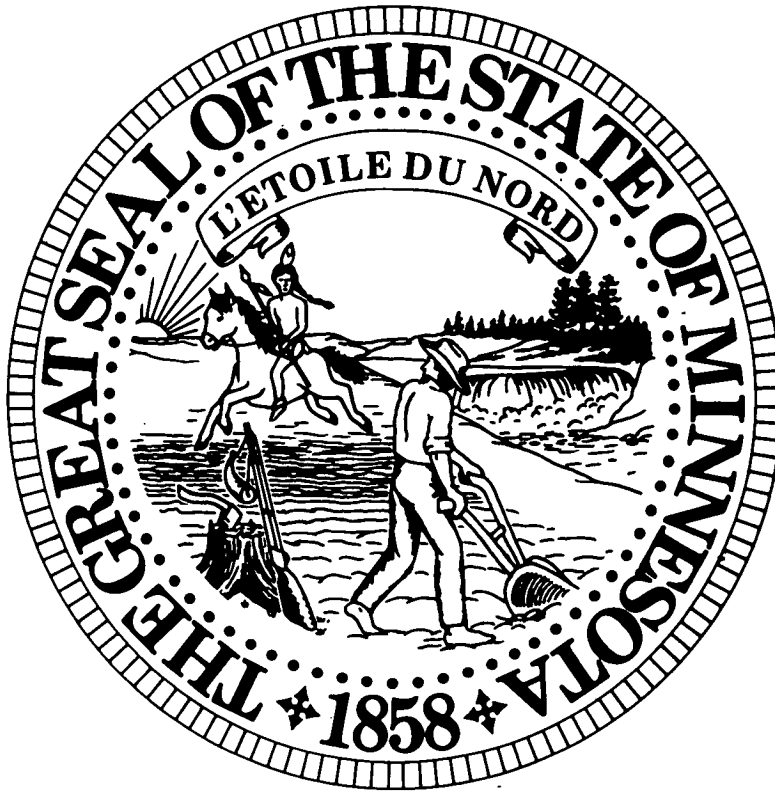


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 The Minnesota  
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Department of Administration—Print Communications Division



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**Monday 26 July 1993**

**Volume 18, Number 4**

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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, professional, technical and consulting contracts, non-state bids and public contracts, contract awards, grants, and a monthly calendar of cases to be heard by the state supreme court.

A *Contracts Supplement* is published Tuesday, Wednesday and Friday and contains bids and proposals, including printing bids.

### Printing Schedule and Submission Deadlines

Vol. 18 Issue Number	*Submission deadline for Adopted and Proposed Rules	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
4	Monday 12 July	Monday 19 July	Monday 26 July
5	Monday 19 July	Monday 26 July	Monday 2 August
6	Monday 26 July	Monday 2 August	Monday 9 August
7	Monday 2 August	Monday 9 August	Monday 16 August

\*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, 117 University Ave., St. Paul, Minnesota 55155, (612) 297-7963, TDD (Minnesota Relay Service), Metro Area (612) 297-5353, Greater MN 1-800-627-3529.

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 Tuesday, Wednesday and Friday. 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 *State Register Contracts Supplement* contains additional state contracts and advertised bids.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$150.00 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 four editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, includes four editions and last for 13 weeks. 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 *State Register* at St. Paul, MN, first class for the *Contracts Supplement*. Publication Number 326630 (ISSN 0146-7751).

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Dana B. Badgerow, Commissioner  
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(612) 296-2146

# Contents

## Minnesota Rules: Amendments & Additions

Issue 4 inclusive (issue #1 appears in #1) ..... 328

### Proposed Rules

#### Animal Health Board

Pseudorabies control ..... 330

#### Human Services Department

Provisions of family community support service ..... 336

Licensure of private agencies that provide child foster care services and adoption services ..... 347

#### Natural Resources Department

Operation of recreational motor vehicles on State

Forest lands ..... 353

All-terrain vehicles ..... 356

#### Pollution Control Agency

Hazardous waste ..... 360

#### Revenue Department

Sales and use tax; sale of transfer of title ..... 386

Sales and use tax on sales of special tooling ..... 388

### Adopted Rules

#### Agriculture Department

Agricultural liming material ..... 390

#### Minnesota Housing Finance Agency

Publicly owned neighborhood land trust program ..... 390

#### Human Services Department

Mental health services ..... 390

#### Public Safety Department

Pistol transferee applications and permits, reports of transfer of a pistol, and applications for and permits to carry a pistol ..... 390

#### Revenue Department

Sales and use tax; charitable, religious, and educational organization ..... 391

#### Office of Waste Management

Solid waste source reduction grant and loan program ..... 394

### Revenue Notices

#### Revenue Notice

Revenue Notice #93-13: MinnesotaCare—health care providers ..... 395

Revenue Notice #93-14: MinnesotaCare—patient services ..... 396

### Official Notices

#### Agriculture Department

Rural Finance Authority Board meeting time change ..... 397

#### Commerce Department

MN Joint Underwriting Association notice of activation to insure specified classes of business and public hearing ..... 397

#### Health Department

Opinions sought regarding proposed rules: regulated all-payer system ..... 399

Opinions sought regarding proposed rules: integrated service networks (ISN) ..... 400

#### Human Services Department

Notice for statement of interest from potential prepaid health plan contractors ..... 400

#### Labor and Industry Department

Prevailing wage certifications for commercial construction projects ..... 402

#### Metropolitan Council

Public hearing on proposed regional trail: designation of Birch Lake Trail ..... 402

#### Natural Resources Department

Notice of State comprehensive outdoor recreation planning process ..... 402

### State Grants

#### Board on Aging

Proposals sought to provide elder abuse awareness and prevention training ..... 403

#### Human Services

Proposals sought for services to Asian American youth and Asian and Amerasian refugee youth ..... 403

### Professional, Technical and Consulting Contracts

#### Administration Department

Proposals sought for creative services ..... 404

#### Agriculture Department

Proposals sought to analyze, recommend, maintain, upgrade and repair a Novell 3.11 LAN ..... 406

Proposals sought for FoxPro 2.5 for Windows system development ..... 406

#### Commerce Department

Proposals sought for development of formula for insurance company payments in lieu of insurance benefits for contamination of solid waste facilities ..... 406

#### Education Department

Proposals sought for a fiscal study to determine costs to governments for comprehensive coordinated early intervention studies ..... 408

Proposals sought for revision and development of the Minnesota school food service training program ..... 409

#### Human Services Department

Proposals sought for medical services: psychological—student intern services ..... 410

#### Jobs & Training Department

Proposed Federal contracts for fiscal years 1994 and 1995 ..... 410

#### State Auditor

Proposals sought for a public pension fund study ..... 412

### Non-State Bids and Public Contracts

#### Arrowhead Regional Development Commission

Proposals sought for layout and design of a field guidebook ..... 421

#### Metropolitan Waste Control Commission

Proposals sought for the purchase, delivery and installation of a sewer televising equipment inspection system ..... 422

#### City of St. Paul

Proposals sought for Scope document for an Environmental Impact Study (EIS) of Ayd Mill Road ..... 422

### Awards of State Contracts & Advertised Bids

Commodities and requisitions are advertised in the *State Register Contracts Supplement* published every Tuesday, Wednesday and Friday. For subscription information call 612/297-7963. Commodity award results are available through the **Materials Management Helpline 612/296-2600.**

# Minnesota Rules: Amendments and Additions

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

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

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

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-657-3757.

Issue 3 inclusive

### Accountancy Board

1100.0900; .1300; .1400; .1500; .2110; .3000; .3100;  
.3200; .3600 (proposed) ..... 77

### Agriculture Department

1509.0010; .0015; .0020; .0025; .0030; .0035; .0040 (adopted) 390  
1550.3200; .3210; .3220; .3230; .3240; .3250; .3260;  
.3270; .3280; .3290; .3300; .3310; .3320 (adopted) ..... 31

### Animal Health Board

1705.2400; .2430; .2434; .2440; .2450; .2460; .2470;  
.2472; .2474; .2476; .2480; .2490; .2510 (proposed) ..... 330  
Proposed Renumbering ..... 336

#### COLUMN A

1705.2400, subpart 3b  
1705.2400, subpart 5b  
1705.2400, subpart 8a  
1705.2400, subpart 13  
1705.2400, subpart 14  
1705.2400, subpart 15  
1705.2470, subpart 1  
1705.2472, subpart 2, item A  
1705.2472, subpart 2, item C  
1705.2472, subpart 2, item D  
1705.2472, subpart 2, item E  
1705.2472, subpart 2, item F

1705.2470, s.2; .2474, s.4; .2476, s.3 (proposed repealer) ..... 336

### Commerce Department

2675.6100; .6120; .6141; .6142; .6143; .6250 (proposed) ..... 80  
2675.6120, s.5; .6141, S.2,3,4,5,6; .6142, s.2; .6143,  
s.5; .6200; .6260; .6301 (proposed repealer) ..... 82  
2783.0060 (adopted) ..... 273

### Health Department

4655.1070; .1072; .1074; .1076; .1078; .1080; .1082;  
.1084; .1086; .1088; .1090; .1092; .1094; .1096; .1098  
(adopted) ..... 35  
4700.0100; .0200; .0300; .0400; .0500; .0600; .0700;  
.0800; .0900; .1000; .1100; .1200; .1300; .1400; .1500;  
.1600; .1700; .1800 (proposed repealer) ..... 16

#### COLUMN B

1705.2400, subpart 3c  
1705.2400, subpart 7a  
1705.2400, subpart 1c  
1705.2400, subpart 6a  
1705.2400, subpart 5d  
1705.2400, subpart 3b  
1705.2470, subpart 1d  
1705.2470, subpart 1  
1705.2470, subpart 1a  
1705.2470, subpart 1b  
1705.2470, subpart 1c  
1705.2460, subpart 8a

4736.0010; .0020; .0030; .0040; .0050; .0060; .0070;  
.0080; .0090; .0100; .0110; .0120; .0130 (proposed) ..... 5

### Higher Education Coordinating Board

4812.0100; .0110; .0130; .0140; .0150; 4830.0300;  
.0400; .6510; .6610; .9005; .9015; .9020; .9025; .90300  
(proposed) ..... 17  
4830.0400, s.6; .0500; .1550; .1551; .1552; .1553; .1554;  
.1555; .1556; .1560; .1561; .1562; .1563; .1564; .1565  
(proposed repealer) ..... 21  
4830.2200; .2300; .2400 (proposed) ..... 16  
4850.0011; .0012; .0014; .0017 (proposed) ..... 22

### Minnesota Housing Finance Agency

4900.3430; .3431; .3432; .3433; .3434 (adopted) ..... 390

### Labor and Industry Department

5230.0100 (adopted) ..... 31

### Natural Resources Department

6100.0100; .0400; .0500; .1905; .1930; .2400 (proposed) ..... 353  
6102.0010; .0020; .0030; .0040; .0050; .0060 (proposed) ..... 356  
6200.0100; .0200; 6210.0100; .0200; .0300; .0400;  
.0500; 6212.0100; .0200; .0300; .0400; .0500; .0600;  
.0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400;  
.1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200;  
.2300; .2400; .2500; .2600; .2700; .2800; 6214.0100;  
6218.0100; .0200; 6230.0100; .0200; .0300; .1200;  
.1300; 6232.0100; .0200; .0300; .0400; .0500; .0600;  
.0700; .0800; .1200; .1300; .1400; .1500; .1600; .1700; .1800;  
.2000; .2100; .2200; .2400; .2500; .2600; .2700; .2800;  
.2900; .3000; .3100; .3200; .3300; .3400; .3500; .3600;  
.3700; .3800; .3900; .4000; .4100; .4200; .4300; .4400;  
.4500; .4600; .4700; 6234.0100; .0200; .0300; .0400;  
.0600; .0700; .0800; .0900; .1000; .1100; .1200; .1300;  
.1400; .1500; .1600; .1700; .1800; .1900; .2000; .2100;  
.2200; .2300; .2400; .2500; .2600; .2700; .3500;  
6236.0100; .0200; .0300; .0400; .0500; .0600; .0700;  
.0800; .0900; .1100; .1300; 6238.0100; .0200; .0300;  
.0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100;  
6240.0100; .0200; .0300; .0400; .0500; .0700; .0800;  
.0900; .1000; .1200; .1500; .1600; .1700; .1800; .1900;  
.2000; .2100; .2300; .2400; .2500; .2600; 6242.0100;

# Minnesota Rules: Amendments & Additions

.0200; .0300; .0400; .0900; 6250.0100; .0200; .0300;  
 .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100;  
 .1200; 6252.0100; .0200; .0300; .0350; .0400; .0500;  
 6254.0300; .0700; .0800; 6256.0500; 6258.0100;  
 .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900;  
 6260.0100; .0200; .0300; .0400; .0500; .0600; .0700;  
 .0800; .0900; .1000; .1100; .1200; .1300; .1400; .1500;  
 .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2300;  
 .2400; 6262.0100; .0200; .0300; .0400; .0500;  
 6264.0100; .0200; .0300; 6266.0100; .0200; .0300;  
 .0400; .0500; .0600; .0700; 6280.0100; .0200; .0300;  
 .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100;  
 6282.0100; .0200; .0300; .0400; .0500; 6284.0100;  
 .0200; .0300; .0400; .0500; .0600; .0700 (adopted) ..... 83

## Pollution Control Agency

7001.0150; .0590; .0600; .0620; 7045.0020; .0125;  
 .0135; .0139; .0214; .0452; .0461; .0478; .0532; .0534;  
 .0538; .0556; .0584; .0630; .0632; .0638; .1305; .1335;  
 .1355; .1360 (proposed) ..... 360  
 7045.0638, s.1a (proposed repealer) ..... 386  
 7050.0110; .0130; .0170; .0180; .0185; .0186; .0200;  
 .0210; .0211; .0212; .0213; .0214; .0215; .0216; .0217;  
 .0218; .0220; .0221; .0222; .0223; .0224; .0225; .0226;  
 .0227; .0410; .0420; .0425; .0430; .0460; .0466; .0470  
 (proposed) ..... 146  
 7050.0465 (proposed repealer) ..... 250

## Public Safety Department

7504.0100; .0200; .0300; .0400; .0500; .0600 (proposed) ..... 24

## Public Service Department

7602.0100 (proposed) ..... 29

## Minnesota State Lottery

7856.2020; 7857.6000; 7858.0100; .0200 (proposed) ..... 271

## Revenue Department

8130.0200 (proposed) ..... 386  
 8130.0200, s.2 (proposed repealer) ..... 387  
 8130.1100 (adopted) ..... 77

8130.5550 (proposed) ..... 388  
 8130.6200 (adopted) ..... 391

## Water and Soil Resources Board

8420.0100; .0105; .0110; .0115; .0120; .0200; .0210;  
 .0220; .0230; .0235; .0240; .0245; .0250; .0260; .0270;  
 .0280; .0290; .0300; .0350; .0400; .0500; .0505; .0510;  
 .0520; .0530; .0540; .0550; .0600; .0610; .0620; .0630;  
 .0700; .0710; .0720; .0730; .0740; .0750; .0760; .1010;  
 .1020; .1030; .1040; .1050; .1060 (adopted) ..... 274

## Transportation Department

8820.0100; .2500; .4000; .4010; .4020; .4030; .4040;  
 .4050; .4060; .4070; .4080; .4090; .9980; .9985; .9990  
 (adopted) ..... 32

## Veterans Affairs

9055.0015; .0030; .0060; .0080; .0085; .0090; .0095; .0105  
 (adopted) ..... 273

## Office of Waste Management

9210.0700; .0710; .0720; .0740; .0750; .0760; .0770 (adopted) 394  
 9210.0710, s.8 (repealed) ..... 394

## Human Services Department

9506.0323 (adopted) ..... 390  
 9535.4000; .4010; .4020; .4023; .4025; .4028; .4030;  
 .4035; .4038; .4041; .4044; .4047; .4050; .4052; .4053;  
 .4056; .4059; .4062; .4065; .4068; .4069; .4070  
 (proposed) ..... 336  
 9545.0755; .0765; .0775; .0795; .0805; .0815; .0825;  
 .0835; .0845 (proposed) ..... 347  
 Proposed Renumbering: parts 9543.0150 and 9545.2020, and  
 references to "parts 9545.0750 to 9545.0830" shall be  
 changed to "parts 9545.0755 to 9545.0855" ..... 353  
 9545.0750; .0760; .0770; .0780; .0790; .0800; .0810;  
 .0820; .0830 (proposed repealer) ..... 353  
 9565.5000; .5010; .5027; .5050; .5060; .5065; .5080;  
 .5090; .5100; .5110; .5120; .5130; .5140; .5150; .5160;  
 .5200 (proposed) ..... 250  
 9565.5010, s.6,7,13,23,24,33; .5025, s.4; .5030, s.23,8; .5040;  
 .5060, s.1,3,4,6,7; .5110, s.6,9,10 (proposed repealer) ..... 271

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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.

## Board of Animal Health

### Proposed Permanent Rules Relating to Pseudorabies Control

#### Notice of Intent to Adopt a Rule Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Board of Animal Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, sections 35.73-35.80.

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

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

Comments or written requests for a public hearing must be submitted to: John C. Landman, DVM, Minnesota Board of Animal Health, Room 119, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-2942 Ext. 24. Time frame for comments or written requests for a public hearing ends on August 30, 1993.

The proposed rule 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 rule as noticed.

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

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

The Board has determined that this rule will have no significant negative impact on small businesses.

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

T.J. Hagerty, DVM  
Executive Secretary  
Minnesota Board of Animal Health

#### Rules as Proposed

##### 1705.2400 DEFINITIONS.

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

**Subp. 1a. All out status.** “All out status” describes a management method by which all swine on a premises have been marketed

or otherwise disposed of and the structures that housed all the swine have been cleaned and disinfected or have been free of any swine for at least 30 days.

Subp. 1b. Approved offspring segregation plan. "Approved offspring segregation plan" means a plan by which swine are weaned and isolated from the herd of origin under the direction of the board.

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

Subp. 3d. Finishing herd. "Finishing herd" means a herd of feeder swine being raised on premises where there are no breeding swine. For purposes of blood testing, swine must be in the herd for at least 30 days.

[For text of subs 4 to 5b, see M.R.]

Subp. 5c. Monitoring sample. "Monitoring sample" means a herd sampling procedure as follows:

A. if breeding swine are present, and there are:

(1) fewer than 11 breeding swine, test all;

(2) 11 to 35 breeding swine, test ten; or

(3) 36 or more breeding swine, test 30 percent or 30 head, whichever is lower; or

B. if no breeding swine are present, and there are:

(1) fewer than 11 feeder swine, test all; or

(2) 11 or more feeder swine, test ten.

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

Subp. 6b. Owner's notice of shipment. "Owner's notice of shipment" refers to the form provided by the board to the owners of all quarantined herds at the time of quarantine which is used to accompany the movement of quarantined animals.

[For text of subs 7 to 9, see M.R.]

Subp. 10. Restricted-movement swine. "Restricted-movement swine" means breeding or feeding swine of unknown pseudorabies status which are sold in Minnesota through a swine concentration point.

[For text of subs 11 to 15, see M.R.]

#### **1705.2430 INFECTED HERD QUARANTINE AND DISPOSAL PROCEDURES.**

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

Subp. 2. Epidemiological investigation. When If species of animals other than swine have been diagnosed as having pseudorabies, the state or federal district veterinarian shall conduct an epidemiological investigation of any swine on the premises. The investigation must include blood testing of ten percent a monitoring sample of the swine over four months of age, made up of a minimum of ten head selected randomly herd. The owner shall pay the fees associated with this testing unless state funds are available for this purpose. If pseudorabies reactors are disclosed, or if the owner refuses to cooperate in carrying out the test, the swine herd must be quarantined in accordance with the quarantine procedures of this part.

Subp. 3. Permitted disposal. Swine from a quarantined herd must be disposed of pursuant to item A or B.

A. Market or breeding swine or other infected or exposed species may only be sold for slaughter via a federally approved slaughter market, public stockyard, packer buying station, or directly to a slaughter plant accompanied by a shipping permit or an owner's notice of shipment.

B. Feeder pigs may only be sold, loaned, leased, or moved for custom/contract feeding to an approved premises and must be accompanied by a shipping permit or an owner's notice of shipment. The approved premises must be a feedlot where purchased quarantined swine can be fed out in isolation from other domestic animals and where a state or federal veterinarian has determined that no breeding swine are on the premises, and the feedlot owner agrees to sell all the swine from the feedlot directly for slaughter accompanied by a shipping permit or an owner's notice of shipment.

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

Subp. 4. Movement to another location. If movement is otherwise allowable under these rules parts 1705.2400 to 1705.2530,

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## Proposed Rules

quarantined swine may be moved from their farm of origin to another location only with the prior approval of the district veterinarian. The new location may not be within the northern zone or within two miles of a qualified or controlled vaccinated herd. The new location must be quarantined by the district veterinarian and subject to the same restrictions as the original quarantined premises. All of the swine that are moved except for those under an approved offspring segregation plan must be vaccinated for pseudorabies and the herd must be on an official herd cleanup plan.

### 1705.2434 APPROVED PREMISES PROCEDURES.

Subpart 1. **Qualifications.** No person may accept feeder swine from quarantined herds for purposes of feeding them out unless a permit is obtained from the board. A person seeking a permit must agree to provide the board's representative access during business hours to the feedlot and records required by this part during business hours. The board shall grant an approved premises permit when otherwise authorized by this part ~~and part 1705.2472, subpart 2, item F~~. The permit allows the person to whom it is issued to obtain feeder pigs from quarantined herds and feed them out. The approved premises must comply with the following requirements:

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

F. Hogs must be sold directly to slaughter accompanied by a shipping permit or an owner's notice of shipment as required in part 1705.2430, subpart ~~3a~~ 3, item A. One copy must be sent to the board.

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

[For text of subs 2 to 5, see M.R.]

### 1705.2440 RELEASE OF QUARANTINE.

Subpart 1. **Methods.** Swine herd quarantine release may be accomplished by any of the methods in items A to D.

A. Depopulation; repopulation: The entire herd may be sold to slaughter accompanied by a shipping permit or owner an owner's notice of shipment. The premises must be cleaned and disinfected under the direction of the board. The quarantine must be released 30 days after completion of the cleaning and disinfection. If cleaning and disinfection are not done, the hog facility may stand empty for 12 months and the quarantine must then be released.

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

C. Offspring segregation: Under an approved offspring segregation plan, progeny of a quarantined herd may be weaned, isolated from a quarantined moved to a premises different from that of the herd under direction of the board, and pass two negative official tests of 100 percent of origin, and themselves be quarantined. All of these pigs at least must be tested for pseudorabies no sooner than 30 days apart after the isolation. If all 100 percent of these tests are negative for pseudorabies, the quarantine on the progeny herd must be released.

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

[For text of subs 2 to 5, see M.R.]

### 1705.2450 PSEUDORABIES TRACE TO SOURCE OR DESTINATION HERDS.

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

Subp. 2. **Pseudorabies diagnosed in recently purchased swine.** If pseudorabies is diagnosed in breeding or feeder swine which have been purchased from or sold to, another swine producer within the preceding 12 months, the board shall require a pseudorabies test of ~~ten percent~~ a monitoring sample of the ~~breeding herd of the seller or buyer or ten percent of the progeny over four months of age of a vaccinated herd.~~

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

### 1705.2460 INTRASTATE MOVEMENT OF BREEDING SWINE.

Subpart 1. **Health certificate.** No person may sell, lease, exhibit, loan, or move for contract farrowing any breeding swine within the state of ~~Minnesota~~ except to slaughter unless the swine are accompanied by a health certificate or test chart provided by the seller which includes:

A. identification by a ~~metal~~ an eartag, tattoo, brand, or ear notch recognized by a breed association; and

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

Subp. 2. **Restricted-movement classification.** Breeding swine sold through a swine concentration point ~~where they could come in contact with feeder pigs, market hogs, or other untested swine,~~ are restricted-movement breeding swine.

[For text of subs 3 to 7, see M.R.]

Subp. 8. **Other restricted-movement swine.** All swine which are maintained in contact with restricted-movement breeding swine in the herd of destination are also restricted-movement swine.



Swine classified as restricted-movement swine because of exposure to restricted-movement breeding swine may not be resold except to slaughter unless they are tested negative to pseudorabies pursuant to subpart 7.

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

#### **1705.2470 INTRASTATE MOVEMENT OF FEEDER PIGS.**

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

Subp. 2. [See repealer.]

Subp. 2a. Movement into northern zone. Feeder pigs may only be moved into the northern zone, as described in part 1705.2472, subpart 1, if they otherwise meet the requirements of this part.

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

#### **1705.2472 CONTROL AND ERADICATION OF PSEUDORABIES.**

Subpart 1. **Zoning of state.** For purposes of controlling the spread of pseudorabies and eventually eradicating the disease, the state is divided into two zones, a northern zone and a southern zone. The northern zone includes the counties of Washington, Ramsey, Hennepin, Wright, Meeker, Kandiyohi, Chippewa, Swift, Big Stone, and all counties to the north of them. The southern zone includes all counties not included in the northern zone.

The board shall use a phased approach to pseudorabies control and shall begin the following control activities on the following dates:

- A. ~~January 1, 1988, statewide voluntary feeder pig herd monitoring;~~
- B. ~~July 1, 1988, new restrictions on feeder pig importation included in the importation rules, parts 1700.2590 to 1700.3010;~~
- C. ~~July 1, 1988, mandatory feeder pig herd monitoring in the northern zone; and~~
- D. ~~January 1, 1990, mandatory feeder pig herd monitoring in the southern zone.~~

Subp. 2. **Phased in control of intrastate movement of feeder pigs Testing requirements.** After July 1, 1988, in the northern zone and after January 1, 1990, statewide, feeder swine moved from the premises of origin must comply with the feeder swine movement regulations in this subpart:

A. Negative test before movement. Feeder swine moving from the premises of origin must test negative for pseudorabies within 30 days prior to movement unless they originate from one of the following source herds:

- (1) pseudorabies-monitored herd;
- (2) qualified pseudorabies-negative herd;
- (3) pseudorabies-controlled vaccinated herd; or
- (4) Stages III, IV, and or V low-prevalence pseudorabies areas.

B. ~~If feeder pigs do not originate from a source in item A, subitems 1 to 4, the feeder pigs sold must be tested negative within 30 days before sale.~~

C. Proof of origin. Proof of the ~~monitored~~ status or location of the herd of origin of all feeder pigs sold through a swine concentration point must be submitted to the sales management by the owner or the dealer who brings them in for sale.

D. Feeder pig identification. All feeder pigs ~~from monitored herds sold through a swine concentration point~~ must be identified with a metal eartag or a legible pseudorabies monitored herd number ear tattoo or eartag imprinted with the monitored herd number assigned to that herd.

E. Prevention of exposure. While in transit through marketing channels, all feeder pigs from monitored herds must be maintained so that they are not exposed to swine of unknown pseudorabies status or maintained in facilities or trucks contaminated by those swine. Failure to do so causes them to lose their monitored status.

F. In order to prevent the spread of pseudorabies into the northern zone and into qualified pseudorabies-negative herds:

- (1) ~~The board shall establish no approved premises in the northern zone after January 1, 1988.~~
- (2) ~~The board shall establish no new approved premises within a two-mile radius of a qualified or controlled vaccinated herd in Minnesota.~~

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## Proposed Rules

(3) After July 1, 1988, only monitored feeder pigs or Movement into northern zone. Only breeding swine from nonquarantined herds that have had a negative pseudorabies test within the last 30 days or have originated from a qualified herd may be moved into the northern zone.

Subp. 3. **Participation in the national pseudorabies eradication program.** For the purposes of the eradication of pseudorabies in Minnesota:

A. Efforts must be made to have maintain the northern zone declared as a low-prevalence (Stage III) area. If When such a status is attained maintained, it will be permissible for the feeder pig producers in that area to sell their feeder pigs without further testing.

B. In order to attain Stage III status, a plan of mandatory infected herd cleanup must be in effect. Herd cleanup plans must be submitted to the board on all quarantined herds in the northern zone.

C. In order to maintain the Stage III status, a system of surveillance must be carried out annually.

### 1705.2474 PSEUDORABIES MONITORED HERD PROCEDURES.

Subpart 1. **Initial herd certification Attaining monitored status.** In order for a herd to be certified as attain a pseudorabies monitored herd status, a representative monitoring sample of the breeding herd must be tested annually and be test negative for pseudorabies. Testing must be done at the owner's expense unless state funds are available for this purpose. The sample must include 30 percent of additions to the breeding herd since the last herd monitoring test. The sample sizes must be as follows:

A. in herds of ten sows or less, all must be tested;

B. in herds of 11 to 35 sows, ten must be tested; or

C. in herds of 36 sows or more, 30 percent of 30 head, whichever is less, must be tested.

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

Subp. 3. **Annual remonitoring.** In order to continue to sell feeder pigs in Minnesota, pseudorabies-monitored All herds must have an annual negative test of a representative monitoring sample of the breeding herd on a date within 30 days of the anniversary date of the original monitoring test as required in subpart 1.

For finishing herds that have completed an initial monitoring test, confirmation of all out status for the herd may be accepted in lieu of an annual remonitoring test. The all out status must be confirmed in writing by the board.

Subp. 4. [See repealer.]

### 1705.2476 PSEUDORABIES SURVEILLANCE AND CONTROL OF SPREAD.

Subpart 1. **Purpose.** In order to determine the extent of the pseudorabies problem in Minnesota and to locate the pseudorabies-infected herds, The surveillance and control programs in this part must be implemented are designed to eradicate pseudorabies from Minnesota.

Subp. 2. **Slaughter plant surveillance.** The board will shall cooperate with the United States Department of Agriculture in its efforts to develop a program of the pseudorabies testing of cull boars or sows at all slaughter plants and to identify them back to in the identification of their herds of origin. All herds determined to be pseudorabies-positive must be quarantined under parts 1705.2430 to 1705.2450. No quarantine will be imposed on a herd meeting the requirements of part 1705.2440, subpart 2.

Subp. 3. [See repealer.]

Subp. 4. **Circle testing around all new qualified or controlled vaccinated herds.** The board shall require a test of a representative monitoring sample of swine in herds within a one and one-half mile radius of all new Minnesota qualified pseudorabies-negative or controlled vaccinated herds. Currently At the time of the circle testing, qualified, controlled vaccinated, or monitored herds that have been tested within the last year need not be retested. The test sample size must be as follows:

A. In herds of ten sows or less, all must be tested.

B. In herds of 11 to 35 sows, ten must be tested.

C. In herds of 36 sows or more, 30 percent of 30 head, whichever is less, must be tested.

D. In herds where the sows are vaccinated or in finishing herds, a number of market hogs over four months of age must be tested. The number to be tested must be the same as the number of sows tested in unvaccinated herds. If a test that differentiates vaccine titres is available, it must be used.

If positive titres are disclosed on this test, or the owner refuses to allow the herd to be tested, the herd must be considered to be an infected herd and must be quarantined. This circle testing must be done at state expense if the funds are available.

[For text of subp 5, see M.R.]

Subp. 6. **Circle testing around quarantined herds.** The board shall require a test of a representative monitoring sample of swine in herds within a one and one-half mile radius of the following herds:

- A. all pseudorabies quarantined herds in the northern zone; and
- B. all new pseudorabies quarantined herds in any part of the state disclosed to be infected.

~~The test sample size must be the same as that in subpart 3. Currently~~ At the time of the circle testing, qualified, controlled vaccinated, or monitored herds that have been tested within the last year need not be retested. If positive titres are disclosed on this test, or the owner refuses to test, the herd must be considered an infected herd and placed under quarantine. This testing must be done at state expense if the funds are available.

Subp. 7. **Mandatory herd monitoring.** ~~In order to identify all the infected herds in Minnesota and to move ahead with~~ As part of the national pseudorabies eradication program, by July 1, 1991, all swine herds in Minnesota must have begun an annual herd monitoring program be annually monitored at the owners' expense. A monitoring sample of each herd must be tested.

~~The same hog bleeding schedule will be followed as is used in the feeder pig monitoring program, part 1705.2474, subpart 1, item A.~~

~~This bleeding must be done at the owner's expense and~~ The annual remonitoring may be discontinued when the area in which the herd is located becomes a Stage III area.

~~If an owner refuses to carry out this herd monitoring, the herd must be considered to be infected and must be quarantined.~~

Subp. 8. **Quarantined herd cleanup.**

~~A. By July 1, 1991, The owners of all quarantined herds in the northern zone~~ Minnesota must have signed sign an approved official pseudorabies herd cleanup plan.

~~B. By July 1, 1992, all quarantined herds in the southern zone must have signed an approved official pseudorabies herd cleanup plan.~~

~~This Herd cleanup testing will~~ must be paid for by state or federal funds. If state or federal funds are not available, herd cleanup must is not be mandated, but may be voluntarily done at the owner's expense.

#### **1705.2480 QUALIFIED PSEUDORABIES-NEGATIVE HERD PROCEDURES.**

Subpart 1. **Qualifications.** To qualify a herd for qualified pseudorabies-negative herd status:

A. the herd must have been free of pseudorabies for the previous six months;

B. all breeding stock six months of age or older must ~~have passed~~ be negative to an initial negative official pseudorabies test ~~plus a negative test of;~~

C. the offspring over four months of age must be negative for pseudorabies using the following testing schedule:

[For text of subitems (1) to (3), see M.R.]

~~C. D.~~ D. the herd owner must sign a herd an agreement of compliance to comply with parts 1705.2400 to 1705.2530.

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

Subp. 3. **Requalification testing.** The pseudorabies status of a qualified pseudorabies-negative herd must be monitored and its status maintained by having a negative test of at least 25 percent of the breeding herd every 80 to 100 days. All breeding swine must be subject to at least one official test once a year. No swine may be tested twice in one year to comply with the 25 percent test requirement.

All qualified herds must use one of the following herd ~~bleeding~~ testing schedules:

A. ~~a negative~~ Test of 25 percent of the breeding herd and ~~a negative test of the offspring over four months of age~~ every 90 days as outlined in subpart 1, item ~~B C~~; or

B. ~~a negative~~ Test of ten percent of the breeding herd every 30 days and ~~a negative test of the offspring over four months of age~~ every 90 days as outlined in subpart 1, item ~~B C~~.

