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STATE OF
MINNESOTA

Register

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VOLUME 2, NUMBER 35

MARCH 6, 1978

State Register

Notice of *State Register* Format Changes

Beginning with *State Register* Vol. 2, issue No. 26, dated January 2, 1978, the Office of the State Register will be making the following enhancements in the *State Register* format:

- Highlights on the front cover will be arranged under section headings, as they appear within the *State Register*, and will include page numbers. The Highlights section will also include a notation directing readers to a more complete table of contents within the issue.
- An introductory statement will be included for each section of the *State Register*. These statements will give a brief explanation of the kinds of material contained in the section; effective lead times for notices of hearing, rules, or executive orders; and cites to applicable statutes.
- A new key using strike outs to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules will indicate changes from original language to proposed new language. Strike outs and underlining in adopted rules will indicate changes from proposed to adopted language.
- Guide rule-numbers will be printed, when applicable, at the outside top of each page to indicate the beginning rule number on the left hand pages and the ending rule number on the right hand pages.
- Chapter and rule numbers that begin the text of an adopted or proposed rule will be printed in bold face.

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The *State Register* is the official publication of the State of Minnesota. It contains all executive orders, rules and notices filed with the Office of the State Register as of noon of the second Wednesday preceding the Monday of publication. The text of documents published in the *State Register* is to be accorded the following presumptions:

- (1) The rule or order was duly adopted, issued or promulgated;
- (2) The rule or order was duly filed with the Secretary of State and available for public inspection; and
- (3) The copy of the rule or order published in the *State Register* is a true copy of the original.

Judicial notice shall be taken of material published in the *State Register*.

The *State Register* is published weekly, on Monday, by the State of Minnesota, Department of Administration, Office of the State Register, Suite 203, 95 Sherburne Avenue, St. Paul, Minnesota 55103, pursuant to Minn. Stat. § 15.0411. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630.

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Pursuant to the provisions of Minn. Stat. § 15.0411 to § 15.052, all rules, amendments to rules, or suspensions or repeals of rules become effective after all requirements described in Minn. Stat. § 15.0412, subd. 4 have been met and five working days after publication in the *State Register*, unless a later date is required or specified.

If the rule as adopted does not differ from the proposed rule as previously published in the *State Register*, a notice of adoption as proposed and a citation to the previous publication is considered sufficient as publication of the adopted rule, suspension or repeal.

If the rule as adopted differs from the proposed rule, the adopted rules or subdivisions thereof which differ from the proposed rule are published along with a citation to the *State Register* publication of the proposed rule.

Pursuant to Minn. Stat. § 15.0412, subd. 5, temporary rules take effect upon approval of the Attorney General. As soon as practicable, notice of the Attorney General's decision and the adopted temporary rule are published in the *State Register*, as provided for adopted rules. Temporary rules are effective for only 90 days and may be reissued for 90 days.

Board of Medical Examiners Adopted Rules Relating to Continuing Medical Education

The rules published at the *State Register*, volume 2, number 8, page 309, August 29, 1977 (2 S.R. 309) are adopted and are identical in every respect to their proposed form, with the following amendments:

7 MCAR § 4.012 Continuing Medical Education.

A. During three year cycles, each physician licensed to practice by this Board shall obtain 150 hours of continuing medical education credit as required by this rule.

1. For the purpose of administering this rule, the Board will establish three classes of licensees as follows:

Class I. Licensees in this class will be required to complete 50 hours of continuing education by December 31, 1978. These hours shall include at least 20 hours of Category 1 credit. However, no more than 15 hours of credit

7 MCAR § 4.012

may be obtained in any one of the other categories. Thereafter, the licensees in this class shall report to the Board at three year intervals.

Class II. Licensees in this class will be required to complete 100 hours of continuing education by December 31, 1979. These hours shall include at least 40 hours of Category 1 credit. However, no more than 30 hours of credit may be obtained in any one of the other categories. Thereafter, the licensees in this class shall report to the Board at three year intervals.

Class III. Licensees in this class shall be required to complete 150 hours of continuing education by December 31, 1980. These hours shall be obtained in such a way as to fully comply with the requirements of 7 MCAR § 4.012 B. Thereafter, the licensees in this class shall continue to report to the Board at three year intervals.

2. The Board shall place licensees in these three classes so as to create classes that are approximately equal. No other standard shall be used in determining the class into which licensees shall be placed.

3. Each person initially licensed after the effective date of this rule shall commence his or her first three year cycle on January 1 following the date of initial licensure.

B. Continuing medical education credit may be obtained from the following activities:

Category 1. No less than 60 hours of credit shall be obtained in any cycle by attendance at educational activities approved by the Board pursuant to 7 MCAR § 4.012 D.

Category 2. No more than 45 hours of credit may be obtained in any cycle through educational activities sponsored by a hospital, clinic, or medical or osteopathic society and not meeting the standards contained in category 1.

Category 3. No more than 45 hours of credit may be obtained in any cycle through medical teaching of medical students, residents, practicing physicians and allied health professionals.

Category 4. No more than 40 hours of credit may be obtained in any cycle for papers, publications, books, lectures and exhibits.

1. Papers, publications and books. Ten hours of credit shall be granted for a scientific paper or book chapter published in a scholarly medical journal or book.

KEY: PROPOSED RULES SECTION: Underlining indicates additions to pre-existing rule language. **Strike outs** indicate deletions from pre-existing rule language. If all proposed rules in a set are totally new (i.e. non-amendatory) the entire set is printed in standard type face. **RULES SECTION:** Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

RULES

7 MCAR § 4.012

2. Lectures. An hour of credit shall be granted for each hour spent lecturing at a course which would qualify for approval under these rules.

3. Exhibits and non-published papers. Ten hours of credit shall be granted for a paper or exhibit presented before a professional medical or allied health audience. Credit may be claimed only once for each scientific material presented.

Category 5. No more than 45 hours of credit may be obtained by engaging in professional reading, peer patient care review activities, self assessment examinations sponsored by a professional organization recognized by the Board as maintaining a significant level of quality control, and preparation for certification or recertification examinations administered by a national specialty board.

Approval of courses for credit.

C. Persons or organizations intending to offer courses for continuing education credit not included under 7 MCAR § 4.012 D.6 ~~may should~~ apply to the Board in advance for approval. Any person or organization may submit a course for approval by the Board. The following information shall be provided to the Board, as well as any other information which the Board may reasonably require for the purpose of evaluating the course for which approval is sought.

1. The name and address of the organization sponsoring the course.

2. A detailed description of the course content including a time schedule for the course.

3. The name of each instructor or person making a presentation and his or her credentials.

4. The location — including the name and address of the facility at which the course will be conducted.

D. The Board shall grant Category 1 continuing education credit for any educational activity which meets the following standards:

1. The educational activities shall have significant intellectual or practical content dealing primarily with matter directly related to the practice of medicine or to the professional responsibility or ethical obligations of the participants.

2. Each person making a presentation shall be qualified by practical or academic experience to teach the subject he or she covers.

3. Participants shall attend educational activities in a

classroom, laboratory, or setting suitable for the activity. Video, motion picture or sound tape presentations may be used.

4. Ordinarily, credit will not be given for speeches given at lunches or banquets.

5. One hour of credit shall be given for each 60 minutes actually spent on educational activities.

6. Any course planned, sponsored or co-sponsored by a medical or osteopathic medical school, state or national medical or osteopathic association, or a national medical specialty board shall be presumed to meet the above standards. This presumption may be withdrawn by the Board if it determines that a school, association or specialty board has sought credit for a course not meeting these standards.

E. The Board shall state in writing its reasons for denying any application for approval of a course for credit.

F. The Board may accept certification or recertification by an American specialty board in lieu of compliance with the continuing education requirements during the cycle in which certification or recertification is granted. The Board may also accept certification of other state or national medical groups whose continuing medical education requirements are the equivalent of or greater than those of this Board in lieu of compliance with these standards.

G. Upon application, the Board shall issue retroactive approval of any educational activity offered after January 1, 1977 which meets the standards for approval contained in this rule.

H. Licensees shall, at the relicensure period coinciding with the end of their cycle, provide a signed statement to the Board on a form provided by the Board indicating compliance with this rule. The Board may, in its discretion, require such additional evidence as is necessary to verify compliance with the rule.

A licensee failing to submit a statement or who submits a statement which, on its face, indicates non-compliance with this rule may be subject to the disciplinary provisions contained in 7 MCAR § 4.012 J.

I. Exemptions. The Board may grant an exemption from these continuing education requirements to a licensee for ~~either of the following reasons: 1 full time participation in residency or fellowship training at a professionally accredited institution; or 2 either circumstances which in the opinion of the Board obviate or minimize the need for continuing education.~~

J. The Board may refuse to renew, suspend, condition,

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limit or qualify the license of any person whom the Board determines has failed to comply with the requirements of this rule.

If the Board refuses to renew a license, a hearing shall be held only if the licensee submits a written request for a hearing within thirty (30) days after receiving notice of the refusal to renew. Any such hearing shall be conducted pursuant to the provisions of the Minnesota Administrative Procedure Act.

Department of Agriculture Adopted Rules Governing Compensation for Livestock Destroyed by Endangered Species

The following adopted rules reflect the changes from their proposed form which appeared in Volume 2, *State Register*, page 694.

Chapter Twenty-Four: 3 MCAR §§ 1.0583-1.0585

3 MCAR § 1.0583 General.

A. Purpose and Authority. The rules contained herein are prescribed pursuant to Minn. Stat. § 3.737 (1977 Supp.) (Laws of 1977, ch. 450, §§ 4 and 5) by the Commissioner of Agriculture to implement procedures to compensate livestock owners for livestock that is destroyed, or is crippled and must be destroyed, by an animal classified as endangered under the federal Endangered Species Act of 1973. The procedures specified in these rules are in addition to those set forth in the act itself.

B. Definitions. For purposes of these rules, the following definitions shall apply:

~~1. "The act" means Laws of Minnesota, 1977, Chapter 450, Secs. 4 and 5;~~

1. 2. "Claim form" means the form provided by the commissioner to be completed by the County Extension Agent, the conservation officer and the livestock owner, containing information upon which payment for a loss shall be based;

3 MCAR § 1.0584

~~2. 3.~~ "Commissioner" means the Commissioner of Agriculture or his authorized agent;

~~3. 4.~~ "Conservation officer" means a conservation officer of the Department of Natural Resources or his designee;

~~4. 5.~~ "County extension agent" means the University of Minnesota Agricultural Extension Service's County Extension Director or his designee for the county in which the loss occurred;

~~5. 6.~~ "Endangered species" means an animal classified as endangered under the federal Endangered Species Act of 1973 at the time Minn. Stat. § 3.737 (1977 Supp.) was enacted;

~~6. 7.~~ "Livestock" means cattle, sheep, poultry, swine, horses, mules, and goats;

~~7. 8.~~ "Livestock owner" means any person individual, firm, corporation, co-partnership, or association with an interest in livestock suspected of being destroyed, or crippled so that it must be destroyed, by an animal classified as endangered species; and, under the federal Endangered Species Act of 1973.

~~8. 9.~~ "Loss" means livestock destroyed, or crippled so that it must be destroyed, by an animal classified as endangered species. under the federal Endangered Species Act of 1973; and;

~~10. "Person" means any individual, firm, corporation, co-partnership, or association.~~

§ 1.0584 Reporting and investigation.

