contribution of any money, grants, property, or other thing of value within one year of the contribution.

F. A licensed organization may not contribute gross gambling profits to another licensed organization unless:

- (1) the contributing organization receives the prior approval of the board;
- (2) a board-prescribed form is completed; and
- (3) the contributing organization demonstrates that the contribution meets one or more of the lawful purposes identified in item C and that the contribution is not for the purpose of avoiding taxes or circumventing the restrictions placed on lawful purpose expenditures by item C.

Subp. 6. Annual audit required. An organization licensed to conduct lawful gambling shall have an annual audit of its lawful gambling activities, books, and accounts conducted by an independent certified public accountant or independent licensed public accountant or a firm in good standing with the Minnesota State Board of Accountancy. The licensed organization must submit the annual audited financial report to the Department of Revenue on or before the end of the sixth month following the organization's fiscal year.

A. The annual audited financial report must contain, in conformity with accounting practices required by the Gambling Control Board, the financial condition of the organization as of the end of the most recent fiscal year and the results of its operations for the year then ended and contain the following information:

- (1) a written narrative report of the accountant;
- (2) a balance sheet reporting assets, liabilities, and surplus;
- (3) a statement of gain or loss from operations;
- (4) any notes to financial statements, as required by generally accepted accounting principles, and an analysis of any unallowable expenditures reimbursed by the licensed organization; and
- (5) supplementary information, which includes any additional information that the Gambling Control Board may require to be disclosed.

B. The Department of Revenue shall not accept any audit required by this subpart unless the audit is performed by an independent certified public accountant or independent licensed public accountant in good standing with the Minnesota State Board of Accountancy and licensed to practice in Minnesota.

C. A licensed organization shall file with the Department of Revenue a report of the study and evaluation conducted by the accountant regarding the accounting procedures of the licensed organization and its system of internal control, including any remedial

action taken or proposed, filed within 60 days after the filing of the annual audited financial report.

The report concerning the organization's system of internal control shall be in the form prescribed by generally accepted auditing standards.

D. Work papers are the records kept by the independent certified public accountant or independent licensed public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of a licensed organization.

Work papers include, but are not limited to:

- (1) work programs;
- (2) analyses;
- (3) memoranda;
- (4) letters of confirmation and representation;
- (5) management letters;
- (6) abstracts of company documents; and

(7) schedules or commentaries prepared or obtained by the accountant in the course of the audit of the financial statements of a licensed organization which support the accountant's opinion.

E. Each licensed organization required to file an annual audited financial report shall require the accountant, through the licensed organization, to make available upon request of the Department of Revenue the work papers prepared in the conduct of the audit.

F. The licensed organization shall require that the accountant retain the audit work papers for not less than 3-1/2 years after the period reported upon. In the conduct of periodic reviews by the board, photocopies of pertinent audit work papers may be made and retained by the board.

7861.0130 EXCLUDED BINGO AND RAFFLES.

Subpart 1. **Registration.** An organization that conducts excluded bingo or raffles as allowed by *Minnesota Statutes*, section 349.166, must register with the board before the conduct of the lawful gambling, and, for bingo conducted pursuant to *Minnesota Statutes*, section 349.166, subdivision 1, paragraph (a), clause (1) or (2), must obtain prior approval of the local governing body of the township, city, or county in which the bingo will be conducted. The registration must be on a form prescribed by the board, which must include the following information:

- A. the name and address of the organization;
- B. the name of the person in charge of the bingo occasion and/or raffles and that person's phone number;
- C. the type of organization (fraternal, veterans, religious, or other nonprofit);
- D. the number of bingo occasions conducted by the organization in the present calendar year;
- E. whether the bingo occasion is to be held in connection with a county fair, the state fair, or a civic celebration, and if so, the number of consecutive days bingo will be played;
- F. the dates of the raffle drawing, if any;
- G. the total market value of the raffle prizes;
- H. the signature of the organization's chief executive officer; and
- I. the local government approval form.

Subp. 2. **Restrictions.** An organization may not conduct excluded bingo if it has been licensed to conduct lawful gambling in the current calendar year. The organization conducting lawful gambling must comply with *Minnesota Statutes*, section 349.166.

7861.0140 EXEMPTED LAWFUL GAMBLING.

Subpart 1. **Registration required.** An organization that conducts exempted lawful gambling must submit an application to the board at least 30 days before the gambling activity is to be conducted. The application fee for each activity is \$25. The application must be

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on a form prescribed by the board and must contain at a minimum the following information:

- A. the name and address of the organization;
- B. the current or previous license number or exempt number, if any;
- C. the name and telephone number of the chief executive officer;
- D. the name and telephone number of the treasurer;
- E. the type of organization (fraternal, veterans, religious, or other nonprofit);
- F. the dates of activity;
- G. the types of lawful gambling to be conducted;
- H. the name, address, including city to township, and county where the activity will be conducted; and
- I. a completed local government notification form.

Subp. 2. **Required attachment.** The applicant must attach to the application form proof of nonprofit status and, if the organization is an other nonprofit organization, proof of compliance with part 7861.0010, subpart 8.

Subp. 3. **Financial report required.** The organization must complete and file with the board the financial report portion of the exemption application within 30 days of the lawful gambling activity.

Subp. 4. **Restrictions.** An organization conducting exempted lawful gambling must comply with *Minnesota Statutes*, section 349.166, subdivision 2. An organization that is licensed may not receive an exemption permit during the same calendar year it has a license.

7861.0150 TECHNICAL ASSISTANCE REQUIREMENTS.

Subpart 1. **Gambling managers.** Gambling managers are required to satisfactorily complete a gambling managers seminar conducted by the board.

Subp. 2. **Additional training.** The board may require the gambling manager of a licensed organization to attend additional seminars conducted or approved by the board.

BINGO HALL LICENSES

7862.0010 BINGO HALL LICENSES.

Subpart 1. **Definitions.** For purposes of this chapter, the definitions contained in part 7861.0010 apply.

Subp. 2. **License required.** No person, including a licensed organization and a local unit of government, may lease a facility to more than one organization to conduct bingo without having obtained a bingo hall license. A person may obtain a bingo hall license by making an application to the board. An application must be considered by the board pursuant to this part.

Subp. 3. **Qualifications.** A bingo hall license shall not be issued to a person, organization, corporation, firm, or partnership that is not the legal owner of the bingo hall or which has as an officer, director, or other person in a supervisory or managerial position who:

- A. has ever been convicted of a felony;
- B. has ever been convicted of a crime involving gambling;
- C. has ever been convicted of:
 - (1) assault;
 - (2) a crime involving the use of a firearm; or
 - (3) terrorist threats;
- D. owes delinquent taxes in excess of \$500; or
- E. after demand, has failed to file tax returns required by the commissioner of revenue.

Subp. 4. **Restrictions.** No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or any affiliate may:

- A. be a licensed distributor or manufacturer of lawful gambling equipment or an affiliate of such distributor or manufacturer;
- B. be a wholesale distributor of alcoholic beverages;
- C. provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;
- D. acquire gambling equipment for use by an organization conducting lawful gambling on the premises;

- E. provide storage for or inventory control of gambling equipment used by an organization conducting lawful gambling on the premises;
- F. prepare any reports required by part 7861.0120, subpart 3, for an organization conducting lawful gambling on the premises;
- G. provide accounting services to an organization conducting lawful gambling on the premises;
- H. solicit, suggest, encourage, or make any expenditure of an organization's gross receipts from lawful gambling;
- I. charge any fee without which a person could not play bingo or participate in another form of lawful gambling on the premises;
- J. provide assistance or participate in the conduct of lawful gambling on the premises; or
- K. permit more than 21 bingo occasions to be conducted on the premises in any week.

Subp. 5. **Length of license.** A bingo hall license expires one year from the effective date of the license.

Subp. 6. **Contents of application.** The application must be on a form prescribed by the board and must contain at a minimum the following information:

- A. the name of the bingo hall;
- B. the telephone number of the bingo hall;
- C. the county where the bingo hall is located;
- D. the street address of the bingo hall;
- E. the mailing address of the bingo hall if different than the street address;
- F. the name of the township or city and county in which the bingo hall is located;
- G. the name and telephone number of the legal owners of the bingo hall;
- H. if the bingo hall is owned by an organization, corporation, firm, or partnership, a list of the officers, partners, directors, managers, and supervisors;
- I. the legal nature of the applicant (corporation, partnership, or sole proprietorship) and the applicant's Minnesota tax identification number, if any;
- J. a statement regarding the restrictions contained in subpart 4;
- K. a statement as to whether any officer, director, or other person in a supervisory or management position or holding a financial in the bingo hall is:
 - (1) a licensed distributor;
 - (2) a licensed manufacturer; or
 - (3) an affiliate of a wholesale distributor of alcoholic beverages;
- L. the signature of the chief executive officer of the lessor;
- M. the local government acknowledgment;
- N. the status of the bingo hall license; and

O. such additional information as is necessary to properly identify the applicant and to ensure compliance with *Minnesota Statutes*, sections 349.11 to 349.23.

Subp. 7. **Attachments to application.** The following items apply to attachments to bingo hall license applications:

- A. The bingo hall occasion list must be on a form prescribed by the board and must at a minimum contain the following information:
 - (1) the name of the bingo hall;
 - (2) the name of the organizations conducting bingo on the premises;
 - (3) each organization's premises permit or exemption permit number; and
 - (4) the days and hours of all bingo occasions, including ending times for each organization conducting bingo on the premises.

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B. A bingo hall personnel form must be provided for the owners of the bingo hall and, if the bingo hall is owned by an organization, corporation, firm, or partnership, by the officers, directors, managers, and supervisors. The bingo hall personnel form must be on a form prescribed by the board and must at a minimum contain the following information:

- (1) the name, phone number, and full address of the bingo hall;
- (2) full name, home or business address, date of birth, place of birth, social security number, and full name of spouse;
- (3) driver's license number, including state of registration;
- (4) branch of military service, if any, and dates of service;
- (5) citizenship information;
- (6) position with bingo hall and work phone number;
- (7) employment history for past ten years;
- (8) places of residence for past ten years;
- (9) criminal history statement, except petty misdemeanors;
- (10) name, address, and license or exemption permit number of any organization conducting lawful gambling in Minnesota of which the applicant is a member; and
- (11) signature and date signed.

C. A bingo hall personnel affidavit must be completed, signed, and notarized by the applicant.

D. A copy of the resolution of the local unit of government approving the application pursuant to subpart 10.

Subp. 8. **Changes in application information.** If any information submitted in the application changes, the bingo hall applicant or licensee must notify the board and the local unit of government within ten days of the change.

Subp. 9. **License fee.** The annual fee for a bingo hall license is \$2,500. License fees are not prorated or transferable.

Subp. 10. **Local approval.** The following items apply to local approval of bingo hall applications:

A. The applicant must take the bingo hall application to the clerk of the local unit of government and request that the local unit of government pass a resolution approving the bingo hall application. The resolution must be adopted no earlier than 60 days before the date that the application is received by the board.

B. The applicant shall attach to the application a copy of the resolution of the local unit of government approving the bingo hall when submitting the application to the board. An application which does not have a resolution approving the bingo hall attached will not be accepted by the board.

Subp. 11. **Issuance and denial.** The following items apply to the issuance and denial of bingo hall licenses:

A. The board may issue a bingo hall license to an applicant who submits the information required by subparts 6 and 7, pays the fee required by subpart 9, obtains the local approval required by subpart 10, and is eligible to be licensed pursuant to this part and *Minnesota Statutes*, section 349.164. A license issued by the board pursuant to this part shall be effective on the first day of a month.

B. The board shall deny the application of a person ineligible to hold a license pursuant to this part or *Minnesota Statutes*, section 349.164.

C. A person who has never held a bingo hall license or whose application for renewal of a bingo hall license was submitted after the expiration of the license is not entitled to an appeal of the board's denial of the person's application.

Subp. 12. **Renewals.** The following items apply to bingo hall license renewals:

A. To renew a license at the end of a term, a bingo hall licensee must submit a complete renewal application on a form prescribed by the board at least 75 days before the expiration of the licensee's existing bingo hall license. A renewal application is not complete until it contains the information required in subparts 6 and 7, the fee required by subpart 9, and the proof of local approval required by subpart 10.

Complete applications received by the board less than 75 days before the expiration of the applicant's existing license will be considered pursuant to this part but, if the applicant is entitled to a renewed license, the board need not issue that renewed license until the first day of the month following the expiration of 75 days after the board has received the complete application. A bingo hall shall not continue to operate after the expiration of its license unless and until it receives a renewed license.

B. An application for renewal of a bingo hall license shall be denied by the board if:

- (1) the applicant is ineligible for a license pursuant to this part or *Minnesota Statutes*, section 349.164;

- (2) the proposed bingo hall site is a site where illegal gambling has occurred within the last 12 months; or
- (3) it remains incomplete for more than 90 days after its initial submission.

C. Appeals:

(1) An applicant that the board determines has failed to submit a complete renewal application at least 75 days before the expiration of an existing bingo hall license may appeal that determination by filing a written request for a contested case hearing with the board before the expiration of the existing bingo hall license. The director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the licensee's existing license. The sole issue at the hearing is whether the applicant submitted a complete application at least 75 days before the expiration of the applicant's existing license.

(2) A bingo hall owner whose renewal application has been denied may appeal that denial by requesting a contested case hearing pursuant to *Minnesota Statutes*, chapter 14. The request must be made in writing and received by the board no later than ten days after the bingo hall licensee receives the denial of the renewal application. Upon receipt of the request, the director shall schedule a contested case hearing before an administrative law judge pursuant to *Minnesota Statutes*, chapter 14. When possible, the hearing must be held less than 30 days after the service of a Notice and Order for Hearing pursuant to part 1400.5600, subpart 3. In any event, all practicable efforts must be made to hold a hearing, receive the administrative law judge's recommendation, and make a final agency decision before the expiration of the existing bingo hall license.

DISTRIBUTORS

7863.0010 DISTRIBUTORS.

Subpart 1. **Definitions.** For purposes of this chapter, the definitions contained in part 7861.0010 apply.

Subp. 2. **License required.** No person may sell, offer for sale, or otherwise furnish gambling equipment without having obtained a distributor's license. Annual application must be made for a distributor's license.

Subp. 3. **Qualifications.** A license may not be issued to a person or to a corporation, firm, or partnership which has any officer, director, or other person in a supervisory or management position or employee eligible to make sales who:

- A. has ever been convicted of a felony;
- B. has ever been convicted of a crime involving gambling;
- C. has ever been convicted of:
 - (1) assault;
 - (2) a criminal violation involving the use of a firearm; or
 - (3) terroristic threats;
- D. is or has ever been engaged in an illegal business;
- E. owes \$500 or more in delinquent taxes;
- F. has had a sales and use tax permit revoked by the commissioner of revenue within the last two years;
- G. after demand, has not filed tax returns required by the commissioner of revenue; or
- H. is a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

Subp. 4. **Restrictions.** No distributor or any representative, agent, affiliate, or employee of a distributor may:

- A. be involved in the conduct of lawful gambling by an organization;
- B. keep or assist in keeping an organization's financial records, accounts, or inventories;
- C. prepare or assist in the preparation of the reports required to be submitted under part 7861.0120, subpart 3;
- D. provide to a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value;

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Proposed Rules

E. participate in any gambling activity at any gambling premises where gambling equipment purchased from that distributor is used in the conduct of lawful gambling;

F. alter or modify any gambling equipment, except to add a last ticket sold pay sticker;

G. recruit a person to become a gambling manager or identify to an organization a person as a candidate to become a gambling manager;

H. identify for an organization a potential gambling location;

I. purchase gambling equipment from any person not licensed as a manufacturer under part 7864.0010;

J. lease premises to an organization for the conduct of lawful gambling; or

K. be an officer or director of an organization which conducts lawful gambling.

Subp. 5. **Length of license.** A distributor license expires one year from the effective date of the license.

Subp. 6. **Contents of application.** The application must be on a form provided by the board, and must contain at a minimum the following information:

A. the complete name of the applicant and any other names used;

B. the mailing address of the applicant;

C. the office address, if different than the mailing address;

D. the telephone number of the applicant;

E. the legal nature of the applicant (corporation, firm, partnership, or sole partnership);

F. the Minnesota tax identification number of the applicant, if any;

G. a list of all persons with a direct or indirect financial interest in the applicant;

H. a list of the owners, partners, officers, directors, managers, supervisors, and employees eligible to make sales on behalf of the applicant;

I. the address of the facility where gambling equipment and supplies are unloaded in this state prior to sale;

J. a statement regarding the restrictions contained in subpart 2, item E;

K. the name, address, and account number of all business bank accounts for the applicant;

L. the signature of the chief executive officer; and

M. additional information as necessary to identify the applicant and ensure compliance with *Minnesota Statutes*, sections 349.11 to 349.23.

Subp. 7. **Attachments to application.** The following items apply to attorney attachments to a distributor's application:

A. A distributor personnel form must be completed by each owner, partner, director, manager, supervisor, or person eligible to make sales on behalf of the distributor. The form, prescribed by the board, must contain the following information:

(1) name, phone number, and full address of applicant;

(2) full name, home or business address, date of birth, place of birth, social security number, and full name of spouse;

(3) driver's license number, including state of registration;

(4) branch of military service, if any, and dates of service;

(5) country of citizenship;

(6) position with distributor and work phone number;

(7) employment history for past ten years;

(8) places of residence for past ten years;

(9) criminal history statement (except petty misdemeanors);

(10) name, address, and license or exemption permit number of any organization of which the person is a member;

(11) signature of person and date signed; and

(12) additional information as necessary to properly identify the person and ensure compliance with *Minnesota Statutes*, section 349.11 to 349.23.

B. A distributor personnel affidavit must be completed, signed, and notarized by the owners, partners, officers, directors,

managers, supervisors, and persons eligible to make sales on behalf of the distributor. "A person eligible to make sales" means a person who participates in or represents a distributor in any portion of a transaction that results in the sale of gambling equipment.

C. A current photograph of the applicant.

Subp. 8. **Identification card.** Before a person may perform employment services, including sales, for a distributor, the board must issue the person an identification card. The identification card must be in the possession of the employee at all times the employee is performing services on behalf of the distributor. The identification card must be on a form prescribed by the board and must contain:

- A. a picture of the person;
- B. the name of the person;
- C. the name of the distributor;
- D. the license number and expiration date of the distributor's license;
- E. the address and business phone number of the distributor;
- F. the signature of the distributor; and
- G. the date of issue and the signature of the director.

The picture identification card is the property of the state of Minnesota and must be returned to the board if the bearer is no longer eligible to conduct sales or is no longer employed by the distributor.

No person may be employed by or possess a picture identification card from more than one licensed distributor.

Subp. 9. **Changes in application information.** If any information submitted in the application changes, the distributor must notify the board in writing within ten days of the change.

Subp. 10. **License fee.** The annual fee for a distributor's license is \$2,500. License fees are not prorated or transferable.

7863.0020 DISTRIBUTOR OPERATIONS, ACCOUNTS, AND REPORTS.

Subpart 1. **Purchase of gambling equipment.** A distributor may not purchase or otherwise obtain gambling equipment from any manufacturer unless the manufacturer selling or otherwise providing the gambling equipment has a valid license issued by the board.

A distributor may not purchase any deal of pull-tabs or tipboards from a manufacturer unless the manufacturer meets the requirements in part 7864.0020.

Subp. 2. **Sale of gambling equipment.** The following items apply to sales of gambling equipment:

A. Sales to organizations:

(1) A distributor may not sell or furnish to any organization any gambling equipment unless the organization has a valid license issued by the board, is exempt from licensing and holds a valid exemption permit, or is excluded from licensing under *Minnesota Statutes*, section 349.166.

(2) A distributor may not sell or furnish to any organization any gambling equipment before the effective date of the organization's license.

(3) A distributor may not sell or furnish to any organization any deal of pull-tabs or tipboards unless the deal meets all the requirements in part 7864.0020.

B. A distributor, or a representative, agent, affiliate, or employee of a distributor, may not directly or indirectly give gifts, trips, prizes, loans of money, premiums, or other gratuities to gambling organizations, or their employees, other than nominal gifts not to exceed a value of \$25 per organization in a calendar year.

C. Rebates of purchase prices or discounts offered by a distributor must be separately stated on the original purchase invoice or separately invoiced on a credit memo referencing the original sales invoice and contained in the monthly pricing report.

D. Gambling equipment sold for in-state use must be delivered to the gambling manager or the gambling manager's authorized representative.

E. Gambling equipment sold by distributors to out-of-state customers for use out of state must be shipped directly from the distributor to the out-of-state site.

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Proposed Rules

F. No mechanical or coin-operated pull-tab dispensing device shall be sold or otherwise furnished to any organization in this state.

Subp. 3. **Registration of gambling equipment.** The following items apply to the registration of gambling equipment:

A. A distributor may not sell, transfer, furnish, or otherwise provide any gambling equipment unless the equipment has been registered with the board and has a registration stamp affixed.

B. For gambling equipment actually held in inventory by a distributor before August 1, 1990, the distributor shall place a state registration stamp on the flare of each deal of pull-tabs and each flare for a tipboard.

C. For gambling equipment received by a distributor from a manufacturer on or after August 1, 1990, a distributor shall place a state registration stamp on each master flare for a group of up to 100 paddleticket cards, on the front of each paddlewheel, and on each device for selecting bingo numbers. This requirement does not apply to sales by distributors to out-of-state customers for use out of state.

D. The board shall furnish consecutively numbered state registration stamps to each distributor at the cost of five cents each. For equipment that the distributor is required to register, the distributor shall write legibly in ink the manufacturer's game serial number and state registration number on the stamp and affix the stamp directly to the front of the flare of a pull-tab game, the flare for a tipboard, and the master flare for all paddleticket cards before making delivery to any organization.

E. Registration stamps must be placed by a distributor on items that are authorized for use within Minnesota.

F. A distributor may not transfer or furnish Minnesota registration stamps to any person, distributor, or manufacturer.

G. The distributor shall return any and all unused state registration stamps in its possession to the board within five days after the distributor ceases doing business.

Subp. 4. **Records and reports required.** The following items apply to records and reports of distributors:

A. Sales invoice:

(1) A distributor who sells, leases, or otherwise provides gambling equipment must record the transaction on a sales invoice.

(2) A sales invoice must be on a standard form prescribed by the commissioner of revenue and must contain the following information:

(a) the license number of the distributor;

(b) the complete business name and address of the organization;

(c) the license number and expiration date of the license of the organization or the exemption permit number of the organization;

(d) the invoice number;

(e) the date the gambling equipment was shipped;

(f) the quantity by the number of deals for pull-tabs, by the number of boards for tipboards, and by the number of paddleticket cards for paddletickets;

(g) a full description of each item of gambling equipment sold;

(h) state registration stamp numbers for each item of gambling equipment sold;

(i) the ideal gross receipts for each type of pull-tab, tipboard, and paddleticket game;

(j) the ideal net receipts for each type of pull-tab, tipboard, and paddleticket game;

(k) the identity of the manufacturer from which the distributor purchased the equipment;

(l) the date of the sale of the gambling equipment;

(m) the name of the person who ordered the equipment;

(n) the name of the person who received the equipment;

(o) for bingo cards or sheets sold on or after January 1, 1991, the individual number of each card; and

(p) the serial number of the equipment.

B. A registration stamp number log in which the Minnesota gambling registration stamp numbers and the manufacturer's game serial numbers are recorded must be maintained by the distributor on a standard form prescribed by the board and furnished to the board upon demand.

C. A licensed distributor must submit a monthly pricing report to the board on a form approved by the board and must include:

- (1) the name, license number, and full address of distributor;
- (2) the month and year of the report; and
- (3) the form, description, card count, top winners, gross profit, percent to players, deals per case, price per deal, and volume discounted price, exclusive of transportation costs.

The report must be filed no later than the first day of each month. Amendments must be filed within five days of the filing. A computer-generated form may be used with the approval of the director if the form complies with the requirements of this subpart.

D. Each distributor shall mail a copy of each sales invoice, as described in this subpart, to the commissioner of revenue to be received by the 15th of the month following the month in which the sale was completed along with the corresponding registration stamp log.

E. Report of delinquent organization required:

(1) A distributor shall notify the board by registered mail if a licensed organization is more than 35 days delinquent in its payment to the distributor of tax obligations or costs of equipment.

(2) The board shall notify the licensed organization of the delinquency and direct the organization to eliminate the delinquency, if one exists.

(3) If the board is notified that the delinquency has not been paid within ten days of the distributor's initial notification to the board, the board shall notify all licensed distributors that no registered gambling equipment may be sold, offered for sale, or furnished to that organization.

(4) A distributor may not sell, offer for sale, or furnish gambling equipment to an organization that has been determined by the board to be 45 or more days delinquent in its payment to a licensed distributor of a tax obligation or the costs of gambling equipment.

(5) When the delinquency is paid, the distributor must immediately notify the board and the board shall notify all licensed distributors.

F. The board, the commissioner of revenue, the commissioner of public safety, and their agents may examine the books and records of any distributor without notice at any time during normal business hours.

G. Each distributor shall maintain records of the purchase and sale, lease, rental, or loan of gambling equipment for 3-1/2 years.

MANUFACTURERS

7864.0010 LICENSED MANUFACTURERS.

Subpart 1. **Definitions.** For purposes of this chapter, the definitions contained in part 7861.0010 apply.

Subp. 2. **License required.** A manufacturer of gambling equipment may not sell any gambling equipment to any person without having obtained a manufacturer's license. Annual application must be made for a manufacturer's license.

Subp. 3. **Qualifications.** A license may not be issued to a person, or to a corporation, firm, or partnership, that has an officer, director, or other person in a supervisory or management position or person eligible to make sales on behalf of the manufacturer, a person who:

- A. has ever been convicted of a felony;
- B. has ever been convicted of a crime involving gambling;
- C. has ever been convicted of:
 - (1) assault;
 - (2) a crime involving the use of a firearm; or
 - (3) terroristic threats;
- D. is or has ever been engaged in an illegal business;
- E. owes \$500 or more in delinquent taxes;

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Proposed Rules

- F. has had a sales and use tax permit revoked by the commissioner of revenue within the last two years; or
- G. has had a license related to gambling revoked or denied by another jurisdiction for a violation of law or rule.

Subp. 4. **Restriction.** No manufacturer may:

- A. sell gambling equipment to any person not licensed as a distributor under part 7863.0010;
- B. sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type sold by the manufacturer for use in this state;
- C. be directly or indirectly licensed as a distributor unless the manufacturer does not manufacture any gambling equipment other than paddlewheels and was licensed as both a manufacturer and distributor on May 1, 1990;
- D. participate in the conduct of lawful gambling or have an owner, officer, director, partner, or employee who is an officer, director, or gambling manager of any organization conducting lawful gambling;
- E. be an owner, officer, director, or partner of a wholesale alcoholic beverage distributor;
- F. provide or permit an affiliate or person acting on behalf of the manufacturer to provide any compensation, gift, gratuity, premium, contribution, or thing of value to a lessor of gambling premises; or
- G. provide or permit an affiliate or person acting on behalf of the manufacturer to provide any compensation, gift, gratuity, premium, contribution, or thing of value to an appointed official.

Subp. 5. **Length of license.** A manufacturer's license expires one year from the effective date of the license.

Subp. 6. **Contents of application.** The application must be on a form prescribed by the board and include at a minimum the following information:

- A. the business name and other names used, address, and phone number of the applicant;
- B. the Minnesota tax identification number, if any, of the applicant;
- C. the type of business (sole proprietorship, partnership, or corporation);
- D. the type of product to be sold in Minnesota;
- E. the full names and titles of the owners, officers, directors, supervisors, managers, and sales employees;
- F. the addresses of all facilities where gambling equipment is manufactured;
- G. the name, address, and telephone number of the applicant's registered agent in Minnesota;
- H. the signature of the chief executive officer; and
- I. additional information as is necessary to properly identify the applicant and to ensure compliance with *Minnesota Statutes*, sections 349.11 to 349.23.

Subp. 7. **Attachments to application.** The following items apply to attachments to manufacturer's license applications:

A. A manufacturer's personnel form must be completed by each owner or, if a corporation or partnership, each partner, officer, director, supervisor, manager, or person eligible to make sales on behalf of the manufacturer in Minnesota. The manufacturer's personnel form must include, at a minimum, the following information:

- (1) the name, address, phone number, and license number, if issued, of the manufacturer;
- (2) the individual's full name, address, date of birth, place of birth, social security number, telephone number, and full name of the spouse;
- (3) the driver's license number, including state of registration;
- (4) the branch of military service information, if any, and dates of service;
- (5) the country of citizenship;
- (6) the position with the manufacturer and work phone;
- (7) the employment history for the last ten years;
- (8) the places of residence for the last ten years;
- (9) the name, address, and license or exemption permit number of any organization conducting lawful gambling in Minnesota of which the person is a member;
- (10) a criminal history statement, except petty misdemeanors;
- (11) the signature of the person and date signed; and

(12) any additional information as is necessary to properly identify the person and to ensure compliance with *Minnesota Statutes*, sections 349.11 to 349.23.

B. An affidavit must be signed and notarized by the applicant and by the officers, directors, partners, supervisors, managers, and persons eligible to make sales on behalf of the applicant in Minnesota.

C. The manufacturer must submit a copy of its logo or trademark which will be used to identify the manufacturer on all products sold in Minnesota.

Subp. 8. **Changes in application information.** Any changes in the information submitted in the application must be filed with the board within ten days after the change.

Subp. 9. **License fee.** The annual manufacturer's license fee is \$2,500. License fees are not prorated or transferable.

Subp. 10. **Investigation.** Before granting or renewing a manufacturer's license, the board may conduct, or request the director of gambling enforcement to conduct, a background investigation, including a review of the applicant's sources of financing, ownership, and organizational structure.

7864.0020 MANUFACTURER OPERATIONS, ACCOUNTS, AND RECORDS.

Subpart 1. **Sale of gambling equipment.** The following items apply to the sale of gambling equipment:

A. Before the sale of gambling equipment in Minnesota, the manufacturer must submit to the board a sample of its gambling equipment. The board shall inspect the product to determine if it meets the criteria and standards established by law and rule. The board shall notify the manufacturer within 15 days whether the product is approved for sale in this state.

B. A manufacturer may not sell or make available to any distributor any gambling equipment unless the distributor has a valid license issued by the board.

C. A manufacturer may not sell or provide any deal of pull-tabs or tipboards to a licensed distributor unless the deal meets the standards established in subpart 2.

(1) The manufacturer must place the flare for each pull-tab deal and each tipboard deal, with the Minnesota registration stamp affixed, inside the wrapping of each deal.

(2) The manufacturer must provide a master flare with each sealed grouping of up to 100 paddleticket cards.

(3) Each flare must fully describe the prizes and winning number, symbol, set of symbols, notice to pull-tab purchasers, and the bar code according to standards prescribed by the commissioner of revenue, and manufacturer's label or trademark. Each flare must also contain the odds, house percentage, or number of tickets.

D. A manufacturer may not sell, offer for sale, or otherwise provide a coin-operated or mechanical pull-tab dispensing device to any distributor in this state.

Subp. 2. **Standards of pull-tabs and tipboards.** The following items apply to pull-tabs and tipboards:

A. All pull-tab tickets sold in this state must conform to the following standards:

(1) Pull-tabs must be constructed so that concealed numbers or symbols cannot be viewed or determined from the outside of the pull-tab ticket using a high intensity lamp of 500 watts. Protection must be provided by using opaque paper stock or by use of an aluminum foil laminate.