If there are ten or fewer swine at least six months of age in the herd at any quarterly requalification test, all swine at least six months of age must be tested.

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## Proposed Rules

If the breeding herd or offspring is maintained on more than one premises, the appropriate percentage of the animals on each premises must be tested for each requalification.

[For text of subs 4 to 9, see M.R.]

### 1705.2490 PSEUDORABIES-CONTROLLED VACCINATED HERD PROCEDURES.

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

Subp. 4. **Sale of vaccinated animals.** Unvaccinated progeny from a pseudorabies-controlled vaccinated herd may be sold in Minnesota for breeding or feeding purposes without further testing.

Vaccinated animals from a pseudorabies-controlled vaccinated herd may be sold for breeding purposes only with a negative official pseudorabies test within 30 days prior to the sale.

Subp. 5. **Quarantine.** If a pseudorabies-controlled vaccinated herd is determined to be infected with pseudorabies, the herd must be quarantined and the owner must comply with part ~~1705.2430~~ 1705.2440 to have the quarantine released.

Subp. 6. **Epidemiological evaluation.** If one of the herd-monitoring tests discloses in one or more animals low titres (1:8 or less) ~~in one or more animals~~ which may be caused by vaccination maternal antibodies, an epidemiological evaluation must be conducted by the district veterinarian ~~which~~. This evaluation may include a retest of the titred swine in 30 days and a test of 20 other unvaccinated animals over four months of age.

During the process of this epidemiological evaluation, swine from this herd are temporarily ineligible for sale except to slaughter.

Failure to allow this evaluation will result in herd quarantine and the loss of pseudorabies-controlled vaccinated herd status.

The final determination of the status of the herd must be made by the district veterinarian involved.

### 1705.2510 EXHIBITION OF SWINE.

[For text of subs 1 to 4, see M.R.]

Subp. 5. **Out-of-state swine.** Out-of-state swine, when exhibited in Minnesota, must meet Minnesota's importation requirements in parts 1700.2600 to 1700.3000, exhibition requirements in parts 1715.0100 to 1715.0190, and the exhibition requirements of this part.

**RENUMBER.** In the next and subsequent editions of *Minnesota Rules*, the revisor of statutes shall renumber the part numbers, subparts, and items in column A to the corresponding part numbers and subparts in column B.

#### COLUMN A

1705.2400, subpart 3b  
1705.2400, subpart 5b  
1705.2400, subpart 8a  
1705.2400, subpart 13  
1705.2400, subpart 14  
1705.2400, subpart 15  
1705.2470, subpart 1  
1705.2472, subpart 2, item A  
1705.2472, subpart 2, item C  
1705.2472, subpart 2, item D  
1705.2472, subpart 2, item E  
1705.2472, subpart 2, item F

#### COLUMN B

1705.2400, subpart 3c  
1705.2400, subpart 7a  
1705.2400, subpart 1c  
1705.2400, subpart 6a  
1705.2400, subpart 5d  
1705.2400, subpart 3b  
1705.2470, subpart 1d  
1705.2470, subpart 1  
1705.2470, subpart 1a  
1705.2470, subpart 1b  
1705.2470, subpart 1c  
1705.2460, subpart 8a

**REPEALER.** *Minnesota Rules*, parts 1705.2470, subpart 2; 1705.2474, subpart 4; and 1705.2476, subpart 3, are repealed.

## Department of Human Services

### Proposed Permanent Rules Relating to Provisions of Family Community Support Service

#### Notice of Hearing

**NOTICE IS HEREBY GIVEN** that a public hearing on the above-entitled matter will be held in Room 5D, Veterans Service Building, 20 W. 12th St., St. Paul, Minnesota on Friday, August 27, 1993, 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 making process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such

persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Marlene E. Senechal, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square #1700, 100 Washington Avenue South, Minneapolis, Minnesota 55401-2138; telephone (612) 542-0690, 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. Any written material or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written material or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

*Minnesota Rules*, parts 9535.4000 to 9535.4070 (Proposed) establish standards and procedures for family community support services. County boards are responsible to provide these services either directly or under contract as part of a county's system of mental health services for children. Family community support services are a part of children's community-based mental health services established under the Minnesota comprehensive children's mental health act, *Minnesota Statutes*, sections 245.487 to 245.4888. Family community support services are designed to help children with severe emotional disturbance to function and remain with their families in the community. The proposed rule will: 1. define terms used in the rules; 2. specify general provisions related to service design, joint county provision of services, service eligibility and denial, service coordination and plans; 3. specify person to receive information and plan services; 4. specify how a child's eligibility for services is to be determined; 5. state when a child's services are to be terminated, specify service outcomes; 7. set forth the general provisions applicable to each specific service; 8. set the standards for orientation and training of persons who provide the services; and 9. specify the service records that a provider must keep.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 245.484.

In preparing these rules, the agency has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact of the proposed rules on small businesses. The agency believes that *Minnesota Statutes*, section 14.115 does not apply to these rules but in the event that section 14.115 does apply, the agency invites the public to comment at the public hearing. Furthermore, if any person knows of anyone who may be affected as a small business, the person may address this concern at the public hearing.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, MN 55155-3816. The telephone number is (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing or calling Nancy Bishop at the above address and number. A copy of the rule may also be viewed at any of the 87 county welfare agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Eleanor Weber, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, MN 55155-3816. The phone number is (612) 297-4301.

**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

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## Proposed Rules

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of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, (612) 296-5148.

Dated: 28 June 1993

Natalie Haas Steffen  
Commissioner

### Rules as Proposed (all new material)

#### 9535.4000 APPLICABILITY AND SCOPE.

Subpart 1. **Applicability.** Parts 9535.4000 to 9535.4070 establish standards and procedures for the provision of family community support services to children with severe emotional disturbance and their families as authorized by *Minnesota Statutes*, sections 245.487 to 245.4888. Parts 9535.4000 to 9535.4070 are intended to comply with, and must be read in conjunction with, *Minnesota Statutes*, sections 245.461 to 245.4888, 256E.09, and chapter 256G. The county board of each county is responsible for administering, planning, monitoring, and evaluating family community support services under parts 9535.4000 to 9535.4070 as community social services provided according to *Minnesota Statutes*, section 256E.08.

Subp. 2. **Family community support services to children and their families; scope.** *Minnesota Statutes*, section 245.487, subdivision 3, requires the commissioner to create and ensure a comprehensive and coordinated set of mental health and other necessary services for children. *Minnesota Statutes*, section 245.4873, requires coordination of the development and delivery of mental health services for children to occur on the state and local levels and, in subdivision 3, requires coordination of the local system of care for children. Family community support services, a component of the local system of care, are children's community-based mental health services that are to be provided by a county board, directly or under contract, to a child who resides in the county and the child's family as part of Minnesota's children's mental health service system. Family community support services are designed to provide within the community the kind of support that historically has more commonly been provided to children in residential treatment. *Minnesota Statutes*, section 245.4873, subdivision 4, requires the child's case manager designated by the local agency to develop the child's family community support plan in a manner that reflects coordination among the local service system providers serving the child.

Family community support services must be provided in a manner that is consistent with the core values set forth by the Child Adolescent Service System Program (CASSP) in "A System of Care for Severely Emotionally Disturbed Children and Youth" is incorporated by reference and published by CASSP Technical Assistance Center, Georgetown University Child Development Center, 3800 Reservoir Road, NW, Washington, D.C. 20007 (Washington, D.C., 1986). It is not subject to frequent change. A copy is available at the legislative reference library, 6th Floor, 100 Constitution Avenue, St. Paul, MN 55155. This publication and the values and system it endorses are referred to as "the CASSP System of Care."

#### 9535.4010 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9535.4000 to 9535.4070 have the meanings given them in this part.

Subp. 2. **Adult with serious and persistent mental illness.** "Adult with serious and persistent mental illness" means a person 18 years of age or older who has serious and persistent mental illness as defined in *Minnesota Statutes*, section 245.462, subdivision 20, paragraph (c).

Subp. 3. **Case management services.** "Case management services," for a child, has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 3.

Subp. 4. **Child.** "Child" means a person less than 18 years old who is eligible for mental health case management and family community support services under *Minnesota Statutes*, section 245.4871, subdivision 6.

Subp. 5. **Child with severe emotional disturbance.** "Child with severe emotional disturbance" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 6.

Subp. 6. **Clinical supervision.** "Clinical supervision," for a child, has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 7.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subp. 8. **County board.** "County board" means the county board of commissioners or board established under the Joint Powers Act in *Minnesota Statutes*, section 471.59, or the Human Services Board Act in *Minnesota Statutes*, sections 402.01 to 402.10.

Subp. 9. **County of financial responsibility.** "County of financial responsibility" has the meaning given in *Minnesota Statutes*, section 256G.02, subdivision 4.

Subp. 10. **Crisis assistance.** "Crisis assistance," for a child, has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 9a. For purposes of family community support services to a child, crisis placement and respite care are components of crisis assistance, as specified in *Minnesota Statutes*, section 245.4871, subdivision 17, clause (6).

Subp. 11. **Day treatment.** "Day treatment," for a child, has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 10.

Subp. 12. **Diagnostic assessment.** "Diagnostic assessment," for a child, has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 11.

Subp. 13. **Emergency services.** "Emergency services," for a child, 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, for an Indian child, means a relationship recognized by the Minnesota Indian Family Preservation Act in *Minnesota Statutes*, sections 257.35 to 257.3579.

Subp. 16. **Family community support services.** "Family community support services" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 17. Family community support services are not acute care hospital inpatient treatment as defined in *Minnesota Statutes*, section 245.4871, subdivision 2; residential treatment as defined in *Minnesota Statutes*, section 245.4871, subdivision 32; or regional treatment center services as specified in *Minnesota Statutes*, section 245.490. Family community support services are:

- A. client outreach to a child and the child's family as specified in part 9535.4038;
- B. medication monitoring where necessary as specified in part 9535.4041;
- C. assistance in developing independent living skills as specified in part 9535.4044;
- D. assistance in developing parenting skills necessary to address the needs of the child as specified in part 9535.4047;
- E. assistance with leisure and recreational activities as specified in part 9535.4050;
- F. crisis assistance including crisis placement and respite care as specified in part 9535.4035;
- G. professional home-based family treatment as specified in part 9535.4059;
- H. foster care with therapeutic supports as specified in part 9535.4062;
- I. day treatment as specified in part 9535.4056;
- J. assistance in locating respite care and special needs day care as specified in part 9535.4052; and

K. assistance in obtaining potential financial resources, including those benefits specified in *Minnesota Statutes*, section 245.4884, subdivision 5, and specified in part 9535.4053.

Subp. 17. **Foster care with therapeutic support or therapeutic support of foster care.** "Foster care with therapeutic support" or "therapeutic support of foster care" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 34.

Subp. 18. **Functional assessment.** "Functional assessment," for a child, means an assessment by the case manager of the child's:

- A. mental health symptoms as presented in the child's diagnostic assessment;
- B. mental health needs as presented in the child's diagnostic assessment;
- C. use of drugs and alcohol;
- D. vocational and educational functioning;
- E. social functioning, including the use of leisure time;
- F. interpersonal functioning, including relationships with the child's family;
- G. self-care and independent living capacity appropriate to the child's chronological age;
- H. medical and dental health;

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## Proposed Rules

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- I. financial assistance needs;
- J. housing and transportation needs; and
- K. other needs and problems.

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. **Legal representative.** "Legal representative" means a guardian appointed by the court to decide on services for a child as specified in *Minnesota Statutes*, section 525.619, a custodian or guardian as defined in *Minnesota Statutes*, section 260.015, subdivision 14, or 260.242, or an Indian custodian as defined in *Minnesota Statutes*, section 257.351, subdivision 8.

Subp. 22. **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*, sections 245.487 to 245.4888, as a component of community social services under *Minnesota Statutes*, chapter 256E.

Subp. 23. **Mental health professional.** "Mental health professional" means a person who has the qualifications as defined in *Minnesota Statutes*, section 245.4871, subdivision 27.

Subp. 24. **Minority race or minority ethnic heritage.** "Minority race" or "minority ethnic heritage" has the meaning given in part 9560.0020, subpart 9a.

Subp. 25. **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. 26. **Professional home-based family treatment.** "Professional home-based family treatment" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 31.

Subp. 27. **Service provider.** "Service provider" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 33.

Subp. 28. **Special mental health consultant.** "Special mental health consultant" has the meaning given in *Minnesota Statutes*, section 245.4871, subdivision 33a.

### 9535.4020 FAMILY COMMUNITY SUPPORT SERVICES; GENERAL PROVISIONS.

Subpart 1. **Design of family community support services.** The design for providing the components of family community support services must be based on the unique and changing needs of the children eligible for the service who reside in the county and on the availability of community sources of services for the children and their families. A county board shall design family community support services to reduce the need for and use of more intensive, more costly, or restrictive placements of children both in number of admissions of children and the length of their stays in residential treatment facilities or regional treatment centers and to meet the requirements of *Minnesota Statutes*, sections 245.4874, 245.4876, 245.4881, and 245.4884, and parts 9535.4000 to 9535.4070. The county board must provide family community support services according to the order of priority in *Minnesota Statutes*, section 245.4886, subdivision 1.

Subp. 2. **Joint county provision of services.** A county or two or more counties jointly may provide one or more of the components of family community support services directly or through a contract with another agency.

Subp. 3. **Denial of services.** A county board must assure that family community support services are not denied to children with severe emotional disturbance 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.

Subp. 4. **Notice of eligibility for family community support services.** The county board shall send a written notice about a child's eligibility for family community support services as required under *Minnesota Statutes*, section 245.4881, subdivision 2, paragraph (b).

Subp. 5. **Availability of special mental health consultant.** The county board must assure that a special mental health consultant is available as necessary to assist the county board in assessing and providing appropriate family community support and other mental health services for a child of a minority race or minority ethnic heritage.

Subp. 6. **Procedures to assure coordination.** The county board must establish procedures to assure ongoing contact and coordination between a child's case manager, the providers of the child's family community support services, the child's other mental health services, and the educational and social services related to the child's mental health needs. In the case of a child receiving case management services under parts 9520.0900 to 9520.0926, the case manager is responsible for ongoing coordination with any other person responsible for the planning, development, and delivery of mental health services for the child.

Subp. 7. **Referral of child for case management services.** The provider of family community support services to a child who is



not receiving case management services must inform the child and the child's parent or legal representative as required under part 9535.4023 of the availability and potential benefits to the child of case management services according to *Minnesota Statutes*, section 245.4876, subdivision 4.

**Subp. 8. Refusal of case management services.** The refusal of case management services by a child or the parent or legal representative of a child who is determined eligible for case management services does not affect the child's eligibility to receive family community support services or other mental health services for which the child is eligible. If a child or a child's parent or legal representative has refused case management services for the child under parts 9520.0900 to 9520.0926, the providers of the child's family community support services shall coordinate the child's service delivery in the manner established by the county board to assure continuity of the child's services and avoid duplication of services.

**Subp. 9. Clinical supervision of family community support services.** The county board must assure, either directly or under contract, the clinical supervision of family community support services as specified in *Minnesota Statutes*, section 245.4871, subdivisions 7, 17, and 27.

**Subp. 10. Services needed and required plan.** A child's need for family community support services must be based on the mental health needs identified from a functional assessment and a diagnostic assessment of the child and on the child's strengths. A plan for the delivery of each family community support service identified as a mental health need must be developed for the child. The child's parent or legal representative and, unless clinically inappropriate, the child must be involved in all phases of the development and implementation of the plan. The plan shall identify the goals and outcomes of the services and how the outcomes are to be measured. Additionally, the plan shall be developed as specified in item A or B.

A. If the child is receiving case management services under parts 9520.0900 to 9520.0926, the child's individual family community support plan may serve as the required plan if it complies with part 9520.0918 and was developed with the participation of family community support services staff.

B. If the child does not have a case manager because the child or the parent or legal representative of the child has refused case management services under parts 9520.0900 to 9520.0926, the family community support service provider or providers of the child's services shall follow the procedures established under subpart 6 to coordinate and incorporate the child's family community support and other mental health services into a single planning document. The single planning document also must incorporate the child's individual treatment plans, if any.

Any other service plan developed by an agency providing services to the child may substitute for the single planning document required under this part if the other plan meets the requirements of this part.

**Subp. 11. Review and revision of plan required under subpart 10.** Family community support services staff, together with the child, unless clinically inappropriate, and the child's parent or legal representative must review and, if necessary, revise the goals and the child's progress towards the outcomes specified in the plan required for the child under subpart 10. The review and, if necessary, revision of the child's plan must be done at least once every 180 days after the development of the initial plan under subpart 10 or more often if necessary to reflect changes in the child's goals, strengths, and needs and in community resources while the child and the child's family are receiving family community support services. The review and any necessary revision must be based on an assessment of the child's functioning in the area of the family community support services the child is receiving.

#### **9535.4023 PERSONS TO RECEIVE INFORMATION AND PLAN SERVICES.**

**Subpart 1. Persons to receive information and plan the child's services.** Except as specified in subparts 3 and 4, when family community support services are requested for a child or the child is referred for family community support services, the child's parent or legal representative, if any, has the right to:

- A. receive the notices and information specified in parts 9535.4000 to 9535.4070;
- B. make decisions about family community support services for the child; and
- C. be included in planning the family community support services available to the child under parts 9535.4000 to 9535.4070.

**Subp. 2. Child's receipt of information and inclusion in planning services.** A child who is at least 12 years of age has the right to receive and a child who is less than 12 years of age may receive the notices and information specified under parts 9535.4000 to 9535.4068 and be included in planning family community support services available to the child under parts 9535.4000 to 9535.4068 unless these actions are determined by a mental health professional to be clinically inappropriate for the child's mental health needs.

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## Proposed Rules

If the mental health professional determines that receiving information and participating are clinically inappropriate for the child's mental health needs, the reasons for the determination must be documented in the child's case record.

Subp. 3. **When the child is the only person who has the right to receive information, plan, and decide on family community support services.** When one of the circumstances in item A or B applies, a child is the only person with the right to receive required notices, make decisions about family community support and other mental health services, and be included in planning family community support services.

A. The child is at least 16 years of age and the child's parent or legal representative is hindering or impeding the child's access to mental health services.

B. 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 representative 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 of age and has consented to treatment as specified in *Minnesota Statutes*, section 253B.03, subdivision 6, paragraph (d); or

(4) is at least 16, but under 18, years of age and has been authorized by a county board for independent living pursuant to a court order as specified in *Minnesota Statutes*, section 260.191, subdivision 1, paragraph (a), clause (4).

Subp. 4. **Petition filed or court order issued.** If 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 appointed, and if consent for family community support services has not been otherwise obtained from the child's parent or legal representative or the child, the local agency may request a court order under *Minnesota Statutes*, chapter 260, to authorize family community support services for the child.

### 9535.4025 DETERMINATION OF CHILD'S ELIGIBILITY FOR SERVICES.

Subpart 1. **Determining eligibility.** To be eligible for family community support services, a child must have the characteristics defined and described in *Minnesota Statutes*, section 245.4871, subdivisions 6 and 15.

Subp. 2. **Request or referral for family community support services.** When a child or the parent or legal representative of a child requests an assessment or consents, as described in part 9535.4023, to the child's being assessed to determine eligibility for family community support services, the family community support service provider must obtain an authorization to release information as required under *Minnesota Statutes*, section 245.4876, subdivision 5. Consent or authorization must be obtained from the child's parent, except when a condition in *Minnesota Statutes*, section 245.4876, subdivision 5, paragraph (b), clauses (1) and (2), applies. The family community support service provider must determine whether the child meets a criterion of eligibility for the family community support services as defined in *Minnesota Statutes*, section 245.4871, subdivision 6. If the child has had a diagnostic assessment or an updated diagnostic assessment as specified in *Minnesota Statutes*, section 245.4876, subdivision 2, the family community support provider must, upon obtaining the authorization required in this subpart, obtain a copy or, at least, confirm by telephone or letter the date of the assessment, and the findings and recommendations made in the diagnostic assessment about the family community support services needed by the child. If a child has not had a diagnostic assessment within 180 days before a request for family community support services for the child, the local agency must offer to assist the child and the child's family in obtaining one.

### 9535.4028 TERMINATION OF FAMILY COMMUNITY SUPPORT SERVICES.

Family community support services to a child with severe emotional disturbance shall terminate when one of the events listed in items A to D occurs.

A. A mental health professional who has provided mental health services to the child furnishes a written opinion that the child no longer meets the eligibility criteria in *Minnesota Statutes*, section 245.4871, subdivision 6. Upon receipt of the mental health professional's written opinion that the child no longer meets the eligibility criteria, the family community support service provider must inform, as described in part 9535.4023, the child and the child's parent or legal representative of the ability to appeal the decision.

B. The child or the child's parent or legal representative as described in part 9535.4023, together with the child's family community support service provider and the child's case manager, if any, mutually decide that the child no longer needs the family community support service identified in the child's individual family community support plan because the child has achieved the goals and outcomes specified in the plan.

C. The child or the child's parent or legal representative as described in part 9535.4023 refuses further family community support services.

D. The child becomes age 18.

**9535.4030 OUTCOMES OF FAMILY COMMUNITY SUPPORT SERVICES.**

The persons assigned by or under contract with the local agency to provide family community support services to a child shall use a process designed to assist the child with severe emotional disturbance to pursue the outcomes of the child's improved or maintained functioning and mental health and the child's remaining with the child's family in the community. To assist the child to meet these outcomes, family community support services must be provided in a manner consistent with the mission of the Minnesota comprehensive children's mental health act as specified in *Minnesota Statutes*, section 245.487, subdivision 3, and the outcomes of case management services as specified in part 9520.0904. Additionally, a child's family community support services must be designed to:

A. assist the child and the child's family to achieve the outcomes identified in the plan required for the child under part 9535.4020, subpart 10, and the service priorities agreed to by the child, the child's parent, and the service provider. The plan must be consistent with the outcomes of family community support services as specified in *Minnesota Statutes*, section 245.4884, subdivision 1. These outcomes are to improve the ability of the child to:

- (1) manage basic activities of daily living;
- (2) function appropriately in home, school, and community settings;
- (3) participate in leisure time or community youth activities;
- (4) set goals and plans;
- (5) reside with the family in the community; and
- (6) participate in after-school and summer activities;

B. assist the child to make a smooth transition among mental health, vocational rehabilitation, and education services;

C. ensure that the state and local agencies providing transition services to the child work together so the child has the opportunity to access vocational rehabilitation and educational services that will assist the child to live and function independently within the community;

D. at least six months before the 18th birthday of a child who is not receiving case management services under parts 9520.0900 to 9520.0926, assist the child and, as appropriate, the child's parent or legal representative in assessing the child's need to receive case management services to adults with serious and persistent mental illness, community support services, and other mental health services;

E. improve overall family functioning if clinically appropriate to the child's needs;

F. assist the child to live in families or settings that offer a safe, permanent relationship with nurturing parents or caretakers; and

G. for the child whose best interest is to reside away from the child's own home, ensure the continuation of family community support services appropriate to the child's mental health needs in a setting as similar to and as geographically near the child's family and community as feasible.

**9535.4035 CRISIS ASSISTANCE SERVICES.**

Subpart 1. **Crisis assistance services, including crisis placement and crisis respite care.** Crisis assistance services for a child, including crisis placement and crisis respite care, must be coordinated with, but must not duplicate, emergency services as defined in *Minnesota Statutes*, section 245.4871, subdivision 14. The crisis assistance services must meet the requirements of *Minnesota Statutes*, section 245.4871, subdivision 9a.

Subp. 2. **Crisis assistance placement.** When the child is in crisis and needs care outside of the child's home and the child or the child's parent or legal representative as described in part 9535.4023 requests crisis assistance, the provider of crisis assistance services shall help the child and the child's parent or legal representative to locate and access a crisis setting appropriate to the child's needs.

Subp. 3. **Crisis respite care services.** Crisis respite care services shall be designed to provide temporary or periodic care and supervision of a child for the purpose of providing relief to the child's caregiver. The crisis respite care service may be provided in the child's home or in a setting other than the child's home.

**9535.4038 CLIENT OUTREACH SERVICES.**

The county board shall provide client outreach services designed to locate children within the community who may have a severe

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## Proposed Rules

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emotional disturbance, inform them and their families of available children's community-based mental health services, including family community support and case management services, and assure that they have access to those services by assisting the family to arrange for transportation, if necessary. Client outreach services must:

- A. be conducted throughout the calendar year;
- B. occur at the site requested by the child and the child's parent or legal representative;
- C. be provided in a manner which promotes the involvement of the child and the child's family;
- D. occur face-to-face whenever possible;
- E. be provided in a manner which is sensitive to cultural differences and special needs; and
- F. provide the child and the child's parent or legal representative, in writing, the information specified in part 9535.4070.

Outreach services to providers in the local system of care and to families must include the development and distribution of information on the availability of family community support services and case management services and how to access these services.

### **9535.4041 MEDICATION MONITORING SERVICES.**

When a child is taking psychotropic medication prescribed by a physician, medication monitoring services must be designed to assist the child, the child's parent or legal representative, and, with the written consent of the child or the child's parent or legal representative, other persons who provide direct care to the child. The services must assist the child, parent or representative, or direct caregiver to:

- A. obtain information about the psychotropic medication that has been prescribed for the child;
- B. watch for physical or behavioral changes in the child which may be caused by the child's use of, misuse of, or failure to take the prescribed psychotropic medication; and
- C. obtain access to and assistance from the child's source of medical care.

### **9535.4044 ASSISTANCE IN DEVELOPING INDEPENDENT LIVING SKILLS.**

Independent living skills services including transition services to a child must be designed to assist the child to develop the skills needed to remain and participate with others in the child's family, child care setting, school, place of employment, if any, community, and in recreational or social activities. Services must address skills that are appropriate for the child's age.

Assistance in developing independent living skills may include a variety of methods or strategies appropriate to the child's developmental age that help children with severe emotional disturbance carry out the tasks of daily living, develop a positive regard for self, problem solve, learn skills to advocate on their own behalf, and make transitions to community resources in order to secure, maintain, and support employment and make educational choices.

Services may be provided in individual or group settings as specified in the individual family community support plan or other plan required in part 9535.4020, subpart 10.

If a child who is at least 14 years of age receives independent living skills services or transition services from more than one provider, or as part of the child's individual education plan, the family community support providers must attempt to coordinate the child's services with the other providers and with the child's school in order to avoid duplicating services, assure the child's access to needed services, and make transitions between education and employment.

For purposes of this part, "transition services" means a set of activities to promote movement from school to postschool activities, including postsecondary education when applicable, vocational training, integrated employment, including supported employment, continuing and adult education, and independent living skills. Independent living skills are based on individual needs, taking into account a child's preferences and interests, and must include instruction, community experience, and the development of employment and other postschool adult living objectives.

### **9535.4047 ASSISTANCE IN DEVELOPING PARENTING SKILLS NECESSARY TO ADDRESS THE NEEDS OF THE CHILD.**

Assistance in developing parenting skills identified as needed or requested by a child's parent must be designed to address the individual, unique needs of the child and the child's parent. In assisting parents to develop parenting skills, the provider may use written information, direct assistance, support services, or other means as requested and accepted by the child's parents or the child as specified in part 9535.4023. The information must include but is not limited to information about parenting techniques and interventions that address specific behaviors or issues directly related to, or the result of, the child's severe emotional disturbance. Services commonly available in a county to provide information about parenting techniques may be used to meet the requirements of this part if the service is modified or augmented in a manner that addresses the individual, unique needs of the child and the child's parent.

**9535.4050 ASSISTANCE WITH LEISURE AND RECREATIONAL ACTIVITIES.**

Assistance with leisure and recreational activities provided as a family community support service to a child must be designed to:

- A. assist the child with severe emotional disturbance and the child's parent or legal representative in locating, accessing, and participating in leisure and recreational services for the child;
- B. assist the child to gain the physical, mental, and social skills necessary to participate in age-appropriate activities;
- C. promote the use of community recreation programs and community education programs or activities that are identified on the child's individual family community support plan or other plan prepared according to part 9535.4020, subpart 10; and
- D. address specific therapeutic objectives.

**9535.4052 ASSISTANCE IN LOCATING RESPITE CARE AND SPECIAL NEEDS DAY CARE.**

Assistance in locating respite care and special needs day care for a child must be provided to a child's parent or legal representative who requests respite care or special needs day care if these services are identified in the child's plan required by part 9535.4020, subpart 10. The assistance may include recruiting respite care providers and training them in the special needs of children with severe emotional disturbance.

**9535.4053 ASSISTANCE IN OBTAINING POTENTIAL FINANCIAL RESOURCES.**

Assistance in obtaining potential financial resources for a child or the parent or legal representative of a child for whom the county is financially responsible and who may be eligible for benefits shall be designed to:

- A. inform and offer to help the child, parent, or legal representative to apply for and obtain supplemental security income, medical assistance, Medicare, food stamps, aid to families with dependent children, and other federal benefits if appropriate;
- B. if requested, assist the child or the child's parent or legal representative to apply for programs and benefits under item A;
- C. if the child or the child's parent or legal representative is not eligible for the benefits in item A, inform the child or the child's parent or legal representative and offer to assist in applying for MinnesotaCare, general assistance, general assistance medical care, health services funded under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Public Law Number 97-248, or other benefits for which the child may be eligible. For purposes of this item and item B, "assist" means accompanying the child and the child's parent or legal representative to the agency through which application is made, to obtain and help the child or the child's parent or legal representative complete forms required to apply for the benefits, and to contact agencies that determine eligibility for benefits about the possible eligibility of the child or the child's parent or legal representative. Assist does not mean the provider will complete the application for the child or the child's parent or legal representative;
- D. offer, and, if requested, assist the child or the child's parent or legal representative in determining the process and completing the materials related to appealing a denial, suspension, reduction, or termination of benefits.

**9535.4056 DAY TREATMENT SERVICES.**

Unless a county board has requested a waiver from including day treatment services as a component of family community support services under *Minnesota Statutes*, section 245.4884, subdivision 2, paragraph (b), and the commissioner has approved the request, a county board shall make day treatment services available as specified in *Minnesota Statutes*, section 245.4884, subdivision 2, paragraph (a). Even with an approved waiver, however, a county must make day treatment services available to a child with severe emotional disturbance who is eligible for day treatment under medical assistance. When a medical assistance-eligible child receives day treatment services, the county board must require the services provider to maintain records of the child's day treatment services as required under part 9505.0323, subpart 26, for mental health services. These records are to be maintained in addition to those required by part 9535.4069.

**9535.4059 PROFESSIONAL HOME-BASED FAMILY TREATMENT.**

Professional home-based family treatment services must be available to a child who is at risk of out-of-home placement, who is in out-of-home placement due to the child's emotional disturbance, or who is returning to the home from out-of-home placement. The services must be an appropriate alternative to residential treatment and must provide intensive, time-limited intervention to help the child and the child's family learn the skills necessary to keep the child within the home and community. The professional home-based family treatment services must be provided as specified in *Minnesota Statutes*, section 245.4884, subdivision 3. Additionally, if the

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## Proposed Rules

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child receiving the professional home-based mental health services is eligible for medical assistance, the services must comply with the requirements of part 9505.0324.

### **9535.4062 FOSTER CARE WITH THERAPEUTIC SUPPORTS.**

Foster care with therapeutic supports or therapeutic support foster care must be designed to provide a child a therapeutic family environment and to provide support to foster families caring for children with severe emotional disturbance. The foster care with therapeutic supports must incorporate the child's treatment process into the family environment. Additionally, the foster care with therapeutic supports must provide the foster family with training about severe emotional disturbances in children and the effects of the disturbances on the children's behaviors.

### **9535.4065 RELEASE OF INFORMATION ABOUT A CHILD.**

The release of a record or information about a child receiving family community support services under parts 9535.4000 to 9535.4070 to another person or entity must comply with *Minnesota Statutes*, section 245.4876, subdivision 5.

### **9535.4068 ORIENTATION AND TRAINING.**

Subpart 1. **Orientation.** The local agency must ensure that each person who is employed for pay or under contract to provide family community support services takes part in:

A. orientation before the person begins to provide family community support services. The orientation shall include:

(1) the provisions, applicability, and reporting requirements of the Minnesota Government Data Practices Act in *Minnesota Statutes*, sections 13.01 to 13.48, and parts 9560.0210 to 9560.0234 and 9535.4000 to 9535.4070; and

(2) training in procedures for responding to a child's crisis according to part 9535.4035;

B. further training in the areas specified in subitems (1) and (2), no later than 30 calendar days after the person begins to provide family community support services unless the person can document having skills and knowledge about subitems (1) and (2). The training shall address:

(1) the different diagnostic classifications of emotional disturbance and the specific characteristics of the classifications;  
and

(2) the use of psychotropic medications in children and the potential side effects of the medication.

Subp. 2. **Continuing training.** The local agency must ensure that a person who is employed for pay or under contract to provide family community support services receives at least 20 hours of continuing training in a two-year period. Training topics shall be chosen from the items specified in subpart 1 and:

A. the provisions of the Minnesota Comprehensive Children's Mental Health Act in *Minnesota Statutes*, sections 245.487 to 245.4887;

B. the core values and principles of the Child Adolescent Service System Program (CASSP);

C. how to coordinate services between the public education system and the mental health system;

D. procedures for providing crisis assistance services according to *Minnesota Statutes*, section 245.4871, subdivision 9a;

E. information about eligibility for the programs specified in part 9535.4053;

F. skills needed to be supportive of a parent of a child with severe emotional disturbance;

G. how to provide services effectively to a child of a minority race or minority ethnic heritage; and

H. how to provide services for children with developmental disabilities or other special needs.

Completion of required training must be documented in the training participant's personnel record.