A. It shall be the responsibility of the livestock owner to notify either the conservation officer or the county extension agent of a suspected loss within two weeks of the effective date of these rules or 24 hours of the discovery of a loss, whichever is later. The livestock owner shall provide all information required to investigate the loss to the conservation officer or the county extension agent. A telephone call or personal contact shall constitute notification.

B. The conservation officer or the county extension agent contacted by the livestock owner shall be responsible for completing the claim forms provided by the Commissioner.

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C. The conservation officer ~~or and~~ the county extension agent shall secure from the livestock owner a signed statement setting forth:

~~1. a-~~ All persons owning an interest in the livestock involved;

~~2. b-~~ The existence and details of any insurance coverage on the livestock;

~~3. e-~~ A statement that, in the owner's best judgment, the destroyed livestock was killed by an endangered species, and the facts underlying that judgment; and,

~~4. d-~~ A description of the livestock owner's plan to dispose of the carcass, which must be approved by the conservation officer or the county extension agent.

D. The conservation officer ~~or and~~ the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the claim form regarding whether the livestock was destroyed or crippled by an endangered species, the type of endangered species that caused the loss, and the owner's eligibility for compensation under these rules. Such a finding shall be based upon physical and circumstantial evidence, including ~~but not limited to:~~

1. The livestock carcass presence and condition;

2. Animal tracks;

3. The number and location of animal bites on the carcass;

4. The area of the state where the loss occurred;

5. Sightings of endangered species in the area; and,

6. Any other circumstances determined to be pertinent, by the conservation officer and the county extension agent.

The absence of any affirmative evidence shall may be grounds for denial of a claim.

§ 1.0585 Payment.

A. ~~Upon a finding by the conservation officer and the county extension agent that the loss did occur, the type of endangered species that caused the loss, and the livestock owner's eligibility for compensation under the act, the~~ conservation officer and the county extension agent shall make a written finding on the claim form of the actual fair market value of the destroyed livestock, not ~~be~~ to exceed \$400 per

animal, based upon any of the following criteria deemed to be pertinent by the county extension agent or the conservation officer:

1. The number of livestock determined by the conservation officer ~~and~~ or the county extension agent in the loss;

2. The type of livestock;

3. The breed and breeding of the livestock;

4. The estimated size and weight of the livestock;

5. The estimated age of the livestock;

6. Registration of the livestock, upon proof of registration; ~~and;~~

7. Selling price of livestock at the nearest public stockyard at the time of loss; and,

8. The replacement cost of the livestock.

B. Upon completion and signing of the claim form, the county extension agent or the conservation officer shall submit said claim form to the commissioner for review and payment ~~of the claim.~~ The commissioner shall ~~review the claim form for completeness and return any incomplete claim form not properly completed to the initiating authority, and indicate~~ indicating the information necessary for proper completion. ~~The commissioner shall return a copy of the properly completed claim form to the conservation officer and the county extension agent upon issuance of a payment to the livestock owner.~~

C. If insurance coverage exists on the livestock, the commissioner shall withhold payment under these rules ~~the act~~ until the insurance claim has been paid, and evidence of payment has been submitted to the commissioner; at which time that insurance payment shall be deducted from the determined actual fair market value for \$400 per animal, whichever is less. In no case shall the payment exceed \$400 per animal.

D. ~~Once insurance claims have been satisfied and the claim form has been determined to be complete, the~~ commissioner shall then make payment and return a copy of the claim form to the livestock owner(s), as their interests may appear, the conservation officers, and the county extension agent.

E. The commissioner shall make only the one payment for any single livestock loss.

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Department of Public Welfare Bureau of Income Maintenance

DPW 47

Adopted Medical Assistance Rule

The rule published at *State Register* Vol. 2, No. 12, p. 676, September 26, 1977, (2 S.R. 676), is adopted and is identical in every respect to the proposed form, with the following amendment:

DPW 47 C. Eligibility factors under the medical assistance program.

5. Relative responsibility. Within the limitations provided by state law and this rule, the spouse of an applicant ~~or and the parent of an applicant under 18 years of age shall be charged with the financially responsible for cost of medical services, before Medical Assistance shall be available. The local welfare agency shall not withhold, delay or deny Medical Assistance because of responsible relative deemed able to contribute fails or refuses to accept financial responsibility. When the local welfare agency determines that a responsible relative is able to contribute without undue hardship to himself or his immediate family but refuses to contribute, the local welfare agency shall exhaust all available administrative procedures to obtain that relative's contribution; When such procedures fail, the local welfare agency shall consult its county attorney regarding possible legal action.~~

~~a. The local welfare agency shall assess the income and resources of an applicant, together with that of his/her spouse, in determining eligibility for Medical Assistance, subject to the following limitations:~~

a. In determining an applicant's eligibility for medical assistance, the income and resources of a responsible relative shall be considered in the following manner:

~~(1) If spouses are living separately, the local welfare agency may determine that the marital relationship has experienced a breakdown likely to make spousal support impractical.~~

~~(a) Where there is joint ownership of either real or personal property in excess of statutory allowances, the~~

local welfare agency cannot conclude that a total breakdown of the marital relationship has taken place.

(1) Income and resources of spouses living together in the same household are to be considered available one to the other without proof of actual contribution. Income and resources of a parent are to be considered available to a child under 18 years of age.

(2) If an applicant for or recipient of medical assistance does not reside in the same household as a spouse, only the income and resources actually contributed by the spouse may be considered in determining medical assistance eligibility for the applicant or recipient.

b. In determining the liability of a financially responsible relative, the local welfare agency shall proceed in the following manner:

(1) When the local welfare agency determines that a responsible relative is able to contribute without undue hardship to himself or his immediate family but refuses to contribute, the local welfare agency shall exhaust all administrative procedures to obtain that relative's contribution. When such procedures fail, the local welfare agency shall consult its county attorney regarding possible legal action.

(2) In all cases when spouses are separated due to one spouse's need for care in a nursing home or state hospital, the following schedule of contribution shall be applied to determine the responsibility of the non-institutionalized spouse for support, out of his/her own income (earned or unearned). The local welfare agency may vary the contribution schedule for a specific case on a showing of undue hardship.

MONTHLY INCOME	CONTRIBUTION/MONTH
\$400 to \$449	\$15
\$450 to \$499	\$30
\$500 to \$549	\$50
\$550 to \$599	\$70
\$600 to \$649	\$90

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\$650 to \$699
Over \$700

\$150 plus 100% of the
excess over \$700

(3) If the responsible relative fails to contribute support, after the local welfare agency notifies him of his obligation to do so, the local welfare agency shall notify the county attorney in an effort to commence legal action against that relative.

(4) The amount of support recoverable from a responsible relative (other than an absent parent) shall not exceed the amount of assistance paid on behalf of the recipient.

(5) The local welfare agency shall not withhold, delay or deny Medical Assistance because a responsible relative deemed able to contribute fails or refuses to accept financial responsibility.

Energy Agency Adopted Rules Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Electric Generating Facilities and Large High Voltage Transmission Lines

The following rules were published at *State Register*, volume 2, number 31, pages 1444-1457, February 6, 1978 (2 S.R. 1444). They are reprinted here with printer's and proofreader's errors corrected and serve as errata to that prior publication:

Chapter Six: EA 601-638 641

EA 601 Definitions. For purposes of these rules, the following definitions shall apply:

A. "Adjusted Net Demand" means system demand, minus firm purchases, plus firm sales;

B. "Adjusted Net Capability" means net generating capacity, minus participation sales, plus participation purchases;

C. "Agency" means the Minnesota Energy Agency;

D. "Annual Adjusted Net Demand" means annual system demand, minus firm purchases, plus firm sales;

E. "Annual Electrical Consumption" means sales of kilowatt-hours of electricity to ultimate consumers over a twelve-month period beginning January 1 and ending December 31 of the forecast year;

F. "Annual System Demand" means the highest system demand occurring during the twelve-month period beginning May 1 of the forecast year;

G. "Director" means the director of the Minnesota Energy Agency;

H. "Firm Purchases" and "Firm Sales" mean the amount of power to be purchased or sold which is intended to have assured availability;

I. "Forecast Years" means the 26 calendar years consisting of the calendar year the application is filed with the Agency, the ten previous calendar years, and the fifteen subsequent calendar years;

J. "Heat Rate" means a measure of average thermal efficiency of an electric generating facility expressed as the ratio of input energy per net kilowatt-hour produced, computed by dividing the total energy content of fuel burned for electricity generation by the resulting net kilowatt-hour generation;

K. "Large Electric Generating Facility (LEGF)" means any electric power generating ~~plant~~ unit or combination of ~~plants~~ units at a single site and associated facilities designed for or capable of operation at a combined capacity of 50,000 kilowatts or more, or any facility of 5,000 kilowatts or more which requires oil, natural gas, or natural gas liquids as a fuel and for which an installation permit has not been applied for by May 19, 1977, pursuant to Minn. Reg. APC 3(a);

L. "Large High Voltage Transmission Line (LHVTL)" means a conductor of electrical energy and associated facilities designed for and capable of operation at a nominal voltage of 200 kilovolts or more with more than 50 miles (80.4 kilometres) of its length in Minnesota, or at a nominal voltage of 300 kilovolts or more with more than 25 miles (40.2 kilometres) of its length in Minnesota. Associated facilities shall include, but not be limited to, insulators, towers, and substations and terminals operating at the nominal voltage;

M. "Load Center" means that portion or those portions

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of a utility's system where electrical energy demand is concentrated;

N. "Load Factor" means the ratio of the average load in kilowatts supplied during a designated period to the maximum load in kilowatts that was supplied during that designated period;

O. "Minnesota Service Area" means that portion of a utility's system lying within Minnesota;

P. "Net Generating Capacity" means the total number of kilowatts, less station use, that all the generating facilities of a system could supply at the time of its maximum system demand. The capability of the generating units which are temporarily out of service for maintenance or repair shall be included in the net generating capacity;

Q. "Net Reserve Capacity Obligation" means the annual adjusted net demand multiplied by the percent reserve capacity requirement;

R. "Participation Power" means power and energy which are sold from a specific generating unit or units for a period of six or more months on a continuously available basis (except when such unit or units are temporarily out of service for maintenance during which time the delivery of energy from other generating units is at the seller's option);

S. "Participation Purchases" and "Participation Sales" mean purchases and sales under a participation power agreement or a seasonal participation power agreement;

T. "Peak Demand" means the highest system demand occurring within any designated period of time;

U. "Promotional Practices" means any actions or policies by an applicant, except those actions or policies which are permitted or mandated by statute or rule, which directly or indirectly give rise to the demand for the facility including, but not limited to, advertising, billing practices, promotion of increased use of electrical energy, and other marketing activities;

∪ V. "Seasonal Adjusted Net Demand" means seasonal system demand, minus firm purchases, plus firm sales;

∩ W. "Seasonal Participation Power" means participa-

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tion power sold and bought on a seasonal (summer or winter) basis;

∩ X. "Seasonal System Demand" means the maximum system demand on the applicant's system which occurs or is expected to occur in any ~~normal six~~ summer season months or ~~six~~ winter season months;

∩ Y. "Summer Season" means the period from May 1 through October 31;

∩ Z. "System" means the ~~geographic~~ service area where the utility's ultimate consumers are located and that combination of generating, transmission, and distribution facilities which makes up the operating physical plant of the utility, whether owned or nonowned, for the delivery of electrical energy to ultimate consumers;

∩ AA. "System Demand" means the number of kilowatts which is equal to the kilowatt-hours required in any clock hour, attributable to energy required by the system during such hour for supply of firm energy to ultimate consumers, including system losses, and also including any transmission losses occurring on other systems and supplied by the system for transmission of firm energy, but excluding generating station uses and excluding transmission losses charged to another system;

∩ BB. "Ultimate Consumers" means consumers purchasing electricity for their own use and not for resale;

∩ CC. "Utility" means any entity engaged in the generation, transmission or distribution of electrical energy, including but not limited to a private investor-owned utility or a public or municipally-owned utility; and

∩ DD. "Winter Season" means the period from November 1 through April 30.