(2) The deal must be assembled so that winners are placed randomly throughout the deal.

(3) The minimum information printed on a pull-tab, or if starred (*) on a single folded or banded ticket, must include:

*(a) the name of the manufacturer or its distinctive logo;

(b) the name of the game;

(c) the manufacturer's form number;

(d) the price per individual pull-tab;

*(e) the unique minimum five-digit game serial number, printed on the game information side of the pull-tab which must not be repeated on the same form number for three years; and

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(f) the number of winners, and respective winning numbers or symbols, and prize amounts unless a flare is included giving that information.

(4) The deal must be designed, constructed, glued, and assembled in such a manner as to prevent the determination of a winning ticket without removing the tabs or otherwise uncovering the symbols or numbers. Each ticket in a deal must bear the same serial number. There must not be more than one serial number in one deal.

The numbers or symbols must be fully visible in the window and must be centered so that no part of a symbol or number remains covered when the tab is removed.

(5) It must not be possible to isolate winning pull-tabs from variations in size or the appearance of a cut edge of the pull-tab.

(6) It must not be possible to detect or pick out winning pull-tabs through variations in printing graphics or colors.

(7) A unique symbol or printed security device, such as a specific number keyed to particular winners, or the name of the symbol or some of the symbol colors changed for a winner, or other similar protection must be placed in the winning windows. This item does not apply to numeral games.

(8) All pull-tabs sold in this state must be packaged as follows:

(a) Each deal's package, box, or other container must be sealed at the factory with a seal including a warning to the purchaser that the game may have been tampered with if the package, box, or container was received by the purchaser with the seal broken.

(b) A deal's serial number must be clearly and legibly placed on the outside of the deal's package, box, or other container.

(c) For games shipped to Minnesota for sale in this state, the flare for the game must be located on the outside of each game's sealed package, box, or other container.

B. All tipboard tickets sold in this state must conform to the following standards:

(1) Each tipboard ticket must contain the manufacturer's name, label, or trademark. The label or trademark must be filed with the board before the sale of the tipboard ticket by the manufacturer.

(2) Deals of tipboard tickets must be manufactured, assembled, and packaged so that none of the winning tipboard tickets, nor the location or approximate location of any of the winning tipboard tickets, can be determined in advance of opening the tipboard tickets in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(3) On banded tipboard tickets, the minimum four-digit serial number and the name of the manufacturer must be printed so both are readily visible before opening the tipboard ticket.

Subp. 3. Registration of gambling equipment. The following items apply to the registration of gambling equipment:

A. A manufacturer must affix a Minnesota registration stamp to the flare for each deal of pull-tabs and each deal of tipboards which are shipped, sold, furnished, or provided for use in Minnesota, or to any person or location in Minnesota.

(1) Consecutively numbered state registration stamps shall be sold by the board to each pull-tab or tipboard manufacturer at the cost of five cents each.

(2) A manufacturer may not place a Minnesota registration stamp on any item or product shipped, sold, or provided for use in other states or counties.

(3) A manufacturer may not transfer or furnish Minnesota registration stamps to any other manufacturer, any distributor, or any other person, other than a representative of the board or the commissioner of revenue.

(4) The manufacturer shall legibly write in ink, or legibly imprint in ink, the serial number of the pull-tab or tipboard game on the registration stamp. The serial number must match the serial number written or imprinted on the flare for that deal, and must also match the serial number imprinted on each ticket in the deal.

(5) Defective or unusable registration stamps may be returned by a manufacturer to the board. The board may reimburse or credit the manufacturer for any registration stamps returned. The board may refuse reimbursement or credit for returned registration stamps if the stamps have been altered or rendered unusable by the manufacturer.

(6) Minnesota registration stamps affixed to flares of returned or unusable pull-tab or tipboard deals which were previously stamped by a manufacturer must be voided by that manufacturer.

(a) The manufacturer shall write, in ink, the word "VOID" across the face of the registration stamp and shall retain the flares, with the voided registration stamps affixed, for a period of 3-1/2 years.

(b) Voided registration stamps should be reported to the commissioner of revenue as described in subitem (4).

(c) The deal associated with any voided registration stamp must be either destroyed, sold for use in a location other than Minnesota, or, if intended for shipment or sale to a Minnesota location, be provided with a new flare having a new registration stamp affixed to it.

(d) Manufacturer records and monthly reports to the commissioner of revenue must document these transactions.

(7) The manufacturer shall return all unused registration stamps to the board within five days after the cessation of business.

B. All gambling equipment sold by a licensed manufacturer for use in Minnesota must be manufactured in a manner that would permit the manufacturer to identify the buyer of the gambling equipment and provide the identity of the buyer at the request of the board.

C. All gambling equipment which is sold by a licensed manufacturer to a licensed distributor for use in Minnesota must have a legible and discernible logo or identification of the licensed manufacturer.

Subp. 4. **Records and reports.** The following items apply to manufacturers records of reports:

A. A licensed manufacturer must submit a monthly pricing report to the board. The report must be on a form approved by the board and at a minimum include:

(1) the name, license number, and full address of manufacturer;

(2) the month and year of report; and

(3) the form, description, card count, top winners, gross profit, percent to players, deals per case, price per deal, and volume discounted price, exclusive of transportation costs.

The report must be filed no later than the first day of each month. Amendments must be filed within five days of the filing. A computer-generated format may be used with the approval of the director if it substantially complies with the requirements of this part.

B. A manufacturer must report monthly to the commissioner of revenue, on a form prescribed by the commissioner. This report must include an accounting for all registration stamps used, returned, voided, ruined, destroyed, or otherwise disposed of during the report period. The report is due on the 25th day of the month which succeeds the month in which the registration stamp use takes place.

C. Delinquent distributors:

(1) A licensed manufacturer shall notify the board by registered mail if a licensed distributor is more than 30 days delinquent in its payment to that manufacturer.

(2) The board shall notify that licensed distributor of the delinquency and direct the distributor to eliminate the delinquency, if one exists.

(3) The board must be notified by the licensed manufacturer that the delinquency is paid or that no delinquency exists within ten days of the licensed manufacturer's initial notification to the board.

(4) If the board is notified that the delinquency has not been paid within ten days of the manufacturer's initial notification to the board, the board shall notify all licensed manufacturers that no gambling equipment may be sold, offered for sale, or furnished to that distributor.

(5) When the delinquency is paid, the board shall notify all licensed manufacturers.

D. Examination of books and records:

(1) The board and the commissioner of revenue or public safety and their agents may examine the books and records of any manufacturer.

(2) If the manufacturer fails to comply with this subpart, the board shall notify the manufacturer in writing that the manufacturer is responsible for the travel and living expenses of board staff while examining the manufacturer's books and records.

E. A manufacturer must maintain records which fully account for their receipt and use of all Minnesota registration stamps for a period of 3-1/2 years.

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DISCIPLINARY ACTIONS

7865.0010 COMPLIANCE REVIEW GROUP.

Subpart 1. **Establishment.** The chair of the board shall appoint at least one panel consisting of at least three board members to serve as a compliance review group. Compliance review groups will meet as necessary to exercise the powers and duties granted to them by subpart 2.

Subp. 2. **Powers and duties.** Each compliance review group may:

A. meet as necessary to consider alleged violations of laws or rules related to lawful gambling by persons licensed under *Minnesota Statutes*, chapter 349;

B. direct the director to initiate investigations of persons licensed under *Minnesota Statutes*, chapter 349, for the purpose of determining whether laws or rules related to lawful gambling have been violated;

C. require any person or entity licensed under *Minnesota Statutes*, chapter 349, to appear before it to discuss alleged violations of laws or rules related to lawful gambling;

D. conduct hearings according to this subpart;

E. negotiate proposed consent orders with licensees to resolve any violations of laws or rules related to lawful gambling;

F. enter into consent orders with licensees to resolve any violations of laws or rules related to lawful gambling;

G. recommend to the board that it take disciplinary action against a person or entity licensed under *Minnesota Statutes*, chapter 349;

H. recommend to the board that it summarily suspend a license pursuant to *Minnesota Statutes*, section 349.1641; and

I. initiate and recommend any other proceedings necessary to ensure that violations of the laws and rules related to lawful gambling are detected and addressed appropriately.

7865.0020 SUSPENSIONS OR REVOCATIONS.

Subpart 1. **Grounds for suspension.** The board may suspend any license issued pursuant to *Minnesota Statutes*, chapter 349, after a contested case hearing under *Minnesota Statutes*, chapter 14, if the licensee has:

A. violated any law or rule adopted by the board;

B. made a false statement in a document or application required to be submitted to the board or the Department of Revenue or has made a false statement in testimony before the board, or a compliance review group, or an agent of the board conducting an investigation on behalf of the board; and

C. engaged in fraud or misrepresentation in the securing of a license from the board or in the conduct of lawful gambling.

Subp. 2. **Length of suspension.** In determining the length of any suspension of a license issued under *Minnesota Statutes*, chapter 349, the board shall consider:

A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;

B. the culpability of the violator;

C. the frequency of the violator's failure to comply with laws or rules related to lawful gambling;

D. the actual harm caused to the integrity of lawful gambling;

E. the likelihood that the violations will occur again; and

F. the degree of the violator's cooperation during the course of the investigation into its activities.

Subp. 3. **Grounds for revocation.** The board may revoke the license of any organization, distributor, manufacturer, or bingo hall owner after a hearing pursuant to *Minnesota Statutes*, chapter 14, for what it determines to be a willful violation of laws or rules related to lawful gambling.

The board may revoke the license of any gambling manager after a hearing pursuant to *Minnesota Statutes*, chapter 14, for any violation of laws or rules related to lawful gambling after considering the factors identified in subpart 2.

Subp. 4. **Additional grounds.** Any grounds for denial of a license are also grounds for suspension or revocation of a license.

Subp. 5. **Compliance review groups.** In negotiating consent orders containing proposed suspensions or revocations, the compliance review groups shall consider the provisions of this part.

7865.0030 FINES.

Subpart 1. **Imposition.** The board may impose a civil fine upon any licensed organization, gambling manager, bingo hall lessor,

distributor, or manufacturer for violation of any provision of *Minnesota Statutes*, sections 349.12 to 349.23, or a violation of the board's rules. The civil penalty may not exceed \$500 per violation.

In determining the amount of the fine to be imposed for a violation of law or rule, the board shall consider:

- A. the severity of the conduct as indicated by the potential harm to the integrity of lawful gambling;
- B. the culpability of the violator;
- C. the frequency of the violator's failure to comply with the law or rules;
- D. the actual harm caused to the integrity of lawful gambling; and
- E. any other factor related to the violation that the board considers crucial to its determination of the amount of the fine as long as the same factors are considered with regard to all violators.

Subp. 2. Citation form. The director or agents of the commissioner of revenue may issue to any licensee or person registered with the board a proposed fine on a citation form prescribed by the board. The amount of the proposed fine must be determined according to the factors listed in subpart 1. The proposed fine must be paid to the board within seven days, excluding Saturdays, Sundays, and holidays, of the date on which the citation is issued. Failure to pay the proposed fine within seven days may subject the licensee or registered person to further disciplinary action by the board unless the licensee or registered person appeals the citation and the proposed fine to the board within the seven-day period.

Subp. 3. Appeals. An appeal of the proposed fine must contain the name of the person or organization that received the citation, the date on which the citation was issued, the amount of the proposed fine as stated on the citation, and the specific reasons why the proposed fine should not be paid.

Appeals of proposed fines shall be referred by the board to the compliance review group for purposes of a hearing. Within ten days of the receipt of an appeal, the compliance review group must schedule a hearing. The licensee or registered person may be represented by counsel and may present documents and other relevant evidence to support its position. The compliance review group must issue an order within ten days of the date of the hearing, recommending to the board whether or not a civil fine should be imposed.

If the compliance review group determines that a civil fine should be imposed, the order must contain a recommendation for the amount of the fine. The board must act on the recommendation of the compliance review group at its next regularly scheduled meeting. Within ten days of acting on the matter, the board must issue an order, including findings of fact and conclusions of law. The order is a final agency decision.

Subp. 4. Payment from gross receipts prohibited. Money used to pay a fine imposed by the board may not be paid from the gross receipts of gambling.

Subp. 5. Consequences of failure to correct violations. Failure to correct the violation for which the fine was imposed is grounds for the suspension or revocation of a license.

7865.0040 STAYS.

Subpart 1. Entitlement. A licensee subjected to a board order suspending or revoking its license or imposing a civil fine upon it is entitled to a stay of imposition of that sanction upon filing an appeal to the court of appeals unless the board determines that the potential or actual harm to the public and/or the integrity of lawful gambling resulting from the grant of such a stay would exceed the harm to the licensee from the denial of such a stay.

Subp. 2. Procedure. The following items apply to the procedure for requests for stays of impositions of sanctions:

- A. A licensee seeking a stay pursuant to subpart 1 must file a written request with the board. The request must contain:
 - (1) a copy of the licensee's appeal to the court of appeals and proof that the appeal has been filed with the court of appeals;
 - (2) a brief statement describing why the harm the licensee would suffer from the denial of a stay exceeds the potential or actual harm to the public or the integrity of lawful gambling that would result from the grant of a stay; and
 - (3) a copy of the order issued by the board imposing the sanction the licensee seeks to have stayed.
- B. Any request for a stay complying with the provisions of item A must be considered by the chair of the board pursuant to subpart 1. The chair shall respond to the applicant in writing within five days, excluding Saturdays, Sundays, and holidays, of the date the application is received by the board. The response shall grant or deny the stay and explain the reasons for the decision. The

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Proposed Rules

chair's decision regarding the stay shall represent the official board response to the request until the board is able to consider the request pursuant to item C.

C. All requests for stays shall be considered by the board after initial consideration and response by the chair. If the chair has granted the licensee's request for the stay, the board shall consider the request at its next regularly scheduled meeting. If the chair has denied the request, the chair shall call a special board meeting to consider the licensee's request for a stay. The special meeting must be held no later than ten days after the chair has issued a written response to the request. When the board considers the request for a stay, it shall grant or deny the stay pursuant to subpart 1 and issue a written order containing its decision and the reasons for the decision within five days of the date it considers the request. The board's decisions constitutes a final agency action.

REPEALER. *Minnesota Rules*, parts 7860.0010; 7860.0020; 7860.0040; 7860.0050; 7860.0060; 7860.0070; 7860.0080; 7860.0090; 7860.0100; 7860.0105; 7860.0110; 7860.0120; 7860.0130; 7860.0140; 7860.0150; 7860.0160; 7860.0170; 7860.0180; 7860.0190; 7860.0200; 7860.0210; 7860.0220; 7860.0230; 7860.0240; 7860.0250; 7860.0260; 7860.0270; 7860.0280; 7860.0290; 7860.0300; 7860.0310; 7860.0320; 7860.0400; 7860.0500; 7860.0600; 7860.0700; are repealed.

Pollution Control Agency

Hazardous Waste Division

Proposed Permanent Rules Relating to Hazardous Waste Facility and Generator Fees

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule amendments is set forth in *Minnesota Statute* § 116.12 (1990).

All persons have until 4:30 p.m. on November 14, 1991 to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1990).

Please Note That if 25 or More Persons Submit Written Requests for a Public Hearing Within the 30-Day Comment Period, a Hearing Will be Held on November 19, 1991, Unless a Sufficient Number Withdraw Their Request, in Accordance With the Notice of Public Hearing on These Same Rule Amendments Published in This State Register and Mailed to Persons Registered With the MPCA. To verify whether a hearing will be held, please call Jeanne Eggleston between November 15, 1991 and November 19, 1991 at 612/297-8371.

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

Jeanne Eggleston
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-3898
612/297-8371

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

The proposed rule amendments, if adopted, will increase the facility and nonmetropolitan generator fees to meet the biennial budget requirements established by the legislature. The amendments also propose revisions to the structure of the fee rules, including the addition of a permit major modification fee for facilities and the repeal of the small quantity generator maintenance agreement provision. The proposed rule amendments are published below. One free copy of the rules is available upon request from Jeanne Eggleston at the address and telephone number stated above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule amendments has been prepared and is available from Jeanne Eggleston upon request.

The Agency is subject to *Minnesota Statute* § 14.115, regarding small business considerations in rulemaking. The Agency's

evaluation of the applicability of the methods contained in *Minnesota Statute* § 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the **STATEMENT OF NEED AND REASONABLENESS**.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and 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, must submit the written request to Jeanne Eggleston.

Charles W. Williams
Commissioner

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) will hold a public hearing in the above-entitled matter at the MPCA Board Room, 520 Lafayette Road North, St. Paul, Minnesota, commencing at 9:00 a.m. on Tuesday, November 19, 1991, and continuing in an evening session at the same location starting at 7:00 p.m. Additional days of hearing will be scheduled if necessary. 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 without appearing at the hearing.

Please Note, However, That the Hearing will be Cancelled if Fewer Than 25 Persons Request a Hearing in Response to the Notice of Intent to Adopt These Same Rule Amendments Without a Public Hearing Published in This State Register and Mailed to Persons Registered With the MPCA. To verify whether a hearing will be held, please call Jeanne Eggleston, Minnesota Pollution Control Agency, between November 15, 1991 and November 19, 1991 at 612/297-8371.

The matter will be heard before Administrative Law Judge Allen E. Giles, Office of Administrative Hearings, 5th Floor Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, 612/349-2543. 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 rule amendments governing hazardous waste facility and generator fees, *Minnesota Rules* ch. 7046. The proposed rule amendments are authorized by *Minnesota Statute* § 116.12 (1990). The proposed rule amendments are published below. One free copy of the proposed rule amendments is available on request by contacting:

Jeanne Eggleston
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-3898
612/297-8371

NOTICE IS HEREBY GIVEN that a **STATEMENT OF NEED AND REASONABLENESS** is available for review at the MPCA offices and at the Office of Administrative Hearings. The **STATEMENT OF NEED AND REASONABLENESS** includes a summary of all of the evidence and argument which the MPCA anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rule amendments. Copies of the **STATEMENT OF NEED AND REASONABLENESS** may be reviewed at the MPCA 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 not be 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 MPCA 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 MPCA 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 Jeanne Eggleston at the address stated above.

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Proposed Rules

The proposed rule amendments 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 rule amendments. Therefore, if you are affected in any manner by the proposed rule amendments, you are urged to participate in the rule hearing process.

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the MPCA may not take final action on the rule amendments 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.

You may request notification of the date on which the rule amendments 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 so notified you may so indicate at the hearing or send a request in writing to the MPCA at any time prior to the filing of the rule amendments with the Secretary of State.

The Agency is subject to *Minnesota Statute* § 14.115, regarding small business considerations in rulemaking. The Agency's evaluation of the applicability of the methods contained in *Minnesota Statute* § 14.115, subdivision 2, for reducing the impact of the proposed rules is addressed in the **STATEMENT OF NEED AND REASONABLENESS**.

Please be advised that *Minnesota Statute* ch. 10A (1990) 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 55101-2520, telephone 612/296-5148.

Charles W. Williams
Commissioner

Rules as Proposed

7046.0010 DEFINITIONS.

[For text of subs 1 to 4a, see M.R.]

Subp. 5. **Generator.** "Generator" means any person, by site, whose act or process produces a hazardous waste or whose act first causes a hazardous waste to become subject to regulation. "By site" means by each location ~~that is not on-site in relation to another location owned or controlled by the same person required to have a unique identification number.~~

[For text of subs 6 to 10, see M.R.]

Subp. 10a. Large quantity generator. "Large quantity generator" has the meaning given in part 7045.0206.

[For text of subs 11 to 16, see M.R.]

Subp. 17. [See repealer.]

Subp. 17a. [See repealer.]

[For text of subp 18, see M.R.]

Subp. 18a. Small quantity generator. "Small quantity generator" has the meaning given in part 7045.0206.

[For text of subs 19 to 24, see M.R.]

Subp. 24a. Very small quantity generator. "Very small quantity generator" has the meaning given in part 7045.0206.

Subp. 25. **Waste stream.** "Waste stream" means ~~all wastes of a particular composition~~ generated by the same process at a generator's site.

7046.0020 HAZARDOUS WASTE FACILITY FEES.

Subpart 1. **Fee schedule for five-year permits.** A person applying for issuance ~~or~~, reissuance, or major modification under part 7001.0190, subpart 1, of a five-year permit for a hazardous waste facility shall remit the ~~permit application fee or permit reissuance applicable fee~~ given in item A or B. A person applying for a major modification concurrent with a permit reissuance application shall not be assessed a major modification fee.

A person who owns or operates a hazardous waste facility shall remit ~~the~~ an annual facility fee for ~~that~~ the fiscal year ~~if beginning on July 1, and ending on June 30, if during that year the facility is was treating, storing, or disposing of hazardous waste, had not obtained closure approval, or has had closed as a land disposal facility with hazardous waste remaining after closure in place. A facility that meets the annual facility fee payment criteria for less than a full year shall be assessed a prorated facility fee.~~

A facility in which hazardous waste remains after closure continues to be subject to the annual facility fee until the owner or operator is exempted under subpart 8.

Proposed Rules

	Permit Application Fee	Annual Facility Fee	Permit Reissuance Fee	<u>Major Modification Fee</u>
A. Storage				
Tanks and containers indoors				
Total capacity greater than 550 gallons	\$ 1,820 <u>2,140</u>	\$ 2,670 <u>3,150</u>	\$ 910 <u>1,070</u>	\$ <u>710</u>
Total capacity 550 gallons or less	1,210 <u>1,430</u>	1,180 <u>1,390</u>	610 <u>720</u>	<u>470</u>
Tanks and containers outdoors				
Total capacity greater than 550 gallons	3,640 <u>4,290</u>	5,350 <u>6,300</u>	1,820 <u>2,150</u>	<u>1,420</u>
Total capacity 550 gallons or less	2,430 <u>2,860</u>	2,130 <u>2,510</u>	1,210 <u>1,430</u>	<u>940</u>
Piles	10,930 <u>12,880</u>	15,310 <u>18,040</u>	5,470 <u>6,640</u>	<u>4,250</u>
Surface impoundment	18,220 <u>21,460</u>	15,310 <u>18,040</u>	9,110 <u>10,730</u>	<u>7,080</u>
B. Disposal and treatment				
Surface impoundment	21,870 <u>25,760</u>	21,140 <u>24,900</u>	10,930 <u>12,880</u>	<u>8,500</u>
Treatment (not otherwise specified including open burning)	21,870 <u>25,760</u>	10,690 <u>12,590</u>	10,930 <u>12,880</u>	<u>8,500</u>
Thermal treatment (not including open burning)	54,670 <u>64,400</u>	37,180 <u>43,800</u>	27,340 <u>32,200</u>	<u>21,250</u>
Land treatment	54,670 <u>64,400</u>	37,180 <u>43,800</u>	27,340 <u>32,200</u>	<u>21,250</u>
Land disposal				
Active facilities	54,670 <u>64,400</u>	37,180 <u>43,800</u>	27,340 <u>32,200</u>	<u>21,250</u>
Closed facilities (includes all facilities in which waste remains after closure)	27,330 <u>32,200</u>	24,790 <u>29,200</u>	13,670 <u>16,100</u>	<u>10,630</u>

Subp. 2. **Application fee schedule for permits less than five-year term.** The following schedule must be used to calculate the application fee for a permit term of less than five years.

Term of Permit	Permit Application Fee
1 year	35 percent of application fee in subpart 1 or subpart 3
2 years	60 percent of application fee in subpart 1 or subpart 3
3 years	75 percent of application fee in subpart 1 or subpart 3
4 years	90 percent of application fee in subpart 1 or subpart 3

The annual facility fee is the applicable fee listed in ~~table 4~~ in subpart 1.

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Proposed Rules

Subp. 3. **Combination facilities.** An application fee for a facility consisting of several treatment, storage, or disposal functions must be calculated according to the following schedule for application fees and annual facility fees:

Permit reissuance fees shall be assessed at 50 percent of the application fee as calculated under this subpart. Permit major modification fees shall be assessed at 33 percent of the application fee under subpart 1 for the component of the facility being modified. For major modifications not associated with a specific component of a combination facility, the permit major modification fee shall be assessed at 33 percent of the application fee as calculated under this subpart for the combination facility. A person applying for a major modification concurrent with a permit reissuance application shall not be assessed a major modification fee.

Facility Description	<u>Application Fee and Annual Facility Fee Calculation</u>	<u>Permit Reissuance Fee</u>
A. Thermal treatment + treatment + storage	Thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	All facilities 50 percent of application fee as calculated according to schedule
B. Disposal + storage	Disposal + 0.2 x fee for storage	
C. Thermal treatment + storage	Treatment + 0.2 x fee for storage	
D. Disposal + thermal treatment	Disposal + 0.2 x fee for thermal treatment	
E. Thermal treatment + disposal + treatment + storage	Disposal + 0.8 x fee for thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	
F. Disposal + land treatment	Disposal + 0.8 x fee for land treatment	
G. Land treatment + storage	Land treatment + 0.2 x fee for storage	
H. Treatment + storage	Treatment + 0.2 x fee for storage	

Subp. 4. **Environmental review costs.** The following additional fee is required for a hazardous waste facility project that requires only an environmental assessment worksheet under *Minnesota Statutes*, chapter 116D: the fee is \$200 plus 0.10 percent of the project estimated costs. The project estimated costs are the costs of the entire project to complete a hazardous waste facility including the current market value of all the land interests, owned or to be owned by the facility owner, which are included in the boundaries of the project; costs of engineering and architecture for the project; expenditures necessary to begin physical construction or operation of the project; construction required to implement the project including costs of essential public service facilities; and the costs of permanent fixtures.

Nothing in this part precludes the applicability of the Environmental Impact Statement (EIS) cost assessment system as described in the rules of the Environmental Quality Board.

Subp. 5. **Payment schedule.** Fees must be made payable to the state treasurer and submitted to the commissioner as follows:

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

C. Permit reissuance and permit major modification fees must be submitted with the reissuance or major modification application for permit reissuance.

Subp. 6. **Failure to submit fees.** Failure to submit fees by the required date results in the following penalties:

A. A facility permit, permit reissuance, or permit major modification application submitted without the facility application applicable fee is incomplete. The commissioner shall suspend further processing of the permit application until the appropriate fee is received by the commissioner.

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

[For text of subps 7 and 8, see M.R.]

7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1. **Basis of fees.** The agency shall charge nonmetropolitan area generator fees ~~that are~~ based on the annual license application and licensing reports submitted by generators, ~~disclosures, and~~ or other appropriate information available to the agency.

For the purposes of this part, one gallon of hazardous waste equals ten pounds of hazardous waste.

Subp. 2. **Small generator Fee exemption.** Nonmetropolitan area generators that generate a total of less than ~~the equivalent of or equal to~~ ten gallons or 100 pounds of hazardous waste per year are exempt from the annual fees of this part.

For the purposes of this part, a conversion factor of one gallon of hazardous waste equals ten pounds of hazardous waste will be used.

Subp. 2a. Fee adjustment. For very small quantity generators who submit their fee payments with their annual license renewal

application required under part 7045.0248, the commissioner shall adjust the fee amount if the generator no longer qualifies as a very small quantity generator. Subparts 6 and 7 also apply to any adjusted fee statement.

Subp. 3. [See repealer.]

Subp. 4. **Annual fees.** An annual fee is the sum of the waste generation volume fees and the base fee. Nonmetropolitan area generators shall submit annual fees as follows: described in items A and B.

A. A ~~waste generation~~ volume fee must be paid by all nonmetropolitan generators based on the amount of unsewered hazardous waste generated and method of waste management or disposal used in the calendar year. A volume fee is not assessed for sewer liquid waste. Very small quantity generators are exempt from volume fees.

The volume fee is assessed on a per gallon basis for ~~liquid waste streams~~ or a per pound basis for ~~nonliquid~~ each waste streams stream. The volume fee is ~~\$0.09~~ \$0.18 per gallon and ~~\$0.009~~ \$0.018 per pound for each gallon and pound produced under 2,640 gallons or 26,400 pounds. The volume fee for each gallon and pound equal to or exceeding 2,640 gallons or 26,400 pounds is ~~\$0.04~~ \$0.05 per gallon and ~~\$0.004~~ \$0.005 per pound. The volume fee shall be multiplied by the following factors for waste streams managed by the following methods:

Management Method	Factor
Recycle, feedstock, or by-product on-site	0
Recycle, feedstock, or by-product off-site	0.67
Burned for fuel	0.67
Neutralization	0.67
Incineration	0.67
Disposal and other methods	1.00

Any sludges or residues of recycling, burning for fuel, neutralization, or incineration are subject to the volume fee.

B. A base fee must be paid by all nonmetropolitan area generators based on generator size as follows:

(1) a ~~nonmetropolitan area large quantity generator who does not qualify as a small quantity generator in part 7045.0219~~ must pay a base fee of \$350;

(2) a ~~nonmetropolitan area generator, who qualifies as a small quantity generator in part 7045.0219 and is not a small quantity generator as described in subitem (3);~~ must pay a base fee of ~~\$105~~ \$130; and

(3) a ~~nonmetropolitan area generator, who qualifies as a very small quantity generator in part 7045.0219 and generates less than 100 kilograms of hazardous waste per calendar month;~~ must pay a base fee of ~~\$35~~ \$62.

Subp. 5. [See repealer.]

Subp. 6. **Payment schedule.** A nonmetropolitan area generator shall submit fees within ~~60~~ 30 days after receipt of the notice from the commissioner that the fees are due or by the first day of the following calendar quarter, whichever occurs later. ~~Fees submitted after the due date are considered late.~~

A nonmetropolitan area generator shall submit a check for the required amount to the commissioner, made payable to the Minnesota Pollution Control Agency.

Subp. 7. **Failure to submit Late fees.** If a nonmetropolitan area generator fails to submit the required fees by the due date provided in subpart 6, the generator shall pay the fees plus a late fee as provided in item A or B and item C.

A. Large quantity and small quantity generators will be assessed a late fee for each 30 day period or fraction of that period that the fee remains unpaid. The late fee is calculated as a percentage of the annual fee as follows: ten percent of the annual fee for each of the first two 30 day periods, and 15 percent of the annual fee for each 30 day period, or fraction of a 30 day period, thereafter.

B. Very small quantity generators shall be assessed a one-time late fee of 50 percent of the annual fee.

C. If a nonmetropolitan area generator fails to submit the ~~requested~~ required fees by the due date, the generator ~~becomes~~ is liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the annual fee and any applicable late fees.

7046.0040 GENERATOR STATEWIDE PROGRAM FEE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual statewide program fee equal to ~~68~~ 52 percent of the

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Proposed Rules

annual hazardous waste fee or flat annual fee, whichever applies paid annually to the agency under part 7046.0031 or to the metropolitan counties under their respective hazardous waste ordinances. Payment must be made as provided in subparts 2 and 3.

Subp. 2. **Nonmetropolitan area generators.** Nonmetropolitan area generators shall pay the statewide program fee to the commissioner at the time of payment of the annual fee ~~or flat annual fee~~. A nonmetropolitan area generator who fails to pay the annual statewide program fee is considered delinquent and subject to the late fee ~~penalty~~ provided in part 7046.0031, subpart 7.

Subp. 3. **Metropolitan area generators.** Metropolitan area generators shall pay the statewide program fee ~~with the license fee~~ to the county in which the generating site is located along with the hazardous waste fee collected annually by that county. The metropolitan area counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) that are responsible for collecting the statewide program fee shall remit the statewide program fee to the commissioner not later than the last day of the month following the month of collection.