### **9535.4069 PROVIDER'S RECORDS OF SERVICES TO A CHILD.**

A family community support services provider employed by or under contract to a county must maintain a record for each child receiving family community support services from the provider. The record must contain a copy of the individual family community support plan, if any, and the plan required for the child under part 9535.4020, subpart 10, the names of the child's parents or legal representative, evidence of the child's eligibility for family community support services, names of medications, if any, prescribed for the child, and name and telephone number of the prescribing physician.

### **9535.4070 APPEAL RIGHTS.**

A child or the parent or legal representative of a child who applies for and receives family community support services has the right to receive the information specified in *Minnesota Statutes*, section 245.4887, and to appeal according to *Minnesota Statutes*, section 256.045.

## Department of Human Services

### Proposed Permanent Rules Relating to Licensure of Private Agencies that Provide Child Foster Care Services and Adoption Services

#### Dual Notice: Notice of Intent to Adopt a Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received

**Introduction.** The Minnesota Department of Human Services intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, section 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by August 25, 1993, a public hearing will be held on September 13, 1993.

To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after August 25, 1993 and before September 13, 1993.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Robert Klukas  
Minnesota Department of Human Services  
Rules Division  
444 Lafayette Road  
Saint Paul, Minnesota 55155-3816  
(612) 296-2794  
Fax (612) 296-6244

**Subject of Rule and Statutory Authority.** The proposed rule is about the requirements of the Department of Human Services for the licensure of private agencies that provide child foster care services and adoption services. The statutory authority to adopt the rule is contained in *Minnesota Statutes*, sections 245A.03, subdivision 1, and 317A.907, subdivision 3. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

**Copy of the Rule.** A free copy of this rule is available upon request from the agency contact person listed above. A copy of the proposed rule may also be viewed at any of the county welfare or human service agencies in the State of Minnesota.

**Comments.** You have until 4:30 p.m. on August 25, 1993 to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 25, 1993. Your written request for a public hearing must include your name, address and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

**Modifications.** The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rule as attached and printed in the *State Register* and must be supported by data and views submitted to the agency or presented at the hearing. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for September 13, 1993 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Robert Klukas at (612) 296-2794 after August 25, 1993, to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following

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## Proposed Rules

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the procedures in *Minnesota Statutes*, sections 14.14 to 14.20. The hearing will be held on September 13, 1993, in Rooms 5B and 5C of the Department of Human Services Building, 444 Lafayette Road, St. Paul, Minnesota beginning at 9:00 a.m. and will continue until all interested persons have been heard. 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 Judge Bruce D. Campbell. Judge Campbell can be reached at the Office of Administrative Hearings, 100 Washington Square, #1700, 100 Washington Avenue South, Minneapolis, Minnesota 55401-2138; telephone (612) 341-7602.

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rule. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day 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. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearing no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.0200 to 1400.1200 and *Minnesota Statutes*, sections 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule. It also includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing, if one is held. The statement may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

**Small Business Considerations.** *Minnesota Statutes*, section 14.115, subdivision 2 requires the Department to consider specific methods for reducing the impact of the proposed amendments on small business. However, *Minnesota Statutes*, section 14.115, subdivision 7, clause (3) provides that this rulemaking procedure is excepted from this requirement because it covers, "service businesses regulated by government bodies, for standards and cost," which would include the regulation of agencies providing adoption services under this rule.

Pursuant to *Minnesota Statutes*, section 14.115, subdivision 4, small businesses must be given the opportunity to participate in the rulemaking process. The Department will comply with this requirement by following *Minnesota Statutes*, section 14.115, subdivision 4, paragraph (b): Publishing in the *State Register* the notice of proposed rulemaking.

**Expenditure of Public Money by Local Public Bodies.** Because the Department's Fiscal Note anticipates that the proposed amendments will not require local public bodies to expend public money in either of the two years immediately following adoption of the rule, *Minnesota Statutes*, section 14.11, subdivision 1 is not applicable.

**Impact on Agricultural Land.** Because the proposed rule language does not have a direct and substantial adverse impact on agricultural land in Minnesota, *Minnesota Statutes*, section 14.11, subdivision 2 is not applicable.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at 1st Floor, Centennial Office Building, 658 Cedar Street, Saint Paul, Minnesota 55155; telephone (612) 296-5148.

**Adoption Procedure if No Hearing.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the Attorney General or be notified of the Attorney General's decision on the rule. If you want to be so notified, or wish to receive a copy of the adopted rule, submit your request to Robert Klukas at the address listed above.

**Adoption Procedure After the Hearing.** If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rule. You may request to be notified of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rule for a period of five working days. If you want to be notified about the report, 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 also request notification of the date on which the rule is adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

Dated: 28 June 1993

Natalie Haas Steffen  
Commissioner



**Rules as Proposed (all new material)****9545.0755 PURPOSE AND APPLICABILITY.**

Subpart 1. **Purpose.** *Minnesota Statutes*, section 245A.03, subdivision 1, requires a private agency that receives a child for care, supervision, or placement in foster care or adoption or helps plan the placement of a child in foster care or adoption to be licensed by the commissioner. Additionally, *Minnesota Statutes*, section 317A.907, subdivision 3, specifies that a corporation formed under *Minnesota Statutes*, section 317A.907, to secure homes for orphaned, homeless, abandoned, neglected, or mistreated children must comply with rules established by the commissioner to govern its operation. Parts 9545.0755 to 9545.0845 establish the conditions for licensure of private child-placing agencies specified in *Minnesota Statutes*, section 317A.907, subdivision 3.

Subp. 2. **Applicability.** Parts 9545.0755 to 9545.0845 apply to any private agency as defined in *Minnesota Statutes*, section 245A.02, subdivision 12, that operates in Minnesota and performs one or more of the activities listed in items A to H.

A. Supervises a licensed foster care provider that cares for a child for whom the commissioner, a county, a private agency, another entity, an Indian tribe, or the child's parent or guardian remains legally responsible.

B. Arranges for or provides short-term licensed foster care while a child is being legally freed for adoption or while an adoptive placement is being arranged.

C. Places a child for adoption under the written agreement specified in *Minnesota Statutes*, section 259.25, or as legal guardian under *Minnesota Statutes*, section 260.242.

D. Compiles a listing from which a birth parent can identify potential adoptive parents for a child for whom adoption is projected.

E. Assists birth parents or prospective adoptive parents with fulfilling the requirements of *Minnesota Statutes*, sections 257.40 to 257.48, the Interstate Compact on the Placement of Children.

F. Collects health and social history from the birth family of a child for the information of the child's prospective adoptive parents.

G. Studies the suitability of an adoptive applicant's home.

H. Assists birth parents to execute consents to adoption.

Parts 9545.0755 to 9545.0845 also apply to an agency that performs one or more of the activities listed in items A to H in Minnesota but is incorporated under the laws of a state other than Minnesota.

**9545.0765 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 9545.0755 to 9545.0845, the following terms have the meanings given them.

Subp. 2. **Agency.** Unless otherwise specified, "agency" means a private agency governed by parts 9545.0755 to 9545.0845.

Subp. 3. **Applicant.** "Applicant" means an individual, corporation, partnership, voluntary association, controlling individual, or other organization that has applied for licensure under *Minnesota Statutes*, sections 245A.01 to 245A.16, and the rules of the commissioner.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 5. **Controlling individual.** "Controlling individual" has the meaning given in *Minnesota Statutes*, section 245A.02, subdivision 5a.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 7. **License.** "License" has the meaning given in *Minnesota Statutes*, section 245A.02, subdivision 8.

Subp. 8. **Private agency.** "Private agency" as defined in *Minnesota Statutes*, section 245A.02, subdivision 12, means an individual, corporation, partnership, voluntary association or other organization, other than a county agency, or a court with jurisdiction, that places persons who cannot remain in their own homes in residential programs, foster care, or adoptive homes.

Subp. 9. **Variance.** "Variance" means permission given by the commissioner in accordance with *Minnesota Statutes*, section 245A.04, subdivision 9, for a license holder to depart for a specified time from a standard specified in parts 9545.0755 to 9545.0845.

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## Proposed Rules

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Subp. 10. **Volunteer.** "Volunteer" means an individual who provides time or service to an agency without being compensated by the agency.

### 9545.0775 LICENSURE.

Subpart 1. **License required.** An agency that provides a service or performs an activity described in subpart 2 must be licensed under parts 9545.0755 to 9545.0845.

Subp. 2. **Application for licensure.** Applicants must apply for a license on the forms and in the manner prescribed by the commissioner.

Subp. 3. **License option.** The form in subpart 2 must require an applicant to specify whether the applicant performs or intends to perform activities related both to foster care and adoption, only to foster care, or only to adoption. An applicant to perform adoption-related activities only must indicate how the agency will arrange for the licensed foster care needed while a child is being legally freed for adoption or while an adoptive placement for the child is being arranged.

Subp. 4. **Notice to commissioner.** An agency must send the commissioner written notice at least 30 days before the agency:

- A. moves from the location specified on the current application or license;
- B. opens a new office or other setting where records required by parts 9545.0755 to 9545.0845 are kept;
- C. proposes to increase its scope to include both foster care and adoption; or
- D. closes. The agency's notice of closing must specify the arrangements the agency has made for transfer of records and clients as required in part 9545.0845.

Subp. 5. **Commissioner's right of access.** Each site where an agency maintains offices or records is subject to the commissioner's inspection and right of access specified in *Minnesota Statutes*, section 245A.04, subdivision 5.

Subp. 6. **Single license for multiple locations.** When an applicant for licensure under parts 9545.0755 to 9545.0845 maintains offices or records at more than one site and there is at least one controlling individual responsible for all the sites, the commissioner shall issue one license.

Subp. 7. **Variations.** An applicant or license holder may request a variance to parts 9545.0755 to 9545.0845 as specified in *Minnesota Statutes*, section 245A.04, subdivision 9.

### 9545.0785 AGENCY GOVERNANCE AND ADMINISTRATION.

Subpart 1. **Office in Minnesota.** An agency must maintain an office in Minnesota from which the activities carried out under the license issued by the commissioner are conducted.

Subp. 2. **Space requirements.** An agency must allocate office space in such a way as to ensure confidentiality and safekeeping of records and provide privacy for interviews and conferences with clients and prospective clients.

Subp. 3. **Legal organization.** A license holder or applicant must be organized according to a legal form of association or incorporation under *Minnesota Statutes* or the laws of another state. An agency incorporated under the laws of another state must have:

- A. the certificate of authority to transact business in Minnesota required by *Minnesota Statutes*, chapter 303; and
- B. the records and documents required by parts 9545.0755 to 9545.0845 at the registered office required by *Minnesota Statutes*, chapters 309 and 317A, or at another agency office in Minnesota listed on a license application.

Subp. 4. **Conflict of interest.** An agency must develop written policies governing situations with potential conflict of interest. It is a conflict of interest when a provider supervised by an agency is also a board member of the agency or when a board member is also an applicant to adopt. Agencies that provide foster care services must comply with part 9543.0130, subpart 4.

### 9545.0795 AGENCY FINANCES.

Subpart 1. **Funding plan.** When an agency applies for initial or continuing licensure, it must submit a funding plan that projects income and other financial resources needed to operate in compliance with parts 9545.0755 to 9545.0845 for a period of at least one year beyond the date of application. The funding plan must include:

- A. a projected program budget for foster care, adoption-related activities and services, or both, when applicable, that details by source the income and expenses anticipated for the 12-month period covered by the plan;
- B. a balance sheet showing the agency's current assets and current liabilities; and
- C. with applications for continuing licensure, the program operating budget for foster care, adoption services, or both, when applicable, for the current fiscal year. The budget must show actual income and expenditures.

The information required by items A to C must be presented in the manner prescribed by the commissioner.

Subp. 2. **Explanation of fees.** An agency that charges fees must make available to prospective clients written material that:

- A. describes services for which a fee is typically charged;
- B. explains the conditions under which fees are charged and waived, if applicable;
- C. includes a fee schedule or explanation of how a fee amount is determined; and

D. includes a statement for individuals, as opposed to counties or other agencies, who become clients to sign indicating that they have read or had explained to them and understand the information on fees and services. The signed statement must be added to a client's file.

Subp. 3. **Accounting of adoption expenses and fees.** An agency must annually submit the accounting of adoption-related expense required by *Minnesota Statutes*, section 317A.907, subdivision 6, on a form provided and designed by the commissioner to generate the required information.

#### **9545.0805 PERSONNEL.**

Subpart 1. **Supervision by a licensed independent social worker or independent clinical social worker.** An independent social worker or independent clinical social worker as defined in *Minnesota Statutes*, section 148B.21, must supervise an agency's case work. Supervising an agency's case work includes reviewing and approving each written home study the agency completes on prospective foster parents or applicants to adopt. An agency can meet the supervision requirement by complying with item A, B, C, or D.

A. The agency's chief executive officer is a licensed independent social worker or independent clinical social worker and supervises staff members providing case work.

B. The person who does the case work is licensed as an independent social worker or independent clinical social worker.

C. The agency contracts with a licensed independent social worker or independent clinical social worker to supervise staff members' case work.

D. The agency may retain a supervisor with education or experience comparable to the requirements stated in item A, B, or C.

Subp. 2. **Orientation.** Within the first five working days of an employee's or volunteer's starting date, an agency must provide orientation that addresses agency staff and volunteer responsibilities for:

A. reporting maltreatment as specified in *Minnesota Statutes*, section 626.556; and

B. protecting information on clients as required by *Minnesota Statutes*, chapter 13.

Subp. 3. **Annual training.** An agency must provide or arrange for the provision of at least 12 hours of training annually for staff members and volunteers who provide services to agency clients. For people in their first year of service to the agency, orientation hours provided under subpart 2 can be applied toward the 12 hours of annual training. Training must reflect the emphasis in *Minnesota Statutes*, section 257.072, subdivision 7, on cultural diversity and children with special needs.

#### **9545.0815 DESCRIPTION OF AGENCY PROGRAM AND SERVICES.**

An applicant must submit with its application and provide to prospective clients of agency services a written statement that contains the information in items A to G:

A. purpose and philosophy of the agency's program;

B. general description of children the agency places for adoption or supervises in foster care, with attention to such points as age or special needs that determine whether the agency is able to serve a child;

C. description of services the agency provides to children, birth families, and foster or adoptive families before, during, and after termination of foster care or finalization of an adoption;

D. statement of eligibility requirements or qualifications that the agency requires of adoptive or foster families;

E. description of the process used to study, approve, and select adoptive and foster families, and the approximate amount of time anticipated to complete the selection process;

F. description of orientation and training that will be provided for foster families or prospective adoptive families; and

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## Proposed Rules

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G. statement that the agency complies with:

- (1) the Indian Child Welfare Act, Public Law Number 95-608;
- (2) the Minnesota Indian family preservation act, *Minnesota Statutes*, sections 257.35 to 257.3579;
- (3) the heritage act, *Minnesota Statutes*, sections 257.071 to 257.072, 259.255, and 260.181, subdivision 3; and
- (4) the interstate compact on the placement of children, *Minnesota Statutes*, section 257.40.

### 9545.0825 FOSTER CARE PLACEMENT SERVICES.

Subpart 1. **If an agency has authority to place child in foster care.** If an agency has written consent from a child's parents or legal guardian, or a contract with the county, or a court order to place a child in foster care, the agency's responsibilities are the same as those listed for local agencies in part 9560.0540, subparts 2 and 3. The agency must meet the requirements of parts 9545.0010 to 9545.0260 when licensing child foster care homes.

Subp. 2. **Providing foster care services under contract with a county.** When an agency provides child foster care services under contract with a county, the agency must develop and implement a service plan compatible with the case placement plan required of the county by part 9560.0610.

Subp. 3. **Child's record.** For each child the agency supervises in foster care, the agency must have a record that contains the information required in *Minnesota Statutes*, section 257.01, and in items A to L:

- A. the child's full name, date and place of birth, sex, and race;
- B. all available information about the birth parents' full names, addresses, telephone numbers, and marital status;
- C. all available information about the names and addresses of the child's siblings;
- D. name of person or agency with legal custody of the child;
- E. name and telephone number of persons to contact in an emergency;
- F. copy of written agreement or order authorizing the county or, if applicable, the agency, to supervise the child's placement in foster care;
- G. when applicable, case plan required of county by part 9560.0610;
- H. agency service plans required by subpart 2;
- I. documentation of child's most recent medical and dental examinations;
- J. documentation of child's educational status;
- K. case closing summary and the agency's plan for the continued provision of services to the child, if any; and
- L. for an Indian child, record of determination of the child's tribe and notice to the tribe as required by *Minnesota Statutes*, section 257.32.

### 9545.0835 ADOPTION PLACEMENTS.

Subpart 1. **Record of child's background and history.** When an agency accepts a child for adoptive placement or facilitates an adoption between a birth parent and a prospective adoptive parent, the agency is responsible for establishing and maintaining a record that meets the requirements of *Minnesota Statutes*, sections 257.01 and 259.46.

Subp. 2. **Study of applicants to adopt.** An agency must study applicants to adopt a child in accordance with the procedures and criteria specified in part 9560.0140 for determining suitability of adoptive parent.

Subp. 3. **Adoption-related foster care.** When an agency temporarily places a child in foster care while the child is being legally freed for adoption or while an alternative to a disrupted adoptive placement is being arranged, the foster care provider must be licensed under parts 9545.0010 to 9545.0260.

### 9545.0845 PLAN FOR TRANSFER OF RECORDS.

An applicant for initial or continuing licensure must submit a written plan indicating how the agency will provide for the transfer of records on both open and closed cases if the agency closes. The plan must provide for managing private and confidential information on agency clients, according to *Minnesota Statutes*, section 259.46. A controlling individual of the agency must sign the plan.

A. Plans for the transfer of open cases and case records must specify arrangements the agency will make to transfer clients to another agency or county for continuation of services and to transfer the case record with the client.

B. Plans for the transfer of closed adoption records must be accompanied by a signed agreement or other documentation indicating that a county or licensed child placing agency has agreed to accept and maintain the agency's closed case records and to provide follow-up services to affected clients.

**RENUMBERING INSTRUCTION.** In *Minnesota Rules*, parts 9543.0150 and 9545.2020, the references to "parts 9545.0750 to 9545.0830" shall be changed to "parts 9545.0755 to 9545.0855."

**REPEALER.** *Minnesota Rules*, parts 9545.0750; 9545.0760; 9545.0770; 9545.0780; 9545.0790; 9545.0800; 9545.0810; 9545.0820; and 9545.0830, are repealed.

## Department of Natural Resources

### Proposed Permanent Rules Relating to Operation of Recreational Motor Vehicles on State Forest Lands

#### Notice of Intent to Adopt a Rule Without a Public Hearing

The Department of Natural Resources intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act *Minnesota Statutes*, sections 14.22 to 14.28. You have 30 days to submit comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

John Hellquist  
Department of Natural Resources  
500 Lafayette Road  
St. Paul, Minnesota 55155-4044  
Telephone—(612) 297-3508  
Fax—(612) 296-5954

**Subject of Rule and Statutory Authority.** The proposed rule is about operation of recreational motor vehicles on state forest lands. The statutory authority to adopt this rule is *Minnesota Statutes*, sections 84.03, 85.052, 89.031, 89.19, and 89.21. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m., August 25, 1993 to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 25, 1993. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as attached and printed in the *State Register*. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

**Small Business Considerations.** This rule has no impact on small business.

**Expenditure of Public Money by Local Public Bodies.** This rule has no fiscal impact on local governments.

**Impact on Agricultural Land.** This rule has no impact on agricultural land.

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The

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## Proposed Rules

rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Dated: 7 July 1993

Rodney W. Sando  
Commissioner

### Rules as Proposed

#### 6100.0100 STATUTORY AUTHORITY.

Parts 6100.0100 to 6100.2400 are authorized by *Minnesota Statutes*, sections 84.03, 85.052, 89.031, 89.19, and 89.21.

#### 6100.0300 SCOPE.

Parts 6100.0100 to 6100.2400 apply to state parks, recreational areas, historic sites, waysides, forest campgrounds, and forest day use areas under the control of or operated by the commissioner of natural resources.

Parts 6100.1910, 6100.1920, and 6100.2000 also apply to ~~posted~~ state forest lands in the Richard J. Dorer Memorial Hardwood State Forest which are under the control of, or operated by, the commissioner of natural resources.

Parts 6100.1905, 6100.1930, and 6100.2400 apply to all forest lands under the authority of the commissioner of natural resources as defined in *Minnesota Statutes*, section 89.001, subdivision 13.

Parts 6100.0100 to 6100.2400 shall not apply to ~~any~~ a person lawfully engaged in the performance of ~~his or her~~ the person's duties in the management and administration of these areas including, but not limited to, the commissioner of natural resources, the commissioner's agents, employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers.

#### 6100.0400 PENALTY.

A person who violates any of parts 6100.0100 to 6100.2400 is guilty of a misdemeanor and subject to immediate removal from the park, forest campground, forest day use area, ~~or~~ the Richard J. Dorer Memorial Hardwood State Forest, or other forest lands under the authority of the commissioner of natural resources and to appropriate legal action.

#### 6100.0500 DEFINITIONS.

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

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources, state of Minnesota, acting directly or through ~~his~~ authorized agents.

Subp. 3a. Disabled person. "Disabled person" means a person who is unable to walk with or without crutches, braces, or other mechanical support.

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

Subp. 5a. Forest lands under the authority of the commissioner. "Forest lands under the authority of the commissioner" has the meaning defined in *Minnesota Statutes*, section 89.001, subdivision 13.

Subp. ~~5a.~~ 5b. **Forest officer.** "Forest officer" means a certified Department of Natural Resources, Division of Forestry employee authorized by *Minnesota Statutes* and commissioner's operational orders to enforce rules; and, for the purposes of parts 6100.0100 to 6100.2400, Minnesota state conservation officers.

Subp. ~~5b.~~ 5c. **Richard J. Dorer Memorial Hardwood State Forest.** "Richard J. Dorer Memorial Hardwood State Forest" means all posted state forest lands over which the commissioner of natural resources has regulatory authority within the boundaries of the state forest as defined in *Minnesota Statutes*, section 89.021, subdivision 33.

Subp. ~~5c.~~ 5d. **Highway.** "Highway" means roads or highways as defined in *Minnesota Statutes*, section 160.02.

[For text of subs 6 to 7a, see M.R.]

Subp. 7b. **Park officer.** "Park officer" means all certified Department of Natural Resources, Division of Parks and Recreation peace officers authorized by *Minnesota Statutes* and commissioner's operational orders; and, for the purposes of ~~these rules~~ parts 6100.0100 to 6100.2400, Minnesota state conservation officers.

[For text of subs 7c to 10, see M.R.]

Subp. 10a. Special event. "Special event" means an event that is held on forest lands under the authority of the commissioner where an activity is occurring that is not normally allowed in the forest or where an event will attract large numbers of people that

could disrupt normal use of the forest. Special events include, but are not limited to, motorcycle enduros, snowmobile races, orienteering trials, group camp outs that do not occur at designated group camps, dog sled races, sports car rallies, and dog trials.

[For text of subs 11 and 12, see M.R.]

### **6100.1905 RECREATIONAL MOTOR VEHICLES; FOREST LANDS UNDER AUTHORITY OF COMMISSIONER.**

Subpart 1. Required equipment. A recreational motor vehicle may not be driven on forest lands, roads, or trails under the authority of the commissioner which are open to recreational motor vehicle use, unless equipped with:

A. When operating during the hours of darkness at least one headlamp having a minimum candle power of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead under normal atmospheric conditions. The headlamp must be so aimed that glaring rays are not projected into the eyes of oncoming vehicle operators.

B. When operated during the hours of darkness at least one red tail lamp, having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions.

C. Brakes adequate to control the movement of, and to stop, and to hold the vehicle under normal operating conditions.

D. A throttle so designed that when pressure used to advance the throttle is removed, the engine will immediately and automatically return to idle.

Subp. 2. Sled, trailer, or device towed by recreational motor vehicle. A sled, trailer, or other device being towed by a recreational motor vehicle during the hours of darkness under normal atmospheric conditions must be equipped as follows:

A. Unobstructed and visible reflector material of at least 16 square inches must be mounted on each side and at the rear of the sled, trailer, or other device.

B. The reflector material required must have at least the minimum intensity values prescribed in Table II of Federal Specifications, L-S-300C, dated March 29, 1979, or must be in accordance with Reflex Reflectors, Society of Automotive Engineers, SAE J 594E, which are incorporated by reference, are not subject to frequent change, and are universally available. The manufacturer's trade name, or other decorative material, if meeting minimum reflective standards, may be included in computing the required 16 square inch area.

Subp. 3. Mufflers. A person may not operate a recreational motor vehicle on forest lands under the authority of the commissioner unless it is equipped with a functioning spark arrester type muffler as required by Minnesota Statutes, section 88.21, subdivision 4, or equipped with a United States Forest Service approved spark arrester or combination thereof.

A person shall not operate a recreational motor vehicle on forest lands under the authority of the commissioner unless it is so equipped that overall noise emission does not exceed a sound level limitation of not more than 99 decibels on the A scale from a distance of 20 inches using test procedures and instrumentation as set forth in the Society of Automotive Engineers' Standard, SAE J 1287, June, 1988.

### **6100.1930 USE OF FOREST LANDS UNDER AUTHORITY OF COMMISSIONER.**

Subpart 1. Traffic control. In order to control traffic on forest lands under the authority of the commissioner, recreational motor vehicle operators must comply with the following:

A. trail and road signs must be obeyed;

B. one-way trails or roads must be traveled in the direction indicated;

C. when on a trail treadway or road, all trail or road users must stay on the right half of the treadway or road when meeting or being passed by another user;

D. when passing another trail or road user traveling in the same direction, all users must pass on the left half of the trail treadway or road and may only pass when the left half is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safety of any trail or road user;

E. a trail or road user about to enter onto or cross a trail treadway or road shall yield the right-of-way to any users already on the treadway or road to be entered or crossed;

F. when two trail or road users are about to enter an otherwise unmarked intersection from different treadways at approximately

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## Proposed Rules

the same time, or are approaching an otherwise unmarked merger of two treadways or roads from any two directions at approximately the same time, the user on the right shall have the right-of-way; and

G. recreational motor vehicles must yield to nonmotorized trail users on a trail treadway and shall shut off their machines when meeting a horse, until the horse has passed or they have been waved on by the rider or driver of the horse.

Subp. 2. Operation of recreational motor vehicles. It is unlawful on forest lands under the authority of the commissioner, trails or roads which are open for use, for any person to drive or operate a recreational motor vehicle in any of the following ways:

A. At a speed greater than is reasonable or proper under all of the surrounding circumstances or greater than the posted speed limit. Where necessary, the commissioner of natural resources may establish and post at reasonable intervals, a reasonable and safe maximum speed limit for the operation of recreational motor vehicles along a specific road or trail or on other forest lands under the authority of the commissioner. The speed limit will be effective when signs are erected and any operation of a recreational motor vehicle within the posted portion of road, trail, or land in excess of the posted speed limit is unlawful.

This speed limit may be waived in writing by the commissioner of natural resources for special events held on forest lands under the authority of the commissioner.

B. Without a lighted headlamp and tail lamp when operated at night or during reduced visibility.

C. In a manner that destroys, kills, or harasses wildlife.

D. In a manner that destroys state property.

E. Persons under 18 years of age shall not ride or operate an ATV or off-road motorcycle on forest lands under the authority of the commissioner unless wearing a safety helmet approved by the commissioner of public safety.

F. For a recreational motor vehicle operator after having received a visual or audible signal from a peace officer or law enforcement officer to come to a stop, to:

(1) operate a recreational motor vehicle in willful or wanton disregard to the signal to stop;

(2) interfere with or endanger the law enforcement officer or any other person or vehicle; or

(3) increase speed or attempt to flee or elude the officer.

G. In a tree nursery or area regenerating to trees, whether planted or natural, in a manner that damages or destroys the trees.

Subp. 3. Special events. A special event may not be held on forest lands under the authority of the commissioner except with a written permit from the commissioner obtained prior to the event.

The commissioner may charge the sponsor or permittee of a special event a fee for use of the land, and may require security such as a bond or cashier's check to ensure that appropriate cleanup measures, the removal of signs, repair of damage, and other actions are completed.

Subp. 4. Operating under the influence of alcohol or a controlled or hazardous substance. A person may not operate or be in control of a recreational motor vehicle on forest lands under the authority of the commissioner while under the influence of alcohol or a controlled or hazardous substance. Arrest and testing procedures will be as defined in Minnesota Statutes, sections 84.91 to 84.911.

### 6100.2400 SUSPENSION OF RULES.

In situations of emergency or in the case of authorized special events, the commissioner may provide temporary exceptions to the general rules for a specific state park, forest campground, or forest day use area, or on forest lands under the authority of the commissioner by posting notice of the exception at the unit, trail, road, or land.

## Department of Natural Resources

### Proposed Permanent Rules Relating to All-Terrain Vehicles

#### Notice of Intent to Adopt a Rule Without a Public Hearing

The Department of Natural Resources intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act *Minnesota Statutes*, sections 14.22 to 14.28. You have 30 days to submit comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Brad Moore



Department of Natural Resources  
500 Lafayette Road  
St. Paul, Minnesota 55155-4009  
Telephone—(612) 296-4944  
Fax—(612) 296-4799

**Subject of Rule and Statutory Authority.** The proposed rule is about all-terrain vehicles. The statutory authority to adopt this rule is *Minnesota Statutes*, sections 84.924. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m., August 25, 1993 to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 25, 1993. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a significant number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as attached and printed in the *State Register*. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

**Small Business Considerations.** This rule has no impact on small business.

**Expenditure of Public Money by Local Public Bodies.** This rule has no fiscal impact on local governments.

**Impact on Agricultural Lands.** This rule has no impact on agricultural land.

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Dated: 12 July 1993

Rodney W. Sando  
Commissioner

### **Rules as Proposed (all new material)**

#### **6102.0010 ALL-TERRAIN VEHICLE REGISTRATION AND DISPLAY OF NUMBERS.**

Subpart 1. **Application.** Application for all-terrain vehicle (ATV) registration must be made to the commissioner of natural resources or authorized agent on the form prescribed by the commissioner. Applicants must be 18 years of age or older before applying for registration of an ATV. Upon payment of the required fee, an ATV registration certificate will be issued. Public use registration certificates are valid for three years beginning January 1 of the year in which the machine is registered. Private use registration certificates and decals are valid until ownership is transferred. Private use decals must be a unique color from that used for public use decals.

Subp. 2. **Required information.** The applicant shall furnish all the information required by the application for ATV registration.

Subp. 3. **Attachment of number and decals.** The public use registration number of the ATV, shown on the registration certificate,

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## Proposed Rules

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along with the validation decal, must be attached to the ATV. The required registration number and decal must be displayed on a plate not less than four inches high and 7-1/2 inches wide, which is clearly visible on the back of the machine, at least 12 inches from the ground, and must be maintained in a clear, legible manner. The decal for public use must be displayed in the upper-left section of the plate and the private use decal must be displayed in the upper-right section of the plate. ATVs registered only for private use must only display the validation decal.

Subp. 4. **Description of decal and number.** All letters and numbers required to be displayed must be of a color that will contrast with the surface to which applied, and shall be at least 1-1/2 inches high and one-fourth inch stroke. The private use registration number assigned by the commissioner of natural resources must be imprinted on the validation decal, but the registration number does not need to be displayed separately on the plate.

Subp. 5. **Lost or destroyed number or decal.** When any previously affixed registration number or decal is lost or destroyed, a duplicate shall be affixed in the same manner as the original. The registration number for public use registration remains the same if renewed within one calendar year of the expiration date.

Subp. 6. **Duplicate certificate.** A duplicate registration certificate will be issued upon application by the owner to the commissioner of natural resources and upon payment of the fee. Replacement registration decals may be obtained from the Department of Natural Resources, Bureau of Licenses, or any conservation officer.

Subp. 7. **Reporting of abandoned, stolen, or destroyed ATV.** An abandoned, stolen, or destroyed ATV must be reported to the commissioner within 15 days by completing the reverse side of the registration certificate. A fee is not charged for the reporting.

### 6102.0020 DEALER'S AND MANUFACTURER'S REGISTRATION.

Subpart 1. **Demonstration or testing purposes.** Application for registration of all ATVs owned by a dealer and operated for demonstration or testing purposes within this state must be made on the prescribed form to the commissioner of natural resources. On payment of the fee required by law, three registration plates will be issued, together with a registration certificate which must be conspicuously displayed in the dealer's place of business.

Subp. 2. **Research, experimentation, or demonstration purposes.** Application for registration of all ATVs owned by a manufacturer and operated for research testing, experimentation, or demonstration purposes must be made to the commissioner on the prescribed form. On payment of the fee, 12 registration plates will be issued, together with a registration certificate which must be conspicuously displayed in the manufacturer's place of business.

Subp. 3. **Duplicate plates.** Additional duplicate registration plates may be purchased by a dealer or manufacturer upon payment of a fee of \$3 per plate.

Subp. 4. **Display required.** A dealer or manufacturer may not operate or permit to be operated within this state any ATV owned by or under the control of a dealer or manufacturer unless a valid registration plate is clearly displayed on the ATV.

### 6102.0030 SPECIAL PERMITS.

On written application by the responsible event sponsor to the commissioner of natural resources, special operating permits for limited periods of time may be issued to operators of ATVs from states that do not require registration when the ATVs are to be used in connection with an organized group outing, trail ride, race, rally, or other promotional event. The permit must be in a form prescribed by the commissioner, must be conspicuously displayed on the ATV, is valid only when the ATV is used in connection with the event for which the permit was issued, and is valid for the period of time shown on the permit.

### 6102.0040 REQUIRED EQUIPMENT.

Subpart 1. **All-terrain vehicles.** An ATV may not be operated on public lands, waters, and trails or on public streets and highways which are open to ATV use unless equipped with:

A. When operating during hours of darkness, an ATV must have at least one headlamp having a minimum candlepower of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead under normal atmospheric conditions. The headlamp must be so aimed that glaring rays are not projected into the eyes of oncoming vehicle operators.

B. When operating during hours of darkness, an ATV must have at least one red tail lamp, having a minimum candlepower of sufficient intensity to exhibit a red light, plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions.