EA 602 Purpose of rules. The purpose of these rules is to specify the content of applications for certificates of need and to specify criteria for the assessment of need for large electric generating facilities and large high voltage transmission lines. In accordance with Minn. Stat. § 116H.13 subd. 2, no LEGF or LHVTL shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to Minn. Stat. §§ 116H.01 through 116H.15 and consistent with the criteria for assessment of need.

EA 603 Applicability of rules. Each person applying for a

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certificate of need for an LEGF or an LHVTL shall provide all information required by these rules. A certificate of need is required for each new LEGF, each new LHVTL, and for each expansion of either such facility, which expansion is itself of sufficient size to come within the definition in either rule EA 601 ~~J, K,~~ or rule EA 601 ~~K, L.~~

EA 604 Application procedures and timing.

A. Each applicant for a certificate of need shall apply in a form and manner prescribed by the director.

B. A minimum of fifty (50) bound copies and one (1) unbound copy of the application ~~must~~ shall be filed with the director. The director may require additional bound copies, not to exceed 100 bound copies total. All documents, forms, and schedules filed with the application ~~must~~ shall be typed on 8½"×11" paper except for drawings, maps, and similar materials. ~~The date of preparation and the applicant's name shall appear on each page of the application, as well as on each document filed with the application.~~ Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these rules. The date of preparation and the applicant's name shall appear on the title page, as well as on each document filed with the application.

C. Subsequent to the filing of an application, any changes or corrections to the application shall comply with rule EA 604 B. as to the number of copies and size of documents. In addition, each page of a change or correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the hearing examiner, and the remaining copies shall be submitted to the director.

D. Each application for a certificate of need shall be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter shall specify the type of facility for which a certificate of need is requested; and the number of copies of the application filed; ~~and the rules and subdivisions thereof to which the applicant has responded.~~

E. A hearing examiner shall be ~~appointed~~ assigned, and a public hearing shall be scheduled to commence no later than eighty days after the receipt of the application, in accordance with Minnesota Energy Agency Rules of Procedure Governing Certificate of Need Program, Minn. Regs. EA 500 et seq., and the Hearing Examiner Rules for Contested Case Procedures, Minn. Regs. HE 201 et seq.

F. A decision on an application for a certificate of need shall be made by the director no later than six months from

the receipt of the application, provided that the application as received is substantially complete.

G. The director shall notify the applicant within 15 days of the receipt of an application if the application is not substantially complete. Upon such notification, the applicant may correct any deficiency and may resubmit the application. A decision shall be made upon the revised application within six months of the date of resubmission, assuming it is then substantially complete.

H. Prior to the submission of an application, a person may be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in the request that the data requirement 1) is unnecessary to determine the need for the proposed facility or 2) may be satisfied by submission of another document. A request for exemption must be filed at least 20 days prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt including reasons for ~~his~~ the decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

EA 605 Filing fees and payment schedule.

A. The fee for processing an application shall be:

A 1. \$10,000 plus \$50 for each megawatt of plant capacity for LEGF's; or

B 2. \$10,000 plus \$40 per kilovolt of ~~rated capacity~~ design voltage for LHVTL's;

plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility. In no event shall the total fee required of any applicant exceed \$50,000.

B. Twenty-five percent of the fee set according to either item A 1 or B A 2 of rule EA 605 shall accompany the application, and the balance shall be paid in three equal installments within 45, 90, and 135 days after submission of the application. The applicant shall be notified prior to the time its application is acted upon by the director of any additional fees, which fees shall be paid within 30 days of notification. The billing of such additional fees shall be accompanied by an itemized document showing the necessity for the additional assessment.

C. No certificate of need shall be issued until all fees are paid in full.

EA 611 Criteria for assessment of need.

A. Purpose of the criteria. The criteria for assessment

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of need shall be used by the director in the determination of the need for a proposed large energy facility pursuant to Minn. Stat. §§ 116H.01 through 116H.15. The factors listed under each of the criteria ~~below~~ set forth herein at rule EA 611 C shall be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules. The director shall make a specific written finding with respect to each of the criteria.

B. Consideration of Alternatives. The director shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in rule EA 611 C.

B C. Criteria. A certificate of need shall be granted to the applicant if it is determined that:

1. the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states; ~~In making this determination, the director shall~~ considering:
 - a. the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;
 - b. the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;
 - c. the effects of promotional practices of the applicant which may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;
 - d. the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and
 - e. the effect of the proposed facility, or a suitable modification thereof, in making ~~more~~ efficient use of resources;
2. a more reasonable and prudent alternative to the proposed facility has not been demonstrated; ~~In making this determination, the following factors~~

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~~shall be by a preponderance of evidence on the record by parties or persons other than the applicant, considered~~ ing:

- a. the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;
 - b. the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;
 - c. the ~~impact~~ effects of the proposed facility upon the natural and socioeconomic environments compared to the ~~impacts~~ effects of reasonable alternatives; and
 - d. the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;
3. it has been demonstrated by a preponderance of the evidence on the record that the consequences of granting the certificate of need are more favorable than the consequences of denying the certificate the proposed facility, or a suitable modification thereof, will provide benefits to society in a manner compatible with protection of the natural and socioeconomic environments, including human health, considering:
- a. the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;
 - b. the ~~impact~~ effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the ~~impact~~ effects of not building the facility;
 - c. the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and
 - d. the socially beneficial uses of the output of the proposed facility, or a suitable modification

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thereof, including its uses to protect or enhance environmental quality;

and that

4. it has not been demonstrated on the record that the design, construction or operation of the proposed facility will fail to comply with those relevant policies, rules and regulations of other state and federal agencies and local governments ~~which have been considered during the hearing process.~~

EA 631 Contents of application.

A. Large electric generating facilities. Each application for a certificate of need for an LEGF shall include all of the information required by rules EA 632, 633, and 635-639.

B. Large high voltage transmission lines. Each application for a certificate of need for an LHVTL shall include all of the information required by rules EA 632 and 634-639. If, however, a proposed LHVTL is designed to deliver electric power to a particular load center within the applicant's system, the application shall contain the information required by rule EA 635 for that load center rather than for the system as a whole.

C. Joint ownership and multi-party use. If the proposed LEGF or LHVTL is to be owned jointly by two or more utilities or by a pool, all information required by rules EA 632, 635-637 and 639 shall be provided by each joint owner for its system. If the facility is designed to meet the long-term needs (in excess of 50 megawatts) of a particular utility which is not to be an owner, that utility shall also provide all information required by rules EA 632, 635-637 and 639.

EA 632 Need summary and additional considerations.

A. Need summary. Each application shall contain a summary of the major factors which justify the need for the proposed facility. This summary shall not exceed, without the approval of the director, 15 pages in length, including text, tables, graphs and figures.

B. Additional considerations. Each application shall contain an explanation of the relationship of the proposed facility to each of the following socioeconomic considerations:

1. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;
2. promotional activities which may have given rise to the demand for the facility; and
3. the effects of the facility in inducing future development.

EA 633 Description of proposed large electric generating facility and alternatives. Each application for a proposed LEGF shall include the following information:

A. a description of the ~~type of~~ facility, including:

1. a description of the generating capacity of the facility, which includes a discussion of the effect of the economies of scale on the facility size and timing;
2. a description of the anticipated operating cycle, including the expected annual capacity factor;
3. the type of fuel used, including:
 - a. the reason for the choice of fuel;
 - b. projection of the availability of this fuel type over the projected life of the facility; and
 - c. alternate fuels, if any; ~~and~~
4. the anticipated heat rate of the facility; and
5. to the fullest extent known to the applicant, the anticipated areas where the proposed facility could be located;

B. a discussion of the availability of alternatives to the facility, including but not limited to:

1. purchased power;
2. increased efficiency of existing facilities, including transmission lines;
3. new transmission lines; ~~and~~
4. new generating facilities of a different size or using a different energy source (fuel oil, natural gas, coal, nuclear fission, and the emergent technologies); and
5. any reasonable combinations of the alternatives listed in rule EA 633 B.1. through 4;

C. for the proposed facility and for each of the alternatives provided in response to rule EA 633 B. that could provide electric power at the asserted level of need, a discussion of:

1. its capacity cost in current dollars per kilowatt;
2. its service life;
3. its estimated average annual availability;

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4. its variable operating and maintenance costs in current dollars per kilowatt-hour;
 5. the total cost in current dollars of a kilowatt-hour provided by it; ~~and~~
 6. its efficiency, expressed for a generating facility as the estimated heat rate, or expressed for a transmission facility as the estimated losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations; and
- 6 7. any major assumptions made in providing the information in items 1. through ~~5.~~ 6. of rule EA 633 C. above;

D. a map (of appropriate scale) showing the applicant's system; and

E. such other information about the proposed facility and each alternative as may be relevant to determination of need.

EA 634 Description of proposed large high voltage transmission line and alternatives. Each application for a proposed LHVTL shall include the following information:

A. a description of the type and general location of the proposed line, including:

1. the design voltage;
2. the number, the size(s) and the type(s) of conductor(s);
3. the expected losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations;
4. the approximate length of the proposed transmission line and the portion of that length in Minnesota; ~~and~~
5. the approximate location of DC terminals or AC substations, which information shall be on a map of appropriate scale; and
6. a list of all counties reasonably likely to be affected

by construction and installation of the proposed line;

B. a discussion of the availability of alternatives to the facility, including but not limited to:

1. new generation;
2. upgrading of existing transmission lines or existing generating facilities;
3. transmission lines with different design voltages or with different numbers, sizes and types of conductors;
4. transmission lines with different terminals or substations;
5. double circuiting of existing transmission lines;
6. if the proposed facility is for DC (AC) transmission, an AC (DC) transmission line; ~~and~~
7. if the proposed facility is for overhead (underground) transmission, an underground (overhead) transmission line; and
8. any reasonable combinations of the alternatives listed in rule EA 634 B.1. through 7;

C. for the proposed facility and for each of the alternatives provided in response to rule EA 634 B. that could provide electric power at the asserted level of need, a discussion of:

1. its total cost in current dollars;
2. its service life;
3. its estimated average annual availability;
4. its estimated annual operating and maintenance costs in current dollars; ~~and~~
5. its efficiency, expressed for a transmission facility as the estimated losses under projected maximum loading and under projected average loading in the

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length of the transmission line and at the terminals or substations, or expressed for a generating facility as the estimated heat rate; and

5 6. any major assumptions made in providing the information in items 1. through 4. 5. of rule EA 634 C. above;

D. a map (of appropriate scale) showing the applicant's system or load center to be served by the proposed LHVTL; and

E. such other information about the proposed facility and each alternative as may be relevant to determination of need.

EA 635 Peak demand and annual electrical consumption forecast.

