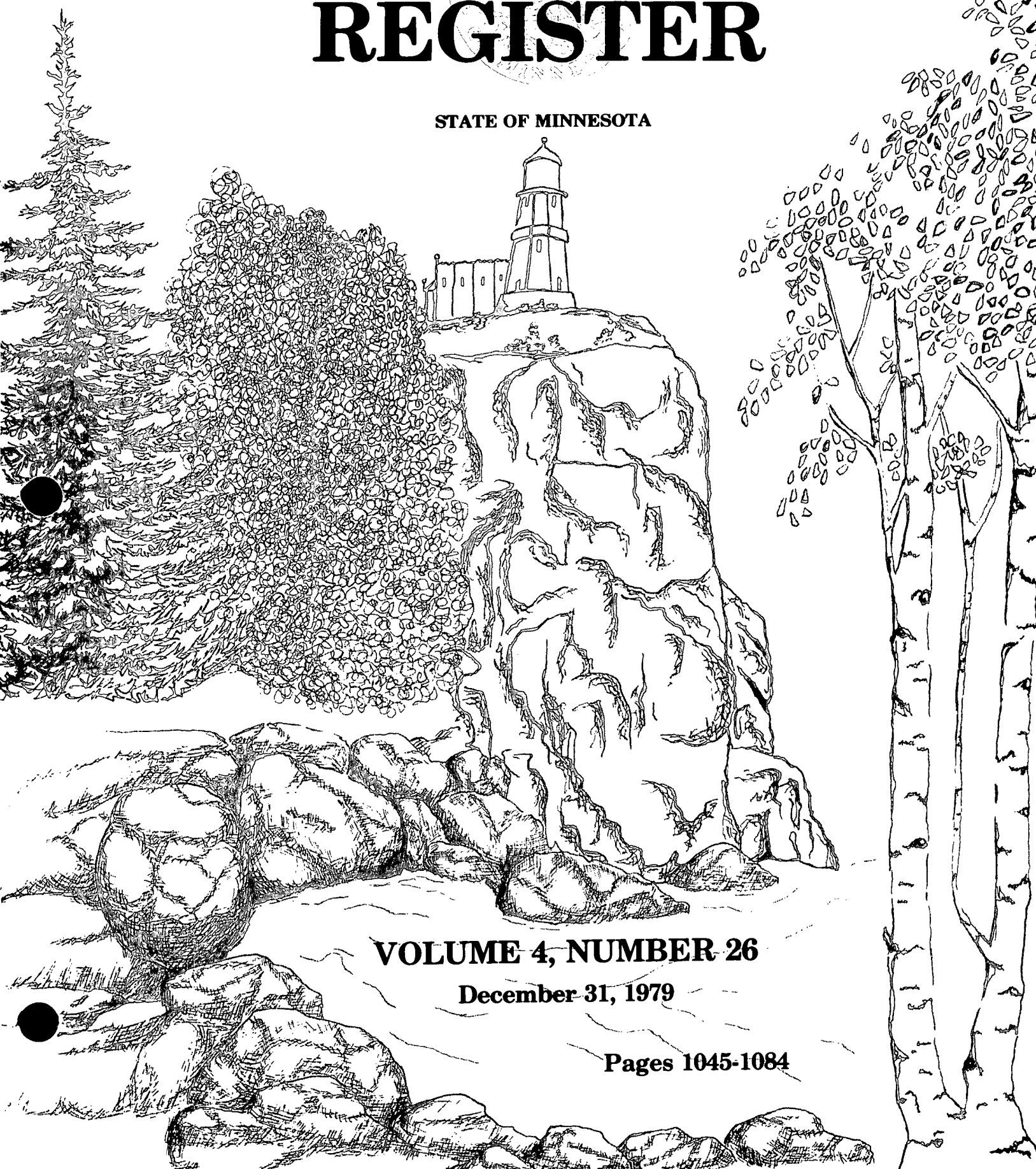


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Table with 4 columns: Issue Number, Submission deadline for Executive Orders, Rules and Proposed Rules, Submission deadline for State Contract Notices and Official Notices, Issue Date. Includes SCHEDULE FOR VOLUME 4 with dates from Dec 21 to Jan 28.