C. Brakes adequate to control the movement of, and to stop, and to hold the ATV under normal operating conditions.

D. A throttle so designed that when pressure used to advance the throttle is removed, the engine will immediately and automatically return to idle.

Subp. 2. **Sled, trailer, or device towed by ATV.** A sled, trailer, or other device being towed by an ATV during the hours of darkness under normal atmospheric conditions must be equipped as follows:

A. Unobstructed and visible reflective material of at least 16 square inches must be mounted on each side and at the rear of the sled, trailer, or device.

B. The reflection material required must have at least the minimum intensity values prescribed in Table II of the Federal Specifications L-S-300C, dated March 29, 1979, or be in accordance with Reflex Reflectors, Society of Automotive Engineers, SAE J594F, which are incorporated by reference, are not subject to frequent change, and are universally available. The manufacturer's trade name, or other decorative material, if meeting minimum reflectorization standards, may be included in computing the required 16 square inch area.

Subp. 3. **Maker's permanent identification number.** All ATVs made after January 1, 1995, and sold in this state must bear the maker's permanent identification number so placed and of such size as follows:

- A. shall be permanently stamped into the steering head or on a frame member on the forward half of the vehicle;
- B. have a height of numerals and letters of not less than four millimeters; and
- C. be readable without removing any part of the vehicle.

Each ATV so manufactured must bear an individual number that must not be duplicated by that maker at any time within the succeeding ten years.

Subp. 4. **Mufflers.** A person may not operate an ATV unless it is equipped with a functioning spark arrestor type muffler as required by *Minnesota Statutes* and/or equipped with a United States Forest Service approved spark arrestor or combination thereof.

An ATV manufactured after January 1, 1994, except an ATV designed for competition purposes only, may not be sold, offered for sale, or operated in this state unless it is so equipped that overall noise emission does not exceed a sound level limitation of not more than 99 decibels on the A scale from a distance of 20 inches using test procedures and instrumentation as set forth in the Society of Automotive Engineers' Standard, SAE J1287, June 1988.

No noise suppressing system or muffler shall be equipped with a cutout, bypass, or similar device and no person shall modify or alter that system or its operation in any manner which will amplify or increase the noise emitted by the ATV's motor to exceed the noise limits established in this subpart, except for organized events as authorized by *Minnesota Statutes*, section 84.928.

#### **6102.0050 PUBLIC LANDS, WATERS, TRAILS, AND ROADWAYS.**

Subpart 1. **Traffic control.** To control traffic on public lands, waters, and trails, all ATV operators must comply with items A to G.

- A. Trail signs must be obeyed.
- B. One-way trails must be traveled in the direction indicated.
- C. When on a trail treadway, an operator must stay on the right half of the treadway when meeting or being passed by another trail user.
- D. When passing another trail user traveling in the same direction, an operator must pass on the left half of the treadway and may pass only when the left half is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safety of any trail user.
- E. Any trail user who is about to enter onto or cross a trail treadway shall yield the right-of-way to any trail user already on the treadway to be entered or crossed.
- F. When two trail users are about to enter an otherwise unmarked treadway intersection from different treadways at approximately the same time, or are approaching an otherwise unmarked merger of two treadways from any two directions at approximately the same time, the trail user on the right shall have the right-of-way.
- G. Trail users shall yield to nonmotorized trail users and shall shut off their machines when meeting a horse until the horse has passed or until waved on by the rider or driver of the horse.

Subp. 2. **Operation of ATVs.** It is unlawful on any public lands, waters, trails, or public road rights-of-way open for ATV use for any person to drive or operate an ATV in any of the following ways:

- A. At a speed greater than is reasonable or proper under all of the surrounding circumstances or greater than the posted speed limit. When necessary, the commissioner of natural resources may establish and post at reasonable intervals a reasonable and safe maximum speed limit for the operation of ATVs along a specific portion of the trail or in areas under the commissioner's jurisdiction. The speed limit is effective when signs are erected and any operation of an ATV within the posted portion of the trail or area in excess of the posted speed limit is unlawful.

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## Proposed Rules

The speed limit may be waived in writing by the commissioner of natural resources for an organized race or similar competitive event held upon lands, waters, or trails.

B. Without a lighted headlamp and tail lamp when operated at night or during reduced visibility.

Subp. 3. **Regulations by governmental subdivisions.** Governmental subdivisions may, by ordinance, regulate the operation of ATVs on public waters within their boundaries, provided the ordinance is approved by the commissioner of natural resources and is not inconsistent with law or rule. An ordinance affecting ATV use on public waters is not valid with respect to such action unless first submitted to the commissioner of natural resources and approved in writing.

Subp. 4. **Official use.** This part does not apply to any person lawfully engaged in the performance of the development, maintenance, and operation of such trails, including but not limited to the commissioner of natural resources, agents or employees of the commissioner, persons operating under contract with the Department of Natural Resources, and law enforcement officers.

### 6102.0060 UNIFORM SIGNS.

Subpart 1. **General.** The signs in this part are designated as necessary and desirable to control, direct, or regulate the operation and use of ATVs for the purposes indicated.

Subp. 2. **Informational and directional signs.** Informational and directional signs are used to indicate intersections or changes in trail direction through use of a nine-inch by 12-inch diamond-shaped sign with an appropriate decal or comparable screen insignia as specified in the Department of Natural Resources Sign Manual.

Subp. 3. **Reassuring sign.** A five-inch by seven-inch diamond-shaped reassurance blazer shall be placed along the trail often enough to reassure that the user is on the trail.

Subp. 4. **Sign color.** The signs in subparts 2 and 3 shall be yellow-lime in color.

Subp. 5. **Insignias.** Decals, if used, shall have a background of yellow-lime with the insignia screened in black. Black insignias may be screened directly onto signs.

Subp. 6. **ATV signs.** ATV signs 12 inches by 12 inches are used to indicate trails and areas where ATV use is permitted. Background color shall be yellow-lime. The ATV symbol shall be black.

Subp. 7. **ATV prohibited sign.** ATV signs 12 inches by 12 inches are used to indicate trails and areas where ATV use is prohibited. Background color shall be yellow-lime. The ATV symbol shall be black, prohibiting slash solid black.

Subp. 8. **Other ATV signs.** Other signs will be developed as needed consistent with the Department of Natural Resources Sign Manual for ATV trails and areas.

Subp. 9. **Signing.** A sign intended for any of the purposes in subpart 8 may not be erected by the state or its governmental subdivisions unless the sign is in the form, shape, dimensions, and colors prescribed in subpart 8.

When specified, yellow-lime signs shall be PMS 396 or equivalent; PMS 396, dated 1977, published by Pantone, Inc., is incorporated by reference, is not subject to frequent change, and is universally available. Detailed plans and specifications of the signs are available upon written request to the commissioner of natural resources.

## Pollution Control Agency

### Hazardous Waste Division

#### Proposed Permanent Rules Relating to Hazardous Waste

**Proposed Permanent Rules and Amendments to Rules Governing Hazardous Waste, Minnesota Rules Parts: 7001.0150 TERMS AND CONDITIONS OF PERMITS, 7001.0590 PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS, 7001.0600 PART B INFORMATION REQUIREMENTS FOR WASTE PILES, 7001.0620 PART B INFORMATION REQUIREMENTS FOR LANDFILLS, 7045.0020 DEFINITIONS, 7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND RECLAMATION, 7045.0135 LISTS OF HAZARDOUS WASTES, 7045.0139 BASIS FOR LISTING HAZARDOUS WASTE, 7045.0214 EVALUATION OF WASTES, 7045.0452 GENERAL FACILITY STANDARDS, 7045.0461 CONSTRUCTION QUALITY ASSURANCE PROGRAM (new), 7045.0478 OPERATING RECORD, 7045.0532 SURFACE IMPOUNDMENTS, 7045.0534 WASTE PILES, 7045.0538 LANDFILLS, 7045.0556 GENERAL FACILITY STANDARDS (interim status standards), 7045.0584 OPERATING RECORD (interim status standards), 7045.0630 SURFACE IMPOUNDMENTS (interim status standards), 7045.0632 WASTE PILES (interim status standards), 7045.0638 LANDFILLS (interim status standards), 7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT, 7045.1335 WASTE SPECIFIC PROHIBITIONS, THIRD ONE-THIRD OF REGULATED WASTES, 7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT, and 7045.1360 TREATMENT STANDARDS EXPRESSED AS A SPECIFIED TECHNOLOGIES.**

**Notice of Intent to Adopt a Rule Amendment Without a Public Hearing**

The Minnesota Pollution Control Agency (Agency) intends to adopt or amend a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes* sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Nathan Brooks Cooley  
Hazardous Waste Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155  
Telephone—(612) 297-7544

**Subject of Rule and Statutory Authority.** The proposed rule adopts new federal requirements. The statutory authority to adopt this rule is contained in *Minnesota Statutes* sections 116.07, subdivision 4 and 116.37. A copy of the proposed rule is published immediately after this notice.

**Comments.** You have until 4:30 p.m., August 25, 1993 to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the Agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Requests for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the Agency contact person by 4:30 on August 25, 1993. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the Agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Request to Appear Before Agency Board.** The Agency's Commissioner is proposing to adopt this rule under a delegation of authority from the Agency Board. In addition to submitting comments and/or a hearing request, you may also request to appear before the Agency Board prior to adoption of this rule. Your request to appear before the Agency Board must be in writing and must be received by the Agency contact person by 4:30 p.m. on August 25, 1993. Your written request must include your name and address. If no one requests an appearance before the Agency Board and a public hearing is not required, then the Commissioner of the Agency will make the final decision on this rule as allowed by a delegation from the Agency Board.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the Agency and may not result in a substantial change in the proposed rule as printed immediately after this notice. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the Agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

**Rules in Effect.** Virtually all provisions of the seven federal regulations proposed for adoption in this rulemaking are already in effect in Minnesota, under federal authority, in lieu of this rulemaking. They were promulgated under a federal law which makes them effective in all states on their federal effective dates. An exception is a provision of one regulation requiring a construction quality assurance program for final waste covers. This provision was promulgated under a federal law which it effective in authorized states two years after its federal effective date unless Minnesota adopts it earlier. That provision would take effect in Minnesota on January 29, 1994, in lieu of this rulemaking. The effect of this rulemaking is to shift the primary enforcement authority for these regulations from the Environmental Protection Agency to the Minnesota Pollution Control Agency.

**Small Business Considerations.** *Minnesota Statutes*, section 14.115, subdivision 4, requires that the notice of rulemaking include a statement of the impact of this proposed rule on small business. This rulemaking does not substantially change requirements or costs for any Minnesota business.

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## Proposed Rules

**Expenditures of Public Money by Local Public Bodies.** *Minnesota Statutes*, section 14.11, subdivision 1, requires the Agency to include a statement of the rule's estimated costs to local public bodies in this notice if the rule would have a total cost of over \$100,000 to all local public bodies in the State in either of the two years following adoption of the rule. This rulemaking does not substantially change requirements or costs to any Minnesota local public bodies.

**Impact on Agricultural Lands.** *Minnesota Statutes*, section 14.11, subdivision 2, requires that if the rule would have a direct and substantial adverse impact upon agricultural lands in the State, the Agency shall comply with specified additional requirements. This rulemaking does not substantially adversely affect agricultural lands.

**Economic Factors.** *Minnesota Statutes*, section 116.07, subdivision 6, requires the Agency to give due consideration to economic factors in exercising its powers. This rulemaking does not substantially adversely affect the economy.

**Farming Operations.** *Minnesota Statutes*, section 116.07, subdivision 4, requires the Agency to hold public meetings in agricultural areas of the State if a proposed rule affects farming operations. This rulemaking does not substantially affect Minnesota farming operations.

**Transportation.** *Minnesota Statutes*, section 174.05, requires the Agency to notify the Commissioner of Transportation of all rules that concern transportation, and requires the Commissioner of Transportation to prepare a written review of the rules. These rules do not concern transportation.

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the Agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the Attorney General or be notified of the Attorney General's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the Agency contact person listed above.

Charles W. Williams  
Commissioner

### Rules as Proposed

#### 7001.0150 TERMS AND CONDITIONS OF PERMITS.

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

Subp. 3. **General conditions.** Unless specifically exempted by statute or rule, each draft and final permit must include the following general conditions and the agency shall incorporate these conditions into all permits either expressly or by specific reference to this part:

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

P. Compliance with an RCRA permit during its term constitutes compliance, for purposes of enforcement, with subtitle C or RCRA except for those requirements not included in the permit which:

(1) become effective by statute;

(2) are adopted under parts 7045.1300 to 7045.1380, restricting the placement of hazardous wastes in or on the land; or

(3) are adopted under parts 7045.0450 to 7045.0548 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, construction quality assurance programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part 7001.0730, minor permit modifications.

#### 7001.0590 PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS.

Except as otherwise provided in part 7045.0532, subpart 1, if the applicant proposes to store, treat, or dispose of hazardous waste in surface impoundment facilities, the applicant shall submit detailed plans and specifications accompanied by an engineering report which collectively includes the following information in addition to the information required by part 7001.0560:

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

C. Detailed plans and an engineering report that ~~describes~~ describing how the surface impoundment is ~~or will be~~ designed, and is or will be constructed, operated, and maintained to meet the requirements of ~~part parts~~ parts 7045.0461 and 7045.0532, subpart ~~subparts 3-~~ 3- ~~This submission must address, 4a, and 4b, addressing~~ the following items as ~~specified in part 7045.0532, subpart 3:~~

(1) The double liner system and leak (leachate) detection, collection, and removal systems, if the surface impoundment must meet the requirements of part 7045.0532, subpart 3, item C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by part 7045.0532, subpart 3, item H or J, submit appropriate information.

(2) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.

(3) The construction quality assurance plan if required under part 7045.0461.

(4) Proposed action leakage rate, with rationale, if required under part 7045.0532, subpart 4a, and response action plan, if required under part 7045.0532, subpart 4b.

(5) Prevention of overtopping; and

(6) Structural integrity of dikes.

D. A description of how each surface impoundment, including the double liner system, leak detection system, leachate collection and removal system, and cover systems system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of part 7045.0532, subpart 5, items A and B, and E. This information must be included in the inspection plan submitted under part 7001.0560, item E.

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

**7001.0600 PART B INFORMATION REQUIREMENTS FOR WASTE PILES.**

Except as otherwise provided by part 7045.0534, subpart 1, if the applicant proposes to store or treat hazardous waste in waste piles, the applicant shall furnish the information required by items A to M in addition to the information required by part 7001.0560:

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

D. Detailed plans and an engineering report describing how the waste pile is designed and is or will be designed, constructed, operated, and maintained to meet the requirements of part parts 7045.0461 and 7045.0534, subpart subparts 3. ~~This submission must address, 4a, and 5a, addressing the following items as specified in part 7045.0534, subpart 3:~~

(1)(a) The liner system, leachate collection and removal system, and if applicable, the leak detection, collection, and removal system, except for an existing portion of a waste pile, if the waste pile must meet the requirements of part 7045.0534, subpart 3, item A. If an exemption from the requirement for a liner is sought as provided by part 7045.0534, subpart 3, item H, the applicant must submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time.

(b) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of part 7045.0534, subpart 3, item C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by part 7045.0534, subpart 3, item D or E, the applicant must submit appropriate information.

(c) If the leak detection system is located in a saturated zone, the applicant must submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.

(d) The construction quality assurance plan if required under part 7045.0461.

(e) Proposed action leakage rate, with rationale, if required under part 7045.0534, subpart 4a, and response action plan, if required under part 7045.0534, subpart 5a.

(2) Control of run-on;

(3) Control of runoff;

(4) Management of collection and holding units associated with run-on and runoff control systems;

(5) Control of wind dispersal of particulate matter, if applicable; and

(6) Treatment and disposal of collected runoff and leachate.

[For text of items E and F, see M.R.]

G. A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements

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## Proposed Rules

of part 7045.0534, subpart 6, items A, B, and C. This information must be included in the inspection plan submitted under part 7001.0560, item E. If an exemption is sought to part 7045.0484 under part 7045.0534, subpart 5, describe in the inspection plan how the inspection requirements comply with part 7045.0534, subpart 5, item A, subitem (2).

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

### 7001.0620 PART B INFORMATION REQUIREMENTS FOR LANDFILLS.

Except as otherwise provided by part 7045.0538, subpart 1, if the applicant proposes to dispose of hazardous waste in a landfill, the applicant shall furnish the information designated in items A to L in addition to the information required by part 7001.0560:

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

C. Detailed plans and an engineering report describing how the landfill is designed and is or will be ~~designed~~, constructed, operated, and maintained to ~~comply with~~ meet the requirements of ~~part parts 7045.0461 and 7045.0538, subpart subparts 3-~~ This submission must address, 4a, and 5, addressing the following items as specified in part 7045.0538, subpart 3:

(1)(a) The double liner system, leak detection, collection, and removal system, and leachate collection and removal system; except for an existing portion of a landfill, if the landfill must meet the requirements of part 7045.0538, subpart 3, item A. If an exemption from the requirement for a liner is sought as provided by part 7045.0538, subpart 3, item B, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time.

(b) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of part 7045.0538, subpart 3, item C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by part 7045.0538, subpart 3, items K and M, submit appropriate information.

(c) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.

(d) The construction quality assurance plan if required under part 7045.0461.

(e) Proposed action leakage rate, with rationale, if required under part 7045.0538, subpart 4a, and response action plan, if required under part 7045.0538, subpart 5.

(2) Control of run-on;

(3) Control of runoff;

(4) Management of collection and holding facilities associated with run-on and runoff control systems;

(5) Control of wind dispersal of particulate matter, where applicable;

(6) The phased development plan in accordance with the requirements of part 7045.0538, subpart 3, item G; and

(7) Treatment and disposal of collected runoff and leachate.

D. A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover systems system, and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of part 7045.0538, subpart 5, items A, B, and C. This information must be included in the inspection plan submitted under part 7001.0560, item E.

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

### 7045.0020 DEFINITIONS.

[For text of subps 1 to 10a, see M.R.]

Subp. 10b. Construction commenced. "Construction commenced" is related to the definition of "existing facility," and has the following meaning. A facility has commenced construction if the owner or operator has obtained the federal, state, and local approvals or permits necessary to begin physical construction and:

A. a continuous on-site, physical construction program has begun; or

B. the owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

[For text of subps 11 to 22a, see M.R.]

Subp. 22b. Existing hazardous waste management facility or existing facility. "Existing hazardous waste management facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. See subpart 10b for definition of "construction commenced."



[For text of subs 23 to 73d, see M.R.]

Subp. 73e: **Replacement unit.** “Replacement unit” means a landfill, surface impoundment, or waste pile unit (1) from which all or substantially all of the waste is removed, and (2) that is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or state-approved corrective action.

[For text of subs 74 to 87, see M.R.]

Subp. 87a. **Sump.** “Sump” means any pit or reservoir that meets the definition of “tank” and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

[For text of subs 88 to 109, see M.R.]

#### 7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND RECLAMATION.

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

Subp. 4. **Management of specific hazardous wastes.** Management of the following wastes when recycled, is not subject to regulation under parts 7045.0205 to 7045.0695 and 7045.1300 to 7045.1380:

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

I. oil that is reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, and is burned as a fuel without reintroduction to a refining process, if the reclaimed oil meets the used oil fuel specification under part 7045.0695, subpart 1, item B, subitem (1); ~~and~~

J. petroleum coke produced from petroleum refinery hazardous wastes containing oil at the same facility at which the wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of hazardous waste in part 7045.0131; ~~and~~

K. nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums, if shipped, and not land disposed before recovery.

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

#### 7045.0135 LISTS OF HAZARDOUS WASTES.

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

Subp. 2. **Hazardous wastes from nonspecific sources.** Hazardous wastes from nonspecific sources are listed with the generic hazardous waste number and hazard code in items A to Z ~~BB~~.

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

Y. F035, wastewaters, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. This listing does not apply to wastewaters which have not come into contact with process contaminants: (T); ~~and~~

Z. F037, petroleum refinery primary oil/water/solids separation sludge. Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in subpart 2a, including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units, and K051 wastes are not included in this listing;

AA. F038, petroleum refinery secondary (emulsified) oil/water/solids separation sludge. Any sludge and/or float generated

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## Proposed Rules

from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air flotation units, tanks and impoundments, and all sludges generated in dissolved air flotation units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges, and floats generated in one or more additional units as defined in subpart 2a, including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units, and F037, K048, and K051 wastes are not included in this listing; and

**BB.** F039, leachate resulting from the treatment, storage, or disposal of more than one restricted waste classified as hazardous under part 7045.0131 and this part. Leachate resulting from the management of one or more of the following EPA hazardous wastes and no other hazardous wastes retains its EPA hazardous waste numbers: F020, F021, F022, F023, F026, F027, or F028: (T).

### Subp. 2a. Listing-specific definitions.

**A.** For the purposes of the F037 and F038 listings, "oil/water/solids" is defined as oil and/or water and/or solids.

**B. (1)** For the purposes of the F037 and F038 listings, aggressive biological treatment units are defined as units which employ one of the following four treatment methods: activated sludge; trickling filter; rotating biological contractor for the continuous accelerated biological oxidation of wastewaters; or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes and enhance biological activity, the unit employs a minimum of six horsepower per million gallons of treatment volume, and either (a) the hydraulic retention time of the unit is no longer than five days; or (b) the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a hazardous waste by the toxicity characteristic.

**(2)** Generators and treatment, storage, and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage, and disposal facilities must maintain, in their operating or other on-site records, documents and data sufficient to prove that (a) the unit is an aggressive biological treatment unit as defined in this subpart; and (b) the sludges sought to be exempted from the definitions of F037 or F038 were actually generated in the aggressive biological treatment unit.

**C. (1)** For the purposes of the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement.

**(2)** For the purposes of the F038 listing (a) sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement; and (b) floats are considered to be generated at the moment they are formed in the top of the unit.

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

### **7045.0139 BASIS FOR LISTING HAZARDOUS WASTES.**

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

**Subp. 2. Constituents.** The constituents which are the basis for listing the wastes identified in part 7045.0135, subparts 2 and 3 are listed in items A and B.

**A.** Constituents of wastes identified in part 7045.0135, subpart 2, are listed in subitems (1) to ~~(26)~~ **(28)**.

[For text of subitems (1) to (24), see M.R.]

**(25)** F035: Arsenic; chromium; lead; ~~and~~

**(26)** F037: Benzene; benzo(a)pyrene; chrysene; lead; chromium;

**(27)** F038: Benzene; benzo(a)pyrene; chrysene; lead; chromium; and

**(28)** F039: Constituents for which treatment standards are specified for multisource leachate, wastewaters, and nonwastewaters under part 7045.1358.

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

### **7045.0214 EVALUATION OF WASTES.**

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

**Subp. 3. Wastes generated by treatment, storage, or disposal.** Wastes generated by treatment, storage, or disposal of hazardous waste are as follows:

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

**E. Nonwastewater residues, such as slag, resulting from high temperature metals recovery processing of K061 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace**

combinations, or industrial furnaces, as defined in part 7045.0020, subpart 43b, that are disposed of in solid waste disposal units, provided that these residues meet the generic exclusion levels identified below for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan. At a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. The generic exclusion levels are:

<u>Constituent</u>	<u>Maximum for any single composite sample (mg/l)</u>
<u>Antimony</u>	<u>0.063</u>
<u>Arsenic</u>	<u>0.055</u>
<u>Barium</u>	<u>6.3</u>
<u>Beryllium</u>	<u>0.0063</u>
<u>Cadmium</u>	<u>0.032</u>
<u>Chromium (total)</u>	<u>0.33</u>
<u>Lead</u>	<u>0.095</u>
<u>Mercury</u>	<u>0.009</u>
<u>Nickel</u>	<u>0.63</u>
<u>Selenium</u>	<u>0.16</u>
<u>Silver</u>	<u>0.30</u>
<u>Thallium</u>	<u>0.013</u>
<u>Vanadium</u>	<u>1.26</u>

For each shipment of K061 high temperature metals recovery residues sent to a solid waste disposal unit that meets the generic exclusion levels for all constituents, and does not exhibit any characteristic, a notification and certification must be sent to the commissioner. The notification must include the following information:

- (1) the name and address of the solid waste disposal unit receiving the waste shipment;
- (2) the EPA hazardous waste number and treatability group at the initial point of generation; and
- (3) the treatment standards applicable to the waste at the initial point of generation.

The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

**7045.0452 GENERAL FACILITY STANDARDS.**

[For text of subps 1 to 4, see M.R.]

Subp. 5. **General inspection requirements.** General inspection requirements include the following:

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

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunctions or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. The inspection schedule must include the terms and frequencies called for in parts 7045.0526, subpart 5; 7045.0528, subparts 4, ~~5~~, and 7; 7045.0532, subpart 5; 7045.0534, ~~subparts 5 and~~ subpart 6; ~~7045.0536, subpart 6;~~ 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7; and the process vent and equipment leak standards in *Code of Federal Regulations*, title 40, sections 264.1033, 264.1052, 264.1053, and 264.1058, as amended, where applicable. The inspection schedule must be submitted with the permit application. The commissioner shall evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the commissioner may modify or amend the schedule as necessary.

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

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## Proposed Rules

### **7045.0461 CONSTRUCTION QUALITY ASSURANCE PROGRAM.**

Subpart 1. Construction quality assurance program. A construction quality assurance program is required for all surface impoundment, waste pile, and landfill units that are required to comply with parts 7045.0532, subpart 3, items C and H; 7045.0534, subpart 3, items C and D; and 7045.0538, subpart 3, items C and K. The program must ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program must be developed and implemented under the direction of a construction quality assurance officer who is a registered professional engineer.

The construction quality assurance program must address the following physical components, where applicable:

- (1) foundations;
- (2) dikes;
- (3) low-permeability soil liners;
- (4) geomembranes (flexible membrane liners);
- (5) leachate collection and removal systems and leak detection systems; and
- (6) final cover systems.

Subp. 2. Written construction quality assurance plan. The owner or operator of units subject to the construction quality assurance program under subpart 1 must develop and implement a written construction quality assurance plan. The plan must identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The construction quality assurance plan must include:

A. Identification of applicable units, and a description of how they will be constructed.

B. Identification of key personnel in the development and implementation of the construction quality assurance plan, and construction quality assurance officer qualification.

C. A description of inspection and sampling activities for all unit components identified in subpart 1, item B, including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description must cover sampling size and locations, frequency of testing, data evaluation procedures, acceptance and rejection criteria for construction materials, plans for implementing corrective measures, and data or other information to be recorded and retained in the operating record under part 7045.0478.

#### Subp. 3. Contents of program.

A. The construction quality assurance program must include observations, inspections, tests, and measurements sufficient to ensure:

(1) structural stability and integrity of all components of the unit identified in subpart 1, item B;

(2) proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g. pipes) according to design specifications; and

(3) conformity of all materials used with design and other material specifications under parts 7045.0532, 7045.0534, and 7045.0538.

B. The construction quality assurance program shall include test fills for compacted soil liners, using the same compaction methods as in the full scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of parts 7045.0532, subpart 3, item C, subitem (1), unit (a), subunit ii; 7045.0534, subpart 3, item C, subitem (1), unit (a), subunit ii; and 7045.0538, subpart 3, item C, subitem (1), unit (a), subunit ii, in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The commissioner may accept an alternative demonstration, in lieu of a test fill, where data are sufficient to show that a constructed soil liner will meet the hydraulic conductivity requirements of parts 7045.0532, subpart 3, item C, subitem (1), unit (a), subunit ii; 7045.0534, subpart 3, item C, subitem (1), unit (a), subunit ii; and 7045.0538, subpart 3, item C, subitem (1), unit (a), subunit ii, in the field.

Subp. 4. Certification. Waste shall not be received in a unit subject to part 7045.0461 until the owner or operator has submitted to the commissioner by certified mail or hand delivery a certification signed by the construction quality assurance officer that the approved construction quality assurance plan has been successfully carried out and that the unit meets the requirements of parts 7045.0532, subpart 3, items C and H; 7045.0534, subpart 3, items C and D; and 7045.0538, subpart 3, items C and K; and the procedure in part 7001.0150, subpart 3, item M, has been completed. Documentation supporting the construction quality assurance officer's certification must be furnished to the commissioner upon request.

### **7045.0478 OPERATING RECORD.**

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

Subp. 3. **Record information.** The information in items A to Q S must be recorded, as it becomes available, and maintained in the operating record until closure of the facility.

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

H. Monitoring, testing, or analytical data and corrective action where required by parts 7045.0461; 7045.0484; 7045.0528, subparts 2, 4, 5, and 7; 7045.0532, ~~subpart~~ subparts 4a, 4b, and 5; 7045.0534, subparts 4a, 5, 5a, and 6; 7045.0536, subparts 5, 6, and 8; 7045.0538, subparts 4a, 5, 5a, and 6; 7045.0539, subpart 3; and 7045.0542, subpart 7; and the process vent and equipment leak test methods and procedures and record keeping requirements in *Code of Federal Regulations*, title 40, sections 264.1034(c) to (f), 264.1035, 264.1063(d) to (i), and 264.1064, as amended.

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

**7045.0532 SURFACE IMPOUNDMENTS.**

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

Subp. 3. **Design and operating requirements.** Design and operating requirements are as follows:

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

C. ~~For any new surface impoundment, new surface impoundment unit at an existing facility, replacement of an existing surface impoundment unit, and lateral expansion of an existing surface impoundment unit that accepts waste after issuance of a permit for units where Part B of the permit application is received by the commissioner after November 8, 1984, the top liner must be constructed of materials that prevent wastes from migrating into the liner. The lower liner may be constructed of materials that allow wastes to migrate into the liner, but not into the adjacent subsurface soil or drainage layer or ground water or surface water. For the purpose of the preceding sentence, a lower liner satisfies the requirement if it is constructed of at least a three-foot thick layer of recompacted clay or other natural material with a permeability of no more than  $1 \times 10^{-7}$  centimeter per second. The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system between such liners. "Construction commences" and "existing facility" are defined in part 7045.0020.~~

(1)(a) The liner system must include:

i. a top liner designed and constructed of materials (e.g. a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and postclosure care period; and

ii. a composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g. a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and postclosure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least three feet (91 centimeters) of compacted soil material with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  to the negative 7th power centimeters per second.

(b) The liners must comply with item A.

(2) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and postclosure care period. The requirements for a leak detection system in this subitem are satisfied by installation of a system that is, at a minimum:

(a) constructed with a bottom slope of one percent or more;

(b) constructed of granular drainage materials with a hydraulic conductivity of  $1 \times 10^{-7}$  to the negative 1st power centimeters per second or more and a thickness of 12 inches (30.5 centimeters) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of  $3 \times 10^{-7}$  to the negative 4th power meters squared per second or more;

(c) constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;

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## Proposed Rules

(d) designed and operated to minimize clogging during the active life and postclosure care period; and

(e) constructed with sumps and liquid removal methods (e.g. pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump. The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(3) The owner or operator shall collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.

(4) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of groundwater.

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

H. An owner or operator may petition for alternate design and operating practices under part 7045.0075, subpart 12. The commissioner may approve alternative design or operating practices to those specified in item C if the owner or operator demonstrates to the commissioner that such design and operating practices, together with location characteristics:

(1) will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the liners and leachate collection and removal system specified in item C; and

(2) will allow detection of leaks of hazardous constituents through the top liner at least as effectively.

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

J. The owner or operator of any replacement surface impoundment unit is exempt from item C if:

(1) the existing unit was constructed in compliance with the design standards of the United States Resource Conservation and Recovery Act, section 3004(o)(1)(A)(i) and (o)(5); and

(2) there is no reason to believe that the liner is not functioning as designed.

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

### Subp. 4a. Action leakage rate.

A. The commissioner shall approve an action leakage rate for surface impoundment units subject to subpart 3, item C or H. The action leakage rate is the maximum design flow rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the leak detection system, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the leak detection system, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

B. To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under subpart 5, item E, to an average daily flow rate (gallons per acre per day) for each sump. Unless the commissioner approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit is closed in accordance with subpart 7, item B, monthly during the postclosure care period when monthly monitoring is required under subpart 5, item E.

### Subp. 4b. Response actions.

A. The owner or operator of surface impoundment units subject to subpart 3, item C or H, must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in item B.

B. If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(1) notify the commissioner in writing of the exceedence within seven days of the determination;

(2) submit a preliminary written assessment to the commissioner within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) determine to the extent practicable the location, size, and cause of any leak;

(4) determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the commissioner the

results of the analyses specified in subitems (3) to (5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the commissioner a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in item B, subitems (3) to (5), the owner or operator must:

(1)(a) assess the source of liquids and amounts of liquids by source;

(b) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(c) assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) document why such assessments are not needed.

Subp. 5. **Monitoring and inspection.** Monitoring and inspection requirements are as follows:

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

E. Leak detection system sump monitoring.

(1) An owner or operator required to have a leak detection system under subpart 3, item C or H, must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(2) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semiannually. If at any time during the postclosure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the commissioner based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

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

Subp. 7. **Closure and postclosure care.** The requirements of closure and postclosure care are as follows:

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

B. If waste residues or contaminated materials are left in place at final closure, the owner or operator shall comply with the postclosure requirements contained in parts 7045.0490 to 7045.0496, including maintenance and monitoring throughout the postclosure care period specified in the permit under part 7045.0490. The owner or operator shall:

[For text of subitem (1), see M.R.]

(2) maintain and monitor the leak detection system in accordance with subparts 3, item C, subitems (3), unit (d), and (4); and 5, item E, and comply with all other applicable leak detection system requirements;

(3) maintain and monitor the leak detection system in accordance with subparts 3 and 4;

(4) maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of part 7045.0484; and

(5) prevent run-on and runoff from eroding or otherwise damaging the final cover.

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

[For text of subps 8 to 10, see M.R.]

**7045.0534 WASTE PILES.**

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

Subp. 3. **Design and operating requirements.** Design and operating requirements are as follows:

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

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## Proposed Rules

C. The owner or operator of each new waste pile unit on which construction commences after January 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July 29, 1992, and each replacement of an existing waste pile unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners. "Construction commences" and "existing facility" are defined in part 7045.0020.