A. Scope. Each application shall contain pertinent data concerning peak demand and annual electrical consumption within the applicant's service area and system, as provided in rule EA 631, including but not limited to the data requested in subsection B. of rule EA 635. When recorded data is not available, or when the applicant does not use the required data in preparing its own forecast, the applicant shall use an estimate and indicate in the forecast justification section (EA 635 C.) the procedure(s) used in deriving the estimate. The application shall clearly indicate which data are historical and which are projected. It is expected that data provided by the applicant should be reasonable and internally consistent.

B. Content of forecast. For each forecast year, the following data shall be provided:

1. when the applicant's service area includes areas other than Minnesota, annual electrical consumption by ultimate consumers within the applicant's Minnesota service area;
2. for each of the following categories, estimates of the number of ultimate consumers within the applicant's system and annual electrical consumption by those consumers:

- a. farm, excluding irrigation and drainage pumping (for reporting purposes, any tract of land used primarily for agricultural purposes shall be considered farm land);
- b. irrigation and drainage pumping;
- c. nonfarm residential (when electricity is

supplied through a single meter for both residential and commercial uses, it shall be reported according to its principal use, and apartment buildings shall be reported as residential even if not separately metered);

d. commercial (this category shall include wholesale and retail trade; communication industries; public and private office buildings, banks, and dormitories; insurance, real estate and rental agencies; hotels and motels; personal business and auto repair services; medical and educational facilities; recreational, social, religious, and amusement facilities; governmental units, excluding military bases; warehouses other than manufacturer owned; electric, gas, water and water pumping, excluding water pumping for irrigation, and other utilities);

e. mining;

f. industrial (this category shall include all manufacturing industries, construction operations and petroleum refineries);

g. street and highway lighting;

h. electrified transportation (this category shall include energy supplied for the propulsion of vehicles, but shall not include energy supplied for office buildings, depots, signal lights or other associated facilities which shall be reported as commercial or industrial);

i. other (this category shall include municipal water pumping facilities, oil and gas pipeline pumping facilities, military camps and bases, and all other consumers not reported in categories a. through h.); and

j. the sum of categories a. through i;

3. an estimate of the demand for power in the applicant's system at the time of annual system peak demand, including an estimated breakdown of the demand into the consumer categories listed in rule EA 635 B.2;

4. the applicant's system peak demand by month; ~~and~~

5. the estimated annual revenue requirement per kilowatt-hour; and

5 6. The applicant's ~~monthly~~ system weekday load factor by month.

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C. Forecast justification.

1. Forecast methodology. Each applicant may use a forecast methodology of its own choosing, with due consideration given to cost, manpower requirements and data availability. However, any forecast data provided by the applicant shall be subject to tests of accuracy, reasonableness and consistency. The applicant shall detail the forecast methodology employed to obtain the forecasts provided under section B. of rule EA 635, including:

- a. the overall methodological framework which is used;
- b. the specific analytical techniques which are used, their purpose, and the component(s) of the forecast to which they have been applied;
- c. the manner in which these specific techniques are related in producing the forecast;
- d. where statistical techniques have been used:
 - (1) the purpose of the technique;
 - (2) typical computations (e.g., computer printouts, formulas used), specifying variables and data; and
 - (3) the results of appropriate statistical tests;
- e. forecast confidence levels or ranges of accuracy for annual peak demand and annual electrical consumption, as well as a description of their derivation;
- f. a brief analysis of the methodology used, including:
 - (1) its strength and weaknesses;
 - (2) its suitability to the system;
 - (3) cost considerations;
 - (4) data requirements;
 - (5) past accuracy; and
 - (6) other factors considered significant by the applicant; and

g. an explanation of any discrepancies which appear between the forecasts presented in the application and the forecasts submitted to the Agency under Minn. Regs. EA 201 et seq. or in the applicant's previous certificate of need proceedings.

2. Data base for forecasts. The applicant shall discuss the data base used in arriving at the forecast presented in its application, including:

- a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how each was obtained, (e.g., monthly observations, billing data, consumer survey, etc.) or a citation to the source (e.g., population projection from the state demographer's office);
- b. a clear identification of any adjustments made to raw data in order to adapt them for use in forecasts, including:
 - (1) the nature of the adjustment;
 - (2) the reason for the adjustment; and
 - (3) the magnitude of the adjustment.

The applicant shall provide to the director or the hearing examiner on demand copies of all data sets used in making the forecasts, including both raw and adjusted data, input and output data.

3. Assumptions and special information.

- a. Discussion. The applicant shall discuss each essential assumption made in preparing the forecast, including:
 - (1) the need for the assumption;
 - (2) the nature of the assumption; and
 - (3) the sensitivity of forecast results to variations in the essential assumptions.
- b. Subject of assumption. The applicant shall discuss the assumptions made regarding:

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- (1) the availability of alternate sources of energy;
- (2) the expected conversion from other fuels to electricity or vice versa;
- (3) future prices of electricity for customers in the applicant's system and the effect that such price changes will likely have on the applicant's system demand;
- (4) the assumptions made in arriving at any data requested in rule EA 635 B which is not available historically or not generated by the applicant in preparing its own internal forecast;
- (5) the effect of existing energy conservation programs under federal or state legislation on long-term electrical demand; and
- (6) any other factor considered by the applicant in preparing the forecast.

4. Coordination of forecasts with other systems. The applicant shall provide:

- a. a description of the extent to which the applicant coordinates its load forecasts with those of other systems, such as neighboring systems and associate systems in a power pool or coordinating organization; and
- b. a description of the manner in which such forecasts are coordinated, and any problems experienced in efforts to coordinate load forecasts.

EA 636 System capacity. The applicant shall describe the ability of its existing system to meet the demand for electrical energy forecast in response to rule EA 635 and the extent to which the proposed facility will increase this capability. In preparing this description, the applicant shall present the following information:

A. a brief discussion of power planning programs, including criteria, applied to the applicant's system and to the power pool or area within which the applicant's planning studies are based;

B. the applicant's seasonal firm purchases and seasonal firm sales for each utility involved in each transaction for each of the forecast years;

C. the applicant's seasonal participation purchases and seasonal participation sales for each utility involved in each transaction for each of the forecast years;

D. for the summer season and for the winter season corresponding to each forecast year, the load and generation capacity data requested in items 1. through 13. below, including all anticipated purchases, sales, capacity retirements and capacity additions, except those which depend on certificates of need not yet issued by the Agency:

1. seasonal system demand;
2. annual system demand;
3. total seasonal firm purchases;
4. total seasonal firm sales;
5. seasonal adjusted net demand (1 - 3 + 4);
6. annual adjusted net demand (2 - 3 + 4);
7. net generating capacity;
8. total participation purchases;
9. total participation sales;
10. adjusted net capability (7 + 8 - 9);
11. net reserve capacity obligation;
12. total firm capacity obligation (5 + 11); and
13. surplus or deficit (-) capacity (10 - 12);

E. for the summer season and for the winter season corresponding to each forecast year subsequent to the year of application, the load and generation capacity data requested in items 1. through 13. of rule EA 636 D, including purchases, sales and generating capability contingent on the proposed facility;

F. for the summer season and for the winter season corresponding to each forecast year subsequent to the year of application, the load and generation capacity data requested in items 1. through 13. of rule EA 636 D, including all projected purchases, sales and generating capability;

G. for each of the forecast years subsequent to the year of application, a list of proposed additions and retirements in net generating capability, including the probable date of application for any addition which is expected to require a certificate of need;

H. for the previous calendar year, the current year, the

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first full calendar year before the proposed facility is expected to be in operation and the first full calendar year of operation of the proposed facility, a graph of monthly adjusted net demand and monthly adjusted net capability, as well as a plot on the same graph of the difference between the adjusted net capability and actual, planned, or estimated maintenance outages of generation and transmission facilities; and

I. a discussion of the appropriateness of and the method of determining system reserve margins, considering the probability of forced outages of generating units, deviation from load forecasts, scheduled maintenance outages of generation and transmission facilities, power exchange arrangements as they affect reserve requirements, and transfer capabilities.

EA 637 Conservation programs. Each application shall include the following information:

A. the name of the energy committee, department or individual responsible for the applicant's energy conservation and efficiency programs;

B. a list of the applicant's energy conservation and energy efficiency goals and objectives;

C. a description of the specific energy conservation and efficiency programs the applicant has considered, ~~and~~ a list of those which have been implemented, and the reasons why the other programs have not been implemented;

D. a description of the major accomplishments which have been made by the applicant with respect to energy conservation ~~of energy~~ and efficiency;

E. a description of the applicant's future plans through the forecast years with respect to energy conservation and energy efficiency; and

F. a quantification of the manner by which these programs affect or help determine the forecast provided in response to rule EA 635 B, a list of their total costs by program, and a discussion of their expected effects in reducing the need for new generating facilities.

EA 638 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative considered in detail in response to rule EA 633 C. or rule EA 634 C. Information relating to construction and operation of each of these alternatives shall be provided

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as indicated below, to the extent that such information is reasonably available to the applicant and applicable to the particular alternative. Where appropriate, the applicant shall submit data for a range of locations in the state, and a range of possible facility designs. Major assumptions should be stated, and references should be cited where appropriate.

A. Generating facilities. The applicant shall provide the following information for each alternative which would involve construction of an LEGF:

1. the amount of land required by the facility for different designs and topography the estimated range of land requirements for the facility with a discussion of assumptions on land requirements for water storage, cooling systems and solid waste storage;

2. the estimated amount of vehicular, rail and barge traffic generated by construction and operation of the facility;

3. for fossil-fueled facilities:

a. the expected regional sources(s) of fuel for the facility;

b. the ~~maximum~~ and typical fuel requirement (in tons per hour, gallons per hour, or thousand cubic feet per hour) during operation at rated capacity and the expected annual fuel requirement at the expected capacity factor;

c. the expected rate of heat input for the facility in Btu per hour during operation at rated capacity;

d. the ~~expected~~ typical range of the heat value of the fuel (in Btu per pound, Btu per gallon or Btu per thousand cubic feet) and the typical average heat value of the fuel; and

e. the ~~expected content~~ typical ranges of sulfur, ash and moisture ~~in~~ content of the fuel;

4. for fossil-fueled facilities:

a. the estimated range of trace element emissions and the maximum and typical emissions of sulfur dioxide, nitrogen oxides, and particulates ~~and trace elements~~ in pounds per hour during operation at rated capacity; and