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

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

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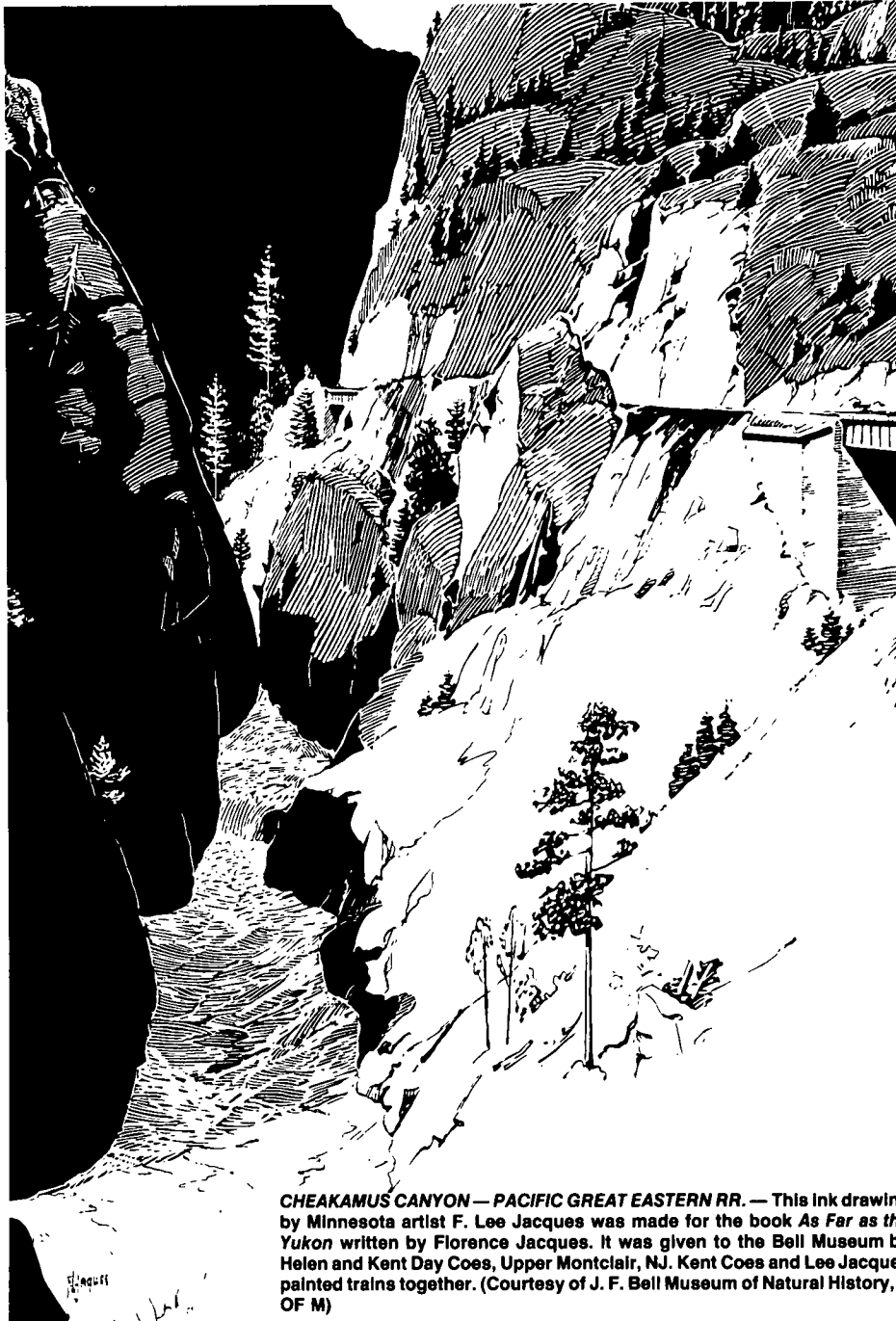
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CHEAKAMUS CANYON — PACIFIC GREAT EASTERN RR. — This ink drawing by Minnesota artist F. Lee Jacques was made for the book *As Far as the Yukon* written by Florence Jacques. It was given to the Bell Museum by Helen and Kent Day Coes, Upper Montclair, N.J. Kent Coes and Lee Jacques painted trains together. (Courtesy of J. F. Bell Museum of Natural History, U OF M)