7046.0045 RETROACTIVE FEE.

Subpart 1. Applicability. The commissioner shall assess annual and statewide program fees retroactively for each calendar year prior to the most recent calendar year subject to fees to which item A, B, or C applies.

A. A person generated hazardous waste without a license as required under part 7045.0225.

B. A licensed large quantity or small quantity generator produced a hazardous waste that was not identified and approved as part of the license and license renewal process under parts 7045.0225 to 7045.0250.

C. A licensed very small quantity generator produced a hazardous waste that was not identified and approved as part of the license and license renewal process under parts 7045.0225 to 7045.0250 and the total volume generated exceeded the maximum volume amounts for a very small quantity generator.

Subp. 2. Schedule. The commissioner shall assess retroactive fees as provided in item A or B. Retroactive fees for waste produced for less than the maximum retroactive period may be prorated based on actual months of production if documented by the generator under the appeal procedure provided in part 7045.0070.

A. For large quantity and small quantity generators, retroactive fees shall be assessed for a maximum retroactive period of two calendar years prior to the most recent calendar year subject to fees until June 30, 1992. Effective July 1, 1992, retroactive fees shall be assessed for a maximum retroactive period of three calendar years prior to the most recent calendar year subject to fees.

B. For very small quantity generators, effective July 1, 1992, retroactive fees shall be assessed for a maximum retroactive period of three calendar years prior to the most recent calendar year subject to fees. Retroactive fees shall not be assessed for the period prior to January 1, 1991.

Subp. 3. Fee calculation. Retroactive fees shall be calculated as described in item A, B, or C.

A. For persons subject to fees under subpart 1, item A, the fee is calculated by multiplying the sum of the most recent annual fee and the statewide program fee that would be required under the license by the number of retroactive calendar years established under subpart 2.

B. For persons subject to fees under subpart 1, item B, the fee is calculated by multiplying the sum of the most recent volume fee and statewide program fee that would be required for the waste omitted from the license by the number of retroactive calendar years established under subpart 2. If the additional volume changes the generator's size category used in determining the base fee under part 7046.0031, subpart 4, item B, an additional retroactive fee shall be assessed for the difference between the higher base fee and the lower base fee. The statewide program fee shall be applied to the difference in the base fee. The base fee revision and the statewide program fee shall be multiplied by the number of retroactive calendar years established under subpart 2.

C. For persons subject to fees under subpart 1, item C, the fee is calculated by determining the difference between the higher base fee and the lower base fee. The statewide program fee shall be applied to the difference in the base fee. The base fee revision and the statewide program fee shall be multiplied by the number of retroactive calendar years established under subpart 2.

7046.0050 GENERATOR FEE EXEMPTIONS.

Subp. 3. **Wastes generated as a result of response action.** A waste that is generated as a result of a response action is exempt from the generator fee. A response action is removal or remedial action taken according to the Environmental Response and Liability Act, Minnesota Statutes, sections 115B.01 to 115B.24, or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law Number 96-510.

Subp. 4. [See repealer.]

[For text of subp 5, see M.R.]

Subp. 6. Waste collected as a result of a very small quantity generator hazardous waste collection program. An operator of a very small quantity generator hazardous waste collection program is exempt from generator fees for waste collected under part 7045.0320.

An operator who is also a generator is not exempt from generator fees for the waste that the operator generates as distinct from the waste that the operator collects from other generators.

A very small quantity generator participating in a collection program under part 7045.0320 is not exempt from generator fees.

7046.0070 APPEAL PROCEDURE.

If a generator believes that the fee requested by the commissioner is in error or exceeds the hazardous waste generator fees assessed by the metropolitan area county with the highest fee structure, then the generator may appeal the fee levy. Within ten days of receipt of the fee statement from the commissioner, the generator shall provide a written appeal which includes the fee the generator has calculated and the method used by the generator in calculating the fee. After review of the appeal, the commissioner shall send the generator a decision letter regarding the appeal. In the decision letter, the commissioner shall specify the fee to be remitted by the generator. The generator shall submit the specified fee within 30 days of receipt of the commissioner's decision letter or by the original due date, whichever is later. A generator who fails to submit the specified fee by the required date is delinquent and must pay the late fee penalty, specified in part 7046.0031, subpart 7.

STATE REGISTER CITATIONS. The references to parts 7045.0206, 7045.0225 to 7045.0250, 7045.0320, and 7046.0031 in these proposed rules are to those parts as they are proposed at 16 State Register, pages 323 to 349, August 19, 1991, and later adopted.

REPEALER. Minnesota Rules, parts 7046.0010, subparts 17 and 17a; 7046.0031, subparts 3 and 5; and 7046.0050, subpart 4, are repealed.

Pollution Control Agency

Ground Water and Solid Waste Division

Proposed Rules Relating to the Minnesota Environmental Response and Liability Act (MERLA) Administrative Procedures

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act (*Minnesota Statutes*, sections 14.22 to 14.28 (1990)). The statutory authorities to adopt the rules are set forth in *Minnesota Statutes*, sections 14.06 and 116.07, subdivision 3 (1990).

All persons have until 4:30 p.m. on Monday, November 18, 1991, to submit comments 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.

This notice applies to the proposed rules for which the MPCA previously published a **Notice of Intent to Adopt Rules Without a Public Hearing** in the *State Register* on January 28, 1991 (15 SR 1672). All comments received during the comment period after the January 28, 1991, notice will be made a part of the record of this rulemaking proceeding.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number of commenters withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. Requests for a hearing submitted during the comment period after the January 28, 1991, notice will be counted together with any requests submitted during the comment period in determining whether a hearing will be held on the proposed rules.

If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1990).

Comments should be submitted to:

Allen Dotson
Minnesota Pollution Control Agency
Ground Water and Solid Waste Division

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Proposed Rules

520 Lafayette Road
St. Paul, Minnesota 55155-3898
(612) 296-7735

The proposed rules may be modified if modifications are supported by data and views submitted to the MPCA and if they do not result in substantial changes to the proposed rules as noticed.

The proposed rules, if adopted, will formalize certain administrative procedures currently used by the MPCA in administering its Superfund program. The MPCA believes that adoption of the proposed rules will ensure systematic and equitable adherence to statutory requirements while protecting the rights and interests of affected parties and the environment. The MPCA's primary goal in developing the rules is to expedite initiation of the Superfund site cleanup process through clarification of the respected procedural responsibilities of persons who are or who may be responsible for a release or threatened release of hazardous substances or pollutants or contaminants, and of the MPCA staff, Commissioner, and Board.

One free copy of the rules is available upon request from Allen Dotson at the address and telephone stated above.

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

You are hereby advised, pursuant to *Minnesota Statutes*, section 14.115 (1990), "Small business considerations in rulemaking," that the proposed rules, if adopted, would not have a significant impact on small businesses, including small farms. Since the proposed rules would formalize current procedures, they would have no appreciable impacts upon small businesses. The proposed rules are not complex, and thus they would not place undue burden on the resources of small businesses. Furthermore, exemption of small businesses from any or all requirements under the proposed rules would conflict with the objectives of *Minnesota Statutes*, chapter 115B (MERLA). MERLA makes no distinction between small businesses and other parties who may be responsible for a release or threatened release, and does not authorize the MPCA to treat small businesses differently in the administration of MERLA.

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 of this material to the Attorney General, or to receive a copy of the rule as adopted. Requests shall be submitted to Allen Dotson at the address listed above.

Charles W. Williams
Commissioner

Adopted Rules

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

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

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

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

Department of Commerce

Adopted Permanent Rules Relating to Petrofund; Ineligible Costs

The rules proposed and published at *State Register*, Volume 15, Number 30, pages 1625-1627, January 22, 1991 (15 SR 1625), are adopted as proposed.

Department of Health

Adopted Permanent Rules Relating to the Registration of Respiratory Care Practitioners

The rules proposed and published at *State Register*, Volume 15, Number 29, pages 1565-1575, January 14, 1991 (15 SR 1565), are adopted with the following modifications:

Rules as Adopted**4760.0010 DEFINITIONS.**

Subp. 12. **Direct supervision.** "Direct supervision" means working under a registered respiratory care practitioner or qualified medical director who is present in the facility or readily available by telephone at the time the respiratory care services are being provided.

Subp. 20. **Respiratory care.** "Respiratory care" means the provision of services described under part 4760.0040 for the assessment, treatment, management, ~~diagnostic~~ evaluation, and care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system, under the guidance of a qualified medical director and pursuant to a referral from a physician who has medical responsibility for the patient.

4760.0030 PROTECTED TITLES AND RESTRICTIONS ON USE.

Subp. 3. **Identification of registered practitioners.** Respiratory care practitioners registered in Minnesota shall wear a name tag that identifies them as a ~~registered~~ respiratory care practitioner.

4760.0040 SCOPE OF PRACTICE.

Subpart 1. **Scope of services.** The practice of respiratory care by a registered respiratory care practitioner includes, but is not limited to, the following services:

F. assisting in hemodynamic monitoring of the cardiopulmonary system;

4760.0050 GENERAL REGISTRATION REQUIREMENTS.

Subpart 1. **General requirements.** To be eligible for registration, each applicant for registration must:

C. Within one year prior to application for registration, achieve a qualifying score on a credentialing examination.

4760.0060 EXCEPTIONS TO GENERAL REGISTRATION REQUIREMENTS.

Subp. 2. **Registration by reciprocity.** The board may issue temporary registration to an applicant for registration by reciprocity who satisfies the requirements of item A, while the application for registration by reciprocity is awaiting action by the board under part 4760.0065. To be eligible for registration by reciprocity, the applicant must:

Subp. 4. **Transitional registration.** For two years after the effective date of parts 4760.0010 to 4760.0300, an applicant may qualify for transitional registration by fulfilling the requirements of items A and B. The board shall notify potential registrants of the date that parts 4760.0010 to 4760.0300 are effective, signifying the beginning of this period and of the final date for submitting an application for transitional registration. Applications for registration under this subpart will not be accepted after the expiration of the two-year period. To be eligible for registration under the transitional requirements, the applicant must meet the requirements of items A and B.

B. The individual must:

(1) obtain documentation from a qualified medical director verifying employment consisting of the performance of respiratory care ~~procedures~~ services for at least 21 hours per week in respiratory care for four of the five years preceding the application under the supervision of a qualified medical director. ~~This~~ The documentation from the qualified medical director must include identification of employment setting, diagnoses of patients seen for respiratory care, the type and frequency of procedures performed, and the type and frequency of ~~diagnostic~~ evaluations performed; or

4760.0065 BOARD ACTION ON APPLICATIONS FOR REGISTRATION.

The board shall act on each application for registration according to items A to D.

B. The board shall ~~determine~~ use the qualifying score on the credentialing examination ~~based on guidelines~~ provided by the National Board for Respiratory Care ~~or the advisory council~~.

C. The board shall notify each applicant in writing of action taken on the application ~~and of~~ the grounds for denying registration if registration is denied, and the applicant's right to review under item D.

4760.0070 REGISTRATION RENEWAL.

Subp. 4. **Registration following lapse of registered status for two years or less.** For any ~~registrant individual~~ individual whose registered status has lapsed for two years or less, to regain registered status the ~~registrant individual~~ individual must:

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Adopted Rules

Subp. 5. **Registration following lapse of registered status of more than two years. Registered status expires** For any individual who has failed to renew registration for more than two years, to regain registered status, the individual must meet the requirements of items A and B.

B. The individual must:

(2) attend continuing education hours equivalent to ~~12 hours~~ one hour for each ~~year~~ month of lapsed registration before submitting an application to regain registered status.

4760.0090 CONTINUING EDUCATION REQUIREMENTS.

Subp. 8. **Credit for credentialing examination.** A registrant may fulfill the continuing education requirements for a two-year reporting period by ~~completing~~ achieving a qualifying score on one of the credentialing examinations of the National Board for Respiratory Care. A registrant may achieve 12 hours continuing education credit by completing a National Board for Respiratory Care specialty examination.

Department of Human Services

Adopted Permanent Rules Relating to Surveillance and Utilization Review of Medical Assistance Services

The rules proposed and published at *State Register*, Volume 16, Number 1, pages 5-6, July 1, 1991 (16 SR 5), are adopted as proposed.

Board of Nursing

Adopted Permanent Rules Relating to Nurse Practitioners Prescribing Authority

The rules proposed and published at *State Register*, Volume 15, Number 49, pages 2558-2563, June 3, 1991 (15 SR 2558), are adopted with the following modifications:

6340.0300 INITIAL APPLICATION PROCEDURE.

Subp. 3. **Fee.** An applicant shall submit a fee of \$50 with the application. The fee must be paid to the board ~~in United States currency, cashier's check, or money order. Personal checks are not accepted.~~ If for any reason the applicant is not eligible for prescribing authority, the fee is not refundable.

Commissioners' Orders

Department of Transportation

Commissioner's Order No. 77588: Uniform Traffic Control Devices Manual

WHEREAS, the United States Department of Transportation, Federal Highway Administration (FHWA), has adopted and published a Manual on Uniform Traffic Control Devices for Streets and Highways, 1988 edition, (herein referred to as the "FHWA MUTCD"), and Errata Notification of Correction dated November 2, 1989, and

WHEREAS, this FHWA MUTCD has been allowed by the Federal Highway Administrator as the National Standard for all highways open to public travel in accordance with Title 23, U.S.C. Sections 109(d), 315 and 402(a), and 49 C.F.R. Section 1.48, and

WHEREAS, the Minnesota Department of Transportation has amended the FHWA MUTCD by adding Appendices and revising or adding text and figures to make provisions for *Minnesota Statutes* and department procedures, and

NOW, THEREFORE, pursuant to authority vested in my office and as provided in *Minnesota Statutes*, Section 169.06, subd. 1 (1990), I do hereby adopt and prescribe the following as the 1991 Minnesota Manual on Uniform Traffic Control Devices for Streets and Highways (referred to as the "1991 MN MUTCD"):

1. United States, Department of Transportation, Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and Highways, 1988 edition, including Errata Notification of Correction, dated November 2, 1989.

2. Minnesota Department of Transportation Appendices:

- a. APPENDIX A—Warrants, Standards and Guidelines for Traffic Control Devices used at Senior Citizen and Handicapped Pedestrian Crossings.
- b. APPENDIX B—Traffic Control for Short Term Street or Highway Work Zones, March 1990 (previously adopted under Order No. 75949, dated May 3, 1990).
- c. APPENDIX C—Sign List and Recommended Sizes.

3. State of Minnesota, Department of Transportation, additional sections, revisions and corrections to the 1988 FHWA Manual.

IT IS FURTHER ORDERED that the provisions of the 1991 MN MUTCD shall be implemented and applied to all traffic control devices installed on or after July 1, 1992 upon highways within this State except for pavement markings which shall be in compliance as of the first application after January 1, 1992 and except for those traffic control devices which conform to the 1986 edition of the MN MUTCD and are on order or under contract prior to July 1, 1992. All existing traffic control devices or installations not in accordance with standards in the 1991 MN MUTCD shall be changed to conform to the new standards herein when replacement occurs.

This Order supersedes Order No. 71787, dated December 19, 1986, which adopted and prescribed the 1986 Minnesota Manual on Uniform Traffic Control Devices for Streets and Highways, and Order No. 95949, dated May 3, 1990 which adopted and prescribed Appendix B—Traffic Control for Short Term Street or Highway Work Zones, dated March, 1990.

Dated at St. Paul, Minnesota, this 3rd day of October, 1991.

Edwin H. Cohoon
Acting Commissioner of Transportation

Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Human Services

Proposed Emergency Rules Relating to Case Management for Children with Severe Emotional Disturbance and Their Families

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule.

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.

Emergency Rules

The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 245.484 (*Laws of Minnesota 1991*, chapter 292, article 6 section 10). The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Eleanor Weber, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4301.

The proposed emergency mental health program rule sets program standards for case management services provided by counties, directly or under contract, to children with severe emotional disturbance and their families, and clarifies the requirements of the Minnesota Comprehensive Children's Mental Health Act, *Minnesota Statutes*, sections 245.487 to 245.4888. The rule: sets program standards for case management for children with severe emotional disturbance; defines eligible child as a person up to age 18 who has severe emotional disturbance; requires mental health providers, and permits other persons, to refer a child with severe emotional disturbance for case management services; requires the coordination of case management services with the child's other services; requires the case manager to work collaboratively with the child's other service providers; clarifies the obligation of the county board to make case management services available to all children with severe emotional disturbance and to approve or disapprove mental health services funded by community social service funds, and clarifies the right of the county board to deny services to eligible children under *Minnesota Statutes*, section 256E.081 (*Laws of Minnesota 1991*, chapter 94, section 19); permits a child's parent to request the establishment of an interagency case management team and to choose an interagency services coordinator from among team members; specifies that the case manager may provide other services to the child such as assisting access to basic living needs and skills, crisis assistance, and providing transportation; and specifies the conditions under which the child or the child's parent may request a fair hearing.

A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296-7454.

The proposed emergency 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 emergency rule as noticed.

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews 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 adopted rule, must submit the written request to Eleanor Weber at the address above.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

Natalie Haas Steffen
Commissioner

Emergency Rules as Proposed (all new material)

9520.0900 [Emergency] SCOPE AND AVAILABILITY.

Subpart 1. **Scope.** Parts 9520.0900 to 9520.0926 [Emergency] establish standards and procedures for providing case management services to children with severe emotional disturbance as authorized by *Minnesota Statutes*, sections 245.487 to 245.4887 and 256B.0625, subdivision 20. Parts 9520.0900 to 9520.0926 [Emergency] are intended to comply with, and must be read in conjunction with, *Minnesota Statutes*, sections 245.487 to 245.4888 and 256E.09, and chapter 256G, and parts 9505.2160 to 9505.2245.

Subp. 2. **Availability; general.** The county board shall make case management services available to all children with severe emotional disturbance and their families who are residents of the county and who request or consent to the services under *Minnesota Statutes*, section 245.4881, and within the limits in *Minnesota Statutes*, sections 245.486 and 256E.081, and parts 9520.0900 to 9520.0926 [Emergency]. In making case management services available to children with severe emotional disturbance, a local agency shall use grants to counties for services to children with severe emotional disturbance, funds made available to counties for community social services under *Minnesota Statutes*, sections 256E.06 and 256E.07, title XX allocations under *Minnesota Statutes*, section 256E.07, and all other commonly available state and federal funding sources.

Subp. 3. **Availability and billing; medical assistance eligible children.** In providing case management services to medical assistance eligible children who are determined to have severe emotional disturbance, parts 9520.0900 to 9520.0926 [Emergency] must be read in conjunction with:

- A. parts 9505.0476 to 9505.0491;

B. title XIX of the Social Security Act;

C. Code of Federal Regulations, title 42, sections 430 to 456, as amended through October 1, 1990; and

D. *Minnesota Statutes*, chapters 256B and 256G.

Case management services to medical assistance eligible children with severe emotional disturbance must be billed as required under *Minnesota Statutes*, section 245.4881, subdivision 1, paragraph (b).

9520.0902 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9520.0900 to 9520.0926 [Emergency] have the meanings given them in this part.

Subp. 2. **Case manager.** "Case manager" means an individual who meets the qualifications specified in *Minnesota Statutes*, section 245.4871, subdivision 4, and who is employed by, or under contract to, or employed by an entity that is under contract to, the local agency to provide case management services under parts 9520.0900 to 9520.0926 [Emergency] for children with severe emotional disturbance and their families.

Subp. 3. **Case management provider.** "Case management provider" means a local agency that provides case management services or an entity that is under contract with the local agency to provide case management services.

Subp. 4. **Case management services.** "Case management services" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 3. Case management services are designed to:

A. reduce the complexity and fragmentation of service delivery to a child with severe emotional disturbance and the child's family by coordinating services provided by different agencies and delivery systems;

B. assure that services are child-centered and family-focused by maximizing the involvement of the child and the child's family, as appropriate, in case management services;

C. strengthen the functioning of the child and the child's family by empowering the child and the child's family to make informed choices about mental health services and act as the child's advocate;

D. assist the child and the child's family in gaining access to the full array of services appropriate to their needs, by facilitating the sharing of existing resources with local systems of care serving children and their families; and

E. assure that services are provided in a manner that is sensitive and responsive to cultural differences and the special needs of children and the families of children who are of minority race or minority ethnic heritage.

Subp. 5. **Child.** "Child" means a person under 18 years of age.

Subp. 6. **Child with severe emotional disturbance.** "Child with severe emotional disturbance" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 6.

Subp. 7. **Clinical supervision.** "Clinical supervision" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 7.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subp. 9. **County board.** "County board" means the county board of commissioners or a board established under the joint powers act, *Minnesota Statutes*, section 471.59, or the human services board act, *Minnesota Statutes*, sections 402.01 to 402.10.

Subp. 10. **Crisis assistance.** "Crisis assistance" means a family community support service as specified in *Minnesota Statutes*, section 245.4871, subdivision 17, clause (6), that is designed for a child with severe emotional disturbance and the child's family to avert placements that are more intensive than necessary by resolving the crisis in the least restrictive setting possible for the child. Crisis assistance services may be provided in the child's school or day care setting, or where the child lives. Crisis assistance is not an emergency service as defined in *Minnesota Statutes*, section 245.4871, subdivision 14.

Subp. 11. **Day treatment services or day treatment program.** "Day treatment services" or "day treatment program" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 10.

Subp. 12. **Diagnostic assessment.** "Diagnostic assessment" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 11.

Subp. 13. **Emergency services.** "Emergency services" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 14.

Subp. 14. **Emotional disturbance.** "Emotional disturbance" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 15.

Subp. 15. **Family.** "Family" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 16 or, in the case of an Indian child, means a relationship recognized as family within the context of the Minnesota Indian family preservation act, *Minnesota Statutes*, sections 257.35 to 257.3579.

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Subp. 16. **Family community support services.** "Family community support services" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 17.

Subp. 17. **Functional assessment.** "Functional assessment" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 18.

Subp. 18. **Individual education program plan or IEP.** "Individual education program plan" or "IEP" means a written individualized educational plan developed for a pupil as defined in part 3525.0200, subpart 6a. It is based on an assessment of the pupil's performance utilizing licensed personnel, a determination of the pupil's needs in a team process, an identification of appropriate goals and objectives, a selection of teaching strategies designed to enhance learning, delivery of services in an environment conducive to learning, and periodic review and evaluation of the pupil's performance.

Subp. 19. **Individual family community support plan.** "Individual family community support plan" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 19.

Subp. 20. **Individual treatment plan.** "Individual treatment plan" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 21.

Subp. 21. **Inpatient hospital.** "Inpatient hospital" means an acute care institution as defined in *Minnesota Statutes*, sections 144.696, subdivision 3, and licensed under *Minnesota Statutes*, sections 144.50 to 144.58.

Subp. 22. **Interagency case management team.** "Interagency case management team" means a group of persons that consists of the child, the child's parent or foster parent, or other significant adult with whom the child is living, the child's legal representative, if any, and the child's case manager. Any other persons or service providers requested by the child's parent to coordinate the child's services and to advocate on behalf of the child may be members of the interagency case management team.

Subp. 23. **Interagency service coordinator.** "Interagency service coordinator" means a person other than the child's case manager who is the member of the interagency case management team selected by the child's parent or legal representative or, as appropriate, the child according to part 9520.0918 [Emergency], subpart 4.

Subp. 24. **Legal representative.** "Legal representative" means a guardian or conservator authorized by the court to decide about services for a child or an Indian custodian as defined in *Minnesota Statutes*, section 257.351, subdivision 8.

Subp. 25. **Local agency.** "Local agency" means the county agency under the authority of the county board that is responsible for arranging and providing mental health services required under *Minnesota Statutes*, section 245.487 to 245.4888, as a component of community social services under *Minnesota Statutes*, chapter 256E.

Subp. 26. **Mental health practitioner.** "Mental health practitioner" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 26.

Subp. 27. **Mental health professional.** "Mental health professional" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 27.

Subp. 28. **Mental health services.** "Mental health services" means at least all of the treatment services and case management activities that are provided to children with emotional disturbances and specified in *Minnesota Statutes*, sections 245.487 to 245.4887.

Subp. 29. **Minority race or minority ethnic heritage.** "Minority race" or "minority ethnic heritage" has the meaning given in part 9560.0020, subpart 9a.

Subp. 30. **Outpatient services.** "Outpatient services" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 29.

Subp. 31. **Outreach services.** "Outreach services" refers to family community support services that are designed to locate a child within the community who may have a severe emotional disturbance. The services are for the purposes of informing the child and the child's parent of the potential benefits and availability of case management services, family community support services, and other mental health services and of assuring access by the child and the child's family to needed services by taking the service to the child and the child's family or by arranging for the transportation of the child or the child's family to the service, if necessary. Client outreach must attempt to reduce any barrier that precludes access to case management and other mental health services. Client outreach must:

- A. be conducted throughout the calendar year;
 - B. occur where the child lives, spends leisure time, or is receiving an education;
 - C. be provided in a manner which involves the child and the child's family;
 - D. occur face-to-face with the child and the child's family, when appropriate and possible;
 - E. be coordinated with the early identification and intervention services required under *Minnesota Statutes*, section 245.4878;
- and
- F. take into account the minority race or minority ethnic heritage of the child, to assure that mental health services are culturally-

relevant and accepted by the minority race or minority ethnic heritage of which the child and the child's family are a part.

Subp. 32. **Parent.** "Parent" means the birth or adoptive mother or father of a child. This definition does not apply to a person whose parental rights in relation to the child have been terminated by a court.

Subp. 33. **Professional home-based family treatment.** "Professional home-based family treatment" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 31.

Subp. 34. **Residential treatment.** "Residential treatment" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 32.

Subp. 35. **Screening.** "Screening" refers to the screening required under *Minnesota Statutes*, section 245.4885, subdivision 1.

Subp. 36. **Service provider.** "Service provider" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 33.

Subp. 37. **Special mental health consultant.** "Special mental health consultant" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 33a.

Subp. 38. **Therapeutic support of foster care.** "Therapeutic support of foster care" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 34.

9520.0904 [Emergency] REFERRAL FOR CASE MANAGEMENT SERVICES.

Subpart 1. **Providers required to inform and refer.** A provider of mental health services must inform the parent or legal representative of a child and the child who has or is believed to have severe emotional disturbance of the availability and potential benefits to the child of case management. If consent is obtained as required in part 9520.0912 [Emergency], the provider of mental health services must refer the child to the local agency in the county in which the child lives unless the child is in out-of-home placement and requests case management services. The provider of mental health services must document the referral in the child's record.

Subp. 2. **Other persons who may refer child for case management services.** A physician, social worker, nurse, teacher, or other interested person may inform a child, as appropriate, or the parents, legal representative, or primary caregiver of a child who has or who is believed to have severe emotional disturbance of the availability and potential benefits to the child of case management. If the physician, social worker, nurse, teacher, or other interested person obtains the written consent required under part 9520.0912 [Emergency], the physician, social worker, teacher, or other interested person must refer the child to the local agency in the county in which the child lives unless the child is in out-of-home placement and request case management services.

Subp. 3. **Case management service request by parent, legal representative, or primary caregiver.** The parent, a member of the family, legal representative, or primary caregiver of a child may request case management services for a child if the parent, family member, legal representative, or primary caregiver believes the child has or may have severe emotional disturbance even if there has been no referral.

Subp. 4. **Referral.** The referral required under subparts 1 and 2 shall be a notice to the local agency in the county in which the child lives unless the child is in out-of-home placement. If the child is in out-of-home placement, the notice shall be sent to the county of financial responsibility. The notice must contain the names and addresses of the child and the child's parents.

9520.0906 [Emergency] COORDINATION OF CASE MANAGEMENT SERVICES WITH OTHER SERVICES.

The case manager assigned by the local agency to a child who is referred for case management services under part 9520.0904 [Emergency] must coordinate the case management services provided to the child under parts 9520.0900 to 9520.0926 [Emergency] with the providers of other services the child is receiving and with the interagency service coordinator, if any. The case manager shall work with the child, the child's parent, and members of the interagency case management team, if any, to:

A. develop the individual family community support plan as required under *Minnesota Statutes*, section 245.4871, subdivision 19, and part 9520.0918 [Emergency], subpart 5;

B. arrange with providers of other services to the child if any, for consultation about the needs of the child and the child's family and review of the records related to the child's diagnosis and services;

C. complete a written functional assessment of the child. Members of the interagency case management team may assist in conducting the functional assessment if the case manager obtains the consent of the child's parent or the consent specified in part 9520.0912 [Emergency];

D. in the case of a child who is eligible for case management services under parts 9525.0015 to 9525.0165, assure that services provided under parts 9520.0900 to 9520.0926 [Emergency] are coordinated with services provided under parts 9525.0015 to 9525.0165 and other rules of the department;

E. coordinate, or assist the interagency service coordinator, if any, to coordinate, the meetings of the interagency case management team in a manner that encourages the participation of the child, members of the child's family, legal representative, or person advocating for the child;

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F. assure that required meetings and actions take place within the time period specified for the meeting or action according to parts 9525.0015 to 9525.0165 and 9520.0900 to 9520.0926 [Emergency] that permits the needs of the child and the child's family to be met; and

G. assure that the services specified in the child's individual family community support plan are consistent with the services needed to treat the symptoms and behaviors identified in the child's diagnostic assessment.

9520.0908 [Emergency] COUNTY BOARD RESPONSIBILITIES.

Subpart 1. **Duties of county board.** A county board shall:

A. by April 1, 1992, provide case management services to each child with severe emotional disturbance according to *Minnesota Statutes*, sections 245.486; 245.4871, subdivisions 3 and 4; 245.4874; and 245.4881, subdivisions 1, 3, and 5; and parts 9520.0900 to 9520.0926 [Emergency];

B. assure that special mental health consultants are used as necessary in assessing and providing appropriate services for a child of a minority race or minority ethnic heritage;

C. assure that case management services are delivered in a manner that integrates and coordinates case management services with the services of other agencies serving the child; and

D. assure that case management services provide outreach and coordination on behalf of the child and the child's family.

Subp. 2. **County board obligations for funding services.** The case management services provided by the county board must be provided according to items A to C.

A. A county board must approve or disapprove the mental health services that are paid for by social service funds allocated to a county under *Minnesota Statutes*, chapter 256E.

B. A county board must use its share of mental health and community social services act funds allocated by the commissioner to provide case management services according to a biennial children's mental health component of the community social services plan required under *Minnesota Statutes*, section 245.4887, and approved by the commissioner.

C. A county board must seek and use all commonly available sources of funding as needed to develop and implement case management services under parts 9520.0900 to 9520.0926 [Emergency]. A county board shall not deny case management services to children with severe emotional disturbance who are not eligible for case management under medical assistance unless the county board demonstrates compliance with *Minnesota Statutes*, section 256E.081, subdivisions 2 and 3, and completes the documentation required under *Minnesota Statutes*, section 256E.081, subdivision 4.

9520.0910 [Emergency] LOCAL AGENCY RESPONSIBILITIES.