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- b. the estimated range of maximum contributions to 24-hour average ground-level concentrations at specified distances from the stack described as isopleths of sulfur dioxide, nitrogen oxides and particulates in micrograms per cubic meter during operation at rated capacity and assuming generalized worst-case meteorological conditions;
5. the maximum water use by the facility during operation at rated capacity for alternate cooling systems, in cubic feet per second for appropriation from ground water, appropriation from surface water, and consumptive losses including:
 - a. the estimated maximum use, including the groundwater pumping rate in gallons per minute and surface water appropriation in cubic feet per second;
 - b. the estimated ground water appropriation in million gallons per year; and
 - c. the estimated annual consumption in acre-feet;
6. the potential sources and types of discharges to water attributable to operation of the facility;
7. radioactive releases, including:
 - a. for nuclear facilities, the expected typical types and amounts of radionuclides released by the facility in curies per year for alternate facility designs and levels of waste treatment; and
 - b. for fossil-fueled facilities, the estimated range of radioactivity released by the facility in curies per year;
8. the potential types and quantities of solid wastes produced by the facility in tons per year at the expected capacity factor;
9. the potential sources and levels types of audible noise attributable to operation of the facility;
10. the peak and average estimated work force required for construction and operation of the facility; and
11. the minimum and the expected number and size of

transmission facilities required by to provide a reliable outlet for the generating the facility; and

12. a description of equipment and measures that may be used to reduce the environmental impact of construction and operation of the facility;

B. Transmission facilities. The applicant shall provide data for each alternative that would involve construction of an LHVTL. The following information shall be included:

1. for each type of support structure that would be used for overhead transmission facilities:
 - a. schematic diagrams which show the dimensions of the support structures and conductor configurations for each type of support structure that may be used;
 - b. the strength of the electric field in kilovolts per meter (root mean square) described in isopleths for a plan view of a typical span between support structures at one meter above ground level, and a discussion of the strength and distribution of the electric field attributable to the transmission facility, including the contribution of air ions if appropriate;
 - c. the strength of the electric field in kilovolts per meter (roots mean square) described in isopleths for an elevation view from the ground to the conductors for the width of the right of way at the point of maximum conductor sag;
2. for overhead transmission facilities:
 - a. c. the typical levels a discussion of ozone and nitrogen oxides emissions attributable to the transmission facility; in parts per billion at ground level; and
 - b. d. a discussion of radio and television interference attributable to the transmission facility; and
 - e. a discussion of the characteristics and estimated maximum and typical levels of audible noise attributable to the transmission facilities;
3. for underground transmission facilities:
 - a. the types and dimensions of the cable systems and associated facilities that would be used;

- b. the types and quantities of materials required for the cable system, including materials required for insulation and cooling of the cable; and
- c. the amount of heat released by the cable system in kilowatts per meter of cable length;
- 4 3. the estimated width of the right-of-way required for the transmission facility;
- ~~5.~~ ~~the maximum and typical levels of audible noise in decibels (A scale) attributable to the transmission facility at the edge of the right of way.~~
- 6 4. a description of construction practices for the transmission facility;
- 7 5. a description of operation and maintenance practices for the transmission facility;
- 8 6. the ~~peak and average~~ estimated work force required for construction and for operation and maintenance of the transmission facility; and
- 9 7. a narrative description of the major features of the region between the endpoints of the transmission facility. The region shall encompass the likely area for routes between the endpoints. The description should emphasize the area within three miles of the endpoints. The following information shall be described where applicable:
 - a. hydrologic features including lakes, rivers, streams and wetlands;
 - b. natural vegetation and associated wildlife;
 - c. physiographic regions; and
 - d. land-use types, including human settlement, recreation, agricultural production, forestry production, and mineral extraction.

C. The alternative of no facility. The applicant shall provide the following information for the alternative of no facility:

- 1. a description of the expected operation of existing and ~~planned~~ committed generating and transmission facilities;
- 2. a description of the changes in resource require-

ments and wastes produced by facilities discussed in response to rule EA 638 C. 1, including:

- a. the amount of land required;
 - b. induced traffic;
 - c. fuel requirements;
 - d. airborne emissions;
 - e. water appropriation and consumption;
 - f. discharges to water;
 - g. reject heat;
 - h. radioactive releases;
 - i. solid waste production;
 - j. audible noise; and
 - k. labor requirements; and
3. a description of equipment and measures that may be used to reduce the environmental impact of the alternative of no facility.

EA 639 Consequences of delay. The applicant shall present a discussion of anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two and three years or postponed indefinitely.

EA 641 Certificate of need modifications.

A. Issuance of a certificate of need may be made contingent upon modifications required by the director. When ~~the director denies~~ an application is denied, he the director shall state the reason(s) for the ~~refusal~~ denial.

B. Applications for changes in in-service date for large generation and transmission facilities previously certified shall conform to the following:

- 1. If an applicant determines that a change in the in-service date is necessary for a large generation or transmission facility previously certified by

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the director, it shall inform the director of the desired change of date for in-service operation, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and, within 45 days of receipt of said application, notify the applicant if the proposed change of in-service date is acceptable.

2. Delays in the in-service date of large generation or transmission facilities previously certified by the director for up to one year are not subject to review by the director. The applicant shall inform the director as soon as ~~he~~ it determines that a delay is imminent, accompanied by a written statement detailing the reasons for such delay.

C. Small additions and subtractions to generating plant capacity and transmission line length shall conform to the following:

1. Power plant capacity additions and subtractions less than 50 megawatts from the capacity approved in a certificate of need issued by the director shall not require recertification.

2. Large transmission line length modifications shall conform to the following:

2 a. Large transmission line length additions or subtractions made as a result of the route length approved by the Minnesota Environmental Quality Board (hereinafter "MEQB") for projects previously certified shall not require recertification.

b. If a utility applies to the MEQB for a transmission line route which is not expected to meet the definition of LHVTL in rule EA 601 L, but at some time in the routing process it becomes apparent that the MEQB may approve a route that meets the definition, the utility may apply for a certificate of need as soon as possible after that time. The length of a route is determined by measuring the length of its center line.

D. When ~~the director approves~~ a certificate of need is granted for the proposed facility application, or modification thereof, ~~he~~ the director shall state which fuel types are not permitted in supplying the additional generation capacity certified.

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Pursuant to the provisions of Minn. Stat. § 15.0411 to 15.052, the *State Register* publishes notices of hearing on proposed new or amended rules, including the full text of the new or amended rules, including the full text of the new or amended rule proposed for adoption, at least 30 days before the date set for the hearing.

Pursuant to Minn. Stat. § 15.0412, subd. 4, an agency may, with approval of the chief hearing examiner, incorporate by reference into the text of a rule, provisions of federal law, or rule, or other material which are 3000 words or more in length or would require five or more pages of print in the *State Register* and which are conveniently available to interested persons.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend, or repeal a rule does not allow for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Crime Control Planning Board

Proposed Rules Governing the Procedures, Criteria, and Priorities for Distributing Money to State, Regional, and Local Agencies

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the 6th floor Conference Room of the Crime Control Planning Board, 444 Lafayette Road, St. Paul, Minnesota, 55101, on April 7, 1978, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted by mail to Peter C.

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CCPB 101

Erickson, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104. Phone number (612) 296-8118, Docket No. Crime 78-001-PE, either before the hearing, at the hearing, or for a period of five (5) working days after the hearing or for a period not to exceed twenty (20) calendar days if ordered by the Hearing Examiner.

The proposed rules, if adopted, would provide the process by which, and the criteria for which, the State of Minnesota, Regional Development Commission, counties, cities, and all agencies thereof, may apply for, receive and disburse funds administered by the Crime Control Planning Board or the Law Enforcement Assistance Administration. They include provisions for termination of grants, audits, reversion of funds and supplemental funds. Copies of the proposed rules are now available and one (1) free copy may be obtained by writing to the Crime Control Planning Board. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 299A.03, subd. 8. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiner's Office at least twenty five (25) days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these Rules, must register with the State Ethics Commission as a lobbyist within five (5) days of the commencement of such activity by the individual.

Jacqueline Reis

Date: January 31, 1978

Rules as Proposed

CCPB 100-109 Grant Application Process

CCPB 101 Eligibility for funding. The State of Minnesota, regional development commissions, counties, cities, and all agencies thereof, are eligible to apply for, receive, and disburse, funds administered by the Crime Control Planning Board or the Law Enforcement Assistance Administration (LEAA).

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CCPB 102 Availability of funding. The Crime Control Planning Board shall make public announcements of funding availability.

CCPB 103 Applications for funding.

- A. The regional or local planning agency shall provide the necessary project forms and any technical assistance needed by local units of government to enable their participation in the funding process in compliance with Crime Control Planning Board and LEAA requirements.
- B. The Crime Control Planning Board shall provide the necessary project forms and any technical assistance needed by state agencies to complete the project forms in compliance with Crime Control Planning Board and LEAA requirements.

CCPB 104 Assumption of costs. In order to be eligible for funding by the Crime Control Planning Board or LEAA, the applicant must demonstrate affirmative efforts on its part to obtain continued funding of the project after the termination of Crime Control Planning Board or LEAA funding.

CCPB 105 Review of grant applications and sub-state plans.

A. Plans completed by sub-state planning units.

- (1) Each sub-state planning unit shall submit a sub-state plan that includes individual grant applications, in form prescribed by the Crime Control Planning Board. For a local grant application to be included in a sub-state plan, the applicant should contact their sub-state planning unit.
- (2) Completed sub-state plans shall be forwarded to the Crime Control Planning Board before the deadline established by the Board. The applicant shall be responsible for filing the appropriate A95 notification with the State Planning Agency.
- (3) The sub-state plans shall be reviewed by the staff of the Crime Control Planning Board to determine whether they comply with Crime Control Planning Board and LEAA requirements. The staff shall provide recommendations to the Crime Control Planning Board's Planning and Grants Committee.
- (4) The Planning and Grants Committee shall hold a public meeting to consider the sub-state plans before it. Each sub-state unit shall be permitted to

speak in support of its plan. The committee shall vote to recommend approval or denial of sub-state plans and shall forward its report to the Crime Control Planning Board.

- (5) The Crime Control Planning Board shall hold a public meeting to consider the report of the Planning and Grants Committee. The final decision of the Crime Control Planning Board shall be made within 90 days after its receipt of the sub-state plan from the applicant.
- B. Grant applications completed by state agencies.
- (1) Completed grant applications shall be forwarded to the Crime Control Planning Board before the deadline established by the Board. The applicant shall be responsible for filing the appropriate A95 notification with the State Planning Agency.
 - (2) The application shall be reviewed by the staff of the Crime Control Planning Board to determine whether they comply with Crime Control Planning Board and LEAA requirements. The staff shall provide recommendations to the Crime Control Planning Board's Planning and Grants Committee.
 - (3) The Planning and Grants Committee shall hold a public meeting to consider the applications before it. Each applicant shall be permitted to speak in support of its application. The committee shall vote to recommend approval or denial of applications and shall forward its report to the Crime Control Planning Board.
 - (4) The Crime Control Planning Board shall hold a public meeting to consider the report of the Planning and Grants Committee. The final decision of the Crime Control Planning Board shall be made within 90 days after its receipt of the grant application from the applicant.
- C. Grant applications completed by local units of government not included in sub-state plans.
- (1) Completed grant applications shall be forwarded to the regional or local planning agency before the deadline established by that agency.
 - (2) The application shall be reviewed by the regional or local planning agency and the various applications received by that agency shall be prioritized. The agency shall file appropriate A95 notification with the State Planning Agency.
 - (3) Completed grant applications shall be forwarded to the Crime Control Planning Board before the dead-

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line established by the Board. The applicant shall be responsible for filing the appropriate A95 notification with the State Planning Agency.