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has

been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Education Special and Compensatory Division

Adopted Temporary Rules Governing Standards and Procedures of Special Education Instruction and Services for Children and Youth Who Are Handicapped

The proposed temporary rules (5 MCAR §§ 1.0120-1.0129) published at *State Register*, Volume 4, Number 13, p. 512, October 1, 1979 (4 S.R. 512) were adopted on November 5, 1979, approved by the Office of the Attorney General on December 12, 1979, and filed with the Office of the Secretary of State on December 13, 1979, to be in effect until June 30, 1980, with the following amendments:

Chapter Seven: Standards and Procedures of Special Education Instruction and Services for Children and Youth Who Are Handicapped

5 MCAR § 1.0127 B. Prior to the performance of or refusal to perform a formal educational assessment or reassessment as provided for in 5 MCAR § 1.0124 B., the providing school district shall prepare and serve a notice which shall meet the requirements of 5 MCAR § 1.0127 A. and shall:

5 MCAR § 1.0129 H.3. The school board shall be a party to any appeal. The commissioner shall issue a final decision based on a review of the local decision(s) and the entire records within 30 calendar days after receipt of the local decision(s) and the transcript the filing of the appeal. The commissioner shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing. The commissioner may grant specific extensions of time beyond the 30 day period at the request of any party.

Department of Education School Management Services Division

Adopted Temporary Rules Governing Education Computer Systems

The temporary rules (5 MCAR §§ 1.0900-1.0904) proposed and published at *State Register*, Volume 4, Number 13, p. 509, October 1, 1979 (4 S.R. 509) were adopted on November 5, 1979, approved by the Office of the Attorney General on December 10, 1979, and filed with the Office of the Secretary of State on December 11, 1979, with the following amendments:

Temporary Rules as Adopted

Chapter Forty-Two: Computer Systems

5 MCAR § 1.0900 Definitions.

A. Definitions. For the purpose of these rules, the following definitions are used:

1. "Board" ~~means~~ refers to the State Board of Education.
2. "Commissioner" refers to the Commissioner of Education.
3. "Department" refers to the Department of Education.
4. "District" is defined as any independent, special, or common school district and includes the area vocational-technical institutes.
5. "ESV" refers to the elementary, secondary, and vocational education system in Minnesota and includes all school districts as defined above.
6. "ESV-IS" is the Elementary, Secondary, and Vocational Information System which is sometimes referred to as the

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

ADOPTED RULES

"State-wide software" and or the "software developed by MECC for the Department of Education."

7. "ESV-FIN" is the financial ~~accounting~~ subsystems of the ESV-IS.

8. "ESV-PPS" is the personnel payroll subsystem of the ESV-IS.

9. "ESV-SSS" is student support subsystem of the ESV-IS.

10. ~~"ESV-IMS" is the instructional management subsystem of the ESV-SSS.~~ "Member," "member district," "membership" mean affiliation through a joint powers agreement with one or more other districts or with an Educational Cooperative Service Unit which will provide the computer services required by these rules through a management information center.

11. "MECC" is the Minnesota Educational Computing Consortium.

12. "Region" and "regional management information center" is the administrative organization created to provide computer services to its membership. ~~the school districts within the region and designated as a regional management information center by the Department of Education.~~

13. "Data element" is any representation of information such as alphabetic characters, or numbers or signs to which meaning may be assigned and which is suitable for communication, interpretation or processing by humans or by automated means.