Subpart 1. **Notice of availability.** As required under *Minnesota Statutes*, section 245.4881, subdivision 2, within five working days after receiving a request or referral for case management services for a child, the local agency must notify, in writing, as appropriate, the child, the child's parent, or the child's legal representative of the child's potential eligibility for case management services. If a notice is not sent to a child's parents or legal representative, the local agency must document the reason. The notice must be written in plain language and explain that the child may be eligible for case management services and family community support services. The notice also must state:

A. the names and telephone numbers of the case management providers in the county;

B. a brief description, and the potential benefits, of case management and family community support services;

C. the name and telephone number of the person designated by the county board to coordinate case management services who is available to meet with the child's parent or legal representative and, as appropriate, the child before the determination of the child's eligibility for case management services;

D. an explanation of how to obtain a diagnostic assessment if one is necessary to determine the child's eligibility for case management services;

E. information about contacting the local agency during business hours for assistance in obtaining a diagnostic assessment, if a diagnostic assessment is necessary;

F. an explanation of the appeal process if mental health services are denied, suspended, or terminated for a child with severe emotional disturbance; and

G. the name and telephone number and availability of a special mental health consultant who is available to assist the family of a child of a minority race or minority ethnic heritage in understanding the information about case management services.

Subp. 2. **Notice when there is no known address.** If the local agency does not receive the address of the child and the child's parent or legal representative from the person making the referral under part 9520.0906 [Emergency], the local agency must make a

reasonable attempt to locate the child for whom case management services have been requested and give the child's parent or legal representative or, as appropriate, the child notice of the availability of the case management services specified in subpart 1. The local agency must document the completed and attempted contacts.

Subp. 3. Meeting between person designated by county board to coordinate case management services and child's parent and child. Before a determination of the case management service eligibility of a child for whom case management services have been requested, the person designated by the county board to coordinate case management services shall attempt to meet with the child's parent or legal representative and the child no later than 15 working days after the local agency receives the referral or request under part 9520.0904 [Emergency]. At the meeting, the person designated by the county board to coordinate case management services must:

- A. explain the availability and benefits to the child of case management, crisis assistance, family community support services, and other mental health services;
- B. explain the need to obtain a diagnostic assessment of the child to determine the child's eligibility for case management services;
- C. explain the right of the child's parent or legal representative or, as appropriate, the child to accept or reject case management services;
- D. explain the eligibility of the child for mental health services even if case management is refused; and
- E. assist the child's parent or legal representative or, as appropriate, the child, to make an informed choice about accepting case management, crisis assistance, family community support services, and other mental health services.

Subp. 4. Follow-up notice of availability of case management services. If the child's parent or legal representative or, as appropriate, the child notified under subparts 1 and 2 does not respond within 30 calendar days after the local agency gives the required notice, the local agency must make a reasonable attempt to contact the child's parent or legal representative or, as appropriate, the child. The local agency must document the local agency's attempt to contact the child, if appropriate, or the child's parent or legal representative, whether the contact was completed, the result of the contact, and whether case management was accepted.

Subp. 5. Notice to child's parent or legal representative. When notice to a parent or legal representative is required under parts 9520.0900 to 9520.0926 [Emergency], the local agency or case manager responsible for giving notice shall notify that person unless item A or B applies.

- A. The parent or legal representative is hindering or impeding the child's access to mental health services or the child:
 - (1) has been married or has borne a child as specified in *Minnesota Statutes*, section 144.342;
 - (2) is living separate and apart from the child's parents or legal guardian, and is managing the child's own financial affairs as specified in *Minnesota Statutes*, section 144.341;
 - (3) is at least 16, but under 18 years old, and has consented to treatment as specified in *Minnesota Statutes*, section 253B.03, subdivision 6; or
 - (4) is at least 16, but under 18 years old, and for whom a county board has authorized independent living pursuant to a court order as specified in *Minnesota Statutes*, section 260.191, subdivision 1, paragraph (a), clause (4).

B. A petition has been filed under *Minnesota Statutes*, chapter 260, or a court order has been issued under *Minnesota Statutes*, section 260.133 or 260.135, and a guardian ad litem has been appointed.

If item A applies, the local agency or case manager, as appropriate, shall provide notice to the child.

If item B applies, the local agency or case manager, as appropriate, shall provide notice to the guardian ad litem.

Subp. 6. Determination of case management eligibility and referral to case manager. If a child's parent or legal representative or, as appropriate, the child consents to the child's assessment for eligibility for case management services and authorizes a release of information, the local agency must promptly determine whether the child meets a criterion in part 9505.0902, subpart 6. If a diagnostic assessment is needed to make the determination, the local agency must offer, within ten working days of the consent, to assist the child and the child's parent or legal representative to obtain an appointment for a diagnostic assessment. The local agency shall notify, in writing, the child's parent or legal representative or, as appropriate, the child of the eligibility determination. If the child is determined to be eligible for case management services, and if the child's parent or legal representative or, as appropriate, the child consents to the services, the local agency shall refer the child to the case management provider for case management services.

Subp. 7. Refusal of case management services. The parent or legal representative of a child referred for case management services or, as appropriate, the child may refuse case management services for the child. If the child has had a diagnostic assessment as required under subpart 8 and has been determined to have a severe emotional disturbance and if the child's parent or legal representative or, as appropriate, the child refuses case management services, the child and the child's family remain eligible for and may not be denied access to family community support services. In this event, the local agency must document the refusal to accept case management

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services and the reason for the refusal, if known, and must notify the child's parent or legal representative or, as appropriate, the child of the appeal process, and must offer to refer the child to a mental health provider or other appropriate service provider and to assist the child to make an appointment with the provider of the child's choice.

Subp. 8. **Arranging a diagnostic assessment.** If the child's parent or legal representative or, as appropriate, the child accepts the local agency's offer to help in arranging for a diagnostic assessment, the local agency must inform the mental health professional chosen by the child's parent or legal representative or, as appropriate, the child of the child's need for a diagnostic assessment and must offer to help the child's parent or legal representative or, as appropriate, the child to make an appointment with the mental health professional.

Subp. 9. **Local agency responsibility; continuity of service.** A local agency must make a reasonable attempt to assure directly, or in its contract with a case management provider, that continuity of service is available to a child while the child remains eligible for case management services under parts 9520.0900 to 9520.0926 [Emergency]. When there is a change of case manager, steps must be taken to assure a smooth transition.

Subp. 10. **Local agency responsibility; referral of child with emotional disturbance to mental health and other service providers.** If a child who is referred to a local agency for case management services is determined to have an emotional disturbance, but not to have a severe emotional disturbance, the local agency shall offer to refer the child to a mental health provider or other appropriate service provider and to assist the child to make an appointment with the provider of the child's choice.

Subp. 11. **Local agency responsibility; out-of-home placement.** The local agency shall assure coordination of a child's case management services with any permanency planning, placement prevention, and family reunification services provided under *Minnesota Statutes*, chapter 256F.

Subp. 12. **Local agency responsibility; coordination with family community support service providers.** The local agency must designate a person to, and implement procedures that, ensure ongoing contact and coordination between a child's case manager and providers of family community support services and other mental health services needed by the child.

Subp. 13. **Local agency responsibility; reasonable caseload.** A local agency shall assign to a case manager a reasonable caseload that assures the case manager is available to meet with the child and the child's family in the home, or school setting, attend pertinent meetings and staff conferences, coordinate and monitor the child's services, is able to meet the needs of the child and the child's family for case management services, and carry out the other responsibilities specified in part 9520.0918 [Emergency].

9520.0912 [Emergency] AUTHORIZATION TO RELEASE INFORMATION AND CONTACT CHILD'S FAMILY.

Notwithstanding that *Minnesota Statutes*, sections 245.487 to 245.4887, require a county board, within the limits of available resources, to make the mental health services specified in those sections available to a child residing in the county who needs the services, the county board shall not provide any services, either directly or by contract, unless consent to receive services is obtained as required under *Minnesota Statutes*, section 245.4876, subdivision 5.

9520.0914 [Emergency] DIAGNOSTIC ASSESSMENT.

Subpart 1. **Diagnostic assessment required.** A diagnostic assessment is required to determine a child's eligibility for case management services under parts 9520.0900 to 9520.0926 [Emergency] and in family community support services. A diagnostic assessment of a child completed no earlier than 180 days before the child was referred for or the child's parent, legal representative, or primary caregiver requested case management services must be reviewed and brought up to date by a mental health professional if the child's parent or legal representative or, as appropriate, the child wants case management services for the child. If the child has not had a diagnostic assessment within 180 days before the request or referral for case management services, a new diagnostic assessment must be obtained.

Subp. 2. **Assistance in obtaining a required diagnostic assessment.** If the child has not had a diagnostic assessment that meets the requirement of this part, a local agency or case manager, as appropriate, shall take the actions specified in items A to F to assist in obtaining a diagnostic assessment of the child as required under subpart 1:

A. inform the child's parent or legal representative or, as appropriate, the child about choosing a mental health professional to conduct a diagnostic assessment;

B. assist the child's parent or legal representative or, as appropriate, the child to make an appointment for the diagnostic assessment;

C. explain to the child's parent or legal representative or, as appropriate, the child that the information about the child can only be released with the consent specified in part 9520.0912 [Emergency], or in *Minnesota Statutes*, section 245.4876, subdivision 5;

D. inform the mental health professional that the diagnostic assessment must comply with *Minnesota Statutes*, sections 245.4871, subdivision 11, and 245.4876, subdivision 2, and that a report of the findings must be provided to the local agency;

E. request the mental health professional identified under subpart 1 to complete the determination of whether the child meets

the criteria of severe emotional disturbance within ten working days after the mental health professional has completed the diagnostic assessment; and

F. inform the mental health professional that the authorization of the child's parent or legal representative or, as appropriate, the child to release information must comply with the requirements of part 9520.0912 [Emergency].

Subp. 3. Qualifications to provide a diagnostic assessment. A diagnostic assessment required to receive case management services under parts 9520.0900 to 9520.0926 [Emergency] shall be conducted by a person specified in item A or B.

A. Except as provided in item B, a child's diagnostic assessment must be conducted by a mental health professional.

B. A mental health practitioner, with only a bachelor's degree, may conduct a child's diagnostic assessment under clinical supervision if the practitioner is qualified as specified in part 9505.0323, subpart 31.

Subp. 4. Diagnostic assessment; general requirements. The mental health professional or mental health practitioner conducting a child's diagnostic assessment must document that the mental health professional or mental health practitioner considered the child's need for referral for psychological testing, neurological examination, physical examination, and chemical dependency evaluation under part 9530.6615. The mental health professional or mental health practitioner must document in the report of the diagnostic assessment the inclusion of the child's parent or legal representative or family, or, if applicable, the reason why they were not included. The assessment must include:

A. a face-to-face interview of the child and, if clinically appropriate, the child's parent or parents or primary caregiver;

B. a mental status examination, and an examination of pertinent records related to services to the child. For purposes of this item, "mental status" means the description of the child's appearance, general behavior, motor activity, speech, alertness, mood, cognitive functioning, and attitude toward the symptoms;

C. contact with the child's parent, legal representative or primary caregiver if clinically appropriate, and to the extent necessary and reasonable to complete the diagnostic assessment;

D. identification of the mental health services needed by the child; and

E. the child's diagnosis and a determination of whether the child meets at least one of the criteria of severe emotional disturbance.

Subp. 5. Diagnostic assessment of child of a minority race or minority ethnic heritage. If a mental health professional or mental health practitioner meeting the qualifications in subpart 3, item A or B, conducts a diagnostic assessment of a child of a minority race or minority ethnic heritage, the mental health professional or mental health practitioner also must be skilled in and knowledgeable about the child's minority racial and minority ethnic heritage and must use assessment tools and content that are appropriate to the child's racial and ethnic heritage. When the mental health professional or mental health practitioner is not skilled and knowledgeable in conducting a diagnostic assessment of a child of a minority race or minority ethnic heritage, the mental health professional or mental health practitioner conducting the diagnostic assessment must consult a special mental health consultant to assure that the diagnostic assessment is relevant, culturally-specific, and sensitive to the child's cultural needs.

Subp. 6. Diagnostic assessment; extension of time to complete a diagnostic assessment. If a mental health professional or mental health practitioner meeting the qualifications in subpart 3, item A or B, conducts a diagnostic assessment of a child who has an emotional disturbance and who has a condition specified in part 9505.0323, subpart 5, item A, the mental health professional or mental health practitioner may have an extension of time to complete the diagnostic assessment in the same manner as allowed in part 9505.0323, subpart 5, items B to D, and subpart 6.

9520.0916 [Emergency] CASE MANAGER QUALIFICATIONS AND TRAINING.

Subpart 1. Qualifications of case manager. Except as provided in subpart 2, a case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance, be skilled in identifying and appraising the child's needs, and be knowledgeable about local community resources and how to use the resources for the benefit of the child and the child's family. A person who is from any professional discipline that is part of the local system of care serving children or who is employed by or under contract to the local agency is eligible to serve as a case manager for children with severe emotional disturbance if the person meets the qualifications of this part.

Subp. 2. Case manager; supervision. Case managers who are not qualified as mental health professionals and who have at least 2,000 hours of supervised experience in the delivery of mental health services to children must meet in person with a mental health professional at least once each month to receive clinical supervision. Case managers who have a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university but who do not have 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance, must receive clinical supervision from a mental health professional who is skilled and knowledgeable about children with emotional disturbance at least once each week until the requirement of 2,000 hours of experience is met. The mental health professional providing the clinical supervision must document the clinical supervision in the child's record. The local agency must provide or contract for clinical supervision required under this subpart.

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Subp. 3. **Case manager; training requirements.** Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to children with severe emotional disturbance must complete 40 hours of training approved by the department in case management skills and in the characteristics and needs of children with severe emotional disturbance.

9520.0918 [Emergency] CASE MANAGER'S RESPONSIBILITIES; RELATION WITH INTERAGENCY CASE MANAGEMENT TEAM.

Subpart 1. **Responsibilities of case manager; child determined to meet criteria for case management services.** If a child is determined to meet the criteria for case management services and the child's parent or legal representative or, as appropriate, the child accepts case management services, the case manager must meet with the child's parent or legal representative or, as appropriate, the child as necessary to carry out the responsibilities specified in parts 9520.0900 to 9520.0926 [Emergency]. The case manager shall meet with the child and the child's parent or legal representative at places other than the case manager's office as necessary or appropriate to the child's need. Additionally, the case manager must:

- A. assure that the child has timely access to the mental health services specified as needed in the child's diagnostic assessment;
- B. assist the child's parent or legal representative or, as appropriate, the child to make informed choices about case management and other mental health services needed by the child;
- C. explain the potential benefits of an interagency case management team and the role of the parent or legal representative or, as appropriate, the child as partners of the team;
- D. assist the child's parent or legal representative or, as appropriate, the child to decide whether to request an interagency case management team and explain the opportunity for choosing an interagency service coordinator;
- E. if an interagency case management team is convened, work with the interagency service coordinator, if any, chosen from among members of the team according to subpart 2;
- F. complete, or if an interagency case management team is convened, assure the completion of, the child's functional assessment;
- G. develop the child's individual family community support plan according to subpart 5;
- H. coordinate family community support services needed by the child and the child's family with other services that the child and the child's family are receiving, according to subpart 6;
- I. review and revise the child's functional assessment and services according to subpart 7;
- J. be available to meet the child at least once monthly;
- K. be available to meet with the child's parent or legal representative upon the request of the parent or representative;
- L. if the child has coverage through a third party payor, help the child's parent or legal representative or, as appropriate, the child access payment for mental health services;
- M. before a child who is receiving case management services is admitted to a regional treatment center, residential treatment facility, or inpatient hospital for mental health services, assure that the child is screened as required under *Minnesota Statutes*, section 245.4885, subdivision 1;
- N. if the child is in a residential treatment facility, regional treatment center, or inpatient hospital for mental health services, take part in discharge planning for the child and, to the extent possible, coordinate the services necessary to assure a smooth transition to the child's home or foster home, school, and community-based services;
- O. as specified in subpart 12, at least six months before the child's 18th birthday, assist the child and, as appropriate, the child's parent or legal representative to assess the child's need for continued mental health services and case management service under parts 9505.0476 to 9505.0491; and
- P. advise the child's parent or legal representative or, as appropriate, the child of the right to appeal as specified in *Minnesota Statutes*, section 245.4887, if the mental health services needed by the child are denied, suspended, reduced, terminated, not acted upon with reasonable promptness, or are claimed to have been incorrectly provided.

Subp. 2. **Convening of interagency case management team.** The case manager may establish an interagency case management team. The case manager may convene the interagency case management team on the manager's own initiative or upon the request of the child's parent or legal representative or, as appropriate, the child, or at the request of any other member of the team. When a team is established, the case manager and the members of the interagency case management team shall meet face-to-face with the child and, as appropriate, the child's parents at least once quarterly or more frequently at the request of the interagency service coordinator unless the child's parent or legal representative or, as appropriate, the child refuses further case management services or case management services are terminated as provided in part 9520.0924 [Emergency]. The interagency case management team shall carry out the duties specified in subpart 4.

Subp. 3. **Interagency service coordinator.** If an interagency case management team is established, the child's parent or legal

representative or, as appropriate, the child may request that the child's services be coordinated by a member of the interagency case management team who is the representative of an agency other than the local agency that provides case management services to the child. If the child's parent or legal representative or, as appropriate, the child chooses a member of the interagency case management team other than the case manager as the interagency service coordinator and if the agency represented on the team by the person chosen as interagency service coordinator agrees, the interagency service coordinator shall convene the interagency case management team and, to the extent possible, coordinate the services provided to the child and the child's family among the local system of care serving the child and the child's family. In this event, the case manager must work with the interagency service coordinator, must coordinate the child's mental health services with the interagency service coordinator, and must refer mental health service recommendations of the interagency case management team or the interagency service coordinator to the county board for the board's consideration according to part 9520.0910 [Emergency], subpart 2.

Subp. 4. Duties of interagency case management team. If an interagency case management team is established, the team must clarify and address the roles and responsibilities of the individual team members and the agencies they represent. The child's parent or legal representative or, as appropriate, the child must be asked to participate in the activities of the team. The team shall assist the case manager to:

- A. complete the child's functional assessment as specified in subpart 7;
- B. develop the child's individual family community support plan as specified in subpart 5;
- C. revise the child's functional assessment and individual family community support plan according to subpart 7; and
- D. identify resources to be used to fund the services specified in the child's individual family community support plan.

Subp. 5. Development of child's individual family community support plan. The development of the child's individual family community support plan must comply with *Minnesota Statutes*, section 245.4881, subdivision 4. The plan must incorporate the child's individual treatment plans. The case manager shall ask the child's parent or legal representative or, as appropriate, the child to sign the completed individual family community support plan as evidence that the case manager and the child's parent or legal representative or, as appropriate, the child agree with the plan.

Subp. 6. Coordination of family community support plan with other service plans. When a child receiving case management is also receiving special education services, the case manager together with the interagency service coordinator, if any, must coordinate the child's mental health services specified in the child's individual family community support plan with the child's individual education plan. If a child at age 16 is not receiving educational services, or the child receiving case management is not identified as needing special education services, the individual family community support plan must incorporate the goals related to the child's mental health needs from other service plans developed by the agencies providing services to the child. Any other service plan developed by an agency providing services to the child may substitute for the child's individual family community support plan if the other service plan meets the requirements for an individual family community support plan.

Subp. 7. Review and revision of child's services. With the consent of the child's parent or legal representative or, as appropriate, the child, the case manager, interagency service coordinator, if any, and other members of the interagency case management team shall review and revise a child's functional assessment, the child's individual family community support plan, and the child's and family's service needs. The review and, if necessary, revision shall occur at least once every 90 calendar days after the development of the child's first individual family community support plan. Insofar as possible, the review and revision must be coordinated with the review and revision of other plans when the child is in out-of-home placement.

Subp. 8. Referral for neurological examination, psychological testing, and chemical evaluation. Upon the request of the child's parent or legal representative or, as appropriate, the child, the case manager shall assist the child and the child's family, if recommended by a mental health professional, to obtain a neurological examination, psychological testing, or a chemical dependency evaluation as specified in part 9530.6615.

Subp. 9. Coordination and monitoring of services. The case manager shall monitor the provision of mental health services to the child to determine whether the goals of the child's individual family community support plan are being met, or appropriate progress toward the goals is taking place. If the case manager determines the goals are not being met, or progress toward the goals is not taking place, the case manager together with the child's parent or legal representative and, as appropriate, the child and the interagency case management team, if any, shall modify the child's individual family community support plan. The determination of whether the goals are being met or progress toward the goals is taking place shall be made through regular meetings between the case manager, the interagency service coordinator, if any, the interagency case management team, if any, the child's parent or legal representative and, as appropriate, the child and the child's mental health social services, education, corrections, vocational services, health services, and family community support services, and other service providers. The meetings may be conducted face-to-face or through conference telephone calls.

Subp. 10. Case manager responsibility; crisis assistance. An individual family community support plan developed by a case manager according to subpart 5 must specify any crisis assistance needed by the child including, if necessary and appropriate, crisis placement and respite. The crisis assistance must be based on the factors that may precipitate a crisis in the child, the behavior or

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symptoms related to the child's crisis, the resources available to assist the child and the child's family when the child is in crisis and, if possible and appropriate, intervention strategies. Additionally, the case manager must review and update the crisis assistance components of a child's individual family community support plan when a child is discharged from a residential treatment facility, regional treatment center, or inpatient hospital to which the child was admitted for treatment of an emotional disturbance or becomes eligible for services for an adult with serious and persistent mental illness under *Minnesota Statutes*, sections 245.461 to 245.486, or when the child's parent or legal representative or, as appropriate, the child requests a review to determine whether the crisis assistance continues to meet the child's needs. To assure continuity of services as required under *Minnesota Statutes*, section 245.4876, subdivision 1, clause (7), the case manager must provide the information about crisis assistance to the providers of the child's other services.

Subp. 11. **Emergency services.** A case manager must inform a child's parent or legal representative or, as appropriate, the child about the availability of and how to access emergency services that are provided by the county board in accordance with *Minnesota Statutes*, section 245.4879.

Subp. 12. **Transition to case management services for persons with serious and persistent mental illness.** A case manager must inform a child who is age 17 and who is eligible for or receiving case management services under parts 9520.0900 to 9520.0926 [Emergency] about the availability of case management services for persons with serious and persistent mental illness under parts 9505.0476 to 9505.0491. No later than six months before the child attains age 18 and becomes ineligible for case management services under parts 9520.0900 to 9520.0926 [Emergency], the case manager must assess the child's need for continued case management and other mental health services. If the case manager determines that the child continues to be eligible for and needs case management and other mental health services, and if the child consents to accept the services, the case manager must identify with the child the services needed for a smooth transition to case management services for persons with serious and persistent mental illness under parts 9505.0476 to 9505.0491. The identified services must assist the child to make a transition to adult community support services or other adult services the child will need as an adult in areas of physical and mental health, housing, vocational, social recreational activities, and financial resources.

Subp. 13. **Case manager's records.** The case manager must keep the records required in *Minnesota Statutes*, section 245.4881, subdivision 3, paragraph (b).

Subp. 14. **Case management services for a child residing in a residential treatment facility or acute care hospital.** A case manager must maintain contact with a child residing in a residential treatment facility or acute care hospital for the treatment of emotional disturbance in a manner that assists the case manager to meet the requirements of *Minnesota Statutes*, sections 245.4881, subdivision 3, paragraph (a); 245.4882, subdivision 3; and 245.4883, subdivision 1, clause (5).

Subp. 15. **Case manager's provision of other mental health services.** A case manager shall not provide psychotherapy as defined in part 9505.0323, subpart 1, item T, day treatment services, or residential treatment services to a child or the family of a child for whom the case manager is providing case management services. Furthermore, a case manager shall not determine the child's need for a prescribed drug or evaluate the effectiveness of a drug prescribed in a child's individual treatment plan as defined in part 9505.0323, subpart 17, unless the case manager is also qualified as a physician or a nurse practitioner eligible to prescribe and administer drugs within the scope of practice defined under *Minnesota Statutes*, section 148.235. The case manager may directly provide, or assist a child and the child's family in accessing, services specified in items A to D to assist the child in remaining with the family, attending school, participating in leisure and recreational opportunities, finding or maintaining employment, and participating in age-appropriate relationships with the child's family and friends. The services are:

- A. assisting the child with severe emotional disturbance or the child's family to access basic living needs and skills such as housing, food, medical care, and financial benefits;
- B. crisis assistance;
- C. assisting the child and the child's family to access mental health services by providing or arranging transportation; and
- D. assisting the child to participate in leisure and recreational activities.

9520.0922 [Emergency] INFORMATION TO CHILD'S PARENT AND TO CHILD.

A case manager shall give to a child's parent or legal representative and to the child a copy of *Minnesota Statutes*, section 144.651, subdivisions 1, 3 to 16, 18, 20, and 30, and a statement that *Minnesota Statutes*, chapter 13, governs government protection of information on individuals when the case manager meets initially with the child's parent or legal representative and the child and annually thereafter while the child is receiving case management services.

9520.0924 [Emergency] TERMINATION OF CASE MANAGEMENT SERVICES.

Case management services for a child according to parts 9520.0900 to 9520.0926 [Emergency] shall terminate when one of the events listed in items A to F occurs.

- A. A mental health professional who has provided mental health services to the child and the child's family states in writing that the child no longer needs case management services.

B. The child's parent or legal representative or, as appropriate, the child and the case manager agree that the child no longer needs case management services.

C. The child's parent or legal representative or, as appropriate, the child refuses further case management services as specified in part 9520.0918 [Emergency], subpart 17.

D. No face-to-face contact has occurred between the child and the child's case manager for 60 consecutive days, unless the child is in a residential treatment facility, regional treatment center, or acute care hospital for the treatment of severe emotional disturbance in a county outside the county of financial responsibility.

E. The child's parents or legal representative or, as appropriate, the child, in consultation with the mental health professionals who provide the child's mental health services, choose to have the child's case management services provided according to parts 9505.0476 to 9505.0491.

F. The child becomes 18 years of age.

9520.0926 [Emergency] APPEALS.

Subpart 1. **Right to appeal.** A child who applies for or receives case management services has the right to a fair hearing under *Minnesota Statutes*, section 256.045, if the county terminates, denies, or suspends case management services, or does not act within five days upon a request or referral for case management services. A county of financial responsibility has an absolute defense to an appeal under this part if it proves by a preponderance of the evidence that it has no more resources available with which to avoid a denial, reduction, suspension, or termination of case management services and that it has met the requirements of *Minnesota Statutes*, section 256E.081.

Subp. 2. **Notice of adverse action.** The local agency shall mail a written notice to the child's parent or legal representative or, as appropriate, the child at least ten calendar days before denying, reducing, suspending, or terminating case management services. The written notice shall clearly state:

A. what action the local agency proposes to take;

B. the reason for the action;

C. the legal authority for the proposed action;

D. that the child and the child's parent or legal representative have the right to appeal the action within 30 days after the receipt of the notice or within 90 days if the person has good cause for delaying; and

E. where and how to file an appeal.

Subp. 3. **General information about appeal rights.** At the time of the request for case management services and at the annual review of the child's individual family community support plan, the case manager shall give the child's parent or legal representative or, as appropriate, the child a written notice of the right to appeal under this part.

Subp. 4. **Commissioner's record of appeals.** The commissioner shall monitor the nature and frequency of appeals under this part.

Department of Human Services

Proposed Emergency Amendments to Permanent Rules Relating to Case Management for Persons with Serious and Persistent Mental Illness or Severe Emotional Disturbance

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 245.4711, subdivision 9 (*Laws of Minnesota 1991*, chapter 292, article 6, section 5). The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Eleanor Weber, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4301.

Minnesota Rules, parts 9505.0476 to 9505.0491 set the standards for case management services to persons with serious and persistent mental illness. The proposed emergency rule amendments coordinate with proposed emergency rules related to case management services for children with severe emotional disturbance. The amendments: clarify availability of case management services to persons with severe emotional disturbance; set a maximum caseload of 40 cases to one full-time equivalent case manager as of December 1, 1992; require counties to use increased revenue from sources other than county funds to hire additional staff needed to

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progress toward the maximum caseload; require case managers to arrange for standardized assessments of psychotropic medication side effects; permit case management services for up to four months to a person who does not have a current diagnostic assessment; clarify that, according to *Minnesota Rules*, part 9505.0323, subpart 31, certain mental health practitioners may conduct a child's diagnostic assessment under clinical supervision; clarify that a case manager may provide a client certain additional mental health services on an emergency basis; and provide reimbursement for transportation costs of case managers.

A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296-7454.

The proposed emergency 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 emergency rule as noticed.

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews 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 adopted rule, must submit the written request to Eleanor Weber at the address above.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

Natalie Haas Steffen
Commissioner

Rules as Proposed

9505.0476 SCOPE AND AVAILABILITY.

Subpart 1. **Scope.** Parts 9505.0476 to 9505.0491 establish standards and procedures for providing case management services to persons with serious and persistent mental illness, as authorized by *Minnesota Statutes*, sections 245.461 to 245.486, and to persons with severe emotional disturbance as authorized by *Minnesota Statutes*, sections 245.487 to 245.4888, and 256B.02, subdivision 8 & 256B.0625, subdivision 20. Parts 9505.0476 to 9505.0491 are intended to be in compliance with and, therefore, must be read in conjunction with title XIX of the Social Security Act; Code of Federal Regulations, title 42, sections 430 to 456 as amended through October 1, 1987; *Minnesota Statutes*, sections 245.461 to 245.486, ~~245.64~~ 245.487 to 245.4888, 256E.09, and *Minnesota Statutes*, chapters 256B and 256G; and parts ~~9505.1750 to 9505.2150~~ 9505.2160 to 9505.2245.

Subp. 2. **Availability.** Case management services are available to all medical assistance recipients with serious and persistent mental illness or severe emotional disturbance and to other persons with serious and persistent mental illness or severe emotional disturbance within the limits of legislative appropriations as specified in *Minnesota Statutes*, section 245.486, and the requirements of *Minnesota Statutes*, section 256E.081, except as provided under ~~part~~ parts 9505.0479 and 9520.0900 to 9520.0926. Additionally, case management services to recipients who have serious and persistent mental illness are to be provided according to *Minnesota Statutes*, section 245.464 and to recipients who have severe emotional disturbance are to be provided according to *Minnesota Statutes*, section 245.4873, subdivision 6. In making case management services available to persons with serious and persistent mental illness and persons with severe emotional disturbance who are not recipients of medical assistance, a local agency shall use all possible available funding sources. Examples of possible funding sources are grants to counties for services to ~~persons with serious and persistent mental illness clients~~ persons with serious and persistent mental illness under *Minnesota Statutes*, section 256E.12, funds made available to counties for community social services under *Minnesota Statutes*, sections 256E.06 and 256E.07, money distributed to counties for permanency planning for children under *Minnesota Statutes*, sections 256F.01 to 256F.07, and title XX allocations under *Minnesota Statutes*, section 256E.07.

9505.0477 DEFINITIONS.

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

Subp. 2. **Case manager.** "Case manager" means an individual who, in the case of providing case management to persons with serious and persistent mental illness, meets the qualifications specified in *Minnesota Statutes*, section 245.462, subdivision 4, and part 9505.0484, subpart 1, and who is employed by or under contract to a case management provider authorized to provide case management services under parts 9505.0476 to 9505.0491, or who, in the case of providing case management services to persons with severe emotional disorder, meets the qualifications in *Minnesota Statutes*, section 245.4871, subdivision 4, and part 9505.0484, subpart 1, and who is employed by or under contract to a case management provider authorized to provide case management services under parts 9505.0476 to 9505.0491.

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

Subp. 4. **Case management services.** "Case management services" means services specified in *Minnesota Statutes*, section

245.462, subdivision 3, and part 9505.0485 that help persons with serious and persistent mental illness or persons with severe emotional disturbance gain access to needed medical, social, educational, financial, and other services necessary to meet their mental health needs and that coordinate and monitor the delivery of these services.