- (4) The application shall be reviewed by the staff of the Crime Control Planning Board to determine whether they comply with the Crime Control Planning Board and LEAA requirements. The staff shall provide recommendations to the Crime Control Planning Board's Planning and Grants Committee.
- (5) The Planning and Grants Committee shall hold a public meeting to consider the applications before it. Each applicant shall be permitted to speak in support of its application. The committee shall vote to recommend approval or denial of applications and shall forward its report to the Crime Control Planning Board.
- (6) The Crime Control Planning Board shall hold a public meeting to consider the report of the Planning and Grants Committee. The final decision of the Crime Control Planning Board shall be made within 90 days after its receipt of the grant application from the applicant.

D. Any award of funds to a grantee is conditioned upon that grantee obtaining the state and/or local matching funds required by the Crime Control Planning Board or LEAA.

CCPB 106 Grant contracts. Following an award of funds by the Crime Control Planning Board and approval of required matching funds, a contract shall be executed between the Crime Control Planning Board and the grantee. Such contract shall require that the grantee comply with all Crime Control Planning Board and LEAA rules and procedures; with all applicable laws of the State of Minnesota; and with all applicable federal laws and regulations, including the Equal Opportunity Guidelines, the National Historic Preservation Act of 1966, the Uniform Relocation and Real Property Acquisition Policy Act of 1970, the National Environmental Policy Act of 1966, and the Civil Rights Act of 1964 as amended. The contract shall also set forth the amount of funds awarded and procedures under which the grantee may apply for and receive such funds.

CCPM 107 Termination of grant contract.

A. A grant contract may be terminated at any time upon

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the written request of the grantee, but such termination shall not necessarily relieve the grantee of its responsibilities as set forth in the grant contract.

- B. A grant contract may be terminated by the grantor at any time upon the failure of the grantee to comply with one or more of the conditions of the grant contract. Such termination shall be effective upon receipt of written notice by the grantee.
- C. A grant contract may be terminated at any time by mutual written agreement of the grantor and grantee.
- D. In any termination process, the sub-state agency or state agency shall be consulted.

CCPB 108 Appeal.

- A. Grantees may appeal from any of the following events:
 - (1) A denial of a grant by the Crime Control Planning Board. Such an appeal shall be limited to allegations that the appropriate state, regional, or local review processes were not complied with.
 - (2) A grant condition imposed on the grant.
 - (3) A grant termination.
 - (4) Audit findings.
- B. All appeals shall be initiated by a written notice of appeal which shall be filed with the Crime Control Planning Board within 30 days after receipt by the grantee of written notice of the action appealed from.
- C. Within 15 days of receipt of the notice of appeal, the executive committee of the Crime Control Planning Board shall hold a public meeting to consider the appeal. The appealing party shall be given written notification of that meeting and shall have the opportunity to appear and present any pertinent or new factual information and to challenge the facts upon which the decision appealed from was based.
- D. Following the meeting, the executive committee shall review the facts and make a written report setting forth its conclusions and recommendations. A copy of this report shall be provided to the appealing party. If the executive committee's conclusions and recommenda-

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tions are favorable to the appealing party, the recommendations shall take effect immediately pending a meeting of the full Crime Control Planning Board.

- E. The conclusions of the executive committee shall be reviewed and affirmed or reversed by the Crime Control Planning Board at a public meeting which shall be held not more than 40 days after the meeting before the executive committee.

CCPB 109 Auditing of grants.

- A. All grants may be audited by the Crime Control Planning Board at any time.
- B. A preliminary audit report shall be made available to the Grantee for review and comment prior to issuance of the final audit report.

CCPB 200-204 Reversionary and Supplemental Funds

CCPB 201 Reverted funds from projects. Funds which have reverted from projects included in approved sub-state plans (as defined above) will be available for re-award within the sub-state planning unit's geographic area after submission, review and approval of plan amendments. By May 1st of the first year following the year of the approved sub-state plan, each sub-state unit will provide written notice to the Grants Administrator of the Crime Control Planning Board their intention to reallocate unspent and/or unallocated funds within their sub-state planning units geographic area or revert these funds back to the Crime Control Planning Board. If no written notification is received by May 1st, these funds will automatically revert back to the Crime Control Planning Board. The funds so reallocated must be expended by June 30 of the second year following the year of the approved sub-state plan. All funds not expended by June 30 will automatically revert back to the Crime Control Planning Board. The Board may then use these funds for any project, whether or not it is located within the sub-state planning unit's area of responsibility.

CCPB 202 Reversionary compliance requirements. All the reverted funds will be available for awarding additional funds to ongoing projects or to new projects that are consistent with the Board's policies, standards and procedures and federal requirements.

CCPB 203 Reverted funds returned and supplemental funds. Reverted and supplemental funds (state and local) will be added to the funds available for award during our regular funding cycles for state and local grants. For local

grants, the reverted funds and/or supplemental awards will be added to the discretionary (15% of Part C funds used for compliance purposes) funds available for award for local grants.

CCPB 204 Emergency procedures. If, in the opinion of the Planning and Grants Committee, time constraints or other factors prohibit using the procedure outlined in (203) above, a grant review schedule will be set up by the Planning and Grants Committee to award these funds.

Department of Public Welfare

Proposed Rules Governing the Reimbursement for Cost of Care of Mentally Retarded or Epileptic or Emotionally Handicapped Children, Rule 30

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on April 17, 1978, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8112, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

Proposed Rule 30 combines DPW-30 and 33, and replaces Temporary Rules DPW-30a and 33a, governing the administration of reimbursement to county welfare boards and human service boards for the costs of boarding care outside state institutions for children between birth and eighteen years of age who are mentally retarded, epileptic or emotionally handicapped.

Following an extensive definition section, this rule includes the following provisions: 1) determination of parental financial responsibility; 2) a sliding fee schedule based upon household size and income; 3) determination of child

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financial responsibility; 4) provisions for temporary care of up to 90 days; 5) requirements for an individual program and services plan for the child placed outside of his own home; 6) reporting requirements for local agencies; 7) reimbursement requirements for eligible claims; 8) the method and times of state agency reimbursement; 9) establishment of a priority for application of recoveries; 10) establishment of a priority of reimbursement based upon licensure status of the residential facility, and 11) establishment of two separate accounts for the reimbursement of monies from the state appropriations.

Copies of the proposed rule are now available and one free copy may be obtained by writing to Sandra Erickson, Division of Social Services, Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, (612) 296-3954. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. 252.27. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone number (612) 296-5615.

Edward J. Dirkswager, Jr.
Commissioner
Dated: February 15, 1978

Proposed Rule

DPW 30: Reimbursement for Cost of Care of Mentally Retarded or Epileptic or Emotionally Handicapped Children

A. Pursuant to Minn. Stat., § 252.27, this rule governs the administration of reimbursement to county welfare

boards and human services boards for the cost of boarding care outside state institutions for children who are mentally retarded or epileptic or emotionally handicapped.

B. Definitions: For the purpose of these regulations, the following definitions shall be used:

1. "Child or Children" shall mean a person under 18 years of age.

2. "Emotionally Handicapped Child" shall mean any child having a psychiatric or other emotional disorder which substantially impairs his mental health and who requires 24-hour treatment and supervision.

a. The determination of a psychiatric or other emotional disorder shall be the judgment of a social worker, or psychologist, or a consulting psychologist, or a psychiatrist.

b. Juvenile status offenses, such as the findings of juvenile delinquency, truancy, or runaway, shall not alone constitute a psychiatric or other emotional disorder.

c. A diagnosis of chemical dependency by reason of habitual and excessive use of intoxicating liquors, narcotics, or other drugs, shall not be the sole basis of a determination of a psychiatric or other emotional disorder.

3. "Mentally Retarded" shall mean any person who has been diagnosed mentally retarded consistent with the provisions of DPW 185.

4. "Epileptic" means a person diagnosed as an epileptic by a licensed physician.

5. "State Agency" means the Commissioner of Public Welfare.

6. "County Agency" means county welfare boards and human services boards operating under and pursuant to the provisions of Minn. Stat. ch. 393 and 402.

7. "County of Financial Responsibility" means the county having the financial responsibility determined pursuant to Minn. Stat. § 256D.18.

8. "Social Worker" means any qualified person who is employed, whether on a full-time or part-time basis, to render professional social services to individuals, families, groups or communities.

9. "Cost of Care" includes all costs of the necessary

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care, treatment and training of the child that are appropriately provided in the boarding care facility. These shall include care, board and room, training and treatment, supervision, medical, clothing and personal needs, and miscellaneous expenses which are an integral part of the child's individual program plan and which are nonreimbursable pursuant to § F.5 of this rule.

10. "Parent" means a father or mother, natural or adoptive. It also includes legal guardian appointed where the natural or adoptive parents are deceased or where their parental rights have been legally terminated.

11. "Temporary Care" means the placement, in a licensed facility for boarding care, of a mentally retarded or epileptic child requiring 24-hour care and treatment, for a temporary period of time not to exceed 90 days within a 12-month period of time.

C. Parental Financial Responsibility:

1. Parents shall be responsible for reimbursing the county making payments for boarding care. The amount of reimbursement shall be based on the annual gross income of the parents as adjusted by household size. The monthly amount to be paid by the parent shall be fixed by the following fees schedule:

Household Size

	2	3	4	5	6	7	8	9	10
\$11,000 to 12,999	\$15	\$10	\$ 5	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
13,000 to 14,999	30	25	20	15	10	5	0	0	0
15,000 to 16,999	45	40	35	30	25	20	15	10	5
17,000 to 18,999	60	55	50	45	40	35	30	25	20
19,000 to 20,999	75	70	65	60	55	50	45	40	35
21,000 to 22,999	90	85	80	75	70	65	60	55	50
23,000 to 24,999	105	100	95	90	85	80	75	70	65
25,000 to 26,999	120	115	110	105	100	95	90	85	80
27,000 to 28,999	125	125	125	120	115	110	105	100	95
29,000 to 30,999	125	125	125	125	125	125	120	115	110
31,000 and Over	125	125	125	125	125	125	125	125	125

2. Annual Gross Income shall mean income, prior to any deductions, received from wages or salary; net income from self-employment; net farm income; social security payments; dividends, interest, rent received, or royalties; pensions and annuities; unemployment compensation; worker's compensation; alimony; child support; veteran's pensions; or any combination of the above sources of income.

3. The child in out of home care, the parents and other dependent children living in the parental home shall be counted as members of the household when determining the monthly fee to be charged to the financially responsible parent. Only one monthly fee shall be charged regardless of the number of children in out-of-home care from each household. No parents having a combined annual gross income of less than \$11,000 shall be required to pay a fee. Parents may pay a greater amount. In addition to the monthly fee, parents shall be responsible for meeting the child's clothing and personal needs.

Exception: If the child has income or resources of his own, an amount not to exceed \$30 per month from the child's income shall be used to meet the child's clothing and personal needs, and parents are relieved of this responsibility.

4. Parents shall cooperate with the county agency in matters pertinent to their child's eligibility for receipt of benefits under all federal programs and in efforts to recover insurance benefits. Third party reimbursement available to the parents on behalf of the child for costs incurred in training and treatment shall be paid to the county paying the cost of care.

5. In such cases where the child is placed in an intermediate care facility for mentally retarded and is eligible under the Title XIX Medical Assistance Program, with a continuing spend-down requirement in excess of the parent's cost of care assessment pursuant to the cost of care fee schedule, the parent shall have the choice of applying for Title XIX or cost of care.