14. "Data acquisition calendar" is the list of forms, applications, memoranda, or other instruments through which the districts are required to collect, record or report data, and indicates the date when such data is due to the department.

15. "State computing plan" is the following collection of documents:

a. "A proposed educational computing services organization: its facilities and services," revised edition February 15, 1973.

b. "Minnesota educational computing consortium 'MECC' report—1974" February, 1974.

c. "MECC update" September, 1974.

d. "Minnesota educational data processing to 1980" October, 1974.

e. "Summary of Minnesota educational computing plans and budget for the 1977-79 biennium" November, 1976.

f. "Summary of Minnesota educational computing plans and budgets for the 1979-81 biennium" November, 1978.

g. "Minnesota area vocational-technical institutes state plan for instructional data processing" July 1, 1979.

~~h. Such other documents as the State Board of Education may from time to time designate as an amendment to the State Plan.~~

16. "UFARS" is the Uniform Financial Accounting and Reporting System established in 5 MCAR §§ 1.0760-1.0769 adopted by the board pursuant to Minn. Stat. §§ 121.90-121.928.

5 MCAR § 1.0901 Region plans and budgets.

~~A. D.~~ By February 1 of each year each district shall submit to the regional management information center of which it is a member, a proposed budget and plan for computer services identifying the computer equipment, computer software, and staff it will use, the costs related to those items and any service fees or other computer related costs which will be incurred by the district and will not be provided by the region.

~~B. A.~~ By April 1 of each year, each regional management information center shall submit an annual plan and budget on behalf of its member districts, which has been approved by the governing board of that region, to the ~~Department of Education~~ commissioner for ~~its~~ his approval.

~~C. B.~~ This Each region's plan and budget shall be on forms and in the format prescribed by the commissioner and shall conform to UFARS.

~~D. C.~~ The Each region's plan shall contain sufficient information so that it can be determined by the ~~Department~~ commissioner that:

1. The region has conducted a survey of each member district and has developed a statement of the needs for computer services, including data processing systems, equipment and facility utilization, for each of the member districts. The statement shall contain the following information for each district.

a. The systems within the ESV-IS which each district desires to use.

b. Other computer systems and related applications and operating software which the district desires or intends to use.

c. Data communications systems including but not limited to telecommunications, voice communications, equipment, and delivery services which each district desires or intends to use.

d. Modifications and enhancements to the current ESV-IS which each district intends to make or desires to have made by the region, the department, or MECC.

e. Training, workshops, and other personnel related services which each district desires to have provided by the region.

f. Such other items as the districts or the region determine should be included.

2. That each district will fully participate in the comprehensive financial reporting system utilizing the ESV-FIN system and that each district has an opportunity ~~to fully participate or has an opportunity~~ to participate to the extent of desired participation in the ESV-PPS, ~~and/or~~ ESV-SSS, and/or ~~ESV-IMS~~ through the availability of hardware, ESV-IS software, and staff specialists to operate these systems during the normal working hours of the regional computer centers.

3. There is sufficient staff, computer hardware and related equipment to meet the needs expressed ~~provide the computer services requested by the member districts and approved by the regional governing board, and that the hardware and related equipment is compatible with the hardware and communication equipment used by the ESV-IS.~~

4. Where the services requested by a district are different from those approved by the regional governing board, the plan shall specify the difference, and why the requested services will not be provided by the region.

5. ~~4.~~ There are sufficient funds to support the staff, hardware, communication and other related costs of the regional management information center.

6. ~~5.~~ The region has the ability to provide information required by the annual data acquisition calendar and by the rules of the board on behalf of its member districts by securing and operating such equipment and using the software designed by, for, or on behalf of the department as is ~~necessary~~ required to produce computer tapes which are machine readable on the computer designated by the department.

7. ~~6.~~ The region has a data base which it maintains for each school district which contains the data elements in the data element dictionary and the region has the necessary equipment and software to report to the department, within 15 days, information based on these data elements using software designed by, for, or on behalf of the department, on computer tape, which is machine readable on the computer designated by the department.