[For text of subp 5, see M.R.]

Subp. 6. **Client.** "Client" means a person with serious and persistent mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20, paragraph (c), or a person with severe emotional disturbance as defined in Minnesota Statutes, section 245.4871, subdivision 6, who is receiving case management services under parts 9505.0476 to 9505.0491.

[For text of subs 7 to 9, see M.R.]

Subp. 10. **Diagnostic assessment.** "Diagnostic assessment" means a written evaluation by a mental health professional of a person's:

- A. current life situation and sources of stress, including reasons for referral;
 - B. history of the person's current mental health problem, including important developmental incidents, strengths, and vulnerabilities;
 - C. current functioning and symptoms;
 - D. diagnosis including whether or not a person is seriously and persistently mentally ill or has a severe emotional disturbance;
- and
- E. needed mental health services.

[For text of subp 11, see M.R.]

Subp. 11a. **Emotional disturbance.** "Emotional disturbance" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 15.

Subp. 11b. **Excluded time facility.** "Excluded time facility" means a facility specified in Minnesota Statutes, section 256G.02, subdivision 6.

[For text of subp 12, see M.R.]

Subp. 13. **Individual community support plan or individual family community support plan.** "Individual community support plan" or "individual family community support plan" means a written plan developed by a case manager together with the client that is based on a diagnostic assessment and the client's needs and that is coordinated with the client's individual treatment plan or plans as defined in subpart 14. The plan identifies the specific services to be provided that are appropriate to the age of the person with serious and persistent mental illness or with a severe emotional disturbance and that the person needs to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships including family relationships, financial management, housing, transportation, employment, and education. A child's individual family community support plan also identifies activities related to involving the child's family or primary caregiver in the specific services to be provided including, as appropriate, services specified in Minnesota Statutes, sections 256F.07, subdivision 3, and 257.071, subdivision 1.

Subp. 14. **Individual treatment plan.** "Individual treatment plan" means a written plan of intervention, treatment, and services for a person with mental illness or emotional disturbance that is developed by the client and a mental health professional which is based on a diagnostic assessment and the client's needs. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual or individuals responsible for providing treatment to the person with serious and persistent mental illness or a severe emotional disturbance. A child's individual treatment plan also identifies activities related to involving the child's family or primary caregiver in the treatment of the child and, if the child is placed or being considered for placement outside the home, includes the individual placement plan as required under Minnesota Statutes, section 257.071, subdivision 1.

[For text of subp 15, see M.R.]

Subp. 16. **Legal representative.** "Legal representative" means a court-authorized guardian of a child with serious and persistent mental illness or severe emotional disturbance, or a guardian or conservator authorized by the court to make decisions about services for a person with serious and persistent mental illness or severe emotional disturbance.

Subp. 17. **Mental health professional.** "Mental health professional" means a person who provides clinical services in the treatment of mental illness and who, at a minimum, is qualified in at least one of the ways specified in Minnesota Statutes, section 245.462, subdivision 18, clauses (1) to (5), or who provides clinical services in the treatment of emotional disturbance and who, at a minimum, is qualified in at least one of the ways specified in Minnesota Statutes, section 245.4871, subdivision 27.

After August 1, 1989, persons in allied fields as specified in Minnesota Statutes, section 245.462, subdivision 18, clause (5), or Minnesota Statutes, section 245.4871, subdivision 27, clause (5), shall be required to file their credentials as required by Minnesota Statutes, section 148B.42, subdivision 1.

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[For text of subp 18, see M.R.]

Subp. 19. **Mental health services.** “Mental health services” means the services provided to persons with mental illness that are described in *Minnesota Statutes*, section 245.466, subdivision 2, or to persons with emotional disturbance that are described in *Minnesota Statutes*, section 245.4875, subdivision 2.

[For text of subps 20 to 26, see M.R.]

Subp. 27. **Serious and persistent mental illness.** “Serious and persistent mental illness” means the condition of ~~an adult or child~~ a person who has a mental illness and meets at least one of the following criteria:

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

[For text of subp 28, see M.R.]

Subp. 28a. Severe emotional disturbance. “Severe emotional disturbance” refers to the criteria specified in *Minnesota Statutes*, section 245.4871, subdivision 6.

[For text of subps 29 and 30, see M.R.]

9505.0478 REFERRAL FOR CASE MANAGEMENT SERVICES.

Consistent with the Minnesota Governmental Data Practices Act, and *Minnesota Statutes*, ~~section sections~~ sections 245.467, subdivisions 4 and 6, and 245.4876, subdivisions 4 and 7, a physician, a mental health provider, a family member, a social worker, a legal representative, or other interested person may give the name and address of a person believed to have serious and persistent mental illness or severe emotional disturbance to the local agency and request case management services for the person. A person who may have serious and persistent mental illness or severe emotional disturbance may directly request case management services from the local agency.

9505.0479 COORDINATION OF CASE MANAGEMENT SERVICES WITH OTHER PROGRAMS.

Subpart 1. **Persons receiving services through the Veterans Administration.** Persons with serious and persistent mental illness or severe emotional disturbance who are receiving case management services through the Veterans Administration are not eligible for case management services while they are receiving case management through the Veterans Administration.

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

Subp. 3. **Persons with dual diagnoses.** Except as provided in subpart 2, if a person has the diagnosis of mental retardation or a related condition and the diagnosis of serious and persistent mental illness or severe emotional disturbance, the county shall assign the person a case manager for services to persons with mental retardation according to parts 9525.0015 to 9525.0165 and shall notify the person of the ~~right to receive~~ availability of case management services for persons with serious and persistent mental illness or severe emotional disturbance according to parts 9505.0476 to 9505.0491. If the person or the person’s representative chooses case management services for persons with serious and persistent mental illness or severe emotional disturbance, the case manager assigned under parts 9525.0015 to 9525.0165 and the case manager chosen under parts 9505.0476 to 9505.0491 shall work together as a team to ensure that the person receives the services required under parts 9525.0015 to 9525.0165 and 9505.0476 to 9505.0491. The case manager responsible for the person’s individual community support plan under parts 9505.0476 to 9505.0491 shall:

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

Subp. 4. **Person enrolled in medical assistance demonstration project.** For purposes of parts 9505.0476 to 9505.0491, a person with serious and persistent mental illness or severe emotional disturbance who is enrolled by a demonstration provider under the medical assistance demonstration project established under *Minnesota Statutes*, section 256B.69, is eligible for case management services as specified in parts 9505.0476 to 9505.0491 on a fee-for-service basis from a provider other than the demonstration provider.

Subp. 5. **Person assessed as chemically dependent under part 9530.6620.** A person who has been assessed as chemically dependent under part 9530.6620 and who is also determined to have serious and persistent mental illness or severe emotional disturbance is eligible to receive case management services under parts 9505.0476 to 9505.0491.

The case manager assigned under parts 9505.0476 to 9505.0491 must coordinate the person’s case management services with any similar services the person is receiving from other sources.

9505.0480 LOCAL AGENCY RESPONSIBILITIES.

Subpart 1. **Local agency responsibility; general requirement.** The local agency must make case management services available under parts 9505.0476 to 9505.0491 either directly or under a contract with a case management provider. The services must be provided to recipients who request them and, within the limitations of *Minnesota Statutes*, ~~section sections~~ sections 245.486 and 256E.081, to persons other than recipients. The recipients and persons other than recipients must have been determined by a mental health professional to have serious and persistent mental illness or severe emotional disturbance or must have been determined by the local agency to meet the requirements in part 9505.0477, subpart 27, item A, B, or D. As required by *Minnesota Statutes*, ~~section sections~~

245.464, subdivision 2, 245.4873, and 245.4875, the local agency must develop mental health services for all persons with serious and persistent mental illness or severe emotional disturbance to the extent of the county's available resources. The first source of payment for case management services to a person with serious and persistent mental illness or severe emotional disturbance shall be Medicare or a third-party payer wherever possible.

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

Subp. 4. Follow-up notice of availability of case management services. If the person notified under subparts 2 and 3 does not respond within ten working days after the local agency gives the required notice, the local agency must make a reasonable attempt to contact the person, or if the person is a child, the child's parents, primary caregiver, or legal representative. Contact must be either face-to-face or by telephone. If the local agency is able to contact the person, the local agency must ask whether the person who may have serious and persistent mental illness or severe emotional disturbance wants to be assessed for eligibility for case management services. The local agency must document the attempted and completed contacts, describing the type and content of contact made, and the result of the contact.

[For text of subp 5, see M.R.]

Subp. 6. Refusal. A person may refuse case management services. A person's refusal of case management services does not affect the person's eligibility to receive case management services as long as the person is seriously and persistently mentally ill or has a severe emotional disturbance.

Subp. 7. Determination of eligibility for case management services. When a person requests or is referred for case management services, consents to be assessed for eligibility for the services, and authorizes a release of information, the local agency must determine whether the person meets a requirement of part 9505.0477, subpart 27, item A, B, or D, or must offer to help the person arrange a diagnostic assessment by a mental health professional, unless one has already been completed within ~~90~~ 180 days before the request or referral.

[For text of subp 8, see M.R.]

Subp. 9. Access to case management services. Within five days after a person who has been determined to have serious and persistent mental illness or severe emotional disturbance accepts case management services, the local agency must offer to help the person make an appointment with a case management provider. The appointment must be scheduled for no later than two weeks from the date it is made unless the person requests otherwise. The local agency must also inform the person of the availability of emergency services at the time the offer to schedule the appointment is made.

[For text of subp 10, see M.R.]

Subp. 11. Local agency responsibility; referral to mental health and other service providers. If a person with serious and persistent mental illness or severe emotional disturbance who is referred to a local agency for case management services refuses case management services or if a person referred to a local agency is determined to have a mental illness or emotional disturbance but not to have serious and persistent mental illness or severe emotional disturbance, the local agency shall offer to refer the person to a mental health provider or other service provider appropriate to the person's needs and, at the person's request, shall assist the person in making an appointment with the provider of the person's choice.

[For text of subp 12, see M.R.]

Subp. 13. Local agency responsibility; child's preplacement screening. In the case of a child with ~~serious and persistent mental illness~~ severe emotional disturbance who receives case management services under parts 9505.0476 to 9505.0491, the local agency shall assure coordination of the child's case management services with the child's permanency planning, placement prevention, and family reunification services required under *Minnesota Statutes*, chapter 256F.

Subp. 14. Eligibility if client does not have a current diagnostic assessment. Medical assistance payment is available for case management services provided to a medical assistance eligible person who does not have a current diagnostic assessment if all of the following criteria are met:

- A. the person requests or is referred for and accepts case management services;
- B. a diagnostic assessment is refused at the time of the person's referral or request for case management services by:
 - (1) an adult for reasons related to the adult's mental illness;
 - (2) by a child who meets a criterion specified in part 9505.0480, subpart 5, item A, and whose refusal is for reasons related to the child's mental illness or emotional disturbance; or
 - (3) the parent of a child;
- C. the case manager determines that the person is eligible for case management services; and
- D. the person obtains a new or updated diagnostic assessment within four months of the day the person first receives case management services.

Emergency Rules

9505.0481 OFFERING CASE MANAGEMENT SERVICES TO PERSONS ALREADY RECEIVING MENTAL HEALTH SERVICES.

If a person is in a regional treatment center, inpatient hospital, or residential treatment facility, or is receiving or requesting outpatient mental health services or other services through the community support service program and has been determined by a mental health professional to have serious and persistent mental illness or severe emotional disturbance, the mental health provider shall ensure that its representative informs the person of the availability of case management services under parts 9505.0476 to 9505.0491 and explains the purpose and potential benefit of case management services. The information must be given to a person within five days after admission to treatment in a regional treatment center, inpatient hospital, or residential treatment facility and within 15 days after admission to mental health services or treatment through the community support services program. If the person authorizes a release of information as specified in part 9505.0482, the representative of the mental health provider shall notify the local agency that the person wants case management services, and assure that the person has assistance in making an appointment with the case management provider of the person's choice. If the person is a child, the child and, except as provided in part 9505.0480, subpart 5, the child's parents, primary caregiver, or legal representative must be informed of the availability and purposes of case management services. The local agency must comply with the notice and follow-up requirements in part 9505.0480, subparts 2, 3, 4, and 5.

9505.0482 AUTHORIZATION TO RELEASE INFORMATION AND CONTACT PERSON'S FAMILY.

Subpart 1. **Authorization to release information.** When a local agency, a case manager, or mental health professional asks a person requesting case management services to sign forms needed to gain access to information necessary to provide case management services or to share information with providers involved in providing services to the client, according to Minnesota Statutes, sections 245.468, subdivisions 4 to 6, and 245.4876, subdivision 5, the information described in items A to H must be on the form above the person's signature. A separate form must be completed and signed for each authorization of access to a record related to the person's mental health status. The period of authorization must not exceed one year.

The form must contain:

- A. the person's name;
- B. the date;
- C. the specific nature of the information authorized to be released;
- D. the name of the person or persons authorized to give information;
- E. the name of the person or persons to whom the information is to be given;
- F. a description of the information's use during the case management services to determine eligibility for and provision of case management services;
- G. the date the authorization expires; and
- H. a statement that the person may revoke the consent at any time.

Subp. 2. **Authorization to contact person's family.** When parts 9505.0476 to 9505.0491 require a local agency, case manager, or mental health professional to contact the family of a person who has or may have a serious or persistent mental illness or severe emotional disturbance to obtain information related to the provision of the person's case management services, the local agency, case manager, or mental health professional, according to Minnesota Statutes, section 245.4876, subdivision 5, shall ask the person to sign forms authorizing contact with the person's family. The information in items A to H must be on the form above the person's signature. A separate form must be completed and signed for each family member to whom access is authorized. The period of authorization must not exceed one year for each family member. If the person does not sign the form authorizing contact with a family member, the local agency, case manager, or mental health professional may not contact the family member and shall note the person's refusal to sign in the person's case record.

The form must contain:

- A. the person's name;
- B. the date;
- C. the specific nature of the information being sought in the contact;
- D. the name of the family member with whom contact is being authorized;
- E. the name of the person or persons who are authorized to contact the family member;
- F. a description of the information's use during case management services to determine eligibility for and provision of case management services;
- G. the date the authorization expires; and
- H. a statement that the person may revoke the authorization at any time.

9505.0483 DIAGNOSTIC ASSESSMENT.

Subpart 1. **Acceptance of diagnostic assessment.** A diagnostic assessment that can be used for determining a person's eligibility for case management services under parts 9505.0476 to 9505.0491 or in developing a client's individual community support plan or individual family community support plan must meet the requirements in items A to C and must contain the contents required in subpart 4.

A. A diagnostic assessment that was completed within ~~90~~ 180 days before the person requested or was referred for case management services must be reviewed and brought up to date by a mental health professional if the person agrees to receive case management services.

B. If the person has not had a diagnostic assessment within ~~90~~ 180 days before requesting or being referred for case management services, a new diagnostic assessment must be obtained.

C. The diagnostic assessment must result in a determination of whether the person has serious and persistent mental illness or severe emotional disturbance.

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

Subp. 3. **Eligibility to provide a diagnostic assessment.** A diagnostic assessment required for parts 9505.0476 to 9505.0491 shall be conducted by the ~~providers in items A and B~~.

~~A. In the case of a recipient, a recipient's diagnostic assessment completed before September 1, 1990, must be conducted by a mental health professional who is a provider and who is a psychiatrist, licensed consulting psychologist, or licensed psychologist, or conducted by a mental health professional who is under the clinical supervision of a provider who is a psychiatrist, a physician who is not a psychiatrist, or a licensed consulting psychologist. Beginning September 1, 1990, a person's diagnostic assessment must be conducted by a mental health professional who is a provider.~~

~~B. In the case of a person who is not a recipient, the person's diagnostic assessment must be conducted by a mental health professional as defined in Minnesota Statutes, section 245.462, subdivision 18 except that, in the case of a child, the diagnostic assessment may be conducted by a mental health practitioner as specified in part 9505.0323, subpart 31. In the case of a recipient, the mental health professional conducting the recipient's diagnostic assessment or providing the clinical supervision of a mental health practitioner conducting a diagnostic assessment of a recipient who is a child must be a provider.~~

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

9505.0484 CASE MANAGER QUALIFICATIONS AND TRAINING.

Subpart 1. **Qualifications of case manager.** Except as provided in subpart 2, a case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness or to provide services to children, experience in the delivery of services to persons with emotional disturbance, be skilled in the process of identifying and appraising a wide range of client needs, and be knowledgeable about local community resources and how to use the resources for the client's benefit.

Subp. 2. **Supervision of case manager.** Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to persons with mental illness or emotional disturbance must complete 40 hours of training approved by the department in case management skills and in the characteristics and needs of persons with serious and persistent mental illness or if the case manager will serve children, training in the characteristics and needs of children with severe emotional disturbance. Training in case management skills includes training in the delivery of services to persons with mental illness or if the case manager will serve children, training in the delivery of services to children with emotional disturbance, the process of identifying and assessing a wide range of client needs, and the use of local community resources for a client's benefit. They must also receive clinical supervision regarding the provision of case management services from a mental health professional at least once a week including a face-to-face meeting of the case manager and the manager's clinical supervisor at least once a month until the requirement of 2,000 hours of supervised experience is met. Case managers who have at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness or if the case manager will serve children, in the delivery of services to children with severe emotional disturbance shall meet in person with a mental health professional at least once a month to obtain clinical supervision of the case manager's activities. The dates and subjects discussed during the clinical supervision meetings must be documented in the client's record.

Subp. 3. **Training requirement.** A case manager must complete 30 hours of training every two years. The training must consist of in-service training or courses in areas related to mental health services such as mental health treatment, rehabilitation, prevention of mental illness or emotional disturbance, case management, licensing standards applicable to mental health services for persons with serious and persistent mental illness or severe emotional disturbance, child development, family relationships, and special needs of specific client populations or children. Training or courses must be approved by the case management provider.

Emergency Rules

9505.0485 CASE MANAGER RESPONSIBILITIES.

Subpart 1. **Development of client's individual community support plan.** Within 30 days after the first meeting with a client, the case manager together with the client and, in the case of a child, except as provided in part 9505.0480, subpart 5, items A and B, the child's parent, legal representative, or primary caregiver, shall complete a written functional assessment and develop a written individual community support plan or individual family community support plan with the client based on the client's diagnostic assessment and needs. A review of the plan and the client's needs shall be completed at least every 90 days after the development of the first plan. A review of the functional assessment is to be completed at each review of the individual community support plan. To the extent possible and with the client's consent, the client, the client's family, physician, mental health providers, service providers, and other interested persons shall be involved in the development and implementation of the individual community support plan.

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

Subp. 3. **Referral, coordination, and monitoring.** The case manager shall refer the client to appropriate mental health or other service providers and offer to help the client gain access to needed services. In referring the client to appropriate mental health providers, the case manager shall also consider the client's need for referral for a neurological examination, psychological testing, and a chemical dependency assessment as specified in part 9530.6615. If necessary, the case manager shall arrange for a standardized assessment of the side effects related to the administration of the client's psychotropic medication. The case manager shall coordinate the provision of services to the client and monitor the client's progress to determine whether the goals of the individual community support plan are being met or progress toward the goals is taking place. If the case manager determines the goals, or progress toward the goals is not being met, the case manager together with the client shall modify the client's individual community support plan. The determination shall be made through regularly scheduled meetings and discussions with the client, the client's service providers, mental health providers, and the client's parents or legal representative if the client is a child. The coordination must include regularly scheduled meetings or contact with the client, the client's providers, and the case manager. If the client has coverage through a third-party payer, the case manager shall help the client obtain payment for covered services. The case manager shall meet face-to-face with the client at least once every 30 days calendar month, unless the client receives case management services under subpart 6, refuses further case management services, or case management services are terminated as provided in part 9505.0489. In meeting with the client to carry out the purposes of this subpart, the case manager shall meet with the client at places other than the case manager's office building as necessary or appropriate to the client's need.

Subp. 4. **Emergency services.** If a case manager has reason to believe that a client may need or use emergency services under *Minnesota Statutes*, section 245.469 or 245.4879, the case manager shall provide the client the information necessary for the client to access the emergency services. If the client has authorized a release of information as specified in part 9505.0482, the case manager shall inform providers of the emergency services and other mental health services of the client's possible need for and use of emergency services. Additionally, the case manager shall ask the emergency service to inform the case manager if the client requests emergency services and also to inform the case manager of the nature of and action taken in response to the client's request. The case manager is responsible for assuring that all persons needing to know about the client's use of emergency services are informed and for taking the lead in coordinating the use of emergency services and other mental health services. The case manager also is responsible for revising the client's individual community support plan as necessary to minimize the client's need for emergency services. If a client receives emergency mental health services, the mental health provider shall, with the client's consent, notify the case manager; however, the client's consent is not necessary if the emergency situation falls within the provisions of *Minnesota Statutes*, section 148.976, subdivision 1.

[For text of subp 5, see M.R.]

Subp. 6. **Case management services for clients outside the county of financial responsibility.** When a client is residing in or admitted to a residential treatment facility, regional treatment center, or inpatient hospital, or other excluded time facility, in a county other than the county of financial responsibility, case management services shall be provided either through telephone calls from the client's case manager to the client and to a representative of the facility, center, or hospital, or through face-to-face contact between the client and the case manager at least once every 30 days calendar month. Regardless of the frequency of telephone contact between the case manager and the client, the case manager shall meet with the client face-to-face at least once every 60 days quarterly. The case manager shall ~~monitor~~ actively participate in the discharge planning process for the client ~~and~~. Before or on the date of a planned discharge, the case manager shall meet face-to-face with the client. The case manager shall ask that a representative of the facility, center, or hospital notify the case manager of a planned discharge or if the client leaves against medical advice. Upon receiving notice that the client has left the facility, center, or hospital against medical advice, the case manager shall immediately attempt to locate the client. If the client returns to the county of financial responsibility, the case manager must have face-to-face contact with the client at least once every 30 days calendar month, with the client's consent.

[For text of subp 7, see M.R.]

Subp. 8. **Client's refusal to continue receiving case management services.** If a client other than a client specified in subpart 6 refuses to continue receiving case management services or fails to contact the case manager face-to-face for more than 45 days, the

client's case manager shall make a reasonable effort to contact the client no later than five days after the 45th day to determine if the client wants to continue receiving case management services. If the client can not be reached or wants to terminate case management services, the case manager shall notify the client and the local agency that case management services shall be terminated unless the client contacts the case manager before the 60th day after the previous contact. The notice shall state the date of the previous contact and the date of the proposed termination. If the client does not respond by the 60th day, the case management services shall be terminated. A written notice sent to the client's last known address or another more effective means, known to and documented by the case manager, of contacting the client constitutes notice of termination of case management services.

If a former client wants to receive case management services again after a refusal or termination of services, the client may contact the case management provider directly and case management services must resume if the person is still eligible. The case management provider must notify the local agency when this occurs.

Subp. 9. **Case manager's caseload.** The local agency must establish the caseload of case managers on the basis of the requirements of parts 9505.0476 to 9505.0491. However, by December 1, 1992, the caseload of a case manager must not exceed the ratio of 40 clients to one full-time equivalent case manager. A county that has an average case manager caseload in excess of 40 clients to one full-time equivalent case manager on the effective date of the emergency amendment to this subpart may continue to exceed the required ratio of 40 clients to one full-time equivalent case manager but only to the extent that the increased revenue is insufficient to hire the additional case managers needed to meet the required ratio of 40 clients to one full-time equivalent case manager. For purposes of this subpart:

A. "Increased revenue" means revenue received from a source other than county funds by the county and its contracted providers for case management services provided under parts 9505.0476 to 9505.0490 during calendar year 1992 or the applicable calendar year thereafter which exceeds the revenue received from these sources for case management services provided under parts 9505.0476 to 9505.0490 during calendar year 1990.

B. "Source other than county funds" means funds received through medical assistance, general assistance medical care, state grants dedicated to case management services, and third party payers.

C. "County funds" means funds available to a county through county levies, block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, and state shared revenue funds.

The local agency must require case management providers to document the amount of time each case manager spends on each client.

Subp. 10. **Case manager's provision of other mental health services.** A case manager shall not provide mental health services or other health services such as psychotherapy, day treatment services, residential treatment, medication management as specified in part 9505.0345, subpart 5, or independent living skills training to any client for whom the case manager is providing case management services. Nevertheless, in the event of unforeseen or unplanned circumstances, a case manager may provide independent living skills services on an emergency basis to a client for whom the case manager is providing case management services. However, independent living skills provided on an emergency basis by a case manager to a client are not eligible for medical assistance payment.

A case manager may attempt to contact a potential case management client. However, these attempts do not qualify as case management services eligible for medical assistance payment under parts 9505.0476 to 9505.0491.

9505.0487 SERVICES NOT ELIGIBLE FOR MEDICAL ASSISTANCE AS CASE MANAGEMENT SERVICES.

The following services are not eligible for medical assistance payment as case management services:

- A. diagnostic assessment;
- B. administration and management of a client's medications;
- C. legal services, including legal advocacy, for the client;
- D. information and referral services that are part of a county's community social service plan as required under *Minnesota Statutes*, section 256E.09, subdivision 3;
- E. outreach services through the community support services program to identify persons who are in need of mental health services;
- F. services that are not documented as required under part 9505.0491, subpart 4, through records required in part 9505.0491, subpart 5; and
- G. health services that are otherwise eligible for payment under Medicare, a third-party payer, or parts 9505.0170 to 9505.0475, or other rules of the department. Examples are psychotherapy, psychological services, residential treatment, and medication management; and
- H. case management services that do not meet the requirements of parts 9505.0476 to 9505.0491.

Emergency Rules

9505.0489 TERMINATION OF CASE MANAGEMENT SERVICES.

Case management services for a client terminate when one of the events listed in items A to ~~E~~ D occurs. If one of the events listed in items A to ~~E~~ D occurs, the case management provider shall notify the local agency. The local agency shall make a reasonable attempt to notify the client, before case management services are terminated under this part, and shall offer to refer the client to a mental health or other service provider appropriate to the client's needs. If the case manager is unable to locate the client, the case management provider shall notify the local agency and shall document the efforts to contact the client in the client's case record.

A. A mental health professional who has provided mental health services to the client furnishes a written opinion that the client no longer needs case management services.

~~B.~~ The client and the case manager mutually decide that the client no longer needs case management services.

~~C.~~ B. The client refuses to continue receiving case management services in the manner specified in part 9505.0485, subpart 8.

~~D.~~ C. No face-to-face contact has occurred between the client and the client's case manager for 60 consecutive days ~~unless the client is in a residential treatment facility, regional treatment center, or inpatient hospital in a county outside the county of financial responsibility because the client has failed to keep an appointment or refused to meet with the case manager.~~

D. ~~D.~~ If the client is in a residential treatment facility, regional treatment center, an excluded time facility, or inpatient hospital in a county outside the county of financial responsibility and no face-to-face contact has occurred between the client and the client's case manager for a period of 90 consecutive days because the client has failed to keep an appointment or refused to meet with the case manager ~~and the client is in a residential treatment facility, regional treatment center, or inpatient hospital in a county outside the county of financial responsibility.~~

9505.0490 APPEALS.

Subpart 1. **Right to appeal.** A person who applies for or receives case management services has the right to a fair hearing under *Minnesota Statutes*, section 256.045, as specified in subpart 3 in regard to termination, denial, suspension of payment for case management services, or a request or referral for case management services that is not acted upon within five days. A county of financial responsibility has an absolute defense to an appeal under this part if it proves by a preponderance of the evidence that it has no more resources available with which to avoid a denial, reduction, suspension, or termination of case management services to the person who applies for or receives case management services and that it has complied with *Minnesota Statutes*, section 256E.081. The appeal rights of a person who applies for or receives case management services under parts 9505.0476 to 9505.0491, regardless of funding sources, are limited to those specified in this subpart.

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

9505.0491 MEDICAL ASSISTANCE PAYMENT FOR CASE MANAGEMENT SERVICES.

Subpart 1. **Definitions** Definition; face-to-face. For purposes of this part, the following terms have the meanings given them:

~~A.~~ "Face-to-face" means the client is physically present with the case manager.

~~B.~~ "Unit" means an accumulation of time that totals 15 minutes in which case management services have been provided to or on behalf of a specific recipient or recipients.

Subp. 2. **Case management services eligible for medical assistance payment.** Case management services provided to a recipient that are eligible for medical assistance payment are:

A. face-to-face contact between the case manager and the client;

B. telephone contact between the case manager and the client, the client's mental health provider or other service providers, a client's family members, primary caregiver, legal representative, or other interested person or persons;

C. face-to-face contacts between the case manager and the client's family, legal representative, primary caregiver, mental health providers or other service providers, or other interested persons;

D. contacts between the case manager and the case manager's clinical supervisor concerning the client;

E. development, review, and revision of the client's individual community support plan, including the case manager's functional assessment of the client; ~~and~~

F. time spent by the case manager traveling ~~outside the county of financial responsibility~~ to meet face-to-face with a client who is a resident of a ~~regional treatment center, residential treatment facility, or an inpatient hospital~~ an excluded time facility that is located outside the county of financial responsibility; and

G. time spent by the case manager traveling within the county of financial responsibility to meet face-to-face with the client or the client's family, legal representative, or primary caregiver.

Subp. 3. **Limitation on payments for services.** Payment for case management services shall be limited according to items A ~~and B to E~~.

A. Payment for case management services is limited to no more than six hours per client per month, exclusive of out-of-county travel, except under the conditions specified in item B. The payment may be for any combination of the services specified in subpart 2, except that payment for telephone contact between a case manager, the client, the client's legal representative, the client's family or primary caregiver, mental health providers, and other service providers, or other interested persons is limited to no more than two hours per client per month.

B. If the client is at risk of hospitalization, losing a job or place to live, or in danger of harming self or others because of the client's mental illness or emotional disturbance, the payment limitation on case management services to the client shall be ten hours per month, exclusive of out-of-county travel ~~and~~ the payment limitation on telephone contact in item A shall ~~apply to this item be increased to three hours per client per month~~. In this instance, the case manager must document the factor or factors placing the client at risk.

C. A client's functional assessment by a case manager is eligible for medical assistance payment if the assessment does not duplicate a similar assessment of the client by the Division of Rehabilitation Services of the Minnesota Department of Jobs and Training.

D. When traveling with a client, a case manager may not bill for both a face-to-face session with the client and travel time concurrently.

E. Except as provided in part 9505.0324 [Emergency], proposed in Volume 16, Number 11, pages 989-991, October 14, 1991 (16 S.R. 988) payment for case management services to a client is limited to the services of one case manager per minute per client.

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

Subp. 5. ~~Charting, and record keeping, and travel.~~ Time spent by the case manager in ~~charting, and record keeping, and traveling within the county of financial responsibility~~ is not eligible for separate medical assistance payment as a case management service.

Subp. 6. **Billing by units.** A case management provider shall bill for medical assistance payment for eligible case management services provided to a recipient according to ~~units the number of minutes~~ of service provided, ~~as defined in subpart 1,~~ and documented as required in subpart 4.

[For text of subps 7 to 10, see M.R.]

Department of Human Services

Proposed Emergency Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 245.4886 (*Laws of Minnesota 1991*, chapter 292, article 6, section 26). The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Stephanie L. Schwartz, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4302.

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

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

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews 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 adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Emergency Rules

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

Natalie Haas Steffen
Commissioner

Emergency Rules as Proposed (all new material)

9535.1700 [Emergency] PURPOSE.