D. Child's Financial Responsibility:

1. If the child has unearned income or resources of his own, such as but not limited to social security, supplemental security income (SSI), veteran's benefits, railroad retirement benefits, tribal benefits, military serviceperson's contributions, union benefits, or other retirement benefits, the parents, and/or the representative payee on behalf of the child, shall be responsible for reimbursing the county making payments for boarding care. Consistent with Minn. Stat.

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252.27, in no case shall the child be responsible to reimburse the county making payments for boarding care an amount greater than \$125 per month. The amount paid by the child does not relieve the parents of their financial responsibility.

Exception: If the child has unearned income or resources of his own, an amount not to exceed \$30 per month shall be excluded when determining the financial responsibility of the child to reimburse the county making payments for boarding care. This excluded \$30 per month shall be allowed to meet the child's monthly clothing and personal needs.

2. If the child has earned income from employment, the county agency shall allow the following deductions from the child's net earnings:

a. Actual costs related to earnings, such as transportation to and from work, special uniforms and shoes if required by the employer.

b. \$30 per month for clothing and personal need items.

c. One-third of the child's earnings, after the deductions provided above, shall be excluded.

d. The remaining balance of available net income of the child shall be paid to the county making payment for the cost of care. In no case shall this payment from earned income exceed \$125 per month.

E. Individual Program and Services Plan:

1. The county agency shall document in the child's case record a program and services plan for the child. This plan shall document:

a. That the child's residential, training, and treatment needs have been determined based on an evaluation of the child's capacities, his problems, and his needs considered in relationship to the family and community resources.

b. The reasons for removal of the child from the family home.

c. That the licensed facility selected for the child has a program plan directed toward meeting the child's needs.

d. The goals to be achieved within a specified period of time.

2. Continuance away from the family and the child's continued treatment needs shall be assessed annually and shall be recorded in the child's case record.

F. Reimbursement Requirements: Cost of care reimbursement shall be made to a county agency for mentally retarded, epileptic, or emotionally handicapped children who meet the following requirements:

1. The child has been diagnosed as mentally retarded, epileptic or emotionally handicapped on the basis of criteria herein defined.

2. The child is under 18 years of age.

3. The child lives in or has legal settlement in the State of Minnesota.

4. The child's parent, as herein defined, resides in the State of Minnesota or pays Minnesota Income Taxes.

5. The child is ineligible for payment of all or part of his boarding care costs through other resources such as medical assistance (Title XIX), general assistance medical care (GAMC), AFDC, Title XX, Division of Vocational Rehabilitation, local school district, insurance, and the child and the parent fees as defined in §§ C and D of this rule fail to cover the total cost of the boarding care. Reimbursement shall not be made for items reimbursed by other such programs or resources.

6. Boarding care is provided in a licensed facility as herein defined:

a. For mentally retarded or epileptic children, the boarding care is provided in a facility licensed pursuant to DPW 1 and 34.

b. For emotionally handicapped children, the boarding care is provided in a facility licensed pursuant to DPW 5 and 8, and subject to the priorities contained in § H.7 of this rule.

c. For mentally retarded, epileptic or emotionally handicapped children placed in out-of-state facilities, the county agency shall verify, through contact with the state agency, that the out-of-state facility meets proper licensing and program requirements.

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7. When a child is under such dual commitments as might both be reimbursable, the reimbursement shall be on the basis of the earlier commitment. For example, in the case of a state ward of the Commissioner of Public Welfare placed in 24-hour care, reimbursement shall be from the guardianship account.

8. A redetermination of eligibility for reimbursement has been completed at least annually and recorded in the case record.

9. The costs of boarding care for mentally retarded, epileptic, or emotionally handicapped children shall be paid by the county of financial responsibility as herein defined. The rate to be paid for boarding care shall be negotiated between the county agency and the licensed facility where the child is placed, except where the state agency sets rates under the provisions of DPW 52. This agreed upon rate shall be reduced to writing in the form of a placement agreement signed by both parties. This placement agreement shall be filed in the child's case record and may be renewed or negotiated on an annual basis.

10. In cases of "temporary care", all provisions of this rule shall apply the same as if the child were in long-term placement. The day of admission and the day of discharge may be counted as a day of care and treatment.

11. If the local agency elects to pay the licensed facility or other vendors for nonreimbursable items, it shall be the responsibility of the local agency to recover those costs from sources other than the appropriations covered by this rule.

G. Provisions Governing Claims for Reimbursement: Claims for reimbursement shall be processed in the following manner.

1. The county agency shall, on a quarterly basis, and on a form prescribed by the state agency, submit the following information regarding each child for whom a claim of reimbursement is made:

- a. Name of child.
- b. Birthdate of child.
- c. Child's social service eligibility code.
- d. Name of licensed facility.
- e. Period of boarding care covered.
- f. Charges for boarding care.
- g. Parent fee charged if any.

h. Child fee charged if any.

i. Date of latest determination of eligibility or board action.

j. Amount of reimbursable claim which shall be shown as the gross reimbursable costs minus fees charged to parent and child.

k. Net reimbursable claim which shall be shown as the reimbursable claim less any applicable recoveries. Applicable recoveries shall include receipts of parent and child fees, parent and child contributions in excess of the fees due, insurance payments, prior overpayments, canceled checks, and other receipts as specified by the county agency and approved by the State Agency.

2. The county agency shall apply recoveries in the following priority:

- a. Current parent and child fees due.
- b. Reimbursable costs of boarding care.
- c. Nonreimbursable costs of boarding care.
- d. Past due parent and child fees.

3. The county agency shall submit this quarterly report to the state agency within 15 days of the end of each quarter, specifically no later than October 15, January 15, April 15, and July 15. No claims will be considered for reimbursement if received by the State Agency 60 days after the close of the fiscal year for services provided during the fiscal year just ended.

4. The state agency shall determine the rate of reimbursement in the following manner:

- a. Calculate total first quarter net reimbursable claims;
- b. Estimate total net reimbursable claims for the year by multiplying the amount determined in "a" above by five;
- c. For each account, divide the total appropriation by the estimate in "b" above;
- d. Reimburse the first, second, and third quarter net reimbursable claims at the percentage determined in "d." within 45 days of the end of each quarter.
- e. Calculate total net reimbursable claims for the year, the total allowable reimbursement, and make final settlement payments within 120 days of the close of the state fiscal year.

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5. All local agencies shall be reimbursed at the same rate provided that reimbursement shall not exceed 70 percent of eligible costs claimed.

6. The state agency shall maintain separate accounts for the Cost of Care appropriations: Cost of Care for Mentally Retarded/Epileptic; and Cost of Care for Emotionally Handicapped.

7. For purposes of the boarding care of emotionally handicapped children, facilities licensed under DPW 8 shall be reimbursed only after boarding care costs of children in DPW 5 licensed facilities have been reimbursed.

State Planning Agency Proposed Rules for Administering the State Health Research Program

Notice of Public Hearing

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat., § 15.0412 (1977 Supp.) and Minn. Stat. § 4.17 (1977 Supp.) in the above-entitled matter commencing in St. Paul in Room 83, the Auditorium, of the State Office Building on Wabasha Street in St. Paul, Minnesota at 9:30 a.m. on April 7, 1978. The hearing will be continued to such time and place as the Hearing Examiner may designate until all representatives of associations or other interested groups or persons have had an opportunity to participate and be heard concerning adoption of the proposed Rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted to the Office of Hearing Examiners, Howard Kaibel, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, without appearing at the hearing and will be accepted for a period of 5 working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

The purpose of these rules is generally as follows: To establish procedures for administering the Health Research Program. The Health Research Program will provide funds to help maintain biomedical research in Minnesota and to strengthen the state's ability to produce health services research, non-medical health research, and health policy re-

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search on issues of importance to the state. These rules will provide a mechanism for determining the types of research programs which will be eligible for grant awards. These rules will also describe criteria for applicant eligibility, criteria for selection of grant award recipients and criteria to determine the amount and terms of the grant awards.

Copies of the proposed Rules are now available for review at the following location:

Minnesota State Planning Agency
101 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Notice is also given that under Minn. Stat. § 10A.01, subd. 11 (1976) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at 410 State Office Building, St. Paul, Minnesota 55155.

Dated this 17th day of February, 1978.

Peter Vanderpoel, Director

Order for Hearing

To effectively implement the State Health Research Program, the State Planning Agency deems it necessary to consider adoption of the proposed rules captioned above, pursuant to the authority granted in Laws of Minnesota 1977, ch. 454 § 27 and Minnesota Department of Administration Reorganization Order No. 83 (1977).

Now therefore, it is ordered that a public hearing on the proposed rules be held commencing in St. Paul in the auditorium, Room 83, of the State Office Building, Wabasha Street, St. Paul, Minnesota at 9:30 a.m. on April 7, 1978 and continuing until all interested persons, representatives and organizations have had an opportunity to be heard by submitting oral or written data, statements, comments or arguments or by presenting witnesses.

It is further ordered, that notice of said hearing be given to all persons and associations who have registered their name with the Secretary of State for that purpose and that

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notice of said hearing shall be published in the *State Register*.

Dated this 17th day of February, 1978.

Peter Vanderpoel, Director

Rules as Proposed

10 MCAR § 1.305 Authority, purpose, definitions and general provisions.

- A. Authority. The rules contained herein are prescribed by the Statewide Health Coordinating Council and the State Planning Agency pursuant to the authority granted in Minn. Laws 1977, ch. 454, § 27 and Minnesota Department of Administration Reorganization Order No. 83.
- B. Purpose. The purpose of these rules is to establish procedures for administering the Health Research Program. The Health Research Program will provide funds to help maintain biomedical research in Minnesota and to strengthen the state's ability to produce health services research, non-medical health research, and health policy research on issues of importance to the state.
- C. Definitions. The following terms as used in these rules have the following meanings:
 1. "Health Research Program" (HRP) means the program and corresponding appropriation established by the Minnesota Legislature in Minn. Laws 1977, ch. 454, § 27 to further health research in Minnesota.
 2. "Statewide Health Coordinating Council" (SHCC) means the citizens' council appointed by the Governor of Minnesota pursuant to the National Health Planning and Resources Development Act of 1974, 42 U.S.C. § 300k (1977 Supp.).
 3. "Committee on the Health Research Program" (CHRP) means a committee of the SHCC which shall supervise the administration of the Health Research Program. All decisions of the CHRP shall be subject to review and approval by the SHCC.
 4. "State Planning Agency" means the agency of state government established by Minn. Laws

1965, ch. 685 to perform statewide planning functions.

5. "State Health Planning and Development Agency" (SHPDA) means the division of the State Planning Agency designated by the governor to fulfill statewide health planning functions pursuant to the National Health Planning and Resources Development Act of 1974, 42 U.S.C. § 300k (1977 Supp.).
6. "Biomedical research" means research into the basic processes and distribution of health and disease, including clinical interventions that affect these processes.
7. "Health services research" means research on manpower, practice patterns, organization, and economics of health care aimed at improving the efficiency, effectiveness, and distribution of health services as delivered in practice.
8. "Non-medical health research" means research on methods to prevent disease and promote health independently of health services professionals, by minimizing causes of ill health related to lifestyle and environment.
9. "Health policy research and analysis" means the study of health-related problems and the development, testing, and evaluation of various policy options for dealing with such problems. Policy studies may include health services research, non-medical health research and health policy research and analysis.
10. "Grant" means an award of money pursuant to a written agreement signed by the eligible applicant and by the official representative of the SHCC, setting forth the amount of the funds, the time period within which the funds are to be expended, the purposes for which the funds may be used, and other contractual conditions deemed necessary by the SHCC.