(1)(a) The liner system must include:

i. a top liner designed and constructed of materials (e.g. a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and postclosure care period; and

ii. a composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g. a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and postclosure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least three feet (91 centimeters) of compacted soil material with a hydraulic conductivity of no more than  $1 \times 10$  to the negative 7th power centimeters per second.

(b) The liners must comply with item A, subitems (1) to (3).

(2) The leachate collection and removal system immediately above the top liner must be designed, constructed, operated, and maintained to collect and remove leachate from the waste pile during the active life and postclosure care period. The commissioner will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 centimeters (one foot). The leachate collection and removal system must comply with subitem (3), units (c) and (d).

(3) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and postclosure care period. The requirements for a leak detection system in this subitem are satisfied by installation of a system that is, at a minimum:

(a) constructed with a bottom slope of one percent or more;

(b) constructed of granular drainage materials with a hydraulic conductivity of  $1 \times 10$  to the negative 2nd power centimeters per second or more and a thickness of 12 inches (30.5 centimeters) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of  $3 \times 10$  to the negative 5th meters squared per second or more;

(c) constructed of materials that are chemically resistant to the waste managed in the waste pile and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and equipment used at the waste pile;

(d) designed and operated to minimize clogging during the active life and postclosure care period; and

(e) constructed with sumps and liquid removal methods (e.g. pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump. The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(4) The owner or operator shall collect and remove pumpable liquids in the leak detection system sumps to minimize the head on the bottom liner.

(5) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of groundwater.

D. The commissioner may approve alternative design or operating practices to those specified in item C if the owner or operator demonstrates to the commissioner that such design and operating practices, together with location characteristics:

(1) will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the liners and leachate collection and removal systems specified in item C; and

(2) will allow detection of leaks of hazardous constituents through the top liner at least as effectively.

E. The owner or operator of any replacement waste pile unit is exempt from item C if:

(1) the existing unit was constructed in compliance with the design standards of the United States Resource Conservation and Recovery Act, section 3004(o)(1)(A)(i) and (o)(5); and

(2) there is no reason to believe that the liner is not functioning as designed.

F. The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 100-year storm.



~~D. G.~~ The owner or operator shall design, construct, operate, and maintain a runoff management system to collect and control at least the water volume resulting from a 24-hour, 100-year storm.

~~E. H.~~ Collection and holding facilities, such as tanks or basins, associated with run-on and runoff control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

~~F. I.~~ If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator shall cover or otherwise manage the pile to control wind dispersal of hazardous waste.

~~G. J.~~ The owner or operator of a waste pile shall submit to the agency with the permit application a plan for the treatment and disposal of runoff contained in the runoff management system and leachate which is removed from the waste pile.

~~H. K.~~ An owner or operator may petition for alternate design or operating practices under part 7045.0075, subpart 12.

~~I. L.~~ The agency shall specify in the permit all design and operating practices that are necessary to ensure that the requirements of items A to H are satisfied.

**Subp. 4a. Action leakage rate.**

A. The commissioner shall approve an action leakage rate for waste pile units subject to subpart 3, item C or D. The action leakage rate is the maximum design flow rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the leak detection system, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the leak detection system, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

B. To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under subpart 6, item C, to an average daily flow rate (gallons per acre per day) for each sump. Unless the commissioner approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period.

**Subp. 5a. Response actions.**

A. The owner or operator of waste pile units subject to subpart 3, item C or D, must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in item B.

B. If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

- (1) notify the commissioner in writing of the exceedance within seven days of the determination;
- (2) submit a preliminary written assessment to the commissioner within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;
- (3) determine to the extent practicable the location, size, and cause of any leak;
- (4) determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;
- (5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and
- (6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the commissioner the results of the analyses specified in subitems (3) to (5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the commissioner a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in item B, subitems (3) to (5), the owner or operator must:

- (1)(a) assess the source of liquids and amounts of liquids by source;
- (b) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
- (c) assess the seriousness of any leaks in terms of potential for escaping into the environment; or

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## Proposed Rules

(2) document why such assessments are not needed.

Subp. 6. **Monitoring and inspection.** Monitoring and inspection requirements are as follows:

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

C. An owner or operator required to have a leak detection system under subpart 3, item C, must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

[For text of subs 7 to 10, see M.R.]

### 7045.0538 LANDFILLS.

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

Subp. 3. **Design and operation operating requirements.** Design and operation operating requirements are as follows:

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

C. For any new landfill, new landfill unit at an existing facility, replacement of an existing landfill unit, and lateral expansion of an existing landfill unit that accepts waste after issuance of a permit for units where Part B of the permit application is received by the commissioner after November 8, 1984, the top liner must be constructed of materials that prevent wastes from migrating into the liner. The lower liner may be constructed of materials that allow wastes to migrate into the liner, but not into the adjacent subsurface soil or drainage layer or ground water or surface water. For the purpose of the preceding sentence, a lower liner satisfies the requirement if it is constructed of at least a three-foot thick layer of recompacted clay or other natural material with a permeability of no more than  $1 \times 10^{-7}$  centimeter per second. The double liner system must consist of two liners with a leak detection, collection, and removal system above and between the liners. The owner or operator of each new landfill unit on which construction commences after January 29, 1992, each lateral expansion of a landfill unit on which construction commences after July 29, 1992, and each replacement of an existing landfill unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners. "Construction commences" and "existing facility" are defined in part 7045.0020.

(1)(a) The liner system must include:

i. a top liner designed and constructed of materials (e.g. a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and postclosure care period; and

ii. a composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g. a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and postclosure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least three feet (91 centimeters) of compacted soil material with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  to the negative 7th centimeters per second.

(b) The liners must comply with item A.

(2) The leachate collection and removal system immediately above the top liner must be designed, constructed, operated, and maintained to collect and remove leachate from the landfill during the active life and postclosure care period. The commissioner will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 centimeters (one foot). The leachate collection and removal system must comply with subitem (3), units (c) and (d).

(3) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and postclosure care period. The requirements for a leak detection system in this subitem are satisfied by installation of a system that is, at a minimum:

(a) constructed with a bottom slope of one percent or more;

(b) constructed of granular drainage materials with a hydraulic conductivity of  $1 \times 10^{-2}$  to the negative 2nd centimeters per second or more and a thickness of 12 inches (30.5 centimeters) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of  $3 \times 10^{-2}$  to the negative 5th meters squared per second;

(c) constructed of materials that are chemically resistant to the waste managed in the landfill and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and equipment used at the landfill;

(d) designed and operated to minimize clogging during the active life and postclosure care period; and

(e) constructed with sumps and liquid removal methods (e.g. pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump. The design of each

sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(4) The owner or operator shall collect and remove pumpable liquids in the leak detection system sumps to minimize the head on the bottom liner.

(5) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of groundwater.

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

K. An owner or operator may petition for alternate design or operating practices under part 7045.0075, subpart 12. The commissioner may approve alternative design or operating practices to those specified in item C if the owner or operator demonstrates to the commissioner that such design and operating practices, together with location characteristics:

(1) will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the liners and leachate collection and removal systems specified in item C; and

(2) will allow detection of leaks of hazardous constituents through the top liner at least as effectively.

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

M. The owner or operator of any replacement landfill unit is exempt from item C if:

(1) the existing unit was constructed in compliance with the design standards of the United States Resource Conservation and Recovery Act, section 3004(o)(1)(A)(i) and (o)(5); and

(2) there is no reason to believe that the liner is not functioning as designed.

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

**Subp. 4a. Action leakage rate.**

A. The commissioner shall approve an action leakage rate for surface impoundment units subject to subpart 3, item C or K. The action leakage rate is the maximum design flow rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the leak detection system, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the leak detection system, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

B. To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under subpart 5, item C, to an average daily flow rate (gallons per acre per day) for each sump. Unless the commissioner approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and monthly during the postclosure care period when monthly monitoring is required under subpart 5, item C.

**Subp. 5. Monitoring and inspection.** Monitoring and inspection requirements are as follows:

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

C. (1) An owner or operator required to have a leak detection system under subpart 3, item C or K, must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(2) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semiannually. If at any time during the postclosure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the commissioner based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

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## Proposed Rules

### Subp. 5a. Response actions.

A. The owner or operator of landfill units subject to subpart 3, item C or K, must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in item B.

B. If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

- (1) notify the commissioner in writing of the exceedence within seven days of the determination;
- (2) submit a preliminary written assessment to the commissioner within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;
- (3) determine to the extent practicable the location, size, and cause of any leak;
- (4) determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;
- (5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and
- (6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the commissioner the results of the analyses specified in subitems (3) to (5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the commissioner a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in item B, subitems (3) to (5), the owner or operator must:

- (1)(a) assess the source of liquids and amounts of liquids by source;
- (b) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
- (c) assess the seriousness of any leaks in terms of potential for escaping into the environment; or
- (2) document why such assessments are not needed.

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

Subp. 7. Closure and postclosure care. Closure and postclosure care requirements are as follows:

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

B. After final closure, the owner or operator shall comply with all postclosure requirements contained in parts 7045.0488 to 7045.0494 including maintenance and monitoring throughout the postclosure care period specified in the permit under part 7045.0488. The owner or operator shall:

[For text of subitems (1) to (3), see M.R.]

(4) maintain and monitor the leak detection system in accordance with subparts 3, item C, subitems (3), unit (d), and (4); and 5, item C, and comply with all other applicable leak detection system requirements of this part;

(5) maintain and monitor the groundwater monitoring systems and comply with all other applicable requirements of part 7045.0484;

~~(5)~~ (6) prevent run-on and runoff from eroding or otherwise damaging the final cover;

~~(6)~~ (7) protect and maintain surveyed benchmarks used in complying with subpart 6; and

~~(7)~~ (8) survey the landfill at least annually to determine any effects from settling, subsidence, erosion, or other events.

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

[For text of subps 8 to 13, see M.R.]

### 7045.0556 GENERAL FACILITY STANDARDS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. General inspection requirements. General inspection requirements are listed in items A to E.

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

C. The frequency of inspection may vary for the items on the schedule. However, it must be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. The inspection schedule must include the terms and frequencies called for in parts 7045.0626, subpart 5; 7045.0628,

subparts 4, 5, and 7; 7045.0630, subpart 5; 7045.0632, subpart 9; 7045.0634, subpart 4; 7045.0638, subpart 2c; 7045.0640, subpart 4; and 7045.0642, subpart 4; and the process vent and equipment leak standards in *Code of Federal Regulations*, title 40, sections 264.1033, 264.1052, 264.1053, and 264.1058, as amended.

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

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

**Subp. 8. Construction quality assurance program.**

**A. Construction quality assurance program.**

(1) A construction quality assurance program is required for all surface impoundment, waste pile, and landfill units that are required to comply with parts 7045.0630, subpart 1a, item A; 7045.0632, subpart 4a; and 7045.0638, subpart 2, item A. The program must ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program must be developed and implemented under the direction of a construction quality assurance officer who is a registered professional engineer.

(2) The construction quality assurance program must address the following physical components, where applicable:

(a) foundations;

(b) dikes;

(c) low-permeability soil liners;

(d) geomembranes (flexible membrane liners);

(e) leachate collection and removal systems and leak detection systems; and

(f) final cover systems.

**B. Written construction quality assurance plan.** Before construction begins on a unit subject to the construction quality assurance program under item A, the owner or operator must develop a written construction quality assurance plan. The plan must identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The construction quality assurance plan must include:

(1) identification of applicable units, and a description of how they will be constructed;

(2) identification of key personnel in the development and implementation of the construction quality assurance plan, and construction quality assurance officer qualifications; and

(3) a description of inspection and sampling activities for all unit components identified in item A, subitem (2), including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description must cover sampling size and locations, frequency of testing, data evaluation procedures, acceptance and rejection criteria for construction materials, plans for implementing corrective measures, and data or other information to be recorded and retained in the operating record under part 7045.0584.

**C. Contents of program.**

(1) The construction quality assurance program must include observations, inspections, tests, and measurements sufficient to ensure:

(a) structural stability and integrity of all components of the unit identified in item A, subitem (2);

(b) proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g. pipes) according to design specifications; and

(c) conformity of all materials used with design and other material specifications under parts 7045.0532, subpart 3; 7045.0534, subpart 3; and 7045.0538, subpart 3.

(2) The construction quality assurance program shall include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of parts 7045.0532, subpart 3, item C, subitem (1); 7045.0534, subpart 3, item C, subitem (1); and 7045.0538, subpart 3, item C, subitem (1), in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed

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## Proposed Rules

test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of parts 7045.0532, subpart 3, item C, subitem (1); 7045.0534, subpart 3, item C, subitem (1); and 7045.0538, subpart 3, item C, subitem (1), in the field.

D. Certification. The owner or operator of units subject to this subpart must submit to the commissioner by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the construction quality assurance officer that the construction quality assurance plan has been successfully carried out and that the unit meets the requirements of parts 7045.0630, subparts 1a and 2; 7045.0632, subpart 4a; and 7045.0638, subpart 2. The owner or operator may receive waste in the unit after 30 days from the commissioner's receipt of the construction quality assurance certification unless the commissioner determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the construction quality assurance officer's certification must be furnished to the commissioner upon request.

### 7045.0584 OPERATING RECORD.

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

Subp. 3. **Record information.** The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

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

H. Monitoring, testing, or analytical data, and corrective action where required by parts 7045.0556, subpart 8; 7045.0590, subparts 1, 6, and 7, and 8; 7045.0592, subparts 1 and 7; 7045.0628, subparts 2, 4, 5, and 7; 7045.0630, subparts 2a, 3, and 5; 7045.0632, subparts 4b, 8, and 9; 7045.0634, subparts 4 and 6, item D, subitem (1); 7045.0636; 7045.0638, subparts 2a, 2b, and 2c; and 7045.0640, subpart 4, and the process vent and equipment leak test methods and procedures and record keeping requirements in *Code of Federal Regulations*, title 40, sections 264.1034(c) to (f), 264.1035, 264.1063(d) to (i), and 264.1064, as amended. As required by parts 7045.0590, subparts 6 and 7; and 7045.0592, subpart 7, monitoring data at disposal facilities must be kept throughout the postclosure period.

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

### 7045.0630 SURFACE IMPOUNDMENTS.

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

Subp. 1a. **Design and operating requirements.** Design and operating requirements are as follows:

A. The owner or operator of a each new surface impoundment must install two or more liners and leachate collection systems according to part 7045.0532, subpart 3, items A to H, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the area identified in the Part A permit application, and with respect to waste received beginning May 8, 1985 unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system between such liners, and operate the leachate collection and removal system, in accordance with part 7045.0532, subpart 3, item C, unless exempted under part 7045.0532, subpart 3, item H, I, or J. "Construction commences" and "existing facility" are defined in part 7045.0020.

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

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

#### Subp. 2a. **Action leakage rate.**

A. The owner or operator of surface impoundment units subject to subpart 1a, item A, must submit a proposed action leakage rate to the commissioner when submitting the notice required under subpart 1a, item B. Within 60 days of receipt of the notification, the commissioner will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this subpart, or extend the review period for up to 30 days. If no action is taken by the commissioner before the original 60-day or extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

B. The commissioner shall approve an action leakage rate for surface impoundment units subject to subpart 1a, item A. The action leakage rate is the maximum design flow rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the leak detection system, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the leak detection system, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

C. To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow

rate from the monitoring data obtained under subpart 5, item B, to an average daily flow rate (gallons per acre per day) for each sump. Unless the commissioner approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit closes in accordance with subpart 6, item C, monthly during the postclosure care period when monthly monitoring is required under subpart 5, item B.

**Subp. 2b. Response actions.**

A. The owner or operator of surface impoundment units subject to subpart 1a, item A, must submit a response action plan to the commissioner when submitting the proposed action leakage rate under subpart 2a. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in item B.

B. If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

- (1) notify the commissioner in writing of the exceedence within seven days of the determination;
- (2) submit a preliminary written assessment to the commissioner within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;
- (3) determine to the extent practicable the location, size, and cause of any leak;
- (4) determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;
- (5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and
- (6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the commissioner the results of the analyses specified in subitems (3) to (5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the commissioner a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in item B, subitems (3) to (5), the owner or operator must:

- (1)(a) assess the source of liquids and amounts of liquids by source;
  - (b) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
  - (c) assess the seriousness of any leaks in terms of potential for escaping into the environment; or
- (2) document why such assessments are not needed.

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

**Subp. 5. ~~Inspections~~ Monitoring and inspection.**

A. The owner or operator shall inspect:

- ~~A-~~ (1) the freeboard level at least once each operating day to ensure compliance with subpart 2; and
- ~~B-~~ (2) the surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment. As required by part 7045.0556, subpart 5, the owner or operator shall remedy any deterioration or malfunction found.

B. The owner or operator shall determine leaks as follows:

- (1) An owner or operator required to have a leak detection system under subpart 1a, item A, must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.
- (2) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semiannually. If at any time during the postclosure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

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## Proposed Rules

(3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the commissioner based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed pump operating level will be in accordance with subpart 2a, item A.

Subp. 6. **Closure and postclosure care.** The requirements of closure and postclosure care are as follows:

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

D. In addition to the requirements of parts 7045.0594 to 7045.0606 and 7045.0638, subpart 4, during the postclosure care period, the owner or operator of a surface impoundment in which wastes, waste residues, or contaminated materials remain after closure in accordance with item C shall:

[For text of subitem (1), see M.R.]

(2) maintain and monitor the leak detection system in accordance with subpart 5, item B, and comply with all other applicable leak detection system requirements;

(3) maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of part 7045.0590; and

~~(3)~~ (4) prevent run-on and runoff from eroding or otherwise damaging the final cover.

The closure requirements under part 7045.0638, subpart 4, will vary with the amount and nature of the residues remaining, if any, and the degree of contamination of the underlying and surrounding soil. The commissioner may vary postclosure requirements, according to part 7045.0602, subpart 1.

[For text of subs 7 and 8, see M.R.]

### 7045.0632 WASTE PILES.

[For text of subs 1 to 4, see M.R.]

Subp. 4a. **Design and operating requirements.** The owner or operator of a each new waste pile is subject to the requirements for liners and leachate collection and removal systems provided in part 7045.0534, subpart 3, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the area identified in Part A permit application, and with respect to waste received beginning May 8, 1985 on which construction commences after January 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July 29, 1992, and each such replacement of an existing waste pile unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, in accordance with part 7045.0534, subpart 3, item C, unless exempted under part 7045.0534, subpart 3, item D, E, or F; and must comply with the procedures of part 7045.0630, subpart 1a, item B. "Construction commences" and "existing facility" are defined in part 7045.0020.

#### Subp. 4b. Action leakage rates.

A. The owner or operator of waste pile units subject to subpart 4a must submit a proposed action leakage rate to the commissioner when submitting the notice required under subpart 4a. Within 60 days of receipt of the notification, the commissioner will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this subpart, or extend the review period for up to 30 days. If no action is taken by the commissioner before the original 60-day or extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

B. The commissioner shall approve an action leakage rate for surface impoundment units subject to subpart 4a. The action leakage rate is the maximum design flow rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the leak detection system, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the leak detection system, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

C. To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under subpart 9, to an average daily flow rate (gallons per acre per day) for each sump. Unless the commissioner approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period.

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

#### Subp. 8. Response actions.

A. The owner or operator of waste pile units subject to subpart 4a must submit a response action plan to the commissioner when submitting the proposed action leakage rate under subpart 4b. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in item B.



B. If the flow rate into the leak determination system exceeds the action leakage rate for any sump, the owner or operator must:

- (1) notify the commissioner in writing of the exceedence within seven days of the determination;
- (2) submit a preliminary written assessment to the commissioner within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;
- (3) determine to the extent practicable the location, size, and cause of any leak;
- (4) determine whether waste receipts should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;
- (5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and
- (6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the commissioner the results of the analyses specified in subitems (3) to (5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the commissioner a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in item B, subitems (3) to (5), the owner or operator must:

- (1) document the following assessments:
  - (a) assess the source of liquids and amounts of liquids by source;
  - (b) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
  - (c) assess the seriousness of any leaks in terms of potential for escaping into the environment; or
- (2) document why such assessments are not needed.

Subp. 9. Monitoring and inspection. An owner or operator required to have a leak detection system under subpart 4a must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

**7045.0638 LANDFILLS.**

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

Subp. 1a. [See repealer.]

Subp. 2. **General Design and operating requirements.** Design and operating requirements are as follows:

A. The owner or operator of each new landfill unit on which construction commences after January 29, 1992, each lateral expansion of a landfill unit on which construction commences after July 29, 1992, and each replacement of an existing landfill unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, in accordance with part 7045.0538, subpart 3, item K, L, or M. "Construction commences" and "existing facility" are defined in part 7045.0020.

B. The owner or operator of each unit referred to in item A must notify the commissioner at least 60 days before receiving waste. The owner or operator of each facility submitting notice must file a part B application within six months of the commissioner's receipt of the notice.

C. The owner or operator of any replacement landfill unit is exempt from item A if:

- (1) the existing unit was constructed in compliance with the design standards of the United States Resource Conservation and Recovery Act, section 3004(o)(1)(A)(i) and (o)(5); and
- (2) there is no reason to believe that the liner is not functioning as designed.

D. The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

E. The owner or operator shall design, construct, operate, and maintain a runoff management system to collect and control at least the water volume resulting from a 24-hour, 25\_ year storm.

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## Proposed Rules

F. Collecting and holding facilities, such as tanks or basins, associated with run-on and runoff control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

G. The owner or operator of a landfill containing hazardous waste which is subject to dispersal by wind shall cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled. As required by part 7045.0564, the waste analysis plan must include analyses needed to comply with subparts 5, 6, and 7. As required by part 7045.0584, the owner or operator shall place the results of these analyses in the operating record of the facility.

### Subp. 2a. Action leakage rate.

A. The owner or operator of landfill units subject to subpart 2, item A, must submit a proposed action leakage rate to the commissioner when submitting the notice required under subpart 2, item B. Within 60 days of receipt of the notification, the commissioner will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this subpart, or extend the review period for up to 30 days. If no action is taken by the commissioner before the original 60-day or extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

B. The commissioner shall approve an action leakage rate for landfill units subject to subpart 2, item A. The action leakage rate is the maximum design flow rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the leak detection system, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the leak detection system, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

C. To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under subpart 2c to an average daily flow rate (gallons per acre per day) for each sump. Unless the commissioner approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and monthly during the postclosure care period when monthly monitoring is required under subpart 2c, item B.

### Subp. 2b. Response actions.

A. The owner or operator of landfill units subject to subpart 2, item A, must submit a response action plan to the commissioner when submitting the proposed action leakage rate under subpart 2a. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in item B.

B. If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(1) notify the commissioner in writing of the exceedence within seven days of the determination;

(2) submit a preliminary written assessment to the commissioner within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) determine to the extent practicable the location, size, and cause of any leak;

(4) determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the commissioner the results of the analyses specified in subitems (3) to (5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the commissioner a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in item B, subitems (3) to (5), the owner or operator must:

(1)(a) assess the source of liquids and amounts of liquids by source;

(b) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(c) assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) document why such assessments are not needed.

### Subp. 2c. Monitoring and inspection.

A. An owner or operator required to have a leak detection system under subpart 2, item A, must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

B. After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semiannually. If at any time during the postclosure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

C. "Pump operating level" is a liquid level proposed by the owner or operator and approved by the commissioner based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed pump operating level will be in accordance with subpart 2a, item A.

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

Subp. 4. **Closure and postclosure.** Closure and postclosure requirements are as follows:

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

B. After final closure, the owner or operator shall comply with all postclosure requirements contained in parts 7045.0600 to 7045.0606 including maintenance and monitoring throughout the postclosure care period. The owner or operator must:

[For text of subitem (1), see M.R.]

(2) maintain and monitor the leak detection system in accordance with part 7045.0538, subparts 3, item C, subitems (3), unit (d), and (4); and 2c, item B, and comply with all other applicable leak detection system requirements of this part;

(3) maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of parts 7045.0590 and 7045.0592;

~~(3)~~ (4) prevent run-on and runoff from eroding or otherwise damaging the final cover; and

~~(4)~~ (5) protect and maintain surveyed bench marks used in complying with part 7045.0638, subpart 3.

[For text of subs 5 to 9, see M.R.]

**7045.1305 DILUTION PROHIBITED AS A SUBSTITUTE FOR TREATMENT.**

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

B. Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system that treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA), or that treats wastes for purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this part unless a method has been specified as the treatment standard in part 7045.1360, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.

**7045.1335 WASTE SPECIFIC PROHIBITIONS; THIRD ONE-THIRD OF REGULATED WASTES.**

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

Subp. 3. **Applicability as of May 8, 1992.** Effective May 8, 1992, the following wastes are prohibited from land disposal:

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

E. the following wastes identified as hazardous based on a characteristic alone: D004 (nonwastewaters); ~~D008 (lead materials stored before secondary smelting); and~~ D009 (nonwastewaters); inorganic solids debris as defined in part 7045.0020, subpart 45a (which also applies to chromium refractory bricks carrying the EPA Hazardous Waste Nos. K048-K052); and RCRA hazardous wastes that contain naturally occurring radioactive materials.

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

Subp. 5. **Contaminated soil or debris.** Effective May 8, 1992 ~~1993~~, the wastes specified in this part having a debris that is contaminated with wastes listed in Code of Federal Regulations, title 40, part 268.10, 268.11, or 268.12, and debris that is contaminated with any characteristic waste for which treatment standard standards are established in parts 7045.1350 to 7045.1360 based on incineration, mercury retorting, vitrification, acid leaching followed by chemical precipitation, or thermal recovery of metals, and which are contaminated soil or debris, are prohibited from land disposal.

**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

[For text of subs 6 to 10, see M.R.]

Subp. 11. Applicability as of May 8, 1993. Effective May 8, 1993, D006 lead materials stored before secondary smelting are prohibited from land disposal. On or before March 1, 1993, the owner or operator of each secondary lead smelting facility shall submit to the commissioner the following, a binding contractual commitment to construct or otherwise provide capacity for storing such D008 wastes prior to smelting which complies with all applicable storage standards, documentation that the capacity to be provided will be sufficient to manage the entire quantity of such D008 wastes, and a detailed schedule for providing such capacity. Failure by a facility to submit such documentation shall render such D008 managed by that facility prohibited from land disposal effective March 1, 1993. In addition, no later than July 27, 1992, the owner or operator of each facility must place in the facility record documentation of the manner and location in which such wastes will be managed pending completion of such capacity, demonstrating that such management capacity will be adequate and complies with all applicable hazardous waste requirements.

### 7045.1355 TREATMENT STANDARDS EXPRESSED AS CONCENTRATIONS IN WASTE EXTRACT.

Subpart 1. **Applicability.** *Code of Federal Regulations*, title 40, part 268.41, Table CCWE, identifies the restricted wastes and the concentrations of their associated constituents that may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in *Code of Federal Regulations*, title 40, part 261, Appendix II, for the allowable land disposal of such wastes, with the exception of EPA Hazardous Waste Nos. D004, D008, ~~K031~~ D031, K084, K101, K102, P010, P011, P012, P036, ~~P038~~, and U136. ~~Table CCWE also identifies the restricted EPA Hazardous Waste Nos. D004, D008, K031, K084, K101, K102, P010, P011, P012, P036, P038, and U136,~~ and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in *Code of Federal Regulations*, title 40, part 261, Appendix II, for the allowable land disposal of such wastes. *Code of Federal Regulations*, title 40, part 268, Appendix II, provides agency guidance on treatment methods that have been shown to achieve the Table CCWE levels for the respective wastes. This guidance is provided to assist generators and owners or operators in their selection of appropriate treatment methods. Compliance with these concentrations is required based on grab samples unless otherwise noted in *Code of Federal Regulations*, title 40, part 268.43, Table CCW.

Subp. 2. **Combined wastes.** When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern, except that mixtures of high and low zinc nonwastewater K061 are subject to the treatment standard for high zinc K061.

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

### 7045.1360 TREATMENT STANDARDS EXPRESSED AS SPECIFIED TECHNOLOGIES.

[For text of subs 1 to 10, see M.R.]

Subp. 11. **Recommended technologies to achieve deactivation of characteristics.** The treatment standard for many subcategories of the EPA Hazardous Waste Nos. D001, D002, D003, K044, K045, and K047 wastes is listed simply as "Deactivation to remove the characteristics of ignitability, corrosivity, and reactivity." EPA has determined that many technologies, when used alone or in combination, can achieve this standard. The following appendix presents a partial list of these technologies, using the five-letter technology codes established in subpart 3. Use of these specific technologies is not mandatory and does not preclude direct reuse, recovery, or the use of other pretreatment technologies, provided deactivation is achieved and these alternative methods are not performed in units designated as land disposal.

#### Waste Code/Subcategory

D001 Ignitable Liquids based on 261.21(a)(1) - Low TOC Non-wastewater Subcategory (containing 1% to <10% TOC)

D001 Ignitable Liquids based on 261.21(a)(1) - Ignitable Wastewater Subcategory (containing <1% TOC)

#### Nonwastewaters

RORGS  
INCIN  
WETOX  
CHOXD  
BIODG

Not  
applicable

#### Wastewaters

Not  
applicable

RORGS  
INCIN  
WETOX  
CHOXD  
BIODG

<u>Waste Code/Subcategory</u>	<u>Nonwastewaters</u>	<u>Wastewaters</u>
<u>D001 Compressed Gases based on 261.21(a)(3)</u>	<u>RCGAS</u> <u>INCIN</u> <u>FSUBS</u> <u>ADGAS followed by</u> <u>INCIN</u> <u>ADGAS followed by</u> <u>(CHOXD; or</u> <u>CHRED)</u>	<u>Not</u> <u>applicable</u>
<u>D001 Ignitable Reactives based on 261.21(a)(2)</u>	<u>WTRRX</u> <u>CHOXD</u> <u>CHRED</u> <u>STABL</u> <u>INCIN</u>	<u>Not</u> <u>applicable</u>
<u>D001 Ignitable Oxidizers based on 261.21(a)(4)</u>	<u>CHRED</u> <u>INCIN</u>	<u>CHRED</u> <u>INCIN</u>
<u>D002 Acid Subcategory based on 261.22(a)(1) with pH less than or equal to 2</u>	<u>RCORR</u> <u>NEUTR</u> <u>INCIN</u>	<u>NEUTR</u> <u>INCIN</u>
<u>D002 Alkaline Subcategory based on 261.22(a)(1) with pH greater than or equal to 12.5</u>	<u>NEUTR</u> <u>INCIN</u>	<u>NEUTR</u> <u>INCIN</u>
<u>D002 Other Corrosives based on 261.22(a)(2)</u>	<u>CHOXD</u> <u>CHRED</u> <u>INCIN</u> <u>STABL</u>	<u>CHOXD</u> <u>CHRED</u> <u>INCIN</u>
<u>D003 Water Reactives based on 261.23(a)(2), (3), and (4)</u>	<u>INCIN</u> <u>WTRRX</u> <u>CHOXD</u> <u>CHRED</u>	<u>Not</u> <u>applicable</u>
<u>D003 Reactive Sulfides based on 261.23(a)(5)</u>	<u>CHOXD</u> <u>CHRED</u> <u>INCIN</u> <u>STABL</u>	<u>CHOXD</u> <u>CHRED</u> <u>BIODG</u> <u>INCIN</u>
<u>D003 Explosives based on 261.23(a)(6), (7), and (8)</u>	<u>INCIN</u> <u>CHOXD</u> <u>CHRED</u>	<u>INCIN</u> <u>CHOXD</u> <u>CHRED</u> <u>BIODG</u> <u>CARBN</u>
<u>D003 Other Reactives based on 261.23(a)(1)</u>	<u>INCIN</u> <u>CHOXD</u> <u>CHRED</u>	<u>INCIN</u> <u>CHOXD</u> <u>CHRED</u> <u>BIODG</u> <u>CARBN</u>

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## Proposed Rules

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### Waste Code/Subcategory

K044 Wastewater treatment sludges from the manufacturing and processing of explosives

K045 Spent carbon from the treatment of wastewaters containing explosives

K047 Pink/red water from TNT operations

### Nonwastewaters

CHOXD  
CHRED  
INCIN

CHOXD  
CHRED  
INCIN

CHOXD  
CHRED  
INCIN

### Wastewaters

CHOXD  
CHRED  
BIODG  
CARBN  
INCIN

CHOXD  
CHRED  
BIODG  
CARBN  
INCIN

CHOXD  
CHRED  
BIODG  
CARBN  
INCIN

**REPEALER.** Minnesota Rules, part 7045.0638, subpart 1a, is repealed.

## Department of Revenue

### Appeals, Legal Services, and Criminal Investigation Division

### Proposed Permanent Rules Relating to Sales and Use Tax; Sale by Transfer of Title

#### Notice of Intent to Adopt a Rule Without a Public Hearing

The Department of Revenue intends to adopt amendments to a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed amendments and may also submit a written request that a hearing be held on the amendments.

**Agency Contact Person.** Comments or questions on the amendments and written requests for a public hearing on the amendments must be submitted to:

Stephen E. Krenkel  
Department of Revenue  
Appeals, Legal Services and Criminal Investigations Division  
10 River Park Plaza  
St. Paul, MN 55146-2220  
Telephone number: (612) 296-1902 x135

**Subject of Rule and Statutory Authority.** The proposed amendments are about the definition of transfer of title for sales and use taxation. The statutory authority to adopt this rule is *Minnesota Statutes*, section 270.06, clause 13. A copy of the proposed rule is published in the State Register and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m., August 25, 1993, to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 25, 1993. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as [attached and] printed in the *State Register*. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the date and information relied upon to support the proposed rule.

**Small Business Considerations.** The proposed amendments to the rule are not expected to have an impact on small businesses because there are no requirements to file returns or remit taxes imposed by the amendments. No additional recordkeeping or administrative duties are required by the amendments.