Parts 9535.1700 to 9535.1765 [Emergency], establish standards for the receipt and distribution of state grants allocated under *Minnesota Statutes*, section 245.4886, to assist county boards in the delivery of children's community-based mental health services.

Use of state grants must be in accordance with the service priorities under *Minnesota Statutes*, section 245.4886.

9535.1705 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1765 [Emergency] have the meanings given them in *Minnesota Statutes*, section 245.4871. For the purposes of parts 9535.1700 to 9535.1765 [Emergency], the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in *Minnesota Statutes*, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under *Minnesota Statutes*, section 256E.06, federal block grants under *Minnesota Statutes*, section 256E.07, family preservation grants under *Minnesota Statutes*, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

9535.1710 [Emergency] ELIGIBILITY TO RECEIVE GRANT.

Only county boards, including two or more county boards jointly, that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1765 [Emergency], are eligible to receive grants for children's community-based mental health services.

9535.1715 [Emergency] GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board, or two or more county boards jointly, applying for grants for children's community-based mental health services under part 9535.1710 [Emergency] shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed and on forms provided by the commissioner.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

- A. signed by the chair of the county board; or
- B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant for children's community-based mental health services, the chairs of all county boards participating in the joint application shall sign the grant application or submit copies of the resolutions of all the county boards.

9535.1720 [Emergency] USE OF GRANT FUNDS.

Subpart 1. **Family community support services.** Unless the appropriation for *Minnesota Statutes*, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 70 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide family community support services. Under *Minnesota Statutes*, section 245.4871, subdivision 17, family community support services include:

- A. crisis assistance, including crisis placement and crisis respite care;
- B. client outreach to each child with severe emotional disturbance and the child's family;
- C. medication monitoring where necessary;
- D. assistance in developing independent living skills;
- E. assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;
- F. assistance with leisure and recreational activities;
- G. assistance in locating respite care and special needs day care;
- H. assistance in obtaining potential financial resources, including federal benefits. Federal benefits include supplemental security income, medical assistance, and Medicare;

- I. day treatment;
- J. professional home-based family treatment; and
- K. foster care with therapeutic supports.

Subp. 2. **Mental health case management services.** Unless the appropriation for *Minnesota Statutes*, section 245.4886, subdivision 1, is amended, beginning April 1, 1992, 30 percent of each grant award for children's community-based mental health services must be used by the county board or boards to provide mental health case management services.

Subp. 3. **Day treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide day treatment services only if a county board demonstrates to the commissioner that all family community support services specified in subpart 1, items A to H, are available as required under *Minnesota Statutes*, section 245.4884, subdivision 1.

Subp. 4. **Professional home-based family treatment services.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide professional home-based family treatment services only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under *Minnesota Statutes*, section 245.4884, subdivision 1; and

B. day treatment services are available as required under *Minnesota Statutes*, section 245.4884, subdivision 2.

Subp. 5. **Foster care with therapeutic supports.** Part of the 70 percent of the grant award specified in subpart 1 may be used to provide foster care with therapeutic supports only if a county board demonstrates to the commissioner that:

A. all family community support services specified in subpart 1, items A to H, are available as required under *Minnesota Statutes*, section 245.4884, subdivision 1;

B. day treatment services are available as required under *Minnesota Statutes*, section 245.4884, subdivision 2; and

C. professional home-based family treatment services are available as required under *Minnesota Statutes*, section 245.4884, subdivision 3.

9535.1725 [Emergency] FUNDING CRITERIA.

The commissioner shall distribute grants for children's community-based mental health services to county boards whose grant applications meet the criteria in items A to D.

A. The grant application must be consistent with the children's mental health component of the county's community social services plan required by *Minnesota Statutes*, section 256E.09, that is approved by the commissioner.

B. The grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1765 [Emergency], and with *Minnesota Statutes*, sections 245.487 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715 [Emergency], the county board shall agree that:

(1) it considered the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council when developing the grant application for children's community-based mental health services;

(2) it will consider the advice of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council if the grant application for children's community-based mental health services is amended;

(3) children's community-based mental health services will be provided in accordance with needs identified in the individual family community support plan;

(4) where available, the following will be used to pay for children's community-based mental health services instead of grant funds under parts 9535.1700 to 9535.1765 [Emergency]:

(a) medical assistance, under *Minnesota Statutes*, section 256B.0625;

(b) the children's health plan, under *Minnesota Statutes*, section 256.936;

(c) private insurance;

(d) client fees; and

(e) other funds; and

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(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1765 [Emergency], the commissioner shall specify the conditions the grant application must meet in order to receive the grant for children's community-based mental health services.

9535.1730 [Emergency] DISTRIBUTION FORMULA.

For the grant period beginning April 1, 1992, the commissioner shall use the formulas in items A to D to distribute grants for children's community-based mental health services to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1765 [Emergency].

A. Within the limits of the appropriations under *Minnesota Statutes*, section 245.4886, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1725 [Emergency], the greatest of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties and any previously allocated special project funds, plus a cost of living increase based on the legislative appropriation for that purpose; or

(2) at least \$22,000 annually; or

(3) \$2.25 per capita. Per capita must be based on county child population as determined by the most recent data of the state demographer.

B. The commissioner shall increase the amounts in item A, to the extent funds are available, to enable more children's community-based mental health services to be provided as required by *Minnesota Statutes*, sections 245.487 to 245.4888.

C. If the appropriations under this part are decreased, then the per county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

D. If the appropriations under this part remain the same as the appropriations in the preceding year, the per county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

9535.1735 [Emergency] FUNDING SPECIAL PROJECTS.

In addition to grants for children's community-based mental health services distributed under part 9535.1730 [Emergency], a county board may apply to the commissioner for grants appropriated for special projects to allow children with severe emotional disturbance to function and remain with their families in the community. Special projects must provide at least one of the children's community-based mental health services under part 9535.1705 [Emergency], subpart 2, unless the legislature enacts appropriations under *Minnesota Statutes*, section 245.4886, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will allow children with severe emotional disturbance to function and remain with their families in the community.

9535.1740 [Emergency] BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget for children's community-based mental health services required.** When applying for a grant for children's community-based mental health services, the county board shall submit to the commissioner a budget covering all children's community-based mental health services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the sources in items A to G:

A. grants under parts 9535.1700 to 9535.1765 [Emergency];

B. county funds;

C. medical assistance;

D. client fees;

E. private insurance and other third-party payors;

F. the children's health plan, under *Minnesota Statutes*, section 256.936; and

G. other county public agencies. Among the county public agencies that may provide funding are schools and colleges, health departments, and law enforcement organizations.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for children's community-based mental health services between a county board and a service provider, and all contracts for children's community-based mental health services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092 and 9535.1700 to 9535.1765 [Emergency].

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants for children's community-based mental health services, they shall designate which county board will:

- A. act as the host county to receive the grant; and
- B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1765 [Emergency].

9535.1745 [Emergency] PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under *Minnesota Statutes*, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1740 [Emergency], subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1765 [Emergency]. The commissioner shall make an initial advance in an amount sufficient to cover the first three months in which the services specified in the county board's approved grant application are to be provided. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the grant award or 100 percent of actual expenditures made according to a budget approved under parts 9535.1710 to 9535.1765 [Emergency].

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the children's community-based mental health services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

- A. use the additional income to provide additional children's community-based mental health services within the grant period in which the additional income is received; or
- B. use the additional income in place of the county board funds committed to children's community-based mental health services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in *Minnesota Statutes*, section 245.48; or
- C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1750 [Emergency] TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for children's community-based mental health services allocated to the county board under *Minnesota Statutes*, section 245.4886, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to *Minnesota Statutes*, section 245.483.

9535.1755 [Emergency] REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds for children's community-based mental health services to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1765 [Emergency], or for special projects under part 9535.1735 [Emergency]. For purposes of this part, "unused grant funds" means:

- A. grant funds not awarded to a county board; or
- B. grant funds awarded to a county board but not used.

9535.1760 [Emergency] BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the children's mental health component of a county's community social services plan under *Minnesota Statutes*, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the children's community-based mental health services funded under *Minnesota Statutes*, section 245.4886, based on an assessment of unmet needs of children with

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severe emotional disturbance and their families, and if all the requirements of *Minnesota Statutes*, sections 245.487 to 245.4888, are met.

9535.1765 [Emergency] RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

- A. expenditures for children's community-based mental health services under parts 9535.1700 to 9535.1765 [Emergency] can be easily compared to the county board's approved budget for those services;
- B. all sources of income can be readily identified; and
- C. documentation is available for all expenditures.

Budget records must include a copy of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Required records of services to children and their families.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner about children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency], so that the commissioner can determine the effectiveness of services in achieving the stated purpose as specified for:

- A. family community support services under *Minnesota Statutes*, section 245.4884, subdivision 1;
- B. case management services under *Minnesota Statutes*, section 245.4881;
- C. day treatment under *Minnesota Statutes*, section 245.4884, subdivision 2;
- D. professional home-based family treatment under *Minnesota Statutes*, section 245.4884, subdivision 3; and
- E. foster care with therapeutic supports under *Minnesota Statutes*, section 245.4884, subdivision 4.

Among the data that must be collected are:

- (1) information on client concerns;
- (2) information on client satisfaction with services received; and
- (3) submission of periodic reports by the county in the manner prescribed on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall make available to the commissioner, upon request and for audit purposes, all budget, expenditure, and service records pertaining to the provision of children's community-based mental health services funded under parts 9535.1700 to 9535.1765 [Emergency].

The commissioner shall be given access without prior notice to the physical plant and grounds where children's community-based mental health services are provided and to documents and information relevant to children's community-based mental health services. The commissioner shall be given access as often as the commissioner deems necessary.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense.

Subp. 4. **Retention.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for five years unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made.

Department of Human Services

Proposed Emergency Amendments to Permanent Rules and Emergency Rules Relating to Professional Home-Based Mental Health Services

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the State Department of Human Services intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, sections 245.484 (*Laws of Minnesota 1991*, chapter 292, article 6, section 10), 256B.04, subdivision 2 and 256B.0625, subdivision 14. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes*, sections 14.29 to 14.36.

All persons have 25 days or until 4:30 p.m. on November 8, 1991 after publication to submit data and views on the proposed

emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to: Eleanor Weber, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-4301.

The proposed emergency rule sets standards to receive medical assistance payment as a provider of home-based mental health services to medical assistance eligible children who have a severe emotional disturbance. The rule: establishes home-based mental health service as a service under EPSDT (Early and Periodic Screening, Diagnosis, and Treatment); establishes a diagnostic assessment as the required screening mechanism; sets standards for service delivery by mental health professionals and mental health practitioners; requires coordination of the services with the child's case manager for mental health services; requires eligible service providers to be able to provide diagnostic assessment, individual psychotherapy, family psychotherapy, multiple family group psychotherapy and individual, family, or group skills training; and specifies expected outcomes of individual, family, and group skills training.

A free copy of the proposed emergency rule is available by contacting Nancy Bishop, Rules Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 296-7454.

The proposed emergency 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 emergency rule as noticed.

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for reviews 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 adopted rule, must submit the written request to Eleanor Weber at the address above.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

Natalie Haas Steffen
Commissioner

Rules as Proposed

9505.0175 DEFINITIONS.

[For text of subs 1 to 42, see M.R.]

Subp. 43. **Residence.** "Residence" means the place a person uses as his or her a primary dwelling place, and intends to continue to use indefinitely for that purpose. Residence is not a group home as defined by part 9560.0520, subpart 4, a residential treatment facility licensed under parts 9549.0900 to 9545.1090, an acute care hospital licensed under Minnesota Statutes, chapter 144, a regional treatment center or other institutional group setting, or a foster family home in which:

A. the child is being provided therapeutic support of foster care as defined in Minnesota Statutes, section 245.4871, subdivision 34; or

B. the foster parent is not the primary caregiver and does not reside with the child.

[For text of subs 44 to 50, see M.R.]

9505.0324 [Emergency] HOME-BASED MENTAL HEALTH SERVICES.

Subpart 1. Definitions. The terms used in this part have the meanings given them in items A to E.

A. "Child" means a person under age 21 who is eligible for early periodic screening, diagnostic, and treatment services under parts 9505.1693 to 9505.1748 and who has been determined to be in need of home-based mental health services.

B. "Child with severe emotional disturbance" refers to the term defined in Minnesota Statutes, section 245.4871, subdivision 6, and, in addition, to a person at least age 18 but under age 21 who has serious and persistent mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20.

C. "Emotional disturbance" refers to the term defined in Minnesota Statutes, section 245.4871, subdivision 15; and, in addition, to a person at least age 18 but under age 21 who has a mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20.

D. "Home-based mental health services" means a culturally appropriate, structured program of intensive mental health services provided to a child with severe emotional disturbance who is at risk of out-of-home placement because of an event or condition which exacerbates the child's severe emotional disturbance or who is returning from out-of-home placement because of the severe emotional disturbance. The services are for the purposes of resolving an acute episode of emotional disturbance affecting the child with the severe emotional disturbance or the child's family, reducing the risk of the child's out-of-home placement, or reunifying

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and reintegrating the child into the child's family after an out-of-home placement. The services are provided primarily in the child's residence but may also be provided in the child's school, the home of a relative of the child, a recreational or leisure setting, or the site where the child receives day care. For purposes of this part, home-based mental health services is used as a synonym for "professional home-based family treatment" in Minnesota Statutes, section 245.4871, subdivision 31.

E. "Individual treatment plan" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 21.

Subp. 2. Eligible providers of home-based mental health services. The entities in items A to F are eligible to provide home-based mental health services:

A. outpatient hospitals licensed under Minnesota Statutes, section 144.50;

B. community mental health centers providing community mental health center services as specified in part 9505.0260;

C. an entity approved by the commissioner as specified in parts 9520.0750 to 9520.0870;

D. physician directed clinics as defined in part 9505.0345, subpart 1, item A;

E. community health clinics under part 9505.0255; and

F. an entity operated by or under contract to the county to provide home-based mental health services.

Subp. 3. Eligibility to receive home-based mental health services. Home-based mental health services are available to a child who has been referred for home-based mental health services as a child with severe emotional disturbance who needs home-based mental health services. For purposes of the determination of a child's eligibility to receive home-based mental health services under this part, a diagnostic assessment as defined in Minnesota Statutes, section 245.4871, subdivision 11, in the case of a child under age 18 or a diagnostic assessment as defined in Minnesota Statutes, section 245.462, subdivision 9, in the case of a child at least age 18 but under age 21 is a screening under parts 9505.1693 to 9505.1748.

Subp. 4. Eligibility for medical assistance payment. To be eligible for medical assistance payment, the provider of home-based mental health services must meet the requirements in items A to E. The home-based mental health service provider must assist the case manager, if any, in coordinating other services to the child:

A. The services must be provided by mental health professionals and mental health practitioners who are skilled in the delivery of mental health services to children and their families.

B. The services must be designed to meet the specific mental health needs of the child and the child's family according to the child's individual treatment plan that is developed by the provider and that specifies the treatment goals and objectives for the child and the child's family.

C. The provider must provide, or assist the child or the child's family in arranging, crisis services for the child and the family of a child which must be available 24 hours per day, seven days a week.

D. The caseload of a home-based mental health service provider must be of a size that can reasonably be expected to enable the provider to meet the needs of the children and their families in the provider's caseload and permit the delivery of the services specified in the children's individual treatment plans.

E. The services must be coordinated with the child's case manager for mental health services if the child is receiving case management services.

Subp. 5. Components of home-based mental health services. A provider of home-based mental health services specified in subpart 2 must be capable of providing all of the components specified in this subpart. However, a provider is responsible to provide a component only if the component is specified in a child's individual treatment plan. The components are:

A. diagnostic assessment as specified in part 9505.0323;

B. individual psychotherapy, family psychotherapy, and multiple-family group psychotherapy as defined in part 9505.0323;
and

C. individual, family, or group skills training that is designed to improve the basic functioning of the child with severe emotional disturbance and the child's family in the activities of daily and community living, and to improve the social functioning of the child and the child's family in areas important to the child's maintaining or reestablishing residency in the community. For purposes of this item, "community" means the child's residence, work, school, or peer group. The individual, family, and group skills training must:

(1) consist of activities designed to promote skill development of both the child with severe emotional disturbance and the child's family in the use of age-appropriate daily living skills, interpersonal and family relationships, and leisure and recreational services;

(2) consist of activities which will assist the family to improve its understanding of normal child development and to use

parenting skills that will help the child with severe emotional disturbance achieve the goals outlined in the child's individual treatment plan; and

(3) promote family preservation and unification, community integration, and reduced use of unnecessary out-of-home placement or institutionalization of children with severe emotional disturbance.

Subp. 6. Excluded services. The services specified in items A to L are not eligible for medical assistance payment.

A. Home-based mental health services provided to a child who at the time of service provision has not been determined to be a child with severe emotional disturbance except for the first 30 hours of home-based mental health services provided to a child who is later determined to have a severe emotional disturbance.

B. More than 192 hours of individual, family, or group skills training within a six-month period.

C. More than a combined total of 48 hours within a six-month period of individual psychotherapy and family psychotherapy and multiple-family group psychotherapy except in an emergency and prior authorization or after-the-fact authorization of the psychotherapy is obtained under part 9505.5015.

D. More than 240 hours of a combination of any of the psychotherapies and individual, family, or group skills training within a six-month period.

E. Home-based mental health services that exceed 240 hours in any combination of the psychotherapies and individual, family, or group skills training. Additional home-based mental health services beyond 240 hours are eligible for medical assistance with prior authorization.

F. Psychotherapy provided by a person who is not a mental health professional as defined in part 9505.0175, subpart 28, or a mental health practitioner providing mental health services as specified in part 9505.0323, subpart 31.

G. Individual, family, or group skills training provided by a person who is not qualified, at least, as a mental health practitioner as specified in part 9505.0175, subpart 27, and who does not maintain a consulting relationship whereby a mental health professional accepts full responsibility and is present on-site at least every sixth day on which the mental health practitioner provides the individual, family, or group skills training to the child with severe emotional disturbance or the child's family. The on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts the full responsibility.

H. Home-based mental health services provided by an entity specified in subpart 2 if the entity is not capable of providing all the components required in subpart 4.

I. Home-based mental health services by more than one mental health professional simultaneously unless prior authorization is obtained.

J. Home-based mental health services to a child or the child's family which duplicate health services funded under part 9505.0323, grants authorized according to *Minnesota Statutes*, section 245.4886, the Minnesota family preservation act, *Minnesota Statutes*, section 256F.03, subdivision 5, paragraph (e), or the Minnesota Indian family preservation act, *Minnesota Statutes*, sections 257.35 to 257.3579. However, up to 60 hours of day treatment services under part 9505.0323 provided concurrently with home-based mental health services to a child with severe emotional disturbance are eligible for medical assistance payment if the child is being phased out of day treatment services and phased into home-based mental health services or if the child is being phased out of home-based mental health services and phased into day treatment services and the home-based mental health services are identified with the goals of the child's individual treatment plan.

K. Home-based mental health services provided to a child with severe emotional disturbance who is not living in the child's residence. However, up to 35 hours of home-based mental health services provided to a child with severe emotional disturbance who is residing in a hospital are eligible for medical assistance payment if the services are provided under an individual treatment plan for the child developed by the provider working with the child's discharge planning team and the services are needed to assure the child's smooth transition to living in the child's residence.

L. Home-based mental health services provided in violation of any provision of subparts 1 to 5.

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

Rural Finance Authority

Notice of Monthly Meeting

NOTICE IS HEREBY GIVEN that the Rural Finance Authority Board will meet at 9:00 a.m. on the first Wednesday of every month at the Minnesota Department of Agriculture, 90 West Plato Blvd., St. Paul, MN. If the first Wednesday is a state holiday, the meeting will be held on the Thursday following the first Wednesday. Additional meetings may also be called by the board as necessary.

Comprehensive Health Association

Notice of Meeting of Ad Hoc Committee to Review Writing Carrier Proposals

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association Ad Hoc Committee to Review Writing Carrier Proposals will be held at 7:30 a.m. on Tuesday, October 15, 1991 at Group Health, Inc., 2829 University Avenue SE, Minneapolis, Minnesota in the 9th floor, large conference room.

For additional information please call Lynn Gruber at (612) 593-9609.

Ethical Practices Board

Request for Advisory Opinion Re: Campaign Finance Disclosure

The Ethical Practices Board solicits comments regarding the following request for an advisory opinion received from Harley A. Ogata, Staff Attorney, Minnesota Education Association. Written comments should arrive at the Board office, 625 N. Robert St., St. Paul, MN 55101, prior to October 28, 1991, for consideration at the Board's meeting of October 31, 1991.

October 4, 1991—I am writing on behalf of the Minnesota Education Association (the "MEA") and IMPACE-MEA, its registered political fund, to request an advisory opinion from the Ethical Practices Board, pursuant to the provisions of *Minnesota Statute* § 10A.02, subd. 12, to provide guidance to the MEA and IMPACE-MEA regarding their conduct during the forthcoming election year, based on the following:

FACTS

The MEA is an unincorporated "association," as defined by *Minnesota Statute* § 10A.01, subd. 3, and has approximately 47,000 members in Minnesota, most of whom are public school teachers. The MEA, through IMPACE-MEA, intends to endorse candidates for virtually all state offices in Minnesota that will be on the ballot in 1992, after screening candidates to determine their positions on issues of importance to the MEA and its membership. IMPACE-MEA also intends to make cash contributions to the principal campaign committees of all endorsed candidates.

Obviously, communication with its membership is essential to the MEA, and the ability to communicate with its membership concerning issues of common concern, including political issues, is essential to the MEA's existence. During the school year, the MEA publishes a monthly newsletter (ten issues annually) that is distributed to its membership. During the forthcoming election year, the MEA intends to report in its newsletter as a news item the results of the IMPACE-MEA endorsing convention that will occur in the summer. Although the MEA does not publish a special election edition of its newsletter, in 1992, the MEA plans to focus on election issues in a regular edition of its newsletter to be published shortly before the election and to urge the membership to vote for named endorsed candidates. Also, IMPACE-MEA intends to produce brochures and leaflets regarding endorsed candidates and to distribute them to the MEA's membership, without any authorization, consent, or cooperation from the candidates.

Finally, unlike many-similar associations, the MEA's locals are truly independent of the state organization. They have their own budgets, not subject to the control of the MEA or IMPACE-MEA, and they have full authority to communicate with their members on political and other issues and to support candidates of their choice.

The questions we have of the Board concern primarily what, if anything, Chapter 10A requires of the MEA, its locals, or IMPACE-

MEA regarding the allocation and reporting to the Ethical Practices Board of expenses incurred in making partisan communications to MEA members, and whether the MEA, its locals, or IMPACE-MEA can make independent expenditures on behalf of endorsed candidates.

Specifically, we have the following:

QUESTIONS

1. Must the MEA obtain written authorization under *Minnesota Statute* § 10A.17, subd. 2, from the treasurers of principal campaign committees of endorsed candidates before it can report in its newsletter the results of the IMPACE-MEA endorsing convention, assuming that the report will be made without the authorization, consent, or cooperation of any candidate? That is, can the cost of printing that portion of the MEA's regular newsletter be an independent expenditure, with the appropriate disclaimer?

2. Can the cost of printing that portion of the MEA's regular pre-election issue of its newsletter that urges the membership to vote for candidates endorsed by IMPACE-MEA qualify as an independent expenditure, if there is no authorization, consent, or cooperation from the endorsed candidates in connection with the publication of that issue?

3. If the costs of publication in the MEA's newsletter of information either reporting the endorsement of candidates by IMPACE-MEA or urging the election of candidates endorsed by IMPACE-MEA must be in the form of approved expenditures, and thereby contributions to the candidates named, and assuming that the costs exceed \$100, must the MEA itself register with the Board as a political committee or can IMPACE-MEA obtain the necessary written authorizations from campaign committee treasurers, reimburse the MEA for the allocable portions of the newsletters, and report the approved expenditures as contributions to the affected candidates? If the MEA must register as a political committee, would its contributions be accumulated with those of IMPACE-MEA, subject to a single contribution limitation? Could the MEA establish more than one political fund with contribution limits separate from those of IMPACE-MEA? If the publication costs can be independent expenditures, and they exceed \$100, by whom are they reported?

4. Can IMPACE-MEA make independent expenditures on behalf of endorsed candidates in the form of brochures and leaflets distributed to the MEA's membership promoting the election of endorsed candidates to whom IMPACE-MEA has made cash contributions, assuming that the publication of such brochures and leaflets is done without the authorization, consent, or cooperation of the candidates? You may assume that, for example, IMPACE-MEA would not ask the candidate or his or her committee for a photograph of any other information to be used in such brochures or leaflets.

5. Can MEA locals make independent expenditures on behalf of candidates endorsed by IMPACE-MEA in the form of communications to their members urging the election of such candidates? If your response is that as a matter of law if such expenditures are made, they can be made only in the form of approved expenditures, should each local that spends more than \$100 on such communication register a political fund with the Board? Must such contributions be accumulated with contributions made by the MEA or IMPACE-MEA and be reported by the MEA or IMPACE-MEA? If such independent expenditures can be made by a local, and they exceed \$100, must the local register a political fund to report them?

DISCUSSION

Under federal law, expenses incurred by a corporation in making partisan communications to its shareholders and executive or administrative personnel or their families, or expenses incurred by a labor organization in making partisan communications to its members and their families, are not considered to be either contributions or expenditures under the Federal Election Campaign Act. See 2 U.S.C. § 441b(b) (2) (A) (1986). We are aware that Minnesota law contains no parallel exemption.

We also know that on November 1, 1974, the Board, then known as the Minnesota State Ethics Commission, issues an opinion to the effect that the cost of preparing and distributing letters from an association to its members urging the election of specific candidates represented reportable contributions to and expenditures on behalf of the named candidates under Chapter 10A, unless the expenditure was made without the authorization or consent of the candidates, express or implied. The Board opined that if the expenditures were made with the authorization or consent of the respective candidates, express or implied, then they are subject to the requirement of prior written authorization under *Minnesota Statute* § 10A.17, subd. 2 (which has since changed in form, but not in effect), and if there was no such authorization or consent, the expenditures was then an independent expenditure subject to the disclaimer provisions of *Minnesota Statute* § 10A.17, subd. 5 (now *Minnesota Statute* § 10A.17, subd. 4). See Advisory Opinion No. 10, November 1, 1974.

We also are aware of *Minnesota Rules* 4500.0800 (1991), which essentially codifies Advisory Opinion No. 10. That Rule, entitled "Association Newsletters on Behalf of a Candidate," provides:

Unless an association as defined in *Minnesota Statutes*, section 10A.01, subdivision 3 is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds \$20 per candidate.

We therefore understand that both Advisory Opinion No. 10 and Rule 4500.0800 contemplate that the distribution of a newsletter by an association such as the MEA, which advocates the election of one or more candidates, may under appropriate circumstances

be an independent expenditure as defined *Minnesota Statute* § 10A.01, subd. 10b, and the costs associated with that distribution would thereby not be contributions to the candidate or candidates.

We also note that there is nothing in Minnesota law suggesting that an individual or association that has made a cash contribution to a candidate may not also make independent expenditures on behalf of that candidate, as long as the independent expenditures are in fact "independent," that is, as long as they are not made with "the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent." *Minnesota Statute* § 10A.01, subd. 10b.

We have particular concern regarding the interrelationship of the views of Chapter 10A expressed in Advisory Opinion No. 10 and in Advisory Opinion No. 63, issued by the Board on August 1, 1980. We believe it will be necessary in order to respond to the questions we have asked that the Board reconsider the conclusions arrived at in the Advisory Opinion No. 63 and tell us if the Board still views the advice given there to be valid.

As you know, Advisory Opinion No. 63 concluded that a candidate's appearance at a pre-endorsement interview should not be construed as a "request" or "suggestion" that the endorsing organization make an expenditure on behalf of the candidate. However, the Advisory Opinion also concluded that such an appearance "set in motion" the application of *Minnesota Statute* § 10A.17, subd. 2, if and when the endorsing organization decided to prepare and distribute a sample ballot on behalf of candidates, and that the organization must therefore request written authorization for expenditures over \$20 from appropriate treasurers before spending money to prepare and distribute sample ballots on behalf of candidates who screened before the organization. If such written authorization is granted on behalf of a candidate, then the organization reports the expenditure as an "approved expenditure" under what is now *Minnesota Statute* § 10A.01, subd. 10a, and thereby a contribution to that candidate. If written authorization is expressly denied, then the expenditure would be treated as an independent expenditure.

We believe that the conclusion arrived at in Advisory Opinion No. 63 is not supported by either law or logic and constitutes an impermissible infringement on the right of the MEA and similarly-situated associations to make independent expenditures on behalf of candidates they have screened for endorsement. You should bear in mind that the United States Supreme Court has stated that independent expenditures constitute expression "at the core of our electoral process and of the First Amendment freedoms." *Buckley v. Valeo*, 424 U.S. 1, 39 (1976) (quoting *Williams v. Rhodes*, 393 U.S. 23, 32 (1968)). See also *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986); *Federal Election Commission v. National Conservative Political Action Committee (NCPAC)*, 470 U.S. 480, 943 (1985) (independent expenditures "produce speech at the core of the First Amendment").

Virtually any responsible organization operating in an orderly fashion will "screen" candidates to determine which, if any, it will endorse, and indeed, on whose behalf the organization might want to make independent expenditures. We believe that Advisory Opinion No. 63 was correct in concluding that a candidate's appearance at a pre-endorsement interview should not be construed as a request or suggestion that the endorsing organization make an expenditure on behalf of the candidate. However, we believe that the inquiry should have ended there.

Advisory Opinion No. 63 recognized that the procedure it prescribed might lend itself to collusion between a candidate and an association to circumvent contribution limits by a sham denial of written authorization on behalf of a candidate, but it concluded that the statute contained sufficient safeguards to punish such action. However, we suggest that Advisory Opinion No. 63 can be read a prescribing a procedure that absolutely prohibits independent expenditures by an association that screens candidates. When an association requests written authorization to make an approved expenditure on behalf of a candidate, even if the written authorization is expressly denied, the candidate or his or her campaign committee then have knowledge of the proposed activity of the association. It might be argued that at that point express denial of written authorization is not enough. Since the candidate or committee has knowledge of the association's planned expenditure, perhaps only a good faith express request that the expenditure not be made avoids having it be considered to be made without the implied consent of the candidate or the committee. The Board or other fact-finder would then be in the position of determining whether the candidate or treasurer was sincere in requesting that no expenditure be made. Such a result simply does not make sense. If a maximum cash contribution has been given to a candidate, the treasurer would necessarily have to deny written authorization for an approved expenditure, even though the candidate and committee might dearly love to have the expenditure made. In that case, an association's ability to make an *independent expenditure* would depend on the amount of cash contributed to a candidate. There appears to be no basis for such a result in Minnesota law, and it similarly does not make sense.

We do not believe that a candidate's appearance for screening should set in motion the application of *Minnesota Statute* § 10A.17, subd. 2. That provision requires an association to receive written authorization from the treasurer of a principal campaign committee to make an *approved* expenditure. It does not require that an association seek written authorization before making an independent expenditure. If, as Advisory Opinion No. 63 states, a candidate's appearance for a screening interview is not a request or suggestion that expenditures be made on behalf of the candidate, then that appearance should not set in motion the requirements of *Minnesota Statute* § 10A.17, subd. 2, if the endorsing association is not seeking to make an *approved* expenditure.