8. ~~7.~~ The region has the ability to collect, store and report, within 30-90 days, after the date of notification information requested by the department, based on data elements not contained in the data element dictionary.

E. Each district shall collect, and shall store on the region computer, for reporting to the department, the data elements contained in the data element dictionary. Each region shall ~~maintain a database~~ provide space on the computer for each school district, for storage of the data elements in the data element dictionary in the format according to the standards contained in 5 MCAR § 1.0903 C. The availability of this space shall be without cost to the district so long as the state provides subsidy funds to the region, which funds are designated by the law as a reporting subsidy.

F. ~~The region shall submit a proposed annual budget approved by its governing board which shall conform to the Uniform Financial Accounting and Reporting Standards as contained in 5 MCAR §§ 1.0760-1.0769 and Minn. Stat. §§ 121.90-121.92.~~

F. The region agrees that prior to transmittal of any data to the department, the region shall provide the district with an

opportunity to review the data and to certify or comment on its accuracy.

G. By April 1 of each even numbered year, each existing region and any proposed region shall submit a proposed biennial budget approved by its governing board or by the proposed governing board which shall conform to the Uniform Financial Accounting and Reporting Standards as contained in 5 MCAR §§ 1.0760-1.0769 and Minn. Stat. §§ 121.90-121.92.

H. Any district or region proposing to acquire computer equipment by any means must first receive the approval of the commissioner. The commissioner shall review any proposed equipment acquisition to determine whether the services requested provided by such equipment justify the expenditures; and will review all costs to determine whether they are justified by the level of services to be provided.

I. The commissioner shall make a determination whether there are sufficient funds to implement the annual or biennial plan and budget as presented and shall determine whether or not the services to be provided by the region can be provided in a more cost effective manner, such that the commissioner shall deny the plan and budget if it is determined that, had the plan and budget been an application for a new region, the application would have been denied. The commissioner and shall notify the region of his decision by June 1 of each year or within 15 days following the adjournment of the legislature, whichever is later. In the instance where the decision of the commissioner is adverse to the desires of the region, the region may have the matter referred to the Minnesota Educational Computing Consortium for a final determination.

J. Any change in level of service provided by the region or proposed equipment ~~or changes that~~ which occur after a plan and budget has been approved must be separately approved by the commissioner.

K. During the course of any year, the commissioner may revoke a previously granted approval of a plan and budget on the basis that:

1. There has been an amendment to the plan or budget which materially affects the provision of services to members of the region and which has not been reported to ~~or~~ and approved by the Department commissioner.

2. The region no longer has the ability to provide services according to the standards established in 5 MCAR § 1.0901 and 5 MCAR § 1.0902 necessary for the creation of a region.

In the instance where the decision of the commissioner is adverse to the desires of the region, the region may have the matter referred to MECC for a final determination.

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ADOPTED RULES

5 MCAR § 1.0902 Creation of regions.

A. Criteria for new regions. Two or more districts which desire to establish a new regional management information center shall submit to the commissioner the following information:

1. Names, ~~and~~ addresses and numbers of the districts ~~who desire~~ desiring to operate participate in the new region.

2. A plan and budget which meets the requirements of 5 MCAR § 1.0901.

3. A statement showing how the proposed region conforms to the state computing plan in that:

a. The hardware and ~~its~~ the operating software proposed for the region is compatible to the hardware and operating software specified in the state computing plan.

b. The applications software used is the ESV-IS software.

c. The staff is or will be trained on the ESV-IS and will be able to provide user coordination and data control services to the districts.

d. Services to intermediate AVTI schools ~~located~~ included within the region are separately included in the proposed region plan and budget.

~~e. Communication networks are configured in the least costly manner.~~

~~e. f.~~ The governance structure of the proposed region shall include a governing board which conforms to Minn. Stat. § 471.59, or § 123.58 whichever is appropriate.