**Expenditure of Public Money by Local Public Bodies, Impact on Agriculture Lands.** The proposed amendments to the rule are expected to neither require the expenditures of public monies by local public bodies, nor to have any impact on agricultural lands; therefore, *Minnesota Statutes*, section 14.11, subdivisions 1 and 2 are inapplicable.

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Dated: 6 July 1993

Deputy Commissioner of Revenue

### Rules as Proposed

#### 8130.0200 SALE BY TRANSFER OF TITLE.

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

Subp. 2. [See repealer.]

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

Subp. 5. **Transfer of title of special tooling.** When a manufacturer acquires special tooling, as defined in *Minnesota Statutes*, section 297A.01, subdivision 17, which is not exempt under *Minnesota Statutes*, section 297A.25, ~~subdivision~~ subdivisions 1, paragraph (h), to produce a product for a customer and 9, the manufacturer may or may not acquire the special tooling for sale to the customer. If the ~~manufacturer sells the~~ special tooling is sold to the manufacturer's customer, by billing the customer for the special tooling or giving the customer the right to take possession of it, the sale is subject to the sales tax whether or not the customer is outside Minnesota, because the first beneficial use of it was made in Minnesota. If the manufacturer does not acquire the special tooling for sale to ~~the a~~ a customer, the manufacturer's purchase of ~~it~~ is subject to the sales tax.

In the case of either prime or subcontracts with the United States government, ~~the a~~ a Minnesota manufacturer will be is deemed the consumer of special tooling in the absence of an explicit agreement with the United States government as to title passage prior to use by the Minnesota manufacturer. If it is claimed by the manufacturer at the time of purchase that title passes immediately on purchase or manufacture of the tooling, mold, or die, the Minnesota manufacturer must provide, to the Department of Revenue on audit, one of the following as evidence:

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

B. if the contract ~~in question~~ is classified, a signed statement from the contracting officer or the Department of Defense auditor ~~to the effect that the contract in question does include the~~ includes provisions for immediate title transfer;

C. if the Minnesota manufacturer holds a subcontract with a prime contractor which provides for immediate title transfer to the prime contractor but not simultaneously from the prime contractor to the United States government, the ~~Minnesota subcontractor must collect the sales tax from~~ transfer of title to the prime contractor is the taxable event.

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

**REPEALER.** *Minnesota Rules*, part 8130.0200, subpart 2, is repealed.

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# Department of Revenue

## Proposed Permanent Rules Relating to Sales and Use Tax on Sales of Special Tooling

### Notice of Intent to Adopt a Rule Without a Public Hearing

The Department of Revenue intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Stephen E. Krenkel  
Department of Revenue  
Appeals, Legal Services and Criminal Investigations Division  
10 River Park Plaza  
St. Paul, MN 55146-2220  
Telephone number: (612) 296-1902 x135

**Subject of Rule and Statutory Authority.** The proposed rule is about the sales and use taxation of special tooling. The statutory authority to adopt this rule is *Minnesota Statutes*, section 270.06, clause 13. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m., August 25, 1993, to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 25, 1993. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as attached and printed in the *State Register*. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the date and information relied upon to support the proposed rule.

**Small Business Considerations.** The proposed rule is not expected to have an impact on small businesses because there are no additional requirements to file returns or remit in this rule. No additional recordkeeping or administrative duties are required by the rule.

**Expenditure of Public Money by Local Public Bodies, Impact on Agriculture Lands.** The proposed rule is not expected to require the expenditures of public monies by local public bodies, or have any impact on agricultural lands; therefore, *Minnesota Statutes*, section 14.11, subdivisions 1 and 2 are inapplicable.

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Dated: 6 July 1993

Deputy Commissioner of Revenue

### Rules as Proposed (all new material)

#### 8130.5550 SPECIAL TOOLING.

Subpart 1. **General information.** Special tooling is taxed at a separate rate under *Minnesota Statutes*, section 297A.02, subdivision 2. "Special tooling" is defined by *Minnesota Statutes*, section 297A.01, subdivision 17, as tools, dies, jigs, patterns, gauges, and



other special tools. Special tooling is tooling that is made to specific requirements to produce a part or a series of related parts, which are known at the time the special tooling is manufactured for a single customer. The special tooling itself must be unique. Regardless of whether tooling is fabricated for the purchaser or purchased for resale, if the tooling is available from a catalog, other sales literature, or over-the-counter, the tooling is standard and not special tooling.

Because special tooling does not need to produce a direct effect upon the product, nor does it need to have an ordinary useful life of less than 12 months, special tooling is usually different from accessory tools as defined in part 8130.5500, subpart 9, (separate detachable units). Certain special tooling may also be exempt from tax as separate detachable units or as accessory tools because the definitions are not exclusive. See subpart 3, item B.

**Subp. 2. Component parts.** Materials from which special tooling or component parts are produced by a seller of special tooling need not themselves be unique and useable only by the seller who produces special tooling. For example, metal used to produce special tooling need not be unique metal, only the special tooling produced from the metal needs to be unique. However, special tooling or components of special tooling must be unique, having value and use only for the buyer of special tooling.

Special tooling comprised of components qualifies for the separate rate to the extent of the purchase price of the unique components. Unique components are those components which are manufactured for the special tooling and are not standard or reusable. Components of special tooling which can be reused, either in special tooling or general applications, do not qualify for the separate rate.

**Subp. 3. Nonqualifying items.**

A. Machine tools and machinery are usually frames and motors which, through tools and special tooling, perform an action on materials to produce a product. They are commonly purchased in a standard configuration and can be used to produce parts for more than one customer. Attachments to machine tools and machinery that are used with the machine tool or machinery generally are not produced in accordance with special requirements of the purchaser of special tooling and do not qualify for the special tooling tax rate. They are not special tooling. Machine tools and machinery and their accessories can be used by any person other than the purchaser who wants to perform a function similar to the purchaser's. This quality excludes them from the definition of special tooling. Examples of machine tools and machinery include:

- (1) lathes;
- (2) mills;
- (3) machining centers;
- (4) grinders;
- (5) presses;
- (6) shears;
- (7) breaks;
- (8) die and mold machines; and
- (9) screw machines.

B. Accessory tools, as included within the definition of separate detachable units, are typically standard items which are loaded into a machine tool or hand-held machine and which produce a direct effect on the product. The definitional conditions required of exempt accessory tools in part 8130.5500 are that: they are separate detachable units; they are used in producing a direct effect upon the product; and they have an ordinary life of less than 12 months. These conditions are not the same as those for special tooling. Generally accessory tools can be purchased from a catalog or over-the-counter without any special fabrication. Further, usually any person requiring the action of an accessory tool on a product can use the accessory tool, so it is not limited in use or value only to the buyer. For example, anyone who needs thread cut can use a tap, so it has general value and is not special tooling.

Although an accessory tool usually does not qualify as special tooling, the statutory definitions do not preclude tangible personal property from qualifying as both an accessory tool and special tooling. If, for example, a cutting tool is made for a special purpose which is unique to a single customer, it qualifies both as an accessory tool and special tooling. Examples of tools that are usually accessory tools are:

- (1) drill bits;
- (2) cutting tools;

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## Proposed Rules

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- (3) grinding wheels;
- (4) abrasive and polishing belts;
- (5) taps;
- (6) reamers; and
- (7) saw blades.

## 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 Agriculture

### Adopted Permanent Rules Relating to Agricultural Liming Material

The rules proposed and published at *State Register*, Volume 17, Number 44, pages 2742-2746, May 3, 1993 (17 SR 2742), are adopted as proposed.

## Minnesota Housing Finance Agency

### Adopted Permanent Rules Relating to the Publicly Owned Neighborhood Land Trust Program

The rules proposed and published at *State Register*, Volume 17, Number 41, pages 2405-2408, April 12, 1993 (17 SR 2405), are adopted as proposed.

## Department of Human Services

### Adopted Permanent Rules Relating to Mental Health Services

The rules proposed and published at *State Register*, Volume 17, Number 35, pages 2101-2103, March 1, 1993 (17 SR 2101), are adopted as proposed.

## Department of Public Safety

### Notice of Adoption of Standards of the State Department of Public Safety Governing Pistol Transferee Applications and Permits, Reports of Transfer of a Pistol, and Applications for and Permits to Carry a Pistol

On July 9, 1993, the Commissioner of Public Safety adopted standards governing the form and contents of every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol. The authority for the Commissioner of Public Safety to adopt these standards is contained in *Minnesota Statutes*, section 624.7151, as enacted by *Minnesota Laws 1992*, chapter 571, article 15, section 10. Section 624.7151 specifically exempts the adoption of these standards from the rulemaking provisions of *Minnesota Statutes*, chapter 14. This Notice is published in conformance with *Minnesota Statutes*, section 3.846.

*Minnesota Statutes*, section 624.7151, also describes the nature and effect of the standards. Section 624.7151 states, in part: "Every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is received, granted, or renewed by a police chief or county sheriff on or after January 1, 1993, must meet the statewide standards adopted by the commissioner of public safety. Notwithstanding the previous sentence, neither failure of the department of public safety to adopt standards nor failure of the police chief or county sheriff to meet them shall delay the timely processing of applications nor invalidate permits issued on other forms meeting the requirements of sections 624.7131 to 624.714."

A free copy of the standards is available from the Department of Public Safety on request. To get a free copy of the standards, contact the Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, telephone (612) 296-6642.

Dated: 9 July 1993

Michael S. Jordan, Commissioner  
Department of Public Safety

## Department of Revenue

### Appeals, Legal Services, and Criminal Investigation Division

#### Adopted Permanent Rules Relating to Sales and Use Tax; Charitable, Religious, and Educational Organizations

The rules proposed and published at *State Register*, Volume 17, Number 27, pages 1704-1711, January 4, 1993 (17 SR 1704), are adopted with the following modifications:

##### Rules as Adopted

##### 8130.6200 CHARITABLE, RELIGIOUS, AND EDUCATIONAL ORGANIZATIONS.

###### Subp. 1a. Construction materials purchased by an exempt organization.

A. For purposes of this part, "buildings or facilities which will not be used principally by an exempt organization" means buildings or facilities that will be used by the exempt organization for commercial purposes and not to carry out their exempt functions. For example, construction materials purchased by an exempt organization to be used in constructing a building which the exempt organization will lease to another is not used principally by an exempt organization even though the lease payments may be used for an exempt purpose.

B. Materials that are purchased by an exempt organization for use in the performance of its exempt function are included in the exemption under *Minnesota Statutes*, section 297A.25, subdivision 16. For example, construction materials purchased by an exempt organization for use in its program to weatherize homes for low-income persons may be purchased exempt by an exempt organization. Likewise, construction materials may be purchased exempt by an exempt organization for the building, construction, or reconstruction of qualified low-income housing projects which meet the HUD low-income housing criteria as defined under *United States Code*, title 42, chapter 8, as amended through December 31, 1990. For purposes of this part, "qualified low-income housing" means a qualified low-income housing project as defined in *United States Code*, title 26, chapter 1, section 42.

C. The exemption from tax under *Minnesota Statutes*, section 297A.25, subdivision 16, does not extend to building, construction, or reconstruction materials purchased by a contractor under an agreement to erect a building or to alter, repair, or improve real estate for an exempt organization, even if the work contracted for is for use in the performance of the exempt organization's exempt function. See part 8130.1200.

Subp. 2. **Charitable organizations.** "Charitable" is used in its generally accepted legal sense to mean a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons. Charitable includes relief of the poor, underprivileged, and distressed, the care of the sick, the infirm, or the aged; the erection or maintaining of public buildings and monuments; lessening of the burdens of government; lessening of neighborhood tensions; elimination of prejudice and discrimination; defense of human and civil rights secured by law; providing of qualified low-income housing to qualified persons; and combating of community deterioration and juvenile delinquency. To determine whether an organization qualifies for the charitable exemption, the factors in items A to G F

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## Adopted Rules

will be considered. Each case must be decided on its own particular facts, and it is not essential that every factor mentioned in items A to F be present for an organization to qualify as a charitable organization.

A. it must be organized and operated for charitable purposes whether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;

B. it must be conducted without a view to profit whether the entity involved is supported by donations and gifts in whole or in part;

C. it must be supported and maintained in part by benevolent contributions whether the recipients of the "charity" are required to pay for the assistance received in whole or in part;

D. it must be open to the public generally without restriction whether the income received from gifts and donations and charges to users produces a profit to the charitable institutions;

E. it must be operated so as to lessen the burdens of government whether the beneficiaries of the "charity" are restricted or unrestricted and, if restricted, whether the class of persons to whom the charity is available is one having a reasonable relationship to the charitable objectives;

F. it must be organized and operated so that its charitable aids reach an indefinite number of people;

G. it must be so organized and operated that its commercial activities are subordinate to or incidental to any possible charitable activities whether the dividends, in form or substance, or assets upon dissolution are available to private interests.

Subp. 3. **Religious organization.** "Religious" refers to an institution that conducts worship services at regular intervals at an established place of worship that is owned, leased, or borrowed for that purpose, and organizations affiliated with or related to that institution, which exist exclusively for the furtherance of the religious purposes of the institution. The specific merits of a particular religion will not be compared or considered by the department when determining whether an organization is an exempt religious organization for purposes of the Minnesota sales and use tax. An organization claiming exempt status as a religious organization must be able to affirmatively establish its right to the exemption. Only if an organization clearly demonstrates that it is an organization created exclusively for religious purposes will it meet the requirements for tax-exempt status under Minnesota sales and use tax statutes. The criteria the department will use to determine whether an organization is a religious organization includes the criteria in items A to N; no single factor can be considered as controlling when making a determination of tax-exempt status. Each case must be decided on its own particular facts and it is not essential that every factor mentioned in items A to N be present for an organization to qualify as a religious organization.

Subp. 5. **Organization and operational tests.** No organization will be considered exempt as a charitable, religious, or educational organization for sales and use tax purposes unless it is exempt from federal income tax under section 501(c)(3) of the *Internal Revenue Code of 1986*, as amended through December 31, 1986. However, the determination of the Internal Revenue Service that an organization is a nonprofit and tax-exempt organization under the *Internal Revenue Code*, section 501(c)(3), for purposes of income taxation is not controlling on the issue of whether the organization is an exempt organization for sales and use tax purposes. Likewise, determinations by the Minnesota Department of Revenue that an organization is an exempt organization for income tax purposes does not, by itself, entitle the organization to an exemption from payment of sales and use tax. In order to be an exempt organization, an organization must be organized and operated exclusively for exempt purposes. The following tests will be used in determining whether or not an organization qualifies as an exempt organization:

A. An exempt organization may not be organized or operated for the purpose of making a profit which inures to the benefit of any private shareholder or individual. The organization must be able to demonstrate by its articles of incorporation or if unincorporated, a certified copy of its constitution and bylaws, and its financial statements that:

(2) it is supported and maintained at least in part by benevolent gifts, grants, and contributions, that is, one of its sources of support is donations, income from donations, and contributions and dues of members for which they receive no direct benefit, or it is supported by fees charged by an exempt organization for program services if the fees are based on ability to pay and the exempt organization provides services to individuals who would otherwise turn to government for such aid. "Program services" means those activities that the exempt organization was created to conduct and which, along with any activities commenced subsequently, form the basis of the organization's current exemption from tax.

The fact that an organization may receive voluntary contributions from those who benefit from its activities will not necessarily prevent its being an exempt organization. But if it is determined that the services rendered by the organization are conditioned upon the receipt of a contribution the services rendered may be regarded as a commercial activity. If this commercial activity is not subordinate to or incidental to the organization's charitable, religious, or educational activities, the organization does not qualify as an exempt organization since it is not organized or operated exclusively for exempt purposes.

The fact that an organization is nonprofit does not necessarily make it an exempt organization. The following are examples of nonprofit organizations that may not qualify for exemption: organizations attempting to influence legislation or participating in political

campaigns; fraternal or beneficial societies; clubs organized and operated for pleasure, recreation, social, or other similar purposes; business associations; cemetery associations that are not owned by religious organizations; civic and business clubs; homeowner's associations; lake improvement associations; professional and trade associations; retail and credit trade associations; trade unions; volunteer employee benefit associations; and veterans organizations. Thus, such organizations as Masons, Knights of Columbus, B'nai B'rith, League of Women Voters, Chambers of Commerce, American Legion, alumni clubs, computer clubs, fraternities and sororities, Jaycees, Lions Clubs, Odd Fellows, Orders of Eastern Star, ski clubs, unions, and VFW Posts are not exempt organizations.

C. An organization is not an exempt organization if it is ~~either organized or operated to make substantial its~~ attempts to influence legislation or intervene or participate in a political campaign (including the publishing or distributing of statements) cause it to lose its exemption from income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Subp. 8. **Taxable sales to exempt organizations.** Certain sales and rentals to exempt organizations remain taxable. Exempt organizations still owe the sales tax when purchasing meals, drinks, lodging, motor vehicles, or waste collection services, or when renting motor vehicles. Sales to exempt organizations are taxable if the items purchased are not used in the performance of the charitable, religious, or educational functions of the exempt organization. The benefits of tax-exempt status are confined strictly to the legal entity that has qualified for such status. Thus, sales to individuals who are affiliated with an exempt organization are taxable even if the sales would be exempt if made directly to the exempt organization.

Items A to D are examples of taxable sales.

A. ~~A sale of bingo equipment and supplies to a church for use on its monthly bingo night is subject to tax because the property will not be used in the performance of religious functions~~ Sales of all lawful gambling equipment and supplies to any organization conducting gambling activities in accordance with Minnesota Statutes, chapter 349, since this property is not used in the performance of exempt functions.

D. An exempt organization buys ~~two cases of soft drinks~~ a set of golf clubs for a retirement party ~~given gift~~ for a staff member. The ~~soft drinks~~ golf clubs are taxable as the ~~party gift~~ is not furthering the exempt purpose of the organization.

Subp. 9. **Sales by exempt organizations.** No organization is exempt from collecting the tax on taxable retail sales. If an exempt organization makes taxable retail sales, it must collect and remit tax on these sales unless the sales are exempt fundraising sales as provided for in *Minnesota Statutes*, section 297A.25, subdivision 2, clause (1), or 297A.256, or the sales are otherwise exempt under *Minnesota Statutes*, ~~chapter chapters~~ 297A and 349.

A. Examples of taxable sales:

- (4) taxable meals- (See subpart 11, item ~~B D.~~);
- (5) rental of personal property on a regular or recurring basis.

B. Examples of nontaxable sales:

- (6) nontaxable meals- (See subpart 11, item ~~B D.~~);
- (7) occasional sales (See Minnesota Statutes, section 297A.25, subdivision 12.).

Subp. 11. **Related information.**

A. ~~The exemption from tax does not extend to building, construction, or reconstruction materials purchased by a contractor under an agreement to erect a building or to alter, repair, or improve real estate for an exempt organization. See part 8130.1200~~

~~B.~~ Many senior citizen groups are exempt from the sales and use tax. See part 8130.6900 and *Minnesota Statutes*, section 297A.25, subdivision 16.

~~C.~~ B. Sales of tangible personal property to veterans organizations or their auxiliaries are exempt provided the property is used for charitable, civic, educational, or nonprofit uses and the organization is exempt from federal taxation pursuant to section 501(c), clause 19, of the *Internal Revenue Code*, as amended through December 31, 1986. See *Minnesota Statutes*, section 297A.25, subdivision 25.

~~D.~~ C. Sales of sacramental wine for sacramental purposes in religious ceremonies are exempt if the wine is purchased from a nonprofit religious organization or from the holder of a sacramental wine license. See *Minnesota Statutes*, section 297A.25, subdivision 46.

**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.

## Adopted Rules

**E. D.** Meals and lodging purchased or sold by an exempt organization are generally taxable. See part 8130.0800.

(1) Sales of meals by exempt organizations are generally taxable. For example, taxable meals include meals sold by civic clubs, fraternal and social groups, scout troops, and similar community associations. Meals sold by churches are also taxable, including meals sold at the Minnesota State Fair, at county festivals, or at a retreat center. Some sales of meals may qualify for exemption as fundraising sales. See subitem (2) and Minnesota Statutes, section 297A.256.

**F. E.** The sale of memberships to camps or other recreation facilities for educational and social activities for young people primarily age 18 and under are exempt if they are owned and operated by an exempt organization under section 501(c)(3) of the *Internal Revenue Code of 1986*, as amended through December 31, 1986. See *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (1), clause (2). The sale of memberships to an association incorporated under *Minnesota Statutes*, section 315.44, YMCAs, and YWCAs, are exempt. This includes one-time initiation fees and periodic membership dues. All separate charges for the privilege of having access to and the use of the association's sports and athletic facilities are taxable. See *Minnesota Statutes*, section 297A.25, subdivision 37.

**G. F.** While purchases of admissions provided for in *Minnesota Statutes*, section 297A.01, subdivision 3, paragraph (d), are not taxable when purchased by exempt organizations, sales of admissions by exempt organizations are generally taxable. The following sales of admissions in subitems (1) to (3) are exempt.

(1) Tickets or admission to artistic performances sponsored by qualified tax-exempt organizations are exempt. This exemption includes sales of tickets or admission by public schools, private schools, colleges, and universities for concerts, plays, and similar artistic events sponsored by the schools. ~~Admission tickets for athletic games or events are not included in this exemption.~~ See ~~part 8130.0900~~ and *Minnesota Statutes*, section 297A.25, subdivision 24.

**H. G.** Receipts from bingo, raffles, and other gambling activities are subject to the tax imposed on lawful gambling. See *Minnesota Statutes*, section 349.212.

**I. H.** A nonprofit organization that is exempt from federal income taxation under subchapter F of the *Internal Revenue Code* is not considered to be a trade or business. Therefore, sales of items previously used in the operation of the exempt organization may still qualify for the isolated or occasional sale exemption. However, if an exempt organization operates a trade or business that has little or no relationship to its exempt purposes except to provide funds to carry out those purposes, these activities are considered to be a trade or business. In these instances, the sale of any equipment sold in connection with the trade or business operated by an exempt organization is taxable. See part 8130.5800 and *Minnesota Statutes*, section 297A.25, subdivision 12.

## Office of Waste Management

### Adopted Permanent Rules Relating to Solid Waste Source Reduction Grant and Loan Program

The rules proposed and published at *State Register*, Volume 17, Number 25, pages 1602-1607, December 21, 1992 (17 SR 1602), are adopted with the following modifications:

#### Rules as Adopted

##### 9210.0720 APPLICATION PROCEDURES.

Subp. 3. **Determination of eligibility and completeness.** For all proposals received by the director by the deadline established in the notice, the director shall determine the eligibility of the applicant, the eligibility of the proposed project, the eligibility of the costs identified in the proposal, and the completeness of the proposal. A proposal is complete if it enables the director to determine that:

F. the applicant has ~~set out an explicit~~ proposed a methodology to measure the source reduction to be achieved by the project, measured by weight and volume and by toxicity if relevant.

##### 9210.0750 PUBLIC INSTITUTION GRANT PROGRAM.

Subp. 5. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. The director may request additional information from the applicant if it is necessary to clarify the proposal. A proposal must include the following information:

B. a description of the proposed project, including:

(3) type, volume, weight, and toxicity of solid waste to be eliminated by the proposed project, including currently available information on potential savings in purchase or disposal costs and an explanation on how these estimates were determined;

(5) statewide significance of the results to be gained, including the potential for other persons in the state to use results from the proposed project, including a quantification of the estimated number of these persons and the potential solid waste reductions if the information were used by them;

**9210.0760 PRIVATE SECTOR GRANT PROGRAM.**

Subp. 5. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. The director may request additional information from the applicant if it is necessary to clarify the proposal. A proposal must include the following information:

B. a description of the proposed project, including:

(3) type, volume, weight, and toxicity of solid waste that implementation of the proposed project may eliminate, including currently available information on potential savings on purchase and disposal costs and an explanation on how these estimates were determined;

(5) statewide significance of the results to be gained, including the potential for other persons in the state to use results from the proposed project; ~~including a quantification of the estimated number of these persons and the potential solid waste reductions if the information were used by them;~~

**9210.0770 PRIVATE SECTOR IMPLEMENTATION LOAN PROGRAM.**

Subp. 5. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. The director may request additional information from the applicant if it is necessary to clarify the proposal. A proposal must include the following information:

B. a description of the proposed project, including:

(3) type, volume, weight, and toxicity of solid waste to be eliminated by the proposed project, including currently available information on potential savings in purchase or disposal costs and an explanation on how these estimates were determined;

(5) statewide significance of the results to be gained, including the potential for other persons in the state to use results from the proposed project; ~~including a quantification of the estimated number of these persons and the potential solid waste reductions if the information were used by them~~

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**Revenue Notices**

Effective July 1, 1991, the Department of Revenue has authority to issue revenue notices. A revenue notice is a policy statement made by the department that provides interpretation, details, or supplementary information concerning the application of law or rules. This authority was provided by the Legislature in 1991 Session Laws Chapter 291, article 21, section 6 and will be codified at *Minnesota Statutes* section 270.0604.

**Department of Revenue****Revenue Notice #93-13: MinnesotaCare—Health Care Providers**

A health care provider is defined as a person who provides any of the following goods or services listed in *Minnesota Statutes* § 295.50 to a patient or consumer: medical, surgical, optical, visual, dental, hearing, nursing, drugs, medical supplies, medical appliances, laboratory, diagnostic, therapeutic, or any goods and services that qualify for reimbursement under the medical assistance program. The definition also includes a staff model health carrier and a licensed ambulance service. (Common carrier transportation is not included in the definition.)

Under this definition, a health care provider is:

1. a person whose health care occupation is licensed or registered by the state of Minnesota, any other state or province or territory of Canada;
2. a person who is eligible for reimbursement under the medical assistance program. A person who is eligible for reimbursement under the medical assistance program means individuals or facilities who would be reimbursed by the medical assistance program if they chose to apply for reimbursement, or the services they provide would be eligible for reimbursement under medical assistance except those services that are characterized as experimental, cosmetic, or voluntary; or
3. a vendor of medical supplies and equipment.

**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.

# Revenue Notices

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## Examples of Health Care Providers

- licensed clinic social worker;
- physician;
- physician assistant;
- dentist;
- chiropractor;
- occupational therapist;
- physical therapist;
- speech therapist;
- licensed family and marriage counselor;
- audiologist;
- optometrist;
- registered nurse;
- licensed practical nurse;
- nurse-midwife;
- psychologist;
- any organization that employs a licensed or registered health care provider to provide health care services.

Dated: 26 July 1993

## Department of Revenue

### Revenue Notice #93-14: MinnesotaCare - Patient Services

Patient services are defined in *Minnesota Statutes* § 295.50 as any of the listed health care goods and services provided to a patient or consumer:

- bed and board;
- nursing services and other related services;
- use of the facility;
- medical social services;
- drugs, biologicals, supplies, appliances and equipment;
- other diagnostic or therapeutic items or services;
- medical or surgical services;
- items and services furnished to ambulatory patients not requiring emergency care;
- emergency services; or
- services covered under the medical assistance program.

Generally, patient services include services or goods rendered by or at the direction of a licensed or registered individual who provides the services within the scope of his or her license or registration.

There must be a medical relationship between the provider, the patient or consumer, and the services or goods provided. The patient or consumer must be seeking or be in need of some medical treatment and the provider must provide goods or services to affect or remedy the physical or mental condition of the patient or consumer. All goods and services provided in connection with this treatment are patient services.

#### Examples of medical relationship

1. A doctor advising a business on occupational safety in the workplace has no medical relationship with the employees of the company. A doctor or nurse hired by a business to treat or advise employees on health care problems does have a medical relationship with the employees seeking treatment or advice.



2. A college nurse teaching a class about the dangers of smoking does not have a medical relationship with the students. The class is not given within the scope of the nurse's occupational license. A medical relationship does exist if the same nurse treats or advises individual students on health care problems.

3. A dietitian referred by a physician to advise an individual on proper diet to remedy or alleviate some medical condition has a medical relationship with the individual. A nurse or dietitian instructing a group of individuals on the importance of good diet in general, does not have a medical relationship with the group if the instruction is not specifically related to the medical conditions of the members of the group.

#### **Examples of Patient Services**

- Patient counseling;
- Medical transportation by an ambulance service;
- Preventive, corrective or diagnostic services provided by or under supervision of a dentist;
- Independent laboratory services;
- Professional services provided by a physician;
- Personalized weight loss or nutritional counseling are patient services when the patient receives the counseling as a necessary adjunct to the treatment of a medical condition. Services provided by commercial weight loss organizations are not patient services;
- Immunizations;
- Voluntary and medically necessary surgeries.

Dated: 26 July 1993

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## **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.

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## **Department of Agriculture**

### **Rural Finance Authority**

#### **Notice of Change in Time of Board Meetings**

**NOTICE IS HEREBY GIVEN** that the Rural Finance Authority Board has changed the time for their monthly meetings. Until further notice, Board meetings are scheduled for 1:00 p.m. on the first Wednesday of each month at the Department of Agriculture, 90 West Plato Blvd., St. Paul, Minnesota.

For additional information please call LaVonne Nicolai (612) 297-3395.

## **Department of Commerce**

### **Minnesota Joint Underwriting Association Notice of Activation to Insure Specified Classes of Business and Public Hearing**

**NOTICE IS HEREBY GIVEN** that, pursuant to *Minnesota Statutes*, section 62I.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain insurance from private insurers:

DAY CARE PROVIDERS

CHILD AND ADULT FOSTER HOMES AND FOSTER PARENTS

DEVELOPMENTAL ACHIEVEMENT CENTERS

GROUP HOMES

## Official Notices

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### OIL TESTER

### ENVIRONMENTAL CONSULTANT

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota, 55401-2138, on September 3, 1993, at 9:30 a.m. and continuing until all interested persons and groups have had an opportunity to be heard. The hearing shall be governed by *Minnesota Statutes* Sections 14.57-14.69 and by *Minnesota Rules* Parts 1400.1500-1400.8400, (1985). Questions regarding the procedure may be directed to Administrative Law Judge, George Beck, 100 Washington Square, Suite 1700, Minneapolis, MN 55401-2138, telephone (612) 341-7601. The authority for this proceeding is found in Chapter 62I of *Minnesota Statutes*, specifically sections 62I.21 and 62I.22. (A copy of those sections follows this notice.)

Prior to the hearing a pre-hearing conference will be held at 1:30 p.m. on August 20, 1993, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138.

*Minnesota Statutes*, Chapter 62I, which governs the Minnesota Joint Underwriting Association provides for temporary activation for 180 days by the Commissioner of Commerce. To extend the Minnesota Joint Underwriting Association's authority beyond the 180 day period a hearing must be held. Those classes of business for which the Minnesota Joint Underwriting Association was temporarily activated, by this notice and by previously published notices, must prove, at the hearing, that they meet the statutory requirements for coverage by the Minnesota Joint Underwriting Association.

Among those requirements are:

- (1) That members of those classes are unable to obtain insurance through ordinary means;
- (2) That the insurance being sought is required by statute, ordinance, or otherwise required by law, or is necessary to earn a livelihood or conduct a business; and
- (3) That the classes of business serve a public purpose.

The classes of business specified in this notice and previously published notices must be shown to meet the statutory requirements of the Minnesota Joint Underwriting Association's authority to provide coverage to them will end after 180 days from the date the notice of activation was published in the *State Register*.

Activation of a class of business does not guarantee coverage to any class member. Coverage of individual class members is determined by the Minnesota Joint Underwriting Association on a case by case basis once the class has been activated. The MJUA's address is: Pioneer Post Office Box 1760, St. Paul, Minnesota 55101. Their phone number is: (612) 222-0484.

The Department strongly suggests that any persons affected by this hearing or otherwise interested in the proceedings familiarize themselves with the requirements of Chapter 62I and the contested case procedures prior to the hearing, that they take such other steps as are appropriate to protect their interest and that any questions they may have as to how to proceed or how to participate at the hearing be directed to the Administrative Law Judge prior to the hearing.

All interested or affected persons will have an opportunity to participate at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in the manner set forth in the Rules pertaining to contested cases (*Minnesota Rules* parts 1400.1500-1400.8400).

Anyone wishing to oppose activation beyond the 180 days for any particular class, must file a petition to intervene with the administrative law judge at least 10 days before the hearing date. If no notice to intervene is filed for a class, then the class is activated beyond the 180 day period without further action.

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

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

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

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

Dated: 15 July 1993

**62I.21 ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.**

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall by notice in the *State Register* activate the market assistance plan and the joint underwriting association. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 62I.22. The commissioner by order shall deactivate the market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

**62I.22 HEARING.**

Subdivision 1. ADMINISTRATIVE LAW JUDGE. The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and administrative law judge assigned to the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

Subd. 2. NOTICE. The commissioner of commerce shall publish notice of the hearing in the *State Register* at least 30 days before the hearing date. The notice should be that used for rulemaking under Chapter 14. Approval by the administrative law judge of the notice prior to publication is not required. The notice must contain a statement that anyone wishing to oppose activation beyond 180 days for any particular class, must file a petition to intervene with the administrative law judge at least ten days before the hearing date. If no notice to intervene is filed for a class then the class is activated beyond the 180 day period without further action.

Subd. 3 CONTESTED CASE; REPORT. The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing of the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45 day requirement.

Subd. 4. DECISION. The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

Subd. 5. WAIVER OF MODIFICATION. If all parties to the proceeding agree, any of the requirements of this section may be waived or modified.

Subd. 6. CASE PRESENTATION. The department of commerce, upon request by small businesses as defined by section 14.115, subdivision 1, shall assist small businesses in any specific class requesting continuation of coverage beyond the 180 day period, in coordinating the class and presenting the case in the contested hearing.