Finally, with regard to our questions relating to partisan communications by MEA locals with their members, who should be aware that if such costs must be approved expenditures, the expenditures might be in excess of the contribution limit to a particular candidate.

For example, the MEA local in the Anoka-Hennepin Independent School District has more than 1,800 members. One mailing to the members of that local would cost more than the maximum contribution limit to a house candidate in that district. Therefore, if that cost cannot be an independent expenditure, the local would be precluded from communicating political views to its members. It strikes us that such a conclusion would be contrary to *Minnesota Statute* § 10A.265, which provides that: "(n)othing in this chapter shall be construed as abridging the right of an association to communicate with its members."

Ethical Practices Board

Advisory Opinion #112 Re: Local Officials

Issued 10-3-91 to Betty Backes—SUMMARY—112

A city located in the seven-county metropolitan area must begin to comply with the economic interest disclosure provisions of *Minnesota Statutes* Ch. 10A on the date that the official federal decennial census shows a population of over 50,000. The city council must designate the local official who will be responsible for administering economic interest disclosure by local officials serving therein. The full text of the opinion is available upon request from the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-5148.

Department of Labor and Industry

Labor Standards Division

Notice of Correction to Prevailing Wage Rates

Prevailing wage rates certified October 1, 1991 for labor class code 404—CARPENTER for commercial construction in Winona county has been corrected.

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

Office of the Ombudsman for Mental Health and Mental Retardation

Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will hold a general meeting at 10:00 a.m. on Friday, October 25, 1991. The meeting will be held at the Ombudsman Office, Suite 156, Metro Square Building on 7th and Robert Street, St. Paul.

Department of Revenue

Appeals and Legal Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Sales and Use Taxation Relating to Waste Processing Equipment

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing sales and use tax on waste processing equipment. The adoption of this rule is authorized by *Minnesota Statutes*, section 270.06 which requires the commissioner of revenue to make, publish, and distribute rules for the administration and enforcement of state tax laws.

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

Terese Koenig Smith
Department of Revenue
Appeals, Legal Services, and

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Criminal Investigation Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220

Oral statements will be received during regular business hours over the telephone at (612) 296-1902 extension 129, or (612) 296-1022 and in person at the above address.

All statements of information and opinions shall be accepted until November 15, 1991. Any written material received by the Minnesota Department of Revenue 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: 14 October 1991

Terese Koenig Smith
Attorney

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is November 4, 1991.

Wetland Heritage Advisory Committee

155 So. Wabasha, Suite 104, St. Paul 55107. 612-296-3767
Laws of 1991, Ch. 354, Art. 6, Sec. 11

APPOINTING AUTHORITY: Governor. **COMPENSATION:** None specified.

VACANCY: Seven members: Please see the description of this new committee.

The committee shall meet twice yearly to review implementation of the program, identify strengths and weaknesses and recommend changes to improve the program.

The committee consists of nine members, including the commissioner of Agriculture or designee, the commissioner of Natural Resources, and seven members appointed by the governor. The seven members appointed by the governor must include one county commissioner, one representative each from a statewide supporting organization, a statewide conservation organization, an agricultural commodity group, one faculty member of an institution of higher education with expertise in the natural sciences, and one member each from two statewide farm organizations.

Meetings will be held semi-annually, location to be determined.

Governor's Council on Geographic Information

320 Centennial Bldg., 658 Cedar St., St. Paul 55155. 612-296-5693
Executive Order 91-19

APPOINTING AUTHORITY: Commissioner of Administration. **COMPENSATION:** Travel expenses.

VACANCY: Fifteen members: Please see the description of this new council.

The council recommends standards, policies, guidelines for developing and sharing geographic information; provides a forum for discussion, debate and decisions on issues related to geographic information; prioritizes and schedules the development of public-funded data programs; defines the roles and responsibilities for data stewardship; formulates policies for access, distribution and pricing of geographic data; initiates a geographic information clearinghouse; provides or makes recommendations for the provision of organizational structure, financial support and personnel direction for a statewide approach for developing and managing geographic information; provides education, training and support for users of geographic information toward their better management of public resources; completes an annual report for the governor (submitted through the commissioner of Administration) describing accomplishments from the previous year and plans and recommendations for the future.

The council shall consist of not more than fifteen members; members must have knowledge of GIS and interest in the GIS field. Council membership must include at least one representative from each of the following: state government, higher education, local government, federal government and GIS users in the private sector.

Quarterly meetings held in St. Paul; three hours plus travel time. Council members will be expected to serve on at least one subcommittee of the council. Subcommittee meeting schedule will vary depending on need.

Emergency Medical Services Advisory Council

717 S.E. Delaware St., Mpls. 55414. 612-623-5484
Minnesota Laws of 1990, Chapter 568, Art. 1, Sec. 16

APPOINTING AUTHORITY: Commissioner of Health. COMPENSATION: Travel expenses.

VACANCY: Three members: one must be a representative of an emergency medical services training institution, one must be a representative of a community health services agency, one must be a representative of the public-at-large.

The council advises, consults with, and makes recommendations to the commissioner of Health regarding the formulation of policy and plans for the organization, delivery, and evaluation of emergency medical services within the state.

Seventeen members include: eight representatives of regional EMS governing boards; seven technical representatives; one community health services agency representative and one representative of the public at large. Meetings alternate between the Twin Cities and St. Cloud, four to six times per year; meetings are five to six hours in length.

Solid Waste Management Advisory Council

1350 Energy Ln., St. Paul 55108. 612-649-5750
Minnesota Statutes 115A.12

APPOINTING AUTHORITY: Office of Waste Management. COMPENSATION: Reimbursed for expenses.

VACANCY: Three members: one industry representative interested and active in environmental and solid waste management issues, preferably experienced in the private recycling industry; and two citizens interested and active in environmental and solid waste management issues.

The council makes recommendations on solid waste management activities. The council may have nine to twenty-one members, with equal numbers of citizen members, representatives of local government units, and representatives of the solid waste industry; at least three members experienced in the private recycling industry and at least one member experienced in each of the following areas: state and municipal finance, solid waste collection, processing and disposal, and solid waste reduction and resource recovery.

Meetings held the first Friday of each month, from noon to 3:30 p.m.

D.A.R.E. Advisory Council

102 State Capitol, St. Paul 55155. 612-296-6196
Minnesota Statutes 299A.331

APPOINTING AUTHORITY: Attorney General, Commissioners of Public Safety & Education, POST Board. COMPENSATION: N/A.

VACANCY: One member: To be appointed by the Attorney General.

The council works to expand the DARE program throughout the state. It develops advisory policies and procedures to guide local communities in the operation of DARE and works with the Bureau of Criminal Apprehension in maintaining appropriate training and teaching standards.

The council consists of seventeen members including the attorney general serving as chair; the commissioner of Public Safety; the commissioner of Education; three representatives of law enforcement appointed by the commissioner of Public Safety; three representatives of education appointed by the commissioner of Education; a representative of the DARE officers association appointed by the Peace Officer Standards and Training Board from among recommendations of the association; and seven citizens appointed by the attorney general.

Meeting schedule and location undetermined at this time.

Advisory Council on Workers' Compensation

Dept. of Labor and Industry, 443 Lafayette Rd., St. Paul 55155. 612-296-6490
Minnesota Statutes 175.007

APPOINTING AUTHORITY: Commissioner of Labor and Industry. COMPENSATION: \$55 per diem plus expenses.

VACANCY: Two employee members.

The council studies workers compensation law and its administration and recommends changes where appropriate.

Members include five representatives of employers, five representatives of employees, five non-voting public members and two recipients of workers' compensation benefits under Chapter 176 and the chairs of the Rehabilitation Review Panel and the Medical Services Review Board. Monthly meetings. The council is not subject to Section 15.059, subdivision 5.

MN Council for the Hearing Impaired

Deaf Services, Dept. of Human Services, 444 Lafayette Rd., St. Paul 55155-3814. 612-297-7305 TDD & voice
Minnesota Statutes 256C.28

APPOINTING AUTHORITY: Commissioner of Human Services. COMPENSATION: \$55 per diem.

VACANCY: One at-large member. Members may include persons who are deaf or hard of hearing; parents of hearing impaired

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children; private service providers (including sign language interpreters); teachers of hearing impaired students; and representatives of county and regional human services.

The council advises the commissioner, governor, and legislature regarding policies, programs, services affecting hearing impaired citizens, and creates public awareness of the needs and potential of hearing impaired people.

The council includes fifteen members, seven of whom are appointed at-large, plus one member from each advisory committee under section 256C.24, subd. 3. At least fifty percent of the members must be hearing impaired. Terms are for two years. Members who are full time state employees or full time employees of political subdivisions of the state will not receive the per diem.

MN Board of Chiropractic Examiners Peer Review Committee

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

Minnesota Statutes 148.01-148.106

APPOINTING AUTHORITY: Executive Director, State Board of Chiropractic Examiners. **COMPENSATION:** \$55 per diem.

VACANCY: Two professional members.

The committee makes determinations of whether or not certain chiropractors properly utilized services rendered or ordered appropriate treatment or service, and if the cost of treatment was unconscionable.

The committee consists of seven members, including five chiropractors and two consumer members.

Terms are varied.

Board of Water and Soil Resources

Notice of Monthly Meeting

The Board of Water and Soil Resources (BWSR) will hold their regularly scheduled monthly meeting on October 23, 1991, in Room 112, Senate Hearing Room of the State Capitol, 75 Constitution Avenue, St. Paul, Minnesota. The meeting will convene at 9:00 a.m.

The BWSR will not hold a meeting in November. The next meeting of the BWSR is scheduled for December 18, 1991, in Room 112, Senate Hearing Room of the State Capitol, 75 Constitution Avenue, St. Paul, Minnesota. The meeting will convene at 9:00 a.m.

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 Health

AIDS/STD Prevention Services Section

Request for Proposals for HIV/STD Prevention Programs for Hispanic Minnesotans

Purpose

The Minnesota Department of Health (MDH) has funds available for a 12 month period (January 1, 1992-December 31, 1992) for HIV/STD prevention programming to reach Hispanics within the following program categories: (1) Targeted Outreach and Intervention for Adults At Risk, (2) Targeted Outreach and Intervention for Youth At Risk; and (3) Community Organization and Capacity Building. Proposals that address at least one of these program categories will be funded on a competitive basis.

Proposals addressing Hispanic youth and adults at risk of HIV and other STD infections will receive priority funding. These individuals include the following which are not mutually exclusive: gay and bisexual men, drug users, women whose sexual partners are gay or bisexual men, HIV-infected persons, and sexual partners of HIV-infected persons.

Amount

Up to \$117,000

Duration

The grant period is established for 12 months, January 1, 1992-December 31, 1992.

Eligibility

1. Any public or private agency (not-for-profit) that can demonstrate administrative, organizational, programmatic, and fiscal capability to develop, implement, and evaluate the proposed program.
2. Demonstrated support from local health departments, community and neighborhood agencies, health care providers, members of the target population, representatives from the Hispanic community, and other appropriate organizations, groups, and/or individuals within the Hispanic community.
3. Demonstrated current and/or future potential for additional complimentary funding and other resources for development, implementation, and evaluation of the program; as well as continuation of the program beyond 1992.

Procedure for Grant Application

All agencies which meet the eligibility criteria outlined above are eligible to submit a proposal. The complete request for proposals packet is available upon request, including instructions, format, necessary forms, and selected readings. Agencies seeking MDH funding for HIV/STD prevention programming for Hispanics are required to submit 15 copies of the completed proposal by **4:30 p.m., Friday, November 8, 1991 to:**

Stella Whitney-West, Program Specialist
Prevention Programs Unit
AIDS/STD Prevention Services Section
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, Minnesota 55440-9441
(612) 623-5698

Office of Waste Management

Notice of Request for Proposals for Available LOW-TECH Program Grants

The Minnesota Office of Waste Management (OWM) is a state agency established by the Minnesota Legislature to provide financial and technical assistance to industry and local governments to encourage the proper management of hazardous and solid waste. In the area of solid waste, the OWM's objective is to minimize land disposal of solid waste through the promotion of waste reduction, recycling, and resource recovery. The OWM's Solid Waste Grants Unit provides financial and technical assistance to local governments that develop and implement projects to accomplish this objective.

This notice is issued by the Director of the OWM (Director) under authority provided in *Minnesota Rules* Parts 9210.0400 to 9210.0460. Under this authority, the OWM has established the Solid Waste Separation (LOW-TECH) Grant Program, which provides grants to local governments, or other organizations working with local governments, for solid waste separation projects.

The purpose of this notice is to solicit proposals for projects that meet the objectives of the LOW-TECH Program.

The LOW-TECH Program is intended to encourage and assist the development and implementation of solid waste separation projects, and to transfer the knowledge and experience gained from those projects to other communities in the state. In 1990, the OWM has revised the rules governing the program to reflect changes in Minnesota's solid waste management priorities. As revised, *Minnesota Rules* Part 9210.0410 states that:

Applicants are encouraged to develop solid waste separation projects that are innovative in terms of the materials to be separated, the institutional arrangements to implement the project, or the technologies to separate materials or collect separated materials.

The OWM has \$400,000 available for LOW-TECH Program grants. LOW-TECH projects may receive grants equal to 50 percent of the eligible project costs or \$50,000, whichever is less.

Copies of the Request for Proposals, including the rules applicable to the program, are available by contacting:

Thomas Osdoba
Minnesota Office of Waste Management

State Grants

1350 Energy Lane
St. Paul, MN 55108
612-649-5773 or 1-800-652-9747 (toll-free in Minnesota)

Proposals meeting the requirements of *Minnesota Rules* Parts 9210.0400 to 9210.0460 must be received by the OWM at the above address by 4:30 p.m., CST, Friday, December 20, 1991.

Board of Water and Soil Resources

Announcement of Application Period for Local Water Resources Protection and Management Program Grants

The Board of Water and Soil Resources (BWSR) is accepting applications from counties for Local Water Resources and Protection and Management Program grants. The following grants are available:

- Grants to develop a comprehensive local water plan authorized under *Minnesota Statutes*, section 103B.311 (formerly 110B.04) or 103B.255 (formerly 473.8785); and
- Base grants for implementing a comprehensive local water plan.

The BWSR has \$2,435,000 available for these grants. To be considered, applications must be in the BWSR office in St. Paul by 4:30 p.m. January 15, 1992.

County Auditors have been notified of this application period. Any other local unit of government that wishes to be notified must contact the BWSR by writing to the Executive Director at the following address:

Ronald D. Harnack
Executive Director
Board of Water and Soil Resources
155 South Wabasha Street, Suite 104
St. Paul, MN 55107

An application packet which includes additional information about the grants can be obtained by writing to the BWSR office in St. Paul.

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 Human Services

Office of Child Support Enforcement

Request for Proposals for Administrative and Training Services

Scope of Proposal

The Office of Child Support Enforcement is seeking proposals from qualified attorneys experienced in child support enforcement law to implement the expansion of administrative process (*Minnesota Statutes*, section 518.551, subd. 10) for the establishment, enforcement, and modification of child/maintenance and medical support orders. Responsibilities under this contract will include:

1. Developing a proposed implementation schedule with counties operational on or before May 31, 1992.
2. Review and revise the existing procedures manual that will be used by all administrative process counties. This may include the revision and modification of legal documents and forms.
3. Coordinate the work of the Office of Administrative Hearings, the Court Administrators, and the county child support offices and their respective county attorneys by traveling to and meeting with all effected parties within the county. This would include obtaining a signed cooperative agreement in each county. The agreement needs to define the roles and responsibilities of all parties.

Professional, Technical & Consulting Contracts

4. Develop and conduct classroom training on procedures and case presentation for child support personnel presenting cases to the court in the administrative process forum.

5. Prepare media releases and notices to the private bar in administrative process counties so affected parties are advised of this new forum.

6. Provide written reports that includes a summary of accomplishments and details of what's left to accomplish.

7. Costs incurred for training materials, forms, legal documents, and procedures manuals are the responsibility of the responder.

Estimated cost: \$100,000

Bidders Conference

A bidders conference will be held on October 24, 1991 from 9:00 to 11:00 in room #1A at the Department of Human Services, 444 Lafayette Road, St. Paul, MN to respond to questions prospective bidders may have. The department will not respond to any questions over the phone and will not be responsible to any answers provided over the phone. Vendors may submit questions in writing prior to the bidders conference. Any questions on the project will be answered at the bidders conference. The manual that will be revised for this project will be on display for your review at the bidders conference.

Proposal Contents

The following will be considered minimum contents of a proposal:

1. Narrative project proposal identifying and describing the services and products to be provided.

2. Résumés outlining the responder's capabilities and experience.

3. Identify the personnel who will supervise and conduct this project and detail their training and work experience. No change in personnel will be permitted without approval of the Office of Child Support Enforcement.

4. Cost breakdown, work plan, and project schedule that identifies major tasks to be accomplished. Breakdown by deliverable on costs to be billed (items 1-7 listed in Scope of Proposal) should be provided by responder.

5. That the contractor must be in compliance with Human Rights pursuant to *Minnesota Statutes (1990)*, Section 363.073.

Submission of Proposals

Authority for the expansion and implementation of administrative process in additional counties is contingent upon the receipt of a formal notification letter from the Federal Government which will require the Commissioner of human services to designate certain additional counties. This Request for Proposals does not obligate the Office of Child Support Enforcement to complete the project. The Office of Child Support Enforcement reserves the right to accept or reject any or all proposals. A formal contract will be executed prior to initiation of the project.

Qualified firms or individuals with experience in family law will be considered for this project. Responder experience and qualifications, quality of proposal, and cost will be considered in awarding the contract. Upon completion of evaluation and selection, results will be sent by mail to all responders. Interviews will be conducted after the formal notification from the federal government is received. Notification of an interview will be sent one week in advance of the interview date.

Submit two copies of the proposal in an 8½ x 11 format. Price and terms must be valid for the length of the project and shall be presented on a fixed price basis.

All proposals must be sent to:

Nancy Gessner
Program Advisor, Office of Child Support Enforcement
444 Lafayette Road
4th Floor
St. Paul, Minnesota 55155-3846
(612) 296-9908

All proposals must be received no later than the close of the business day (4:30 p.m.) November 8, 1991. Late proposals will not be accepted.

Department of Human Services

Health Care Programs Division

Notice of Extension of Deadline for Request for Proposal for Prepaid Health Plans

The Department of Human Services is extending the deadline for prepaid health plans to respond to a Request for Proposal (RFP)

Professional, Technical & Consulting Contracts

to provide health care services to the Medical Assistance population in Ramsey County eligible for enrollment in the Prepaid Medical Assistance Program. Under the original notice contained in the August 18th edition of the *State Register*, proposals were required to be submitted no later than October 18, 1991. The new deadline for submitting a response to the RFP is November 15, 1991.

Please direct all inquiries and correspondence to:

Rick Chiat
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3854
Phone: 612/296-1481

Department of Human Services

Health Care Programs Division

Notice of Request for Proposal for Prepaid Health Plans

The Department of Human Services is seeking proposals from prepaid health plans to provide health care services to the Medical Assistance (MA) population in Hennepin, Dakota or Itasca county eligible for enrollment in the Prepaid Medical Assistance Program (PMAP). The MA population groups required to enroll in PMAP include the Aid to Families with Dependent Children (AFDC), AFDC-related, needy children, and aged eligibility groups. PMAP has been operational in Hennepin, Dakota, and Itasca Counties for over five years. The contract period covered by this RFP dates from July 1, 1992 to June 30, 1994.

Prepaid health plans must be organized to provide all MA covered services and must be able to accept financial risk. Capitation rates will be set by the department in consultation with an independent actuary. Contracts will be awarded based on: (1) capacity and geographic accessibility of service delivery sites; (2) ability to comply with service delivery standards appropriate to the demographic characteristics of the population to be enrolled; (3) financial and risk capability; and (4) ability to meet quality assurance, complaint and appeal and reporting requirements. The commissioner reserves the right to reject any proposal.

The current health plans participating in PMAP will be required to submit a modified version of this proposal. The format request for proposal which contains detailed specifications may be obtained by writing or contacting:

Rick Chiat
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3854
Phone: 612/296-1481

The deadline for submitting a proposal is 4:30 p.m., November 15, 1991.

Department of Human Services

Health Care Programs Division

Notice of Request for Proposal for Prepaid Health Plans

The Department of Human Services is seeking proposals from prepaid health plans to provide health care services to General Assistance Medical Care (GAMC) recipients in one or more of the following counties: Hennepin, Dakota, Ramsey, Itasca or Lake. The contract period covered by this RFP dates from July 1, 1992 to June 30, 1994.

Prepaid health plans must be organized to provide all GAMC covered services and must be able to accept financial risk. Capitation rates will be set by the department in consultation with an independent actuary. Contracts will be awarded based on: (1) geographic accessibility of service delivery sites; (2) ability to provide service to the entire range of the GAMC population; (3) financial and risk capability; and (4) ability to meet quality assurance, complaint and appeal and service delivery standards. The commissioner reserves the right to reject any proposal.

The current health plans participating in the GAMC prepayment program will be required to submit a modified version of this proposal. The formal request for proposal which contains detailed specifications may be obtained by writing or contacting:

Robert Chiat
Minnesota Department of Human Services

444 Lafayette Road
St. Paul, Minnesota 55155-3854
Phone: 612/296-1481

The deadline for submitting a proposal is 4:30 p.m., November 15, 1991.

Iron Range Resources and Rehabilitation Board

Ironworld USA

Request for Proposal for Food and Beverage Service Concession

IRONWORLD USA operating through the IRON RANGE RESOURCES AND REHABILITATION BOARD (IRRRB) is seeking proposals from experienced food/beverage operators to provide comprehensive food, beer and wine services for the clientele of IRONWORLD USA located in Chisholm, Minnesota.

CANCELLATION OF SOLICITATION

“This request for proposal does not obligate the State of Minnesota (IRRRB) to complete the project, and the State (IRRRB) reserves the right to cancel this solicitation if it is considered to be in the state’s best interest.”

SUBMISSION OF PROPOSALS

Proposals must be submitted no later than 4:30 p.m. Monday, **October 28, 1991** at IRONWORLD, USA, located on Highway 169 West of Chisholm, Minnesota.

Mailing Address: IRONWORLD USA
P.O. Box 392
Chisholm, Minnesota 55719

Phone: (218) 254-3321
1-800-372-6437 (Minnesota Only)
Richard A. Nordvold

Note: Please provide one (1) original and seven (7) photocopies of the food and beverage service proposals. Each copy of the proposal must have an original signature of an authorized representative of the responding firm. Proposals are to be sealed in mailing envelopes or packages with the respondent’s name and address clearly noted on the outside of each envelope and package. Proposals should also **clearly** note in bold letters: **IRONWORLD FOOD AND BEVERAGE PROPOSAL-DO NOT OPEN.**

Late proposals will not be accepted and the IRRRB is not liable for any cost associated with responding to this RFP.

REVIEW OF PROPOSALS

All proposals received by the above date will be reviewed and evaluated by a committee selected for this purpose by the IRRRB. An interview may be part of this evaluation process.

TENTATIVE PROPOSAL/CONTRACT TIMELINES

Publication in State Register: **Monday, October 14, 1991**

Response Period: **Monday, October 14, 1991 to
Tuesday, October 29, 1991**

Tentative Respondent Interviews: October, 1991

Anticipated Date of Contract Award (Pending IRRRB Approval): November 1, 1991

Effective Contract Date: **November 15, 1991**

Term of Contract: November 1, 1991-October 31, 1993

Renewable option, at contractor’s desire, yearly to October 31, 1995

COST OF CONTRACT

This is a negotiable item. However, IRRRB suggests that respondents propose lease/rental arrangements as 12-20% of gross gift store sales. IRONWORLD USA Gift Store revenues have average \$100,000 gross receipts per season.

I. BACKGROUND

IRONWORLD USA has been open since June 27, 1986. Already nearly 750,000 persons have attended the facility. Program plans for 1992 will include an increase of activity.

Professional, Technical & Consulting Contracts

II. SCOPE OF THE CONTRACTUAL SERVICE

The Purpose of these contractual services is to provide a quality gift store to the IRONWORLD, USA complex, including:

- A. Daily visitors to IRONWORLD.
- B. Visitors for SPECIAL EVENTS and AMPHITHEATRE PERFORMANCES.

III. OBJECTIVES

The principal objectives of these contractual services are:

A. To stock and sell quality merchandise to visitors of IRONWORLD USA from the expanded gift store space provided in the INTERPRETATIVE CENTER BUILDING or OTHER MUTUALLY AGREED UPON LOCATIONS.

B. To support and enhance the visitor's enjoyment and utilization of the entire facility.

SPECIFICS

A. The contractor shall provide luncheon and evening ethnic specialties as mutually agreed upon by the contractor and IRONWORLD USA. On special ethnic days IRONWORLD USA reserves the right to request the contractor to serve specific ethnic food mutually agreeable to both parties.

B. The contractor shall provide non-alcoholic beverages, fast food and incidental snack offerings for sale as mutually agreeable to both parties.

C. The contractor shall provide beer and wine for sale as mutually agreed upon by both parties.

D. For all of the above, the contractor shall provide such services for both daily and special events visitors. The above will be made available at both permanent sites and temporary sites throughout the facility.

E. At the temporary sites, the contractor and IRONWORLD USA may mutually agree to sub-lease arrangements with quality subcontractors.

F. IRONWORLD USA shall reserve the right to prepare and serve food (samples) as part of the ethnic food demonstrations or exhibits.

G. For all of the above, menus and prices shall be mutually agreed upon by the contractor and IRONWORLD USA.

V. GENERAL TERMS OF THE CONTRACT

TERM

A. The contract shall begin on November 1, 1991 and shall run through October 31, 1993. The contractor may request renewal of the contract for two (2) additional years on a yearly basis (November 15, 1993-October 31, 1994 and November 15, 1994-October 31, 1995).

B. The contractor shall be required to operate food and beverage services in conjunction with the operating hours of IRONWORLD USA. This will include full service from Memorial Day week-end through the second week-end in September. Operation of the food service in the shoulder season (April-Memorial Day and mid-September to closing October 31st) shall be limited to providing light lunch/dessert and beverage service from 11 a.m. to 4:30 p.m. daily.

INSURANCE

The contractor shall be required to carry the following TYPES and projected LIMITS of insurances:

A. Workman's Compensation and employer's liability in the amount of \$100,000.

B. Public liability in the amount of \$250,000 for injury to or death of any one person, and \$500,000 for each accident or occurrence of bodily injury.

C. Property damage coverage of \$100,000 per party, \$500,000 per occurrence.

D. Products liability coverage of \$250,000 for injury to or death of any one person, \$500,000 for each accident or occurrence and \$100,000/\$200,000 for property damage per accident or occurrence.

E. Fire legal liability in the amount of \$1,000,000.

F. Other miscellaneous types of insurance, such as unemployment compensation, equipment or automobile insurance, where applicable.

Note: The actual types, terms and limits of insurance will be discussed in detail when an actual contract is negotiated with the concessionaire selected. The above list is included to assist the respondent in estimating costs for the purpose of submitting a proposal.

The State will require a certificate of insurance from the contractor.

EQUIPMENT

The contractor shall be required:

- A. To provide additional utensils, pots, pans, roasters and serving dishes that are not in the IRONWORLD USA inventory.
- B. To provide additional optional equipment which the contractor deems necessary, but which is not provided among the fixed or mobile equipment provided by IRONWORLD USA with the basic facilities.
- C. To purchase all foods, beverages, paper supplies, general supplies, and housekeeping supplies as mutually agreed upon by IRONWORLD USA and the contractor.
- D. To provide any janitorial, maintenance equipment necessary to maintain the food preparation and serving areas under the contractor's immediate control in a proper, safe and healthful manner.

Note: IRONWORLD USA shall provide for basic cleaning and maintenance of the IRONWORLD USA complex. However, the contractor shall be responsible for cleaning and everyday maintenance of those areas under the contractor's immediate utilization, control, and responsibility.

TAXES

The contractor shall be responsible for any applicable local, county, state or federal taxes or payroll deductions related to its: 1) food and beverage operations; 2) its employees. This shall include items such as Minnesota's sales tax, beer, wine and cigarette taxes, individual state and federal income taxes, corporate state and federal income taxes, FICA, UC Premiums, etc.

LICENSES/PERMITS

The contractor shall be required to obtain, purchase and maintain any local, county, state or federal licenses/permits required for its food and beverage operations.

ADDITIONAL CONTRACTOR OBLIGATIONS

The contractor shall also be required:

- A. To make and retain detailed books of account/sales or other records reflecting its food and beverage operations. These shall be made available to the IRRRB to determine/verify gross receipts from which lease/rental fees are to be calculated.
- B. To submit any menu or price changes for pre-approval by IRONWORLD USA.
- C. To submit any promotional programs or advertisements related to the food and beverage operations for pre-approval by IRONWORLD USA.
- D. To respect the use/rights of any trademarks, endorsements, etc., independently being negotiated or previously obtained by the IRRRB/IRONWORLD USA.
- E. To provide for everyday janitorial and maintenance needs of those food preparation and serving areas under the contractor's immediate control in order that these can be maintained in a proper, safe and healthful manner. This shall include cleaning and maintenance of all food storage and preparation equipment, sinks, garbage disposals, beverage dispensers, serving equipment, dishes, flatware, glassware, pots, pans, utensils, paper and plastic products; interiors, counters, tables, chairs, and floors. This shall also include the clearing and cleaning of tables and snack counters. The contractor shall be required to collect and deposit all food and beverage wastes, wrappings, containers, and disposable serving refuse to central garbage collection sites within the IRONWORLD USA complex.
- F. To provide adequate security for those products and monies for which the contractor is immediately responsible.
- G. To comply with any applicable local, county, state or federal rules or regulations concerning employment, safety and health.

IRRRB OBLIGATIONS

The IRRRB shall provide:

- A. The IRONWORLD USA complex, including the ethnic kitchen/restaurant, food kiosks, storage areas, or other areas and items mutually agreed upon by the contractor and IRONWORLD USA.
- B. Basic utilities, including water, sewer, heat, electricity and garbage removal services.
- C. Basic security for the overall IRONWORLD USA complex.
- D. Available basic kitchen, dining and beverage equipment including: sinks, refrigerators, freezers, ranges, ovens, dishwashing equipment, garbage disposals, tables, chairs, or other equipment for which the contractor has no immediate responsibility.
- E. Basic janitorial and maintenance services for the overall facility, exclusive of those areas and items for which the contractor has immediate responsibility.

Professional, Technical & Consulting Contracts

VI. GENERAL PROPOSAL REQUIREMENTS

As a required part of this proposal, the respondent shall provide:

- A. A financial statement detailing the contracting firm's principals, assets, and liabilities. (IRRRB will respect the confidentiality of such information as per Minnesota State policy and statute.)
- B. A description of the responding firm's present activities and past experiences in food and beverage service.
- C. A tentative outline of menus and prices for ethnic specialties, beverages, fast foods, and incidental snack items.
- D. A short narrative explaining the respondent's potential plans and philosophies for providing comprehensive food and beverage services at IRONWORLD USA.
- E. A tentative proposal outlining the contractor's desired rental or lease arrangements with the IRRRB for facility rights and usage. (The IRRRB will consider a flat fee proposal, but recommends and prefers a proposal based on a percentage of gross sales.)
- F. A tentative staff organizational chart outlining numbers of people to be employed, positions, areas of responsibility, and names and experience of key prospective managerial personnel, if known.
- G. A detailed list of equipment and utensils that the contractor might make available for use in the performance of this contract.
- H. The IRRRB strongly recommends that seriously interested respondents make an on-site visit to IRONWORLD USA.