§ 1.306 Procedures for informing the public of the health research program.

- A. Notice of availability. The SHCC shall inform the public of the availability of Health Research Program funds by the following means:
 1. An announcement shall be published in the *State Register*.
 2. An announcement shall be published two con-

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secutive weeks in a newspaper of general circulation in each county of the state.

3. An announcement of availability shall be mailed to the following Minnesota organizations and institutions:
 - a. The University of Minnesota and its affiliated campuses
 - b. State universities
 - c. Community colleges
 - d. Private colleges
 - e. Vocational-technical institutions
 - f. All hospitals
 - g. Associations of health professionals
 - h. Mayo Foundation for Education and Research
 - i. Minnesota Department of Health
 - j. Minnesota Department of Public Welfare
 - k. Minnesota Legislature
 - l. The seven Health Systems Agencies located in Minnesota

The announcement shall set forth the amount of funds available for award, the period of time during which grant applications will be accepted, priority considerations listed in § 1.309 of these rules which the CHRP and SHCC will consider in its evaluation of grant applications, the date when grant awards will be announced by the SHCC, and the location where applications should be submitted. The announcement of availability shall also include a detailed description of application procedures and project specifications as defined in § 1.307 of these rules.

- B. Announcement of grant awards. The SHCC shall announce the disposition of available grant funds by the following means:
 1. When evaluation and selection have been completed, results will be sent immediately by mail to all applicants.
 2. A list of grant recipients, the amount of funds

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awarded to each recipient, and the nature of the research to be performed by the recipient shall be published in the *State Register*.

3. A list of grant recipients, the amount of funds awarded to each recipient, and the nature of the research to be performed by the recipient shall be mailed to the following organizations and institutions in order to inform the health-related research community of the types of studies to be performed:
 - a. The University of Minnesota and its affiliated campuses
 - b. State universities
 - c. Community colleges
 - d. Private colleges
 - e. Vocational-technical institutions
 - f. All hospitals
 - g. Associations of health professionals
 - h. Mayo Foundation for Education and Research
 - i. Minnesota Department of Health
 - j. Minnesota Department of Public Welfare
 - k. Minnesota Legislature
 - l. The seven Health Systems Agencies located in Minnesota

- C. Commencement of funding. All funds awarded under the Health Research Program shall become available to each recipient at the beginning of Fiscal Year 1979 (July 1, 1978) and should be expended by the recipient no later than June 30, 1980.

§ 1.307 Application procedures.

- A. All applicants for HRP funds will be required to submit a proposal containing the following information:
 1. The type of grant being applied for (i.e., whether

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Merit Fellowship, Non-Medical and Health Services Research, or Health Policy Study).

2. Scope of the project
3. Project goal and objectives
4. Project tasks to be completed
5. A description of the project, including:
 - a. A restatement of the objectives showing or demonstrating the applicant's view of the nature of the proposed research.
 - b. Identification and description of the products to be delivered by the applicant.
 - c. A description of the applicant's background and experience in health-related research.
 - d. Identification of the personnel who will conduct the research and a detailed description of their training and research experience. No change in professional research personnel assigned to the project will be permitted without the approval of the SHCC.
6. A detailed budget of project costs delineating proposed expenses. No general overhead rate will be allowed in the budget calculation.
7. A project completion date indicating the anticipated termination of the proposed research activity.
8. An indication of any other sources of funding, already possessed or applied for, which would be used to support the proposed research project.

B. All grant applications will be required to be submitted by a time and date specified by the SHCC in the announcement of availability described in § 1.306A of these rules. Late proposals will not be accepted.

§ 1.308 Procedures for awarding health research program funds.

A. Merit fellowship grants.

1. Eligibility. An eligible applicant is any individual researcher who resides in or agrees to reside in Minnesota and who proposes to engage in exploratory analysis and pilot research in a health-related subject or issue which has been es-

tablished as a priority by the SHCC as defined in § 1.309 of these rules. As a condition to receipt of a grant, each applicant must provide evidence that he/she has or will have an affiliation with the University of Minnesota, the Mayo Clinic, the Legislature and/or its staff, a state department or agency, a health organization, or post-secondary educational institution. This evidence must include a corroborating statement from the institution or organization with which the researcher affiliates or proposes to affiliate. Further, each applicant, as a condition to receipt of a grant, must agree to and actively seek federal or private support for full-scale research projects based on his or her exploratory analysis and pilot research.

2. Process of award. Grants to merit fellows shall be awarded on a competitive basis with applications being evaluated in terms of:
 - a. The applicant's professional credentials.
 - b. Demonstrated past performance in doing health-related research.
 - c. Proposed subject for study.
 - d. Clarity of the project goal and objectives.
 - e. The project work plan.
 - f. The project budget.
 - g. The qualifications of any additional professional research staff who will assist with the research project.
3. Terms of grant. Grants to merit fellows shall be limited to a maximum of \$50,000 per year for two years. Each grant may be utilized to provide a stipend to support the researcher and necessary clerical and research assistants and to cover the costs of other professional expenses incurred in the process of performing the research.
4. At least one-half of the merit fellowship grants shall be allocated to health services research, non-medical health research, and health policy analysis.

B. Non-Medical and health services research grants.

1. Eligibility. An eligible applicant is a Minnesota post-secondary education institution, state department or agency, or other health organization.
2. Purposes. Grants may be used to fund senior re-

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search positions, to provide seed money for non-medical and health services research activities, and to provide information, analysis, and technical support to health planners and state agencies on questions of health costs, productivity, health care regulation, and organization of the health care delivery system. The grants may also be used to support investigations and evaluations of preventive health care techniques designed to improve public health.

3. Process of award. Grants for non-medical and health services research shall be awarded on a competitive basis and shall be used only to support activities which are consistent with state health priorities established by the SHCC and listed in § 1.309 of these rules. Applications shall be evaluated in terms of:
 - a. Demonstrated past performance of the applicant organization, institution, or agency in doing health-related research.
 - b. Proposed subject for study.
 - c. Clarity of the project goal and objectives.
 - d. The project work plan.
 - e. The project budget.
 - f. Qualifications of the professional research staff who will carry out the research. The experience of the assigned personnel will be given greater weight than will the demonstrated past performance of the applicant organization, institution, or agency.
4. Determination of grant amount. The amount and nature of the grant shall be determined by the SHCC, which shall take into consideration the amount of funds requested and available; the demonstrated ability of the eligible applicant to perform research in the areas set forth in point B(2) above; and the technical assistance to health planners, state agencies, and the legislature which may be generated by the proposed research.

C. Health policy study grants.

1. Eligibility. An eligible applicant is any individual

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or organization that proposes a study relevant to the formulation of state health policy.

2. Process of award. Grants for health policy studies shall be awarded on a competitive basis and shall be consistent with health policy issues of priority concern as established by the SHCC and listed in § 1.309 of these rules. Applications shall be evaluated in terms of:
 - a. The applicant's professional credentials, where the applicant is an individual, or, where the applicant is an organization, institution, or agency, the demonstrated past performance of the entity in doing health policy research.
 - b. Demonstrated past performance in doing health-related research.
 - c. Proposed subject for study.
 - d. Clarity of the project goal and objectives.
 - e. The project work plan.
 - f. The project budget.
 - g. Qualifications of the professional research staff who will carry out the research. Where the applicant is an organization, institution, or agency, the experience of the assigned personnel will be given greater weight than will the demonstrated past performance of the organization, institution, or agency.
3. Determination of grant amount. The nature and size of the grant shall be determined by the SHCC, which shall take into consideration the amount of funds requested and available, the importance of the proposed subject of study to the state, and its consistency with the purpose of the HRP as defined in § 1.305B and the priorities established by the SHCC and listed in Section 1.309 of these rules.

§ 1.309 Priority considerations in the disbursement of health research program funds. In evaluating applications for HRP grants, the SHCC will consider the proposed subject of study in terms of the following priorities:

KEY: PROPOSED RULES SECTION: Underlining indicates additions to pre-existing rule language. ~~Strike outs~~ indicate deletions from pre-existing rule language. If all proposed rules in a set are totally new (i.e. non-amendatory) the entire set is printed in standard type face. **RULES SECTION:** Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

10 MCAR § 1.309

- The provision of primary care services for medically underserved populations located in rural or economically depressed areas.
- The development of multi-institutional systems for coordinating or consolidating institutional health services, including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy.
- The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.
- The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care.
- The training and increased utilization of physician extenders, especially nurse clinicians.
- The promotion of activities to achieve needed improvements in the quality of health services.
- The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.
- The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.
- The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services.

- Methods to reduce the incidence and prevalence of the leading causes of death and disability in Minnesota.
- The development of improved methodologies for health planning.

§ 1.310 Conflict of interest. When any member of the SHCC or the CHRP has any conflict of interest with respect to a Health Research Program grant application under consideration by the SHCC, that member shall, prior to consideration of the application, voluntarily disclose such interest to the CHRP and SHCC, either verbally or in writing, and shall be disqualified from voting on that particular grant application. A conflict of interest shall be deemed to exist where a SHCC member:

1. has a material financial interest, whether direct or indirect, in the proposed research or study;
2. is a director, trustee, or officer of any organization or institution applying for Health Research Program funds;
3. is an employee of any applicant;
4. is the spouse, child, parent, or sibling of any individual applicant.

Any member of the SHCC may challenge any other member by means of a properly recorded vote which shall determine the status of the challenged member concerning any possible conflict of interest before further voting on the proposed grant application under consideration.

No member of the Minnesota Legislature shall serve on the CHRP. No member of the CHRP, the SHCC, or the Minnesota Legislature shall be eligible to receive a grant under the Health Research Program.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, when, in preparing to propose rules, an agency seeks to obtain information or opinion from sources outside of the agency, a notice of intent to solicit such information or opinion is published in the *State Register* and interested persons are afforded an opportunity to submit data and views on the subject.

The *State Register* also contains any other official notice requested to be published by an agency, pursuant to Laws of 1977, ch. 305 § 3.

Department of Personnel

Notice of Intent to Solicit Outside Opinions on Rules Governing the Taking of Official Action by State Employees in Matters Involving Businesses in Which They Have an Interest

Notice is hereby given that the Department of Personnel is drafting rules amending the code of ethics for employees in the executive branch of the State of Minnesota. The rules governing a code of ethics are authorized by Minn. Stat. § 43.05 subd. 2 (13) 1976. It is the intent of these new rules to define significant financial interest in outside businesses, and to specify the conditions when employees should not be involved in official actions involving businesses in which they have a significant financial interest.

The department invites all interested persons or groups to provide information or comment on the above subject in writing to:

Richard R. Cottrell
Department of Personnel
Third Floor Space Center
444 Lafayette Road
St. Paul, MN 55101

All statements of information or comment must be received by March 31, 1978. Any written material received by the department on or before this date will become part of the hearing record.

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