## Department of Health

### Health Care Delivery Systems Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Regulated All-Payer System

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Health is seeking information or opinions from sources outside the agency in preparing to develop an implementation plan, which may include the adoption of rules, governing the Regulated All-Payer System. The Regulated All-Payer System will govern all health care services that are provided outside of an Integrated Service Network. The Regulated All-Payer System will be designed to control costs, prices, and utilization of health care services while maintaining or improving the quality of the services. The adoption of the rules is authorized by the *Laws of Minnesota 1993*, Chapter 345, Article 1, Section 1, and Article 2, Section 2. These sections require the agency, in consultation with the Minnesota Health Care Commission, to develop and submit to the Legislature and Governor, by January 1, 1994, a detailed implementation plan, including proposed rules and legislation to allow a two-year phase-in of a Regulated All-Payer System beginning July 1, 1994. The implementation plan must ensure that the rate of growth in spending in the system, after adjustments for population size and risk, remains within the limits set by the Commissioner of Health under *Minnesota Statutes*, Section 62J.04.

The Minnesota Department of Health requests information and opinions concerning the subject matter of the rules. 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: Sandra Abrams, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440-9441. Oral statements will be received during regular business hours over the telephone at (612) 623-5131 and in person at the above address.

## Official Notices

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All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Minnesota Department of Health 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.

Marlene E. Marschall  
Commissioner of Health

## Department of Health

### Health Care Delivery Systems Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Integrated Service Networks (ISN) and Solicitation of Persons for ISN Advisory Committee and ISN Work Groups

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Health is seeking information or opinions from sources outside the agency in preparing to develop an implementation plan, which may include the adoption of rules, governing Integrated Service Networks. The adoption of the rule is authorized by the *Laws of Minnesota 1993*, Chapter 345, Article 1, Section 1. This section requires the agency, in consultation with the Minnesota Health Care Commission, to develop and submit to the Legislature and the Governor by January 15, 1994, a detailed implementation plan. This plan will include proposed rules and legislation to implement the cost containment plan recommended by the Commission as described in the summary report of the Commission issued on January 25, 1993, as further modified by the above-referenced 1993 legislation. The goal of the implementation plan will be to allow Integrated Service Networks to form beginning July 1, 1994.

The Minnesota Department of Health requests information and opinions concerning the subject matter of the rules. 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: Irene Goldman, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440-9441. Oral statements will be received during regular business hours over the telephone at (612) 623-5292 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Minnesota Department of Health 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.

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Health is seeking persons to serve on an ISN Advisory Committee for the ISN implementation plan. The Committee will be representative of a broad array of stakeholders and will be convened at key points in the process to advise the Department on development of the plan.

**NOTICE IS FURTHER GIVEN** that the Department is seeking persons to serve on one of three Work Groups that will meet more frequently to review technical issues relating to ISNs. The Work Groups will focus on finance and administration, quality assurance and enrollee rights, and service delivery and provider relations.

The ISN Advisory Committee and the Work Groups are two of the many vehicles that will be used by the Department to gather input regarding the ISN implementation plan. In addition to this Notice Soliciting Outside Information and Opinions, the Department also intends to work through the Minnesota Health Care Commission, the Regional Coordinating Boards and the Rural Health Advisory Committee to gather public input, and to hold public forums at different locations around the state.

Persons interested in the ISN Advisory Committee or the ISN Work Groups should send a resume by August 6, 1993, to: John Chiotti, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440-9441. For further information, call (612) 623-5555.

Marlene E. Marschall  
Commissioner of Health

## Department of Human Services

### Health Care Administration

#### Notice for Statement of Interest From Potential Prepaid Health Plan Contractors

The Department of Human Services is seeking statements of interest from prepaid health plans to provide health care services to

the Medical Assistance (MA) and General Assistance Medical Care (GAMC) populations in the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, St. Louis, Carlton, Lake, Stearns, Sherburne and Benton counties. The potential health plan contractors must be able to provide services to both the GAMC and MA populations eligible for participation in the Prepaid MA or GAMC Programs in each county in which the health plan expresses an interest. The MA populations required to enroll in PMAP include the Aid to Families with Dependent Children, MA-Pregnant Women, Needy Children and Aged eligibility groups. The number of potential eligibles in each county, as of July 16, 1993, is as follows:

COUNTY	MA TOTAL	GAMC TOTAL	TOTAL
Anoka	12,456	1,209	13,665
Benton	1,873	234	2,107
Carlton	2,298	385	2,683
Carver	1,215	114	1,329
Dakota	9,127	888	10,015
Hennepin	73,841	14,376	88,217
Lake	632	*	632
Ramsey	45,980	4,829	50,809
Saint Louis	16,723	3,520	20,243
Scott	1,789	194	1,983
Sherburne	2,214	150	2,364
Stearns	5,066	701	5,767
Washington	4,624	433	5,057

\*Due to the small GAMC population and network of providers in Lake County, the Department is not seeking additional health plan contractors at this time.

The effective begin date for coverage may range from March 1, 1994 to January 1, 1995. This statement of interest is being issued in accordance with the "Managed Care Plan for Medical Assistance, General Assistance Medical Care and MinnesotaCare" as submitted to and approved by the 1993 Minnesota Legislature. A copy of this document is available from the Department upon request. This statement of interest will serve to demonstrate the individual health plans' compliance with the vendor participation requirements of *Minnesota Statutes 256B.0644*. Based on the response of the potential health plan contractors, the Department will issue formal Request for Proposals to serve the MA and GAMC populations in the aforementioned counties, according to a schedule which will be consistent with the timelines contained in the "Managed Care Plan." The Commissioner, in her discretion, may elect to limit the number of health plans participating in a county for the MA or GAMC populations, providing that the following conditions are fully met:

1. The health plans with which the Department contracts are able to demonstrate that they have sufficient provider capacity to serve the eligible populations; and
2. The health care services which the health plans provide are geographically accessible to the eligible populations.

The following information must be included in all statements of interest submitted by potential health plan contractors:

1. Name of health plan
2. Name of product line which will be used to serve the MA/GAMC populations
3. Contact person, including title and phone number
4. A list of the counties in which the health plan is interested in participating

Please note that the information contained in the statement of interest will be considered nonproprietary information and may be shared with other state agency or county staff or other interested individuals. All statements of interest must be signed by the chief executive officer of the health plan and received by the Department no later than 4:30 p.m. on August 30, 1993. Please direct all correspondence and inquiries to:

Rick Chiat  
 Minnesota Department of Human Services  
 6th floor—3854  
 444 Lafayette Road  
 St. Paul, Minnesota 55155  
 Phone: (612) 296-1481

## Department of Labor and Industry

### Labor Standards Division

#### Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective July 26, 1993 prevailing wage rates are certified for commercial construction projects in: Clay county: MSU Snarr & Neumaier Temperature Control Replacement-Moorhead. Dakota county: Inver Hills Community College Copy Center & Computer Lab Remodeling-Inver Grove Heights. Goodhue county: Lake Pepin Rest Area-Lake City. Hennepin county: Gymnasium & Floor Refinishing Edina Community Center/Technology Implementation/Media Center at Community Center Remodeling ISD #273-Edina, HCMC "C" Building Reroofing & Parking Facility Deck Protection-Minneapolis. Houston county: Houston Senior High School Reroofing-Houston. Lake county: North Shore Elementary Floor Tile Removal-Two Harbors. Mower county: Austin Community College Library & Classroom-Austin. Ramsey county: Fort Snelling Contact Station Addition Remodeling & Chapel Elevator Addition-St. Paul. St. Louis county: Proctor Jr High School-Proctor Floor Tile Removal, Community College Reroofing-Ely. Washington county: Washington County Government Center Reroofing-Washington.

Copies of the certified wage rates for these projects may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The charge for the cost of copying and mailing are \$1.36 per project. Make check or money order payable to the State of Minnesota.

John B. Lennes, Jr.  
Commissioner

## Metropolitan Council

#### Notice of Public Hearing on Proposed "Regional Trail" Designation of Birch Lake Trail

The Metropolitan Council's Committee of the Whole will conduct a public hearing on granting a "regional trail" designation to a planned trail linking the Tamarack Nature Center in Bald Eagle-Otter Lake Regional Park to a proposed regional trail along Minnesota Hwy. 96 in White Bear Lake and White Bear Township. The hearing will be held at 4:30 p.m., Thursday, Aug. 26, 1993, in the Metropolitan Council Chambers, Mears Park Centre, 230 E. Fifth St., St. Paul. Free copies of the public hearing document (Publication No. 580-93-065) are available from the Council's Data Center by calling 291-8140 or 291-0904 (TDD). If you wish to speak at the hearing or if you have questions or comments, please call Arne Stefferud (291-6360), Patti Holmes (291-6401) or 291-0904 (TDD). Written comments, which must be submitted by Sept. 10, should be sent to Arne Stefferud, Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul, MN 55101. A hearing report will be prepared. To request a copy, call Arne Stefferud. Changes proposed may affect the standards for determining projects of metropolitan significance in the metropolitan significance rules, *Minnesota Rules*, chapter 5800.

## Department of Natural Resources

#### Notice of State Comprehensive Outdoor Recreation Planning Process

The Minnesota Department of Natural Resources is coordinating the development of a State Comprehensive Outdoor Recreation Plan (SCORP) for Minnesota for the period 1995 to 1999. A fourteen member task force with representatives from government and private sector organizations has been created to guide plan development. The plan will identify high priority outdoor recreation issues and develop strategies for addressing those issues. The plan will guide state and local government spending of federal Land and Water Conservation Fund (LAWCON) cost share dollars.

The Department of Natural Resources will seek public input to development of the plan over the next several months. A series of public informational meetings also will be held throughout Minnesota to communicate information about the plan and seek suggestions on priorities and directions. An "interested parties" list will be established to seek input in addition to the meeting process. The plan will be completed by August, 1994.

If you are interested in reviewing drafts of the plan, contact:

Joe Stinchfield (612) 297-4313  
Office of Planning  
500 Lafayette Road  
St. Paul, MN 55155-4010

You may also call Wayne Sames at (612) 296-1567.

# State Grants

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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.

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## Minnesota Board on Aging

### Notice of Request for Grant Proposals to Provide Statewide Elder Abuse Awareness and Prevention Training

The Minnesota Board on Aging announces the availability of \$53,000 in federal Older American Act funds for elder abuse prevention and awareness projects.

The Request for Proposals is for the design and implementation of training and education programs for two target groups. GROUP ONE consists of individuals who provide daily money management assistance to older persons, eg. conservators, guardians, families, and volunteers. GROUP TWO consists of medical and other health care personnel, particularly those working in family or geriatric practice and emergency care.

The goal of the projects are as follows. For Group One, the project goal is to train and educate formal and informal money managers on their role, responsibilities, and reasonable practices in order to improve their understanding of their obligations and the rights of older persons. For Group TWO, the goal is to educate medical and health care personnel to improve their ability to identify and utilize protective service programs to respond to or prevent elder abuse, neglect, and exploitation.

Up to three grants will be awarded. Applications will be accepted for training of one or both of the above select groups. Preference will be given to applicants who demonstrate an ability to integrate the project into their ongoing efforts in preventing elder abuse, neglect, and exploitation. A 15% non-federal cash or in-kind match will be required. However, preference will be given to applications exceeding this minimum match. Grant funds are available beginning October 1, 1993 through September 30, 1994.

Eligible applicants are public or private nonprofit organizations with demonstrated knowledge and experience working in at least one of the following areas: i) elder abuse prevention; ii) training and education of health care personnel; iii) or training and education of individuals formally or informally assigned to assist older persons with daily money management assistance.

Applications will be accepted on forms provided by the Minnesota Board on Aging. Applications must be delivered to the Board on Aging office no later than 4:30 p.m. on Wednesday, August 18, 1993.

For an application and proposal instructions contact:

Lois Beneke  
Minnesota Board on Aging  
444 Lafayette  
St. Paul, MN 55155-3843  
296-2061 or 1 (800) 882-6262

For further information contact Ron Abato at 296-3769, or at 1 (800) 882-6262.

## Department of Human Services

### Family Self-Sufficiency Administration

### Refugee and Immigrant Services Section

### Requests for Proposals for Services to Asian American Youth and Asian and Amerasian Refugee Youth

**NOTICE IS HEREBY GIVEN** that the Refugee and Immigrant Services Section, Family Self-Sufficiency Administration, Minnesota Department of Human Services, is seeking proposals to provide Crime Prevention and Intervention Services to Asian American youth and Child Welfare Services to Asian and Amerasian refugee youth. We are seeking proposals for services that begin September 1993. We anticipate issuing one-year contracts that can be renewed for a second year depending on contract performance and the availability of funds.

Funding is from the State of Minnesota, in the amount of \$500,000 for Crime Prevention and Intervention Services to Asian American youth and in the amount of \$80,000 for Child Welfare Services to Asian and Amerasian refugee youth.

## State Grants

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To be considered for funding, proposals must be post-marked or hand-delivered to the Refugee and Immigrant Services Section by 4:20 p.m. CDT, August 18, 1993. We reserve the right not to act on this Request for Proposals.

Please direct all questions and request for copies of the full Request for Proposals to:

Minnesota Department of Human Services  
Refugee and Immigrant Services Section  
Human Services Building  
444 Lafayette Road  
St. Paul, Minnesota 55155-3837  
612-296-1383

## Professional, Technical & Consulting Contracts

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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.

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### Department of Administration

#### Print Communications Division

#### Request for Proposal Professional and Technical Services

The Department of Administration, Print Communications Division, is required to print a variety of public and state information products.

Lack of state capability in this area, a large workload and the need to meet deadlines require the Print Communications Division to contract with outside entities for professional, technical and creative services, as needed.

This request for proposal does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

##### I. Scope of Contract

The contract covers consultation, creation, production and delivery of various creative services, as assigned. Vendor provides staff, materials, production facilities and equipment, pick-up and delivery, as requested.

##### II. Contract Tasks

Vendor must have the capability to provide the following creative services:

- Creative consultation and concept development.
- Graphic design and layout.
- Photography (black and white and color, and studio and location).
- Photograph retouching (air brush).
- Illustration.
- Graph, chart and table design and artwork.
- Desktop Publishing.
- Keylining.
- Display art.
- Calligraphy.

Respondent may propose additional tasks or activities that substantially improve the capabilities of the vendor.

##### III. Contract Costs

The cost of each individual contract will average between \$25,000-\$100,000. There will be multiple contracts awarded.



### IV. Project Completion Date

Assignments within the scope of the project will be made on an as-needed basis. The contract will run from October 1, 1993, to September 30, 1995, with the option to renew up to three (3) years.

### V. Proposal Contents

The proposal must, at a minimum:

- A. Identify and describe the services to be provided by the respondent.
- B. Outline the respondent's background and experience including local, state and federal government work, if any, and identify the personnel who will conduct the project, their training and their work experience.
- C. Include a detailed list of costs and turnaround times for each of the services listed under "II. Contract Tasks." This information will be a scheduling and management tool as well as the basis for invoicing.
- D. A brief portfolio must accompany all proposals.

### VI. Submissions of Proposals

All proposals must be sent or delivered to and received by:

Jane Rosso, Printing Services Manager  
Print Communications Division  
Department of Administration  
117 University Avenue, Room 128A  
St. Paul, Minnesota 55155

All proposals must be time-stamped by the Division not later than 4:30 p.m. August 18, 1993. Late proposals will not be accepted.

Two copies of the proposal are to be sealed in the mailing envelopes or packages with the respondent's name and address clearly written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

VII. All proposals received by the deadline will be evaluated by the representatives of the Department of Administration, Print Communications Division. After evaluation, several will be selected, a complete portfolio will be reviewed and an interview conducted. Factors upon which proposals will be judged include, but are not limited to, the following:

- A. Cost detail and turnaround time.
- B. Qualifications of both the company and the personnel. The experience of project personnel will be given greater weight than that of the firm.

Evaluation and selection will be completed by September 15, 1993.

The state will make multiple awards from this request for proposal.

### VIII. Department Contacts

Prospective respondents who have questions regarding this request for proposal may call or write:

Jane Rosso	117 University Avenue, Room 128A
Print Communications Division	St. Paul, Minnesota 55155
Department of Administration	(612) 296-8700

This is the only employee authorized to answer questions regarding this proposal.

### IX. Human Rights Certificate of Compliance

All responders having more than 20 full-time employees at any time during the previous 12 months shall have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

1. A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
2. A notarized statement certifying that your firm has not had more than 20 full-time employees at any time during the previous 12 months.

In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612) 296-2600 or {TDD (612) 297-5353 and ask for 296-2600}.

## Professional, Technical & Consulting Contracts

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### Department of Agriculture

#### Information Services Division

#### Notice of Request for Proposals to Analyze, Recommend, Maintain, Upgrade and Repair a Novell 3.11 Local Area Network

Services needed include 24-hour maintenance and repair of multi-server network of PS/2s, Macs, Token ring, Ethernet 10baseT, laser printers, and Micro Design Laserbank with SCSI Express.

For more information or copy of RFP contact:

Karen Nelson  
90 West Plato Blvd.  
St. Paul, MN 55107  
612/296-4659

Contract amount: \$17,240.

Response deadline: 4 p.m., July 30, 1993

### Department of Agriculture

#### Request for Proposals (RFP) for FoxPro 2.5 for Windows System Development

The Minnesota Department of Agriculture will be accepting proposals for the design and programming of a master company/site location identification system that will link to other existing relational databases.

This request does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Prospective responders who have any questions regarding this request for proposal or who wish to obtain the complete RFP may call or write:

Name: Gary Braun  
Title: Operations Manager  
Address: Minnesota Department of Agriculture  
90 West Plato Blvd.  
St. Paul, MN 55107  
Phone: 612-297-1390 Fax: 612-297-2271

Proposals are due at the above address no later than 2 p.m., Friday, August 6, 1993.

Late proposals will not be accepted. Submit 3 copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

### Department of Commerce

#### Proposal Specifications for Organizations and Individuals Wishing to Assist the Minnesota Commerce Department With Formula for Insurance Company Payments in Lieu of Insurance Benefits for Contamination of Solid Waste Facilities. Minnesota 1993 Session Chapter 172, Section 88

##### I. INTRODUCTION AND BACKGROUND

The Minnesota Department of Commerce (hereinafter the "Department") is soliciting proposal from individuals or organizations qualified to assist an actuarial study of insurance company payment formula pursuant to Minnesota Chapter 172 (1993), Section 88. The individuals or organizations (hereinafter, the "consulting firm") will provide a study of formula for determining payment in lieu of benefit payment for damages from contaminated municipal solid waste facilities to assist the Department's recommendations due on or before November 1, 1993.

Selection of a consulting firm will be made in the best interest of the Department based upon the proposal submitted and the quality

of study indicated. Follow-up information may be requested from any proposer after the deadline to clarify any portion of the proposal. The Department intends to select a consulting firm as soon as reasonably possible.

### II. CONSULTING FIRM RESPONSIBILITIES

The Consulting Firm shall:

- A. Provide actuarial analysis of available data including the following:
  1. The likelihood and extent of coverage, if any, under policies covering waste facilities;
  2. Provide estimates of the fiscal impact of the formula on the insurance companies which may have issued policies; and
  3. Develop the formula to be included in the future legislation exempting mixed municipal landfills from the provisions of the Minnesota Environmental Response and Liability Act. (See, *Minnesota Statutes*, Chapter 115B.) In evaluating the program being considered, please review two pieces of legislation introduced in the 1993 Minnesota Legislative Session: (1) Senate File 1257 and its companion, House File 1101; and (2) Senate File 1133 and its companion, House File 1291.
- B. Produce the formula and appropriate written discussion in concert with the Department including the following:
  1. Meet and cooperate with Department staff and Pollution Control Agency staff to establish a project work plan;
  2. Provide a preliminary formula and discussion to the Department on or before September 13, 1993;
  3. Provide a final formula and discussion to the Department on or before October 8, 1993; and
  4. Provide at least ten (10) hours of explanation and expert testimony regarding the formula and discussion following completion.

### III. INFORMATION REQUIRED IN PROPOSAL

In addition to agreeing to and detailing how it intends to fulfill the preceding itemized responsibilities, any prospective consulting firm must provide the following information:

#### A. Qualifications and Background

The consulting firm should possess professional property and casualty actuarial skills and experience; oral and written communication skills; a familiarity with commercial liability policies covering solid waste facilities; ability to assemble relevant data; and demonstrated writing skills.

#### B. References and Current Capabilities

A list of other clients for which the prospective consulting firm has provided or is now providing studies similar to that sought by this request for proposal, and the nature of the results provided to each. Entities listed as references may be contacted by the Department as part of the evaluation of proposal.

### IV. EVALUATION CRITERIA

All proposals received by the deadline will be evaluated by representatives of the Department of Commerce. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

1. Expresses understanding of project objectives.
2. Project work plan.
3. Project cost detail.
4. Qualifications of both company and personnel. Experience of project personnel will be given greater weight than that of the firm.

### V. FORM OF COMPENSATION

Proposals to act as the consulting firm for the preparation of the formula are to include proposed compensation. The compensation should include all anticipated hourly fees for services rendered with an agreement to complete the work within a proposed total compensation limit.

Total proposed compensation to the consulting firm shall not exceed \$150,000.

### VI. DURATION OF CONTRACT

The proposed contract period for the consulting firm will be for four (4) months period commencing on or about August 6, 1993 and expiring December 31, 1993.

THE COMMISSIONER OF COMMERCE RESERVES THE RIGHT TO REQUEST CLARIFICATION OR ELABORATION OF ANY SEGMENT OF ANY PROPOSAL AND TO NEGOTIATE IN THE BEST INTEREST OF THE DEPARTMENT.

## Professional, Technical & Consulting Contracts

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### VII. ADDITIONAL PROPOSAL AND CONTRACT REQUIREMENTS

#### A. Duration of Offer:

All proposals must indicate that they are valid for ninety (90) days. This period may be extended by mutual agreement between the consulting firm and the Department.

#### B. Public Status of Proposals Submitted:

All proposals submitted in response to this Request for Proposals will become the property of the Department. Such proposals shall also constitute public records and shall be available for view and reproduction by any person after the choice of consulting firm has been made.

### VIII. WORKER'S COMPENSATION

The successful responder will be required to submit acceptable evidence of compliance with worker's compensation insurance coverage requirement prior to execution of the contract.

### IX. AFFIRMATIVE ACTION

In accordance with the provisions of *Minnesota Statutes*, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will be rejected unless it includes one of the following:

1. A copy of your firm's current certificates of compliance issued by the Commissioner of Human Rights; or
2. A letter from Human Rights certifying that your firm has a current certificate of compliance.
3. A notarized letter certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

### X. SCHEDULE FOR PROPOSALS

All proposals must be received in the Department of Commerce by August 6, 1993 at 4:30 p.m. The Department of Commerce will make its decision on which consulting firm proposal to accept as soon as reasonably possible.

### XI. FURTHER CONTRACT INFORMATION

For purposes of inquiry, contact:

Mr. Patrick L. Nelson  
Department of Commerce  
Insurance and Registration Divisions  
133 East 7th Street  
St. Paul, Minnesota 55101  
(612) 296-6325

This is the only employee authorized to answer questions regarding this request for proposal.

Dated: 26 July 1993

## Department of Education

### Community Collaboration Team

### Interagency Early Intervention Project

### Request for Proposals for a Contract to Study the Short- and Long-Term Fiscal Impact to State and Local Governments of Providing a Comprehensive and Coordinated System of Services to Infants and Young Children With Disabilities from Birth Through Age Two

The Minnesota Department of Education, St. Paul is soliciting proposals to study the short- and long-term fiscal impact to state and local governments of providing a comprehensive and coordinated system of services to infants and young children with disabilities from birth through age two under *United States Code*, title 20, sections 1471 and 1485.

Project tasks include a review and analysis of existing and newly collected information including but not limited to:

- A. the estimated average annual cost for services per eligible child and the child's family;

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## Professional, Technical & Consulting Contracts

B. the anticipated total additional annual cost to state and local governments through the year 2000 of fully implementing Part H early childhood intervention services under *United States Code*, title 20, sections 1471 through 1485; and

C. an inventory of current expenditures (actual annual costs) by county boards, school boards and other local service providers for services provided under *Minnesota Statutes* 120.17, subdivision 11b, including social work, nursing, nutrition, vision, transportation services, assistive technology, parent to parent support and respite care.

**Eligible Applicants** This legislative request specifies that the contractor shall be "an independent consultant outside of state or local government". Therefore the contractor must not be a current representative of state, regional or local health, education or human service agencies.

However, eligible applicants can include individuals, groups, corporations or organizations. For profit and non-profit organizations are eligible. Prior experience in fiscal analysis, determination of actual annual costs and development of cost projections over time from both public and private funding sources associated with the full implementation of comprehensive interagency state and local early intervention programs for infants and toddlers with disabilities and their families under Part H Interagency Early Intervention Project, PL 102-119 is desirable.

**Project Costs** The cost of the contract shall not exceed \$75,000.

**Department Contacts** Prospective responders should contact the person listed below to obtain an information packet. Any questions regarding this request for proposal must be directed to:

Jan Rubenstein  
Part H Coordinator  
Interagency Early Intervention Project  
987 Capitol Square Building  
550 Cedar St.  
St. Paul, MN 55101  
Fax: 612-297-5695  
Phone: 612-296-7032

Please note that other department personnel are not allowed to discuss the project with responders before the submittal of proposed deadline.

**Submission of Proposals** All proposals must be submitted no later than 4:30 p.m., August 16, 1993.

## Department of Education

### Notice of Requests for Proposals for Revision and Development of the Minnesota School Food Service Training Program

Proposals are being solicited to revise and further develop the Minnesota School Food Service Training Program. This contractor will develop a new training program package for use including:

A. New/revised course outlines and curricula outlines based on:

1. Current needs of school food service staff
2. Previous Minnesota School Food Service Personnel Curriculum Guides
3. Existing Technical College Courses relevant to food service
4. Training Courses and Curricula from other States

This will not include actual curriculum development.

B. Process to integrate relevant training systems to meet school food service training needs statewide, with sensitivity to regional needs.

C. Explore alternative methods of delivery

1. Technical Colleges
2. Alternative systems if Technical College Merger results
3. Compliment technical college system to meet needs
4. Adult extension
5. Community Education

## Professional, Technical & Consulting Contracts

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This project will be awarded to a single applicant for no more than a total of \$55,000. The anticipated time frame for this project is November 1, 1993 to October 31, 1994.

This project will be funded in total through the USDA Food and Nutrition Service as authorized in the National School Lunch Act and the Child Nutrition Act of 1966 as amended.

Copies of the RFP may be obtained by contacting Teri Kostelecky, Food and Nutrition Service, Minnesota Department of Education, Room 935, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101, (612) 296-6986. Proposals must be postmarked by September 1, 1993.

## Department of Human Services

### Anoka-Metro Regional Treatment Center

#### Notice of Request for Proposal for Medical Services

**NOTICE IS HEREBY GIVEN** that the Anoka-Metro Regional Treatment Center, Mental Health Bureau, Department of Human Services, is seeking the services which are to be performed as requested by the Administration of Anoka-Metro Regional Treatment Center. Contracts will be written for the period beginning September 1, 1993, and ending August 31, 1994.

1. **Psychological—Student Intern Services:** Responsibilities will include psychological assessments, psychological testing, group psychotherapy, family psychotherapy, individual psychotherapy, staff education, and staff development. These duties, as well as the general duties of a staff psychologist will be assigned based on the needs of AMRTC as well as the expertise and teaching needs of specific intern. 154 hours per month, 1,856 hours annually at Anoka-Metro Regional Treatment Center. The total will not exceed \$15,000.00 annually.

Responses must be received by August 16, 1993. Direct inquiries to Jon Gillmore, Chief Administrative Officer, Anoka-Metro Regional Treatment Center, 3300-4th Avenue North, Anoka, MN 55303-1119. Telephone: (612) 422-4300.

## Department of Jobs and Training

### Notice of Proposed Contracts for Federal Fiscal Year 1994 and 1995

The Minnesota Department of Jobs and Training, Services for the Blind and Visually Handicapped (SSB) is publishing notice that the contracts listed below are available and will be awarded for Federal Fiscal Year 1994 (October 1, 1993 to September 30, 1994).

#### A. Notice of Proposed Contract for a Braille Textbook Format Consultant

SSB is seeking an individual/organization to serve as a format consultant and accept assignments for formatting material that is to be transcribed into braille according to the rules of the Code of Textbook Formats and Techniques. The candidate must 1) be certified as a Volunteer Braille Transcriber by the National Library Services, 2) be thoroughly knowledgeable of the Code of Braille Textbook Formats and Techniques, 3) have the ability to communicate clearly the correct braille format to volunteer braille transcribers, and 4) be sensitive to the unique needs of volunteer braille transcribers.

The selected contractor will be paid \$600 per month and may have an annual training allowance of \$1,000 to attend National Braille Association Workshops as funds are available. The total cost of this contract will not exceed \$8,200.00.

Inquiries and/or proposals including a statement of qualifications and training/work experience should be directed to:

Julie Talbott, CSS Director  
Services for the Blind and Visually Handicapped  
2200 University Avenue, Suite 240  
St. Paul, MN 55114  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday, 8/13/93 for consideration.

#### B. Notice of Proposed Contracts for Reader Services

SSB is seeking individuals/organizations to provide reader services as a reasonable accommodation to blind or visually handicapped employees of the agency. As a Reader, the individual will read incoming correspondence, case file information, regulations, grant applications/grants, etc., and record information on fiscal documents, rehabilitation plans, applications, and client information system forms as dictated by the blind or visually handicapped employee. The following approximate number of contracts will be let:

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## Professional, Technical & Consulting Contracts

1. 7 Readers for the Metro area: 1 of these must have a working knowledge or familiarity of computer-related technical terms and language;

2. 1 Reader for the Duluth area;
3. 1 Reader for the Rochester area.

All individuals will be paid at a rate from \$4.75 to \$6.00 per hour. Contracts will range from 10-20 hours per week based on the individual needs of the employee. Total cost of all contracts is not expected to exceed \$25,000.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Julie Talbott, CSS Director  
Services for the Blind and Visually Handicapped  
2200 University Avenue, Suite 240  
St. Paul, MN 55114  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday 8/13/93 for consideration. Individuals responding after this date, as well as those individuals who responded by the date although were not selected, will have their name on file for a period of one year, and will be contacted if vacancies occur or additional services are needed during this period.

### C. Notice of Proposed Contracts for Driver Services

SSB is seeking individuals/organizations to provide driver services as a reasonable accommodation to blind or visually handicapped employees of the agency. As a Driver, the individual will drive the blind or visually handicapped employee to meetings, client interviews or appointments and return to the office in their own or a state-owned vehicle. The following approximate number of contracts will be let:

1. 6 Drivers for the Metro area;
2. 1 Driver for the Duluth area serving the northern half of the state;
3. 1 Driver for the Rochester area serving Dodge, Faribault, Fillmore, Freeborn, Houston and Mower counties;

Candidates must possess a valid driver's license and good driving record and provide proof of insurance if their own vehicle is to be used.

All individuals will be paid at a rate from \$4.75 to \$6.00 per hour. Contracts will range from 10-20 hours per week based on the individual needs of the employee. An individual providing driver services who uses his/her own vehicle shall be reimbursed as part of the contract at a rate of \$.27 per mile. Total cost of all contracts is not expected to exceed \$30,000.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Julie Talbott, CSS Director  
Services for the Blind and Visually Handicapped  
2200 University Avenue, Suite 240  
St. Paul, MN 55114  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday 8/13/93 for consideration. Individuals responding after this date, as well as those individuals who responded by the date but were not selected, will have their name on file for a period of one year, and will be contacted if vacancies occur or additional services are needed during this period.

Individuals interested in both the reader and the driver activities should indicate this in their brief statement.

The Minnesota Department of Jobs and Training, Services for the Blind and Visually Handicapped (SSB) is publishing notice that the contracts listed below are available and will be awarded for Federal Fiscal Years 1994 and 1995 (October 1, 1993 to September 30, 1995).

### A. Notice of Proposed Contracts for Medical Services

1. SSB is seeking 5 individuals to function as Regional General Medical Consultants in the North, South, and Metro regions to provide medical services under the contract as follows:

- a. serve as the medical expert for the Regional Supervisor(s) and provide face to face medical consultative services on all medical aspects of the rehabilitation program as it relates to specific clients;
- b. review all medical reports on blind and visually handicapped clients obtained in the Region(s) during the contract period;
- c. determine the adequacy of the medical information obtained;
- d. record and code each disabling condition reported;

## Professional, Technical & Consulting Contracts

- e. make recommendations regarding client limitations;
- f. interpret medical findings to rehabilitation counselors upon request;
- g. provide consultation and recommendations regarding medical practice, procedures and individual client needs upon request;
- h. make recommendations regarding medical charges upon request.

The medical consultants will be responsible to the respective regional supervisors with primary administrative direction coming from the CILSS Director, Services for the Blind and Visually Handicapped. All individuals will be paid at a rate of \$40.00 to \$65.00 per hour depending upon qualifications and previous experience in dealing with blind and visually handicapped persons. Most contract work in the outstate regions will require an average of 2-4 hours per month. Most contract work in the metro regions (9-county) will require an average of 4-12 hours per month. Total cost of all contracts is not expected to exceed \$15,000 per year.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Julie Talbott, CSS Director  
Services for the Blind and Visually Handicapped  
2200 University Avenue, Suite 240  
St. Paul, MN 55114  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday 8/13/93 for consideration.

### B. Notice of Proposed Contracts for Ophthalmological Services

SSB is seeking 1 individual to function as ophthalmological consultant. The individual will provide statewide ophthalmological services under the contract as follows:

- a. serve as the ophthalmological expert (Doctor of Medicine with American Board of Ophthalmological certification) and advise agency staff concerning complex medical program issues;
- b. review and classify (code) all eye reports on blind and visually handicapped clients obtained during the year;
- c. make recommendations regarding client limitations;
- d. make written recommendations for additional procedures as needed;
- e. provide consultation and recommendations for individual blind and visually handicapped clients referred by the rehabilitation counselor or the agency psychologist.

The ophthalmological consultant will be responsible to the CILSS Director, Services for the Blind and Visually Handicapped. The individual will be paid at the rate of \$40.00 to \$65.00 per hour, depending upon qualifications and previous experience in working with blind and visually handicapped persons. Most contract work will require an average of 12 hours per month. The total cost of the contract is not expected to exceed \$15,000 per year.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Julie Talbott, CSS Director  
Services for the Blind and Visually Handicapped  
2200 University Avenue, Suite 240  
St. Paul, MN 55114  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday 8/13/93 for consideration.