VII. STATUTORY PROPOSAL REQUIREMENTS

In accordance with the provisions of *Minnesota Statute* MS. 363.073, for state contracts in excess of \$50,000, all reporters having more than 20 full-time employees at any time during the previous 12 months must have a certificate of compliance issue by the Commissioner of Human Rights before a proposal may be accepted. **The proposal will not be accepted unless it includes one of the following:**

- A. A copy of the firm's current certificate issued by the Commissioner of Human Rights.
- B. A notarized statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights.
- C. A notarized statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

Any questions concerning a Certificate of Compliance may be referred to the Contract Compliance Unit of the Minnesota Department of Human Rights at (612) 296-5663.

Department of Natural Resources

Request for Proposals to Prepare and Executive a Study of Fishing Opportunities in the Twin Cities Metropolitan Area

The Department of Natural Resources (DNR) is requesting proposals from qualified firms and individuals to conduct a study of fishing opportunities in the Twin Cities metropolitan area. The study will provide the DNR with the information necessary to plan for increasing the fishing opportunities in the metro area.

The study will attempt to answer two basic questions: First, why is the amount of angling in the metro area not larger, since potential local demand appears very large and the biological supply currently exceeds angling pressure? And second, what is required to increase angling opportunities? To answer these questions requires 1) the identification of factors that limit fishing in the metro area and, subsequently, 2) an assessment of how, where and at what cost these factors can be removed, along with the increases in angling that the removal of these factors would produce.

The first part of the answer—dealing with the identification of factors that limit fishing—will be addressed with a survey of metro residents and an analysis of existing data. It will look at such potential limiting factors as interest in angling, distance of opportunities from home, water access, type of fishery, water quality, fish contamination, information on available opportunities, crowding and so on.

The second part of the answer—dealing with removal of limiting factors—will be based on the identification of limiting factors described above. Primary sources of information for this part are the survey of metro residents and existing DNR Fisheries data.

It is expected that some of the limiting factors are general in coverage and extend across the metro area. An example of such general limiting factor that may be found is that better information is needed to advise anglers about fishing opportunities. If a factor is found to be limiting, an assessment is needed on the amount of angling that would likely be produced (and at what cost) if the factor is removed. The level of confidence in these assessments should be described.

Another type of limiting factor is specific to a lake. Assessments of such factors will need to be done on a lake by lake basis. The output of these assessments will be a large table that has individual lakes as rows and management tools for removing limiting factors as columns. Management tools include: population manipulation thru size and/or slot limits; special fishing regulations; water access via boat, shoreland or pier; water surface use regulations; aeration; two-story fish population management; fish stocking; and aquatic habitat restoration or enhancement with fish toxicants. For any lake, factors will be identified as to whether they are limiting at present and, if so, how much angling would likely be produced (and at what cost) if the factor is removed. In addition, the level of confidence in these assessments should be described. When dealing with the lake by lake assessments, important information exists in files of DNR Fisheries. DNR staff will need to be involved when this information is organized and analyzed for the purposes of the study.

Prospective respondents who have any questions regarding this request for proposals, or who would like to obtain a more detailed description of this project, may call or write:

Duane Shodeen
MN/DNR Section of Fisheries
1200 Warner Road
St. Paul, MN 55106
(612) 772-7950

All proposals must be received by Mr. Shodeen no later than 4:30 p.m., November 7, 1991. All final deliverables will be submitted to Mr. Shodeen by June 1, 1993. It is estimated that the cost of this project should not exceed \$75,000.

Minnesota Public Transit Association

Request for Proposals for a Rural Transit Assistance Program Trainer/Coordinator

The Minnesota Public Transit Association (MPTA) is currently soliciting proposals for a Rural Transit Assistance Program (RTAP) Trainer/Coordinator. The MPTA was created in the mid-1970's to share information and support mass transit throughout the State of Minnesota. Minnesota's rural transit systems are facing increasing needs for additional training opportunities. There is also an expressed need to maintain a central communications contact and provide a high level of technical assistance to these systems.

MPTA currently has a contract for this service and is seeking a competitive procurement of this service contract. The current contract expires on January 5, 1992. A one year contract starting January 1, 1992, is proposed with an option year.

All proposals received by the deadline will be evaluated by a committee consisting of the MPTA Executive Board members and MnDOT. An interview may be part of the evaluation process. Factors upon which proposals will be judged include:

- 10%—Project cost detail
- 25%—Expressed understanding of project objectives
- 15%—Qualifications of both company and non-resident personnel
- 50%—Qualifications and experience of Contractor personnel or individual contractor.

This request for proposal does not obligate MPTA to complete the project. MPTA reserves the right to cancel the solicitation if it is considered to be in its best interest and may reject any and all proposals.

Proposals must be submitted to the MPTA no later than October 30, 1991 at 3:00 p.m.

Questions concerning this Request for Proposal should be directed to Jim Heilig, MPTA President, at (218) 722-4426. Copies of the Request for Proposal may be obtained by calling or writing:

Duluth Transit Authority
Attn: Jim Heilig
2402 West Michigan Street
Duluth, MN 55806

or

Dale Maul
Mn/DOT, Office of Transit
Room 815
395 John Ireland Boulevard
St. Paul, MN 55155

Department of Revenue

Communications Division

Request for Proposals for Television Public Service Announcement Production

The Department of Revenue is seeking proposals for producing two television public service announcements (PSAs) to publicize the Minnesota Working Family Credit, a new tax program to aid low income working families with children. Copies for the Request for Proposals may be obtained by contacting:

Anne Ostberg
Communications Division, Minnesota Department of Revenue
10 River Park Plaza
St. Paul, MN 55107
(612) 297-5487

Estimated cost of the contract is \$20,000. Final date for submitting proposals is 5:30 p.m. October 31, 1991.

State Designer Selection Board

Request for Proposal for a Project at Mankato State University

To Minnesota Registered Design Professionals:

The State Designer Selection Board has been requested to select a designer for a project at Mankato State University. Design firms who wish to be considered for these projects should deliver proposals on or before 4:00 p.m., November 5, 1991, to:

George Iwan
Executive Secretary, State Designer Selection Board
Room G-10, Administration Building
St. Paul, Minnesota 55155-3000

The proposal must conform to the following:

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

4) Mandatory Proposal contents in sequence:

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

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

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

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

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

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

5) Statutory Proposal Requirements:

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

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

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
 - b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights;
- or
- c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or
 - d) A statement certifying that the firm has an application pending for a certificate of compliance.
- 6) Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:
- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or
 - b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

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

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

7) PROJECT—08-91**Central Chiller Installation
Mankato State University**

Project Budget: \$800,000.00 for the design and installation of a 1,500 ton centrifugal chiller, controls, cooling tower, pumps, and associated equipment; and the connection of this chiller to the campus chilled water loop.

Scope of Project: Design, produce construction documents and solicit bids to furnish and install a 1,500 ton, 480 volt centrifugal chiller, primary and secondary electrical supply, control system, cooling tower including foundation and pumps, piping, and chilled water pumps in the existing utility plant. Design and specify a control system which shall be automatic and integrate the 1,500 ton chiller with four existing building chillers.

The chiller must be compatible with future technology and mandates in the use of CFC refrigerant.

The primary and secondary electrical supply design shall be a 13,800 volt distribution system to the chiller, including the primary switch, transformers, secondary switch, and motor control center for the chilled water system motors. This will include the design of a primary service from a point to be determined by Northern States Power Company (the electricity supplier) to the chiller 13,800 volt primary switch and metering compartment.

The total campus chilling load is approximately 3,000 tons, to be confirmed by the selected engineer. To anticipate future buildings the design of the 1,500 ton chiller must include provisions for the interconnection of additional chiller(s). These provisions will include properly placed connection points to the chilled water loop, primary power, and cooling tower.

Site: The chiller, motor control center, and chilled water/cooling tower pumps will be located in the existing utility plant. The cooling tower will be located approximately 150 feet northwest of the utility plant in an undeveloped storage area.

Purpose of Project: The new chiller will satisfy a base chilling load to the campus chilled water loop connecting 1,200,000 gross square feet of campus buildings. The existing buildings contain four (4) chillers with 1,350 tons of cooling capacity. A portion of the chiller design will provide an integrated control system to remotely operate the base load chiller and distributed existing chillers in an integrated system to deliver reliable and economical chilled water to the campus buildings. The University's long-term plan is to reduce the number of distributed chillers as they age or become inoperative and install offsetting additional chiller capacity at the utility plant.

Engineering Responsibilities: The selected engineer will be responsible for, but not limited to: schematic design including load calculations and cost estimate; design development drawings, specifications, and cost estimate; final construction documents and cost estimate; and project administration during construction, including but not limited to preparation of construction change orders, review and approval/rejection of shop drawing and payment requests, conducting project meetings, oversight of project for owner (including on-site observation), and recommendation to the owner of project acceptance.

Professional, Technical & Consulting Contracts

Prior experience with the design and installation of large centrifugal chillers is required.

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

Anticipated Schedule:

Bid opening—January 15, 1992

Construction start—February 15, 1992

Construction completed—May 15, 1992

Engineering Fee: 8% of the Construction Cost.

University Contact:

Joseph P. Metro, Vice President of University Operations
MSU Box 105, Mankato State University
Mankato, Minnesota 56002-8400
(507) 389-2267

State University System Contact:

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

James Tillitt, Chairman
State Designer Selection Board

Department of Transportation

Technical Services Division

Research Administration and Development

Notice of Availability of Contract for Study of Use, Design and Operation of Advance Warning Flashers for Signal Change Intervals

The Department of Transportation requires the services of a consultant to conduct a study to determine the state-of-the-art in the use, design and operation of Advance Warning Flashers (AWF) nationally, to evaluate the two (2) basic systems used by Mn/DOT in the Metro Area and to prepare a report focusing on the issues of safety and traffic flow.

Work experience specifically related to Traffic Engineering is desirable.

The Department of Transportation has budgeted a maximum of \$25,000.00 and is anticipating a six-month time span for this project.

Those interested may obtain a request for proposal from:

Jon A. Huseby
Research Services Engineer
Research Administration & Development
Mn/DOT Materials & Research Lab
1400 Gervais Avenue
Maplewood, MN 55109
Telephone: (612) 779-5503

Requests for Proposals will be available through October 25, 1991. All proposals will be received at the above address no later than November 11, 1991.

Dated: 4 October 1991

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: Elevator maintenance
Contact: Dale Meyer 296-3773
Bid due date at 2pm: October 18
Agency: Cambridge Regional Treatment Center
Deliver to: Cambridge
Requisition #: Price contract

Commodity: Plastic credit cards
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 18
Agency: Materials Management Division
Deliver to: St. Paul
Requisition #: B 02511-20275

Commodity: Sani Flush bowl cleaner
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 16
Agency: Minnesota Correctional Facility
Deliver to: St. Cloud
Requisition #: B 78830-11041

Commodity: Contact prints
Contact: Brenda Thielen 296-9075
Bid due date at 2pm: October 23
Agency: Department of Natural Resources
Deliver to: Aitkin County
Requisition #: Request for proposal

Commodity: Soft serve/yogurt freezer
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 16
Agency: Minnesota Correctional Facility—Faribault
Deliver to: Faribault
Requisition #: B 78790-20322

Commodity: Concrete block
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 16
Agency: Minnesota Correctional Facility
Deliver to: St. Cloud
Requisition #: B 78830-11044

Commodity: Fuel oil—heating nos. 1 & 2
Contact: Dale Meyer 296-3773
Bid due date at 2pm: October 22
Agency: Various
Deliver to: Various
Requisition #: Price contract

Commodity: Dictation equipment
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Jobs & Training
Deliver to: St. Paul
Requisition #: B 21200-41777

Commodity: Mathematica software
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 16
Agency: Mankato State University
Deliver to: Mankato
Requisition #: B 26071-02124

Commodity: Low flow personal sampling pump
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12200-82713

Commodity: Copiers
Contact: Jack Bauer 296-2621
Bid due date at 2pm: October 18
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-03465

Commodity: Computer workstation
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Administrative/Fiscal Services
Deliver to: Thief River Falls
Requisition #: B 02310-19734

Commodity: Ground fire clay
Contact: Pam Anderson 296-1053
Bid due date at 4:30pm: October 16
Agency: Minnesota Correctional Facility
Deliver to: St. Cloud
Requisition #: B 78830-11042

Commodity: .22 ammunition
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Department of Natural Resources—Division of Enforcement
Deliver to: St. Paul
Requisition #: B 29000-57374

Commodity: Folding tables
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Jobs & Training
Deliver to: St. Paul
Requisition #: B 21200-41779

State Contracts and Advertised Bids

Commodity: Copier purchase
Contact: Jack Bauer 296-2621
Bid due date at 2pm: October 18
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-03468

Commodity: Meridian files
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 16
Agency: Board of Vocational-Technical Education
Deliver to: St. Paul
Requisition #: B 36000-22727

Commodity: Buried pipe and cable locator
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-22042

Commodity: Emergency flares
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Transportation
Deliver to: Oakdale
Requisition #: B 79900-82514

Commodity: Metal table tops
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Transportation
Deliver to: Brainerd
Requisition #: B 79300-02020

Commodity: Weight bars
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Transportation
Deliver to: Oakdale
Requisition #: B 79900-82515

Commodity: 40 MB hard disks for CMC computers
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12200-82581

Commodity: Phonenet star controller
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12600-82661

Commodity: Zeos notebook 386/20
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 21
Agency: Minnesota Department of Jobs & Training
Deliver to: St. Paul
Requisition #: B 21200-41778

Commodity: Service contract on lab equipment
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Winona State University
Deliver to: Winona
Requisition #: B 26074-14055

Commodity: Printer accessories
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Brainerd Regional Human Services Center
Deliver to: Various places
Requisition #: B 55304-09143

Commodity: Lighting fixtures & lamps
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 21
Agency: Administrative/Fiscal Services
Deliver to: Various places
Requisition #: B 02310-19737

Commodity: Photographic equipment
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 21
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-03471

Commodity: 386/25 computers
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: October 21
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12200-82582

Commodity: Mirror Corporation monitor
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12600-82662

Commodity: IBM PS/2 model 55—no substitute
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Moorhead State University
Deliver to: Moorhead
Requisition #: B 26072-03455

Commodity: Epson Equity 386/25 Plus
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Brainerd Regional Human Services Center
Deliver to: Brainerd
Requisition #: B 55304-09142

Commodity: Epson 386SX/20 Plus
Contact: Bernadette Vogel 296-3778
Bid due date at 4:30pm: October 17
Agency: Brainerd Regional Human Services Center
Deliver to: Brainerd
Requisition #: B 55304-09144

Commodity: Colilert mix
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Health
Deliver to: Minneapolis
Requisition #: B 12400-82764

Commodity: Kitchen servers
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 17
Agency: St. Peter Regional Treatment Center
Deliver to: St. Peter
Requisition #: B 55105-09006

Commodity: GE circuit breakers—rebid
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79000-21856-1

Commodity: Flowers for spring 1992
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 17
Agency: I R R & R B
Deliver to: Chisholm
Requisition #: B 43000-60241

Commodity: Meat for November delivery
Contact: Linda Parkos 296-3725
Bid due date at 2pm: October 17
Agency: Minnesota Correctional Facility
Deliver to: Stillwater
Requisition #: B 78620-00418

Commodity: Chainsaws
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 17
Agency: Minnesota Correctional Facility
Deliver to: Red Wing
Requisition #: B 78760-03047

Commodity: Calculator & accessories
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 21
Agency: Minnesota Department of Transportation
Deliver to: St. Paul
Requisition #: B 79000-22052

Commodity: Marking spray paint
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 17
Agency: Minnesota Department of Transportation
Deliver to: Rochester
Requisition #: B 79600-04412

Commodity: Miscellaneous sewing fabrics
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 18
Agency: Ah Gwah Ching Nursing Home
Deliver to: Ah Gwah Ching
Requisition #: B 55510-03863

Commodity: Copier rental
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 21
Agency: Department of Human Services
Deliver to: Various places
Requisition #: B 55000-30021

Commodity: PVC drain pipe
Contact: Jack Bauer 296-2621
Bid due date at 4:30pm: October 21
Agency: Minnesota Department of Transportation
Deliver to: Oakdale
Requisition #: B 79900-82516

Commodity: Meat for December delivery
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 11
Agency: Minnesota Correctional Facility
Deliver to: Oak Park Heights
Requisition #: B 78630-10417

Commodity: Relays—magnecraft
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 18
Agency: Minnesota Department of Transportation
Deliver to: Fort Snelling
Requisition #: B 79000-22054

Commodity: TTD Superprint 200
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 17
Agency: Itasca Community College
Deliver to: Grand Rapids
Requisition #: B 27144-44372

Commodity: Parts for laundry marking machine
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 17
Agency: Faribault Regional Center
Deliver to: Faribault
Requisition #: B 55303-16295

Commodity: Tape edge machine
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 18
Agency: Minnesota Correctional Facility
Deliver to: St. Cloud
Requisition #: B 78830-11032

Commodity: Vulcan range
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: October 17
Agency: Normandale Community College
Deliver to: Bloomington
Requisition #: B 99997-10825

Commodity: Telephone communications equipment F/T
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 17
Agency: Department of Human Services
Deliver to: St. Paul
Requisition #: B 55000-24017

Commodity: Commercial clothes washer and dryer
Contact: Linda Parkos 296-3725
Bid due date at 4:30pm: October 17
Agency: Minnesota Correctional Facility
Deliver to: Sauk Centre
Requisition #: B 78770-03389

Commodity: Automobiles and passenger vans
Contact: Dale Meyer 296-3773
Bid due date at 2pm: October 31
Agency: Various
Deliver to: Various
Requisition #: Price contract

State Contracts and Advertised Bids

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: Class grade roster, 1 part, continuous, 14⁷/₈"x11" overall, negs avail, 2-sided, 20M, perf, pin feed holes, bulk pkgs., see specs
Contact: Printing Buyer's Office
Bids are due: October 15
Agency: Minnesota Community College System
Deliver to: St. Paul
Requisition #: 19217

Commodity: DDS-1 return envelope, camera ready copy, 1-sided, 20M envelopes, 11¹/₂"x5" + flap, standard box pkg.
Contact: Printing Buyer's Office
Bids are due: October 16
Agency: Department of Jobs and Training
Deliver to: St. Paul
Requisition #: 19275

Commodity: Warrant envelope, negs avail upon request, 1-sided, 200M, 3⁷/₈"x7³/₄", see specs
Contact: Printing Buyer's Office
Bids are due: October 16
Agency: Public Employee Retirement Association
Deliver to: St. Paul
Requisition #: 19266

Commodity: Temporary class record—1 part, negs avail, 1-sided, 60M, fan fold 1 up, perf, 8¹/₂"x11" detached, 9¹/₂"x11" overall, see special instructions.
Contact: Printing Buyer's Office
Bids are due: October 16
Agency: Minnesota Community College System
Deliver to: St. Paul
Requisition #: 19216

Commodity: MA/GAMC Provider Manual, camera ready copy, 16.5M each of 3 issues: Dec. 1991 (1000 pgs.); Feb. 1992 (300 pgs.); May 1992 (300 pgs.); print front and back, self cover, 8¹/₂"x11", collate, punch standard 3-hole, see special instructions
Contact: Printing Buyer's Office
Bids are due: October 21
Agency: Department of Human Services
Deliver to: St. Paul
Requisition #: 19206

Announcements

Vendors Invited to Exhibit: The Third Annual Technology Conference, "A Focus On Change" (sponsored by the Minnesota Information Policy Council) will be held January 14-16, 1992 at the Minneapolis Convention Center. • **What is Thriving in the Nineties?** A 2¹/₂ day technology conference and vendor exhibit providing the latest information to government decision makers. This year's *Focus On Change* will emphasize methods of achieving and integrating technological changes—re-engineering—in the workplace. • **Who will be there?** Managerial, professional and technical staff who make or influence technological purchasing decisions within state, county and city agencies, as well as public educational institutions. • **New Changes This Year Include:** Accessible vendor location; exclusive vendor time; one hour vendor presentations and limited public access to vendor area. • **Exhibit information:** 10 x 10 ft. booths, reduced payment before November 15, 1991; space assigned on a first-come first-served basis; exhibit days January 15 and 16, 1992. • **Registration:** For materials and additional information, please include: firm name; contact person; title; phone; address; city, state, zip; number of booths desired and if use of stage is desired. Please send this information to:

Thriving in the Nineties Vendor Committee
ATTN: Diana M. Danielson
717 Delaware Street S.E.
P.O. Box 9441
Minneapolis, MN 55440

Environmental Quality Board (EQB): Comments are due October 30 on the EAWs (environmental assessment worksheets) on the following projects at their listed regional governing units: **St. Francis Wastewater Treatment Facility Expansion**, Minnesota Pollution Control Agency, Paul R. Schmiechen, 520 Lafayette Road, St. Paul, MN 55155, 612/296-7795; **Cambridge Wastewater Treatment Facility**, Minnesota Pollution Control Agency, Kevin Kain, 520 Lafayette Road, St. Paul, MN 55155, 612/296-7432; **Snail Lake Pathway Project**, City of Shoreview, R. Charles Ahl, 4600 North Victoria Street, Shoreview, MN 55126, 612/290-4650.

Hearings on Proposal for New Major Airport in Dakota Co.: The Metropolitan Council will hold two public hearings on Oct. 30 to get public comments on a recommendation by the Council's New-Airport Search Area Advisory Task Force to designate a location for a possible new major airport in east-central Dakota County. • The area under consideration includes major parts of Nininger and Marshan Twps., Rosemount, and all of the Cities of Coates and Vermillion, plus Empire and Vermillion Twps.

People are encouraged to attend the hearings and comment on the search area recommendation and associated recommendations related to the search area and the planning process.

The hearings will be held at 9 a.m. in the Council offices, Mears Park Centre, 230 E. 5th St., in downtown St. Paul, and at 7 p.m. at the Rosemount Senior High School Student Center, 3335 142nd St. W., in Rosemount.

People are encouraged to call in advance to register to speak. To register, or for more information, call Donna Mattson of the Council staff at 291-6493. Free copies of a summary and copies of the task force report to the Council are available by calling the Council's Data Center at 291-8140.

Fall Enrollment Declines as Planned at Minnesota's State Universities: In keeping with its plans to reduce enrollment in order to increase quality, fewer students are attending Minnesota's seven state universities this fall. • The total number of students estimated to be taking classes this fall quarter is 63,665, compared to 64,258 last fall, a drop of 593 students.

Minnesota State University System Chancellor Terry MacTaggart noted that the Board had expected the universities to reduce enrollment. The universities have implemented various enrollment management techniques. Admissions policies were tightened at some of the universities, resulting in new entering freshmen who have higher high school ranking and standardized test scores. Some schools limited the number of transfer students as well as those who normally would have been granted provisional admission. • "The Board's goal of enrolling better prepared students is already taking effect," Chancellor MacTaggart said. Beginning in 1994 students seeking admission to a state university will need to complete a college preparation curriculum while in high school.

<p>TO ORDER: Complete attached order blank. Include either your Discover/American Express/VISA/MasterCard number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your credit card. Please include a phone number where you can be reached during the day in case we have questions about your order. Please include 6½% sales tax and \$2.00 postage and handling. Ask for our catalogs for <i>Publications</i>, <i>Outdoors</i>, or <i>Mailing Lists</i>.</p> <p>PREPAYMENT REQUIRED</p> <p>NOTE: <i>State Register</i> and other subscriptions do not require sales tax or postage and handling fees. Prices subject to change without notice. Please allow 4-6 weeks for delivery. In a hurry? Stop by our Bookstore. Bookstore Hours 8:00-4:30 M-F.</p> <p>Send your order to: Minnesota's Bookstore 117 University Ave., St. Paul, MN 55155 Metro area 612-297-3000 (FAX: 296-2265) In Minnesota, toll free 1-800-657-3757</p>	Code No.	Quantity	Description		Item Price	Total	
	Name or Company					Subtotal	
	Attention				Plus 6½% tax MN Residents Only		
	Address						
	City	State	Zip	Handling (per order)	\$2.00		
American Express/VISA/MasterCard/Discover No.					TOTAL		
Signature			Expiration Date	Telephone (During Day)			

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Catching criminals is only one part of law enforcement.

Police Report Writing Style Manual 1989—A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. \$15.00.

Motor Vehicle Traffic Laws 1990—Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. \$16.95.

Criminal Code & Selected Statutes 1990—Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. \$17.95.

Blue Binder—3 ring, 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. \$4.95.



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Subscription Services

Minnesota's Bookstore offers several subscription services of activities, awards, decisions and special bulletins of various Minnesota state agencies.

Use the handy order form on the back of the *State Register* to order. Simply fill in the subscription code number, include your name, address and zip and your check made out to the State of Minnesota (PREPAYMENT IS REQUIRED) and send it in. We'll start your subscription as soon as we receive your order, or whenever you like.

SUBSCRIPTION	COST	CODE NO.	SUBSCRIPTION	COST	CODE NO.
Career Opportunity Bulletin, 1 year	\$ 30.00	90-3	State Register, Monday edition only, 1 year	\$140.00	90-1
Career Opportunity Bulletin, 6 mos.	\$ 24.00	90-4	State Register, Monday and Thursday editions, 1 year	\$195.00	90-1
Human Services Informational and Instructional Bulletin	\$110.00	90-6	Trial State Register, 3-months, Monday and Thursday	\$ 60.00	90-2
Human Services Bulletin List	\$115.00	90-7	Tax Court/Property Decisions	\$325.00	90-11
PERB (Public Employee Relations Board) Awards and Decisions, 1 year	\$350.00	90-9	Workers Compensation Decisions, unpublished subs run Jan-Dec; can be prorated	\$400.00	90-12
Minnesota Statutes 1990 Set + Supplement	\$165.00	18-7	Workers Compensation Decisions Vol. 41	\$130.00	90-13
Workers Compensation Decisions Vol. 44	\$140.00	90-13			

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Human Services Laws and Rules

Human Services Laws 1990

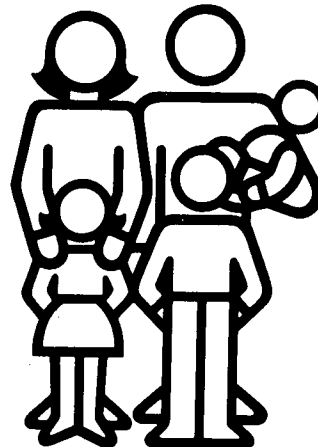
An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. \$31.95.

Human Services Rules 1989

Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. \$34.95.

3 ring binder. 2" capacity. 1 required for each of above listed publications. Code No. 10-21. \$4.95.

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Woodworking for Wildlife

Woodworking for Wildlife. Includes a variety of game bird and mammal box designs, with information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Stock #9-14, \$3.95.

Landscaping for Wildlife. Gardening tips and landscaping techniques that add natural beauty to your property and habitat for wildlife. Over 70 color photos and 144 pages. Stock #9-15, \$8.95.

Wildlife Set. Order both books above as a set and save 15%. Stock #9-20, \$10.95.

Minnesota's Favorite Birds Posters. 22" x 17", full color. **Winter:** Code #9-2, \$5.00. **Summer:** Stock #9-50, \$5.00.

Mammals of Minnesota, discusses wild mammals that inhabit Minnesota today, or in the recent past. Tells how to identify them, their distribution in the state, and their natural history. U of M Press, 1977, illustrated, index, bibliography, paperbound, 290 pp. Stock #19-35, \$16.95.

Bird Portraits in Color, a total of 295 species of birds are depicted through magnificent illustrations, reproduced in seven-color lithography, accompanied by authoritative information about birds' activities, habitats, songs, and other characteristics, U of M Press, 1980, index, 92 color plates, hardbound. Stock #19-41, \$12.95.

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Murder: Minnesota style

Murder in Minnesota: A treasury of vintage crimes in which famous and obscure characters come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$6.95.

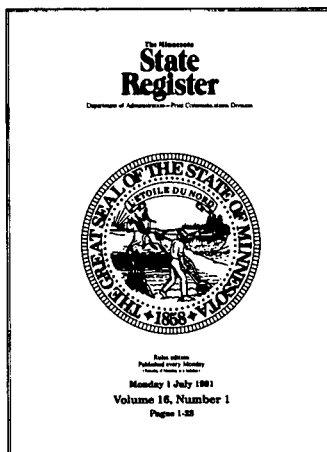
Robber and Hero: On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, \$5.95.

Secrets of the Congdon Mansion: The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, \$5.95.

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



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

For less than \$2 a week you can have delivered to your office the most effective and economical means of tracking state contracts. The smart way to stay in the know, and land the business of state government, is with the **STATE REGISTER**, now appearing **TWICE A WEEK**.

You will also have the *most comprehensive listing* of contract awards. And you'll receive the source of state agency rulemaking governing business, the professions and regulated occupations. You'll also get official notices, executive orders of the governor, a calendar of supreme court cases, state grants, and other special announcements.

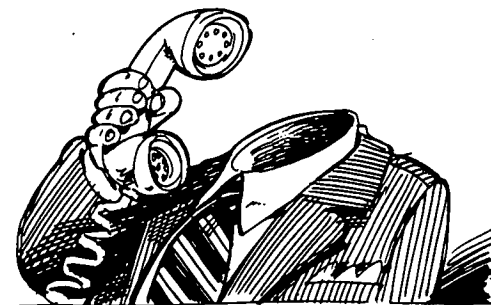
An annual subscription is \$195 for both the Monday and Thursday editions, or \$140 for just the Monday edition if you're only interested in state agency rulemaking information. A 13-week trial subscription for \$60 includes both the Monday and Thursday editions. MasterCard/VISA, American Express and Discover orders can be taken over the phone, otherwise prepayment is required. Send, or FAX (612/296-2265), your orders to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Let us bring you the business of state government. Subscribe to the **STATE REGISTER** today, or call (612) 296-0931, or 1-800-657-3757 for more information.

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Ever called this guy?

1990 State of Minnesota Telephone Directory. Get a direct line to the persons you want to speak to. Contains names, numbers, and agencies in the executive, legislative and judicial branches of state government. Four sections give listings alphabetically by name, agency, Minnesota region, plus an index for cross referencing. Over 288 pages, paperback, 8½"x11". Code #1-87, #12.95.

Minnesota Guidebook to State Agency Services. A treasure of information that cuts red tape and gets you **RESULTS** from Minnesota state government. This important resource helps you through applications, fees, licenses, reports, history, recreation and travel. It describes agencies in detail and how they can assist you, giving addresses, phones and contact people. Stock #1-4, \$9.95 plus tax.



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Department of Commerce Regulated Profession Publications

Banking Laws 1989. Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76. \$31.95

Business and Nonprofit Corporation Act of 1990. Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 302A, 308A, 317A. Code #2-87 \$19.95

Fair Labor Standards Act 1987. Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 \$4.95

Insurance Laws 1990. A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1. \$22.95

Insurance Rules 1991. Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1. \$18.95

Banking Rules 1987. Code #3-81.

Notary Public Laws 1989. Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 \$5.00

Real Estate Laws 1990. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 \$8.00

Real Estate Rules 1991. Contains all education and licensing requirements for agents. Chapters 2800, 2805, and 2810. Code #3-99 \$6.00

Securities Laws 1989. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 \$7.00

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