## State Auditor

### Regarding the Selection of a Consultant to Formulate a Plan Performance Attribution Study for Various Public Pension Funds and Prepare a Report Attributing Investment Performance to Various Decision-Making Stages

July 26, 1993

To Whom It May Concern:

The Office of the State Auditor is soliciting proposals for a consultant to analyze and develop a plan performance attribution study for various public pension funds through the attached Request for Proposal (RFP).



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## Professional, Technical & Consulting Contracts

The Office of the State Auditor recognizes that the list of pension funds identified for possible analysis in the RFP is quite broad. If your firm chooses to submit a response, it should identify the pension funds which will be addressed by the analysis and the specific area(s) of responsibility in which your firm may have special expertise.

No proposal received after August 27, 1993 will be considered. Submit seven (7) copies of the proposals. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. To facilitate proper handling, proposals should be marked with the words "SEALED BID—DO NOT OPEN" prominently displayed on the outside of the envelope. Each copy of the proposal must be signed in ink by an authorized officer of the firm. Prices and terms of the proposal as stated must be valid for the length of the project. It is recommended that firms call to confirm that their proposal has been received. Note: other department personnel are not allowed to discuss the project with responders before the proposal deadline.

All proposals must be sent to and received by the Contracting Officer, who is:

Lisa A. Rotenberg  
Deputy State Auditor  
Minnesota Office of the State Auditor  
525 Park Street, Suite 400  
St. Paul, Minnesota 55103

### **Request for Proposal (RFP) Regarding the Selection of a Consultant to Formulate a Plan Performance Attribution Study for Various Public Pension Funds and Prepare a Report Attributing Investment Performance to Various Decision-Making Stages**

This RFP does not obligate the Office of the State Auditor to complete the project and the Office of the State Auditor reserves the right to cancel the solicitation if the Office of the State Auditor considers it to be in its best interest.

#### **I. INTRODUCTION**

The Office of the State Auditor is requesting proposals to formulate a plan performance attribution study for various Minnesota public pension funds for the fiscal year ending 1992 and for a meaningful period up to the prior ten fiscal years (plan years). The consultant will collect performance data and develop a plan performance attribution study attributing pension fund investment performance to various levels of the investment decision-making process. In addition to collecting basic data from the retirement funds, the consultant should critique the written investment policy in effect at the end of the 1992 fiscal year.

The report may cover any or all of the following pension funds: The Minneapolis Teachers' Retirement Fund Association, the St. Paul Teachers' Retirement Fund Association, the Duluth Teachers' Retirement Fund Association, the Minneapolis Employees' Retirement Fund, and/or the Minnesota State Board of Investment. A brief description of each fund is included as **Exhibit A**.

#### **II. BACKGROUND**

The Office of the State Auditor has the statutory responsibility to audit the first class city teacher retirement fund associations, known respectively as the Minneapolis Teachers' Retirement Fund Association, the St. Paul Teachers' Retirement Fund Association and the Duluth Teachers' Retirement Fund Association. The State Auditor also conducts an annual audit of the Minneapolis Employees' Retirement Fund. The State Auditor serves as a member of the State Board of Investment and in that capacity is responsible for oversight of all fund activities including setting investment policy.

In addition to the State Auditor's oversight responsibilities for the retirement funds, the retirement funds are supported to some degree with contributions from state tax revenues. In addition to the portion of the general education revenue received by the applicable school districts that supports the districts' employer contribution to the fund, the 1993 Minnesota State Legislature provided special direct state aid to the St. Paul Teachers' Retirement Fund<sup>1</sup> and special direct state matching aid to the Minneapolis Teachers' Retirement Fund Association<sup>2</sup>. While the Duluth Teachers' Retirement Fund Association does not receive a direct state appropriation, an analysis of each of the first class city teacher retirement fund associations is necessary to evaluate and develop meaningful conclusions regarding the plan sponsors' investment decision-making process. With respect to the Minneapolis Employees' Retirement Fund, the State of Minnesota shares the responsibility for amortizing the unfunded liability with the participating employers. The Minneapolis Employees' Retirement Fund receives annual state appropriations not to exceed \$10,455,000 plus the cost of the annual supplemental benefit.<sup>3</sup> As a state agency, the Minnesota State Board of Investment receives a direct appropriation from the state.

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<sup>1</sup> *Minnesota Laws 1993*, Chapter 357, section 3. See **Exhibit B**.

<sup>2</sup> *Minnesota Laws 1993*, Chapter 357, section 4. See **Exhibit B**.

<sup>3</sup> *Minnesota Statutes* § 422A.101 subd. 3 (1991)

# Professional, Technical & Consulting Contracts

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## III. PURPOSE

The responsibilities of the consultant selected through this RFP will be the formulation of a plan performance attribution study using one or more of the following:

- Investment Policies
- Investment Management Structures
- Performance Measurement
- Performance Evaluation

The consultant is expected to provide independent, objective and creative input in the development of the plan performance attribution study.

Utilizing the performance data requested from the pension funds, the consultant will prepare a report to the State Auditor on the investment performance, gain or loss, resulting from various investment decision-making stages. Recognizing that plan decision makers (pension fund board of trustees, pension fund administrators, and pension fund investment managers) make a variety of decisions, some of which have added value and some of which have not, the consultant should attribute pension fund investment performance to various levels of the investment decision-making process. The investment performance attributable to various decision makers would be separately identified and compared to riskless investment strategies and indexed investment opportunities. The report should cover the fiscal year ending 1992 and a meaningful time period up to the ten prior pension fund fiscal years.

## IV. CONSULTANT RELATIONSHIP

The selected firm will report to the State Auditor. In carrying out its responsibilities, the consultant will work closely with the State Auditor and his staff. The consultant will meet with the staff as needed to assure timely completion of the responsibilities set forth in the RFP. The consultant will bear the responsibility for maintaining direct communication with the State Auditor and his staff.

The Office of the State Auditor has established a Consultant Review Committee to prepare and distribute the formal RFP and to evaluate available consulting services. The Committee will review responses and will recommend one or more candidates to the Office of the State Auditor for approval. The Office of the State Auditor assumes that the process for evaluating and selecting a consultant will proceed expeditiously.

The Office of the State Auditor's goal is to hire a consultant whose experience, whether broad-based or specialized, can best satisfy its needs. Consultants are encouraged to respond to each of the duties cited in Section V in which they have special expertise.

## V. DUTIES OF THE CONSULTANT

The following list of duties represents the consultant's primary areas of responsibility. Responders should clearly identify their capabilities with respect to any or all of the following tasks:

### A. Investment Policies

1. Analyze and critique the written investment policies in effect for the pension funds at the end of the 1992 fiscal year. The consultant may, at his discretion, analyze any changes in the written investment policy statement, noting the effective date of each change, for the period for which the investment data is requested. The review should address investment objectives, asset allocation and management structures. Performance benchmarks or measures at each management level (total fund, asset class segment, individual manager) should also be reviewed.

2. Analyze the investment characteristics of the available asset classes and alternative asset mixes for each fund relative to the investment objectives.

3. Evaluate the current target asset mix for each fund relative to the investment objectives.

### B. Investment Management Structures

1. Analyze the investment management structures for each fund and asset class. Identify the relevant investment decision-makers. Consider the role of passive versus active management, the range and mix of available management styles and the plan sponsor's allocation of money among managers.

2. Develop criteria for evaluating the effectiveness of the current investment management structures for the funds and for altering the investment management structures under various market conditions.

### C. Manager Selection and Oversight

1. Analyze the funds' needs for particular managers within each asset class.

2. Analyze the funds' procedures for monitoring and evaluating manager performance.

**D. Performance Measurement**

1. Prescribe a form or forms for the disclosure by pension funds of the following quarterly asset values:
  - (1) market value of investments at the end of the period;
  - (2) contributions received;
  - (3) other non-investment plan revenue received;
  - (4) total investment return including: interest and dividend income, realized capital gains and the period change in unrealized capital gains;
  - (5) benefit payments made;
  - (6) portfolio management or investment advisor fees paid; and
  - (7) pension plan administrative salaries and other administrative expenses paid
2. With the respect to the basic data described above, the consultant should request separate reporting of each internal investment fund, investment account, or investment portfolio included in the pension fund.
3. The data requested above must be provided separately on a quarterly basis for the fiscal year of the pension fund ending during calendar year 1992.
4. The data requested above must also be provided on a quarterly basis for the period analyzed by the consultant up to the ten pension fund fiscal years prior to the fiscal year ending 1992.

**E. Performance Evaluation**

1. Recommend a composite index for each fund to measure total fund performance relative to its established target asset mix.
2. Calculate and analyze actual performance relative to the composite index for the funds.
3. Calculate and analyze the actual performance of the asset class versus a benchmark.
4. Calculate and analyze the investment performance gained or lost by the various fund decision-makers in establishing the investment policies, establishing the target asset mix, allowing deviations from the target asset mix, selecting investment managers, allocating portions of the fund assets to each manager, delineating manager investment style and allowing for deviations in style, and manager selection of investment classes within broader mix categories and of particular investments.
5. Calculate the annualized rolling performance net of fees for each manager in each asset class utilized in the funds.
6. Analyze the manager's actual performance versus its benchmark and versus the index.
7. Evaluate manager performance and consistency relative to guidelines, standards, and desired characteristics, including the median manager of an established universe, style, etc.

**VI. PREPARATION OF PROPOSAL**

The consultant's response to this RFP shall be organized in the following manner. **Please observe the page limits shown for each section.** Please note that consultants will be evaluated, in part, on their ability to communicate clearly and succinctly. **Brevity will be appreciated.**

**Section 1: Work Plan****Page Limit: No more than 10**

- A statement of the services the consultant is prepared to provide the Office of the State Auditor. Please respond to one or more of the duties delineated in Section IV of this RFP. If necessary, provide a statement of any other tasks the consultant believes must be performed to completely meet the Office of the State Auditor's needs.
- The consultant's operational plan for fulfilling the above.
- A statement of any expected tasks or contributions by the Office of the State Auditor needed by the consultant to accomplish the work plan.
- Designation of a project manager and project team for the consulting relationship.

**Section 2: Organization and Personnel****Page Limit: No more than 6**

- A description of the organization which includes the following information:
  - Date business commenced

## Professional, Technical & Consulting Contracts

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- Ownership structure
- Affiliation with other firms (i.e. parent companies, brokerage firms, investment banking firms or other entities)
- Description of any litigation pending against the firm
- Number of consulting relationships gained and lost in each of the following periods:
  - January–December 1989
  - January–December 1990
  - January–December 1991
  - January–December 1992
  - January–July 1993
- Number and title of professional personnel gained and lost in the same periods.

### Section 3: Computer Capability

#### Page Limit: No more than 2

- A description of the databases, software and hardware that will be used to support the proposed work plan.
- A description regarding how the databases and software will be accessed by Office of the State Auditor staff. Specify the hardware necessary to accomplish such access.

### Section 4: Experience and References

#### Page Limit: No more than 5

- A presentation of the previous experience of the consultant with similar tasks or engagements and the current capacity of the consultants to provide appropriate experienced staff to this engagement. A resume or biography of each professional staff person to be assigned to this consulting relationship, outlining their qualifications, previous experience in similar tasks or engagements and the relative contribution (in person-hours) of each.
- A list of at least three references. The references must be current public or private pension fund clients. The references shall include the name, title, organization, address and phone number of the responder's primary contact at the client organization.
- A list of all public pension fund clients under contract as of August, 1993. If your firm is acting as a consultant to the pension funds identified for possible analysis, please indicate how you will handle the potential conflict of interest between this assignment and your lay term consulting relationship.

### Section 5: Fee Proposal

#### Page Limit: No more than 2

- The fee proposal can equal but not exceed \$20,000.
- An estimate of the total fee necessary to complete the consultant's proposed work plan. The fee estimate must include a breakdown of the costs attributable to each of the services included in the consultant's proposal as well as the estimate of time necessary to satisfactorily complete each task.
- A statement that the fee estimate is valid for a minimum of ninety (90) days. This period may be extended by mutual agreement between the responder and the Office of the State Auditor.

### Section 6: Certificate of Compliance

#### Page Limit: No more than 1

- A copy of the consultant's Certificate of Compliance from the State of Minnesota Department of Human Rights pursuant to *Minnesota Statutes* Section 363.073, or certification in writing that the consultant has not had more than twenty (20) full time employees at any time during the twelve (12) months preceding the date of this RFP. A copy of the applicable statute is in **Exhibit C**.

### Section 7 or Attachments: Report Formats

#### Page Limit: None Specified

- Sample reports or reporting formats that the consultant would intend to provide the Office of the State Auditor.

## VII. PROJECT TIMETABLE AND RELATED REQUIREMENTS

**RFP Issued** July 26, 1993

### Responder's Conference Call August 4, 1993

Lisa A. Rotenberg  
Deputy State Auditor  
(612) 297-3674

Conference call will begin at 10:00 a.m.

The Deputy State Auditor will be available to respond to questions from potential responders concerning the RFP. Consultants planning to participate in the conference call must notify the contracting officer, Lisa A. Rotenberg, by August 3, 1993. Participation is not required.

### Consultant's proposal due August 27, 1993

**NO PROPOSALS RECEIVED AFTER 3:00 p.m. CENTRAL TIME ON FRIDAY, AUGUST 27, 1993 WILL BE CONSIDERED**

The Consultant Review Committee may require that a consultant submitting a proposal make an oral presentation to the Committee during the evaluation process. In such event, the Committee shall notify the consultant of the time and location of an oral presentation.

## VIII. PROPOSAL SELECTION

### A. Nature of Procurement

This procurement is undertaken by the Office of the State Auditor pursuant to the provisions of *Minnesota Statutes* 16B.17, a copy of which is attached as **Exhibit D**. As such, it is not governed by strict competitive bidding requirements frequently associated with the purchase of supplies and materials by the State and selection will not be based exclusively on the concept of lowest responsible bidder.

Accordingly, the Office of the State Auditor shall select the consultant whose proposal and oral presentation, if requested, demonstrates, in the Office of the State Auditor's sole opinion, clear capability to best fulfill the purposes of the RFP in a cost effective manner. The Office of the State Auditor reserves the right to accept or reject proposals, in whole or in part, and to negotiate separately as necessary to serve the best interest of the State of Minnesota.

### B. Selection Criteria

The evaluation of proposals will be based on:

1. **The quality and completeness of the consultant's work plan as it relates to the prescribed duties.** The approach, methodology and techniques should be appropriately specific, logical and organized. The consultant must demonstrate the capability to gather the necessary information, develop fully supportable conclusions, and communicate findings and recommendations clearly and succinctly.
2. **The consultant's demonstrated knowledge and experience in the areas related to the project.**
3. **The quality of staff to be assigned to the project and available support.**
4. **The quality of the data processing and analytical systems necessary to support the work plan.** The consultant should demonstrate its ability to manage and maintain the computer software, hardware, and databases referenced in its proposal.
5. **The consultant's demonstrated ability to communicate effectively.**
6. **The consultant's demonstrated ability to manage the work plan effectively and assure the successful fulfillment of its duties.** The plan for performing and managing the contract, including the framework within which the consultant will function relative to the State, will be evaluated. The consultant should demonstrate its ability to manage and control its duties.

## IX. COST AND METHOD OF PAYMENT

- All costs relating to the proposal shall be explained in detail.
- The consultant shall be paid in cash after submission of an invoice and successful completion of work performed.
- The Office of the State Auditor reserves the right to reject a consultant's bid on the basis of cost.

## X. PERIOD OF CONTRACT

The Office of the State Auditor will enter into a contract with the selected firm through the completion of the project with the option of renewing the contract, based upon satisfactory performance.

By Minnesota law, the contract may be canceled by the State or the contractor at any time, with or without cause, upon thirty (30) day written notice to the other party.

# Professional, Technical & Consulting Contracts

## XI. PUBLIC STATUS OF PROPOSALS SUBMITTED

Pursuant to Minnesota law, all proposals submitted in response to this RFP shall become the property of the State of Minnesota. Such proposals shall also constitute public records and shall be available for viewing and reproduction by any person.

### EXHIBIT A

The asset size of each of the pension funds as of June 30, 1992, are as follows:

<u>Pension Fund</u>	<u>Market Value</u>	<u>Cost Value</u>	<u>Actuarial Value</u>
Duluth Teachers' Retirement Fund Association	\$122,132,000	\$113,672,000	\$116,492,000
Minneapolis Teachers' Retirement Fund Association	\$491,357,000	\$441,289,000	\$457,978,000
St. Paul Teachers' Retirement Fund Association	\$370,179,000	\$348,908,000	\$355,998,000
Minneapolis Employees' Retirement Fund	\$844,980,000	\$834,651,000	\$838,094,000
Minnesota State Board of Investment	\$15,695,000,000	*\$12,750,535,000	*\$12,916,315,000

\*For General Plans only, i.e., TRA General Plan and MSRS State Employees.

#### The Duluth Teachers' Retirement Fund

The Duluth Teachers' Retirement Fund Association was created to provide retirement and other specified benefits for its members pursuant to *Minnesota Statutes* chs. 354A and 356. The Association's membership consists of eligible employees of Independent School District 709, Duluth, and the employees of the Association. The Association is governed by a nine-member board of trustees.

#### The Minneapolis Teachers' Retirement Fund

The Minneapolis Teachers' Retirement Fund is a single employer defined benefit pension plan administered by the Minneapolis Teachers' Retirement Fund Association. The Association was originally incorporated under Chapter 343 of the Laws of 1909, and is now governed by *Minnesota Statutes* § 354A, 317A, and applicable sections of Chapter 356. The Fund's membership consists of eligible employees of the Special School District No. 1, Minneapolis. The Association is governed by a seven-member board of trustees.

The general purpose of the Association is to secure a fund from assessments upon its members and their employer and from income derived by investments, and to control and manage such a fund for the purpose of paying annuities or other benefits to the members of the Association.

#### The St. Paul Teachers' Retirement Fund

The St. Paul Teachers' Retirement Fund is a defined benefit pension plan administered by the St. Paul Teachers' Retirement Fund Association, pursuant to the Association bylaws and *Minnesota Statutes* chs. 354A, 317A and 356. The Fund's membership consists of eligible employees of Independent School District 625, St. Paul. The Association is governed by a ten-member board of trustees.

#### The Minneapolis Employees' Retirement Fund

The Minneapolis Employees' Retirement Fund (MERF) was established pursuant to *Minnesota Laws* 1919, Ch. 522 and is now

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## Professional, Technical & Consulting Contracts

governed by *Minnesota Statutes* Chs. 422A and 317A. The Fund was created for the purpose of providing to qualifying members retirement, disability and survivor benefits. Current membership exceeds 8,000, with more than one-half classified as retirees and beneficiaries.

In accordance with amendments to *Minnesota Statutes* Ch. 422A, employee membership in MERF is restricted to individuals who were employed prior to July 1, 1978, by the following employers:

The City of Minneapolis  
Minneapolis Special School District No. 1 (non-teaching employees)  
City of Minneapolis Water Department  
Minneapolis-St. Paul Metropolitan Airports Commission  
Metropolitan Waste Control Commission  
Municipal Building Commission  
Hennepin County

All individuals employees after June 30, 1978, are required to become members of the Minnesota Public Employees' Retirement Association.

The Board of Directors is a seven-member Retirement Board who represent the active and retired members and the employers.

### **The Minnesota State Board of Investment**

The Minnesota State Board of Investment (SBI) is charged with the investment of approximately \$21.2 billion for the State and related constituents pursuant to Article XI, section 8, of the Constitution of the State of Minnesota. The State Board of Investment is governed by a five-member board of trustees. Approximately \$15.695 billion of the \$21 billion represents retirement funds which the SBI invests on behalf of various State and local governmental employees. *Minnesota Statutes* chs. 11A and 356A establish standards to ensure that the state and pension assets will be responsibly invested. The two funds to be analyzed are the Basic Retirement Funds and the Post Retirement Fund. The Basic Retirement Funds are composed of the retirement assets for currently working participants in the statewide retirement funds. The Post Retirement Fund contains the pension assets of retired public employees covered by statewide retirement plans.

CHAPTER No. 357  
S.F. No. 553

### **EXHIBIT B**

who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

Sec. 3. *Minnesota Statutes* 1992, section 354A.12, is amended by adding a subdivision to read:

Subd. 3a. [SPECIAL DIRECT STATE AID TO ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION.] (a) The state shall pay to the St. Paul teachers retirement fund associations \$500,000 in fiscal year 1994. In each subsequent fiscal year, the payment to the St. Paul teachers retirement fund association must be increased at the same rate as the increase in the general education revenue formula allowance under section 124A.22, subdivision 2, in subsequent fiscal years.

(b) The direct state aid is payable October 1 annually. The commissioner of finance shall pay the direct state aid. The amount required under this subdivision is appropriated annually to the commissioner of finance.

Sec. 4. *Minnesota Statutes* 1992, section 354A.12, is amended by adding a subdivision to read:

Subd. 3b. [SPECIAL DIRECT STATE MATCHING AID TO THE MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION.] (a) Special school district No. 1 may make an additional employer contribution to the Minneapolis teachers retirement fund association. The city of Minneapolis may make a contribution to the Minneapolis teachers retirement fund association. This contribution may be made by a levy of the board of estimate and taxation of the city of Minneapolis, and the levy, if made, is classified as that of a special taxing district for purposes of section 275.065.

(b) For every \$1,000 contributed in equal proportion by special school district No. 1 and by the city of Minneapolis to the Minneapolis teachers retirement fund association under paragraph (a), the state shall pay to the Minneapolis teachers retirement fund association \$1,000, but not to exceed \$2,500,000 in total in fiscal year 1994. The total amount available for each subsequent fiscal year must be increased at the same rate as the increase in the general education revenue formula allowance under section 124A.22, subdivision 2, in subsequent fiscal years. The superintendent of special school district No. 1, the mayor of the city of Minneapolis, and the executive director of the Minneapolis teachers retirement fund association shall jointly certify to the commissioner of finance the total amount that has been contributed by special school district No. 1 and by the city of Minneapolis to the Minneapolis teachers retirement fund association. Any certification to the commissioner of education must be made quarterly. If the total certifications for a fiscal year

## Professional, Technical & Consulting Contracts

exceed the maximum annual direct state matching aid amount in any quarter, the amount of direct state matching aid payable to the Minneapolis teachers retirement fund association must be limited to the balance of the maximum annual direct state matching aid amount available. The amount required under this paragraph, subject to the maximum direct state matching aid amount, is appropriated annually to the commissioner of finance.

(c) The commissioner of finance may prescribe the form of the certifications required under paragraph (b).

Sec. 5. *Minnesota Statutes* 1992, section 354A.12, is amended by adding a subdivision to read:

Subd. 3c. [TERMINATION OF DIRECT STATE MATCHING AID.] (a) The direct state aid under subdivision 3a to the St. Paul teachers retirement association and the direct state aid under subdivision 3b to the Minneapolis teachers retirement fund association terminates for the respective fund at the end of the fiscal year in which the accrued liability funding ratio for that fund, as determined in the most recent actuarial report for that fund by the actuary retained by the legislative commission on pensions and retirement, equals or exceeds the accrued liability funding ratio for the teachers retirement association, as determined in the most recent actuarial report for the teachers retirement association by the actuary retained by the legislative commission on pensions and retirement.

(b) If the state aid is terminated for the St. Paul teachers retirement fund association or the Minneapolis teachers

### EXHIBIT C

#### MINNESOTA STATUTES: CERTIFICATE OF COMPLIANCE

#### 363.073 CERTIFICATES OF COMPLIANCE FOR PUBLIC CONTRACTS

Subdivision 1. **Scope of application.** No department or agency of the state shall accept any bid or proposal for a contract or agreement or execute any contract or agreement for goods or services in excess of \$50,000 with any business having more than 20 full-time employees on a single working day during the previous 12 months, unless the firm or business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a firm or business has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years. A municipality as defined in section 446.01, subdivision 1, that receives state money for any reason is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the disabled and submit the plan to the commissioner of human rights.

Subd. 2. **Revocation of certificate.** Certificates of compliance may be suspended or revoked by the commissioner if a holder of a certificate has not made a good faith effort to implement an affirmative action plan that has been approved by the commissioner. If a contractor does not effectively implement an affirmative action plan approved by the commissioner pursuant to subdivision 1, or fails to make a good faith effort to do so, the commissioner may refuse to approve subsequent plans submitted by that firm or business.

Subd. 3. **Revocation of contract.** A contract awarded by a department or agency of the state may be terminated or abridged by the department or agency because of suspension or revocation of a certificate based upon a contractor's failure to implement or make a good faith effort to implement an affirmative action plan approved by the commissioner under this section. If a contract is awarded to a person who does not have a contract compliance certificate required under subdivision 1, the commissioner may void the contract on behalf of the state.

Subd. 4. **Technical assistance.** In the case of a contractor whose certificate of compliance has been suspended, the commissioner shall provide technical assistance that may enable the contractor to be recertified within 90 days after the contractor's certificate has been suspended.

### EXHIBIT D

#### MINNESOTA STATUTES 16B.17

#### 16B.17 CONSULTANTS AND TECHNICAL SERVICES

Subdivision 1. **Terms.** For purposes of this section, the following terms have the meanings given them:

(a) **Consultant services.** "Consultant services" means services which are intellectual in character; which do not involve the provision of supplies or materials; which include analysis, evaluation, prediction, planning, or recommendation; and which result in the production of a report.

(b) **Professional and technical services.** "Professional and technical services" means services which are predominantly intellectual in character, which do not involve the provision of supplies or materials; and in which the final result is the completion of a task rather than analysis, evaluation, prediction, planning, or recommendation.

Subd. 2. **Procedure for consultant and professional and technical services contracts.** Before approving a proposed state contract for consultant services or professional and technical services the commissioner must determine, at least, that:

(1) all provisions of section 16B.19 and subdivision 3 of this section have been verified or complied with;



(2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities, and there is statutory authority to enter into the contract;

(3) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

(4) no current state employees will engage in the performance of the contract;

(5) no state agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract; and

(6) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed.

**Subd. 3. Duties of contracting agency.** Before an agency may seek approval of a consultant or professional and technical services contract valued in excess of \$5,000, it must certify to the commissioner that:

(1) no state employee is able to perform the services called for by the contract;

(2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;

(3) the services are not available as a product of a prior consultant or professional and technical services contract, and the contractor has certified that the product of the services will be original in character;

(4) reasonable efforts were made to publicize the availability of the contract;

(5) the agency has received, reviewed, and accepted a detailed work plan from the contractor for performance under the contract; and

(6) the agency has developed, and fully intends to implement, a written plan providing for the assignment of specific agency personnel to a monitoring and liaison function; the periodic review of the interim reports or other indications of past performance, and the ultimate utilization of the final product of the services.

**Subd. 4. Reports.** The commissioner shall submit to the governor and the legislature a monthly listing of all contracts for consultant services and for professional and technical services executed or disapproved in the preceding month. The report must identify the parties and the contract amount, duration, and tasks to be performed. The commissioner shall also issue quarterly reports summarizing the contract review activities of the department during the preceding quarter.

**Subd. 5. Contract terms.** A consultant or technical and professional services contract must by its terms permit the agency to unilaterally terminate the contract prior to completion, upon payment of just compensation, if the agency determines that further performance under the contract would not serve agency purposes. If the final product of the contract is to be a report, no more than three copies of the report, one in camera ready form, shall be submitted to the agency. One of the copies must be filed with the legislative reference library.

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## Non-State Public Bids and Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

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### Arrowhead Regional Development Commission

#### Request for Proposal to Develop the Layout and Design of a Field Guidebook Presenting a Set of Visual Quality Best Management Practices for Minnesota Forests

The Timber and Tourism Steering Committee is requesting proposals from qualified individuals interested in performing all the steps necessary to prepare for publication the text for Best Management Practices for Visual Quality in Forest Management. This request does not obligate the Committee to complete the project and the Committee reserves the right to cancel the solicitation if it is in its best interests to do so.

The Committee has completed the task of developing the text for a set of Best Management Practices for Visual Quality in Forest Management (BMPs) and is now ready to proceed with their publication.

## Non-State Public Bids and Contracts

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Timber and Tourism Steering Committee is requesting proposals to:

- A. Edit text, and develop overall design and layout for the guidebook.
- B. Develop and/or acquire all necessary photos, graphics, tables etc. in order to properly illustrate the important and key concepts contained in the text.
- C. Present draft versions of the guidebook to the Timber and Tourism Steering Committee for their review and approval prior to the final edit.
- D. Conduct a final edit, typeset and paste-up of all pages and preparation necessary prior to printing.
- E. Provide a reliable estimate of the final cost of printing a 4 color version of the guidebook. One estimate for 5,000 copies and one estimate for 10,000 copies.

It is estimated that the cost of this project shall not exceed \$25,000. The project will be completed no later than December 31, 1993. Proposals must be received in the offices of the Arrowhead Regional Development Commission no later than 4:30 p.m. Friday, August 27, 1993.

The formal request for proposal, which more completely explains the project may be requested from:

John Judd  
Arrowhead Regional Development Commission  
Community and Environmental Resources Division  
330 Canal Park Drive  
Duluth, MN 55802  
Telephone: 218 722-5545

## Metropolitan Waste Control Commission

### Proposals Sought for the Purchase, Delivery and Installation of a Sewer Televising Equipment Inspection System

**Advertisement: Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101-1633, (612) 222-8423, Fax 229-2083, TDD 229-3760**

Sealed proposals will be received in the office of the Metropolitan Waste Control Commission, Mears Park Centre, 6th Floor, 230 East 5th Street, St. Paul, Minnesota 55101 until 2:00 p.m., Thursday, July 29, 1993, at which time and place bids will be publicly opened and read aloud for the purchase and delivery of a Sewer Televising Equipment Inspection System, all in accordance with the specifications and bid forms available at the MWCC's office in St. Paul, Minnesota.

Technical specifications can be obtained by writing to the MWCC at the above address or by calling Bea Villegas at (612) 229-2032.

The MWCC reserves the right to accept or reject any or all bids or any part of the bid. Bids must be typewritten and signed in ink on the form provided.

By the Order of the Metropolitan Waste Control Commission  
Mr. Gordon O. Voss, Chief Administrator

## City of St. Paul

### Ramsey County Purchasing Office

#### Environmental Impact Study

The City of Saint Paul Department of Public Works is seeking proposals for a firm to complete a Scope Document for an Environmental Impact Study (EIS) on Ayd Mill Road (from Interstate 35E to Interstate 94) and at City's option, complete the EIS for the preferred alternative. Successful proposer will be required to explore a variety of alternative configurations/design concepts, determine the environmental and neighborhood impacts of the alternatives and help determine and recommend the best solution.

Preproposal conference August 5, 1993. Proposal opening August 18. Review and interviews late August. Contract award by September 20, 1993.

Interested proposers may contact the Joint Purchasing Division, 515 City Hall, 15 West Kellogg Blvd., St. Paul, MN 55102, 266-8900 for proposal specifications. Susan Feuerherm, 266-8908.

# Minnesota's Bookstore

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## Publications, Services, Subscriptions

### Order Form on Back—For Information, Call 297-3000

**1991 Minnesota Rules.** Eleven volume set includes 1992 Supplement as a subscription service. Stock #18-100, \$200 + tax (Minnesota residents only). Individual volumes can be purchased at \$20.00 + tax.

**1992 Minnesota Session Laws.** Two volume set includes laws passed during the 1992 session. Stock #18-12, \$30.00 + tax.

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

**1989 Pollution Control Laws.** Laws dealing with water pollution, disposal facilities, solid waste management, the Minnesota Environmental Rights Act, recycling, and more. Code #2-21, \$24.95.

**1992 Hazardous Waste Rules.** Governs the production, storage, transportation and disposal of hazardous waste. *Minnesota Rules* Chapter 7001, 7045 and 7046. Code #3-71, \$16.95.

**Real Estate Rules 1991.** Chapters 2800, 2805 and 2810 from the *Minnesota Rules*. Essential for both students and established brokers and salespersons. It contains all education and licensing requirements. Code #3-99, \$6.00.

**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 #14-13, \$15.00.

### OTHER PUBLICATIONS

**Secrets of the Congdon Mansion.** A complex, intriguing murder case set in one of Minnesota's most spectacular mansions. Now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball. Code #19-56, \$5.95.

**A Paddler's Guide to the Boundary Waters Canoe Area.** Advice on what to bring along on canoe trips, regulations, canoe tips and detailed information for self-guided tours. Includes detailed maps and descriptions of 31 wilderness canoe routes in the Superior National Forest of Northern Minnesota. Stock #19-17, \$4.95.

**Minnesota Geographic Names.** Names of places by the thousand plus interesting historical tidbits included in this 800+ page book. Minnesota history buffs—this is for you! Stock #17-13, \$12.95.

**Room at the Inn Minnesota.** The only guide to more than 60 historic Bed & Breakfast homes, hotels and country inns. Stock #19-72, \$9.95.

**Minnesota Manufacturer's Directory, 1993.** More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchase managers, and four manufactured products. Stock #40-2, \$90.00.

**1993 Lake Map Index.** Listing over 4,000 lake maps. Free.

### SUBSCRIPTIONS:

**State Register.** Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription: Monday edition only \$150.00; Monday and three State Register Contracts Supplements \$195; 13-week trial (includes all four editions) \$60.00.

**State Register Binder.** Durable 3½ inches, forest green binders imprinted with the *State Register* logo. \$10.00 + tax.

**Workers Compensation Decisions.** Volume 48. Selected landmark decisions of the Worker's Compensation Court of Appeals during the period Jan. '93 through June '93. The subscription rate for this volume is \$195.00.

### SERVICES:

**Mailing Lists.** Lists of Minnesota licensed professionals and permit holders. Write or call (612) 297-2552 for a free mailing list catalog which contains available lists, selections, formats, pricing and ordering information.

**American Flag.** Perfect for home or office. 3' x 5' with embroidered stars. Heavy nylon bunting. Code No. 6-1. \$21.00 + tax.