4. The determination of whether the proposed region is cost effective will be based upon the following information:

a. The cost for data communications, hardware, staff, space rental, and other associated costs compared with projected costs if instead the member districts were to belong to existing regions that are in proximity to the member districts. Where the level and types of services in the proposed region differ from those which have been provided by regions in proximity to the member districts, those differences along with the costs associated with those differences must be documented.

b. Any continuing financial obligations where member districts are withdrawing from a previously existing region.

c. Any additional cost to other districts where a member district withdraws from an existing region, and the ability of the existing region to reduce those costs by the utilization of different hardware, and staff, while still meeting its obligations under 5 MCAR § 1.0901. If the existing region cannot continue in a cost effective manner, the ability of the remaining member districts to join different regions ~~who will~~ or the ability and willingness of other districts to join the existing region in order to meet their needs as specified in the existing plan filed pursuant to 5 MCAR § 1.0901, and the costs related to such a change.

d. The anticipated membership fees and service fees

charges for the member districts compared with the membership fees and service fees charges if instead the member districts were to belong to existing regions that are in proximity to the member districts. Any difference in level of service between the proposed region and the regions in proximity must be documented.

B. Upon examination of the evidence presented in support of the creation of a new region, and after consultation with the Elementary, Secondary, and Vocational Computer Services Advisory Task Force, the commissioner shall make a recom- mendation to the board for its determination.

C. Any new region which is approved pursuant to this rule shall come into existence on the July 1 of the next odd numbered year after its creation or when the Legislature makes express appropriations of regional subsidies for the region, whichever occurs first.

D. Any district which seeks to terminate membership in an existing region and affiliate with another existing region must file the same documentation and complete the same process as provided for the creation of a new region.

5 MCAR § 1.0903 Data element dictionary.

A. The purpose of the data element dictionary is to provide a standardized table of data elements which districts are required to collect, store and report either directly to the Department or through the regional management information center.

B. The criteria for inclusion of a data element in the data element dictionary are:

1. The data is needed in order for the department to properly disburse funds in support of the elementary, secondary, and vocational educational system in Minnesota; or

2. The data is needed to make reports defined or required by state or federal statute, rules, or regulations; or

~~3. The data is needed for the planning of educational programs; or~~ The data is needed to meet the goals and objectives assigned to the department by the board, the governor or the legislature; or

~~4. The data is needed for the evaluation of educational programs; or~~ The data are needed in order to provide information required by the board, the governor, the legislature or the federal government; or

~~5. The data is needed for adequate management of the Department; or~~

~~6.~~ The data is needed for the implementation of research or special projects in education, and which have been approved by the commissioner.

C. Each data element in the data element dictionary shall contain:

1. The standard names of the data element.

2. The description of the physical characteristics of the data element.

- 3. The definition of the data element.
- 4. The purpose for which the data element is collected.

D. The commissioner shall establish an ad hoc data acquisition review committee with representation from school districts as well as from the department. The committee shall review each proposed data element and make recommendation to the commissioner whether:

- 1. It is appropriate for the department to collect the data described by the data element.
- 2. The data element meets the criteria described in 5 MCAR § 1.0903 B.
- 3. The data element is not already contained in the data element dictionary.
- 4. The costs to collect the data does not exceed the benefits obtained from collecting the data, except in the instance where state or federal statute or rule requires collection of the data.
- 5. The collection of data conforms to the Minnesota Government Data Practices Act.

Notice of the review of the proposed data element shall be sent to each region prior to the date of review.

E. Each data element contained in the data element dictionary shall be reviewed by the committee not less than once every three years. Notification of the review shall be sent to each region and an opportunity shall be given them to review and comment on the need to continue to collect the data described in the data element.

~~F. D. Data elements proposed for inclusion in, or deletion from, the data element dictionary shall be reviewed and approved by the commissioner. After receiving the recommendation of the data acquisition review committee, the commissioner shall determine whether to include or delete a data element from the data element dictionary.~~

~~G. At least 90 180 days notice to the region shall be given prior to the collection of any new data element.~~

5 MCAR § 1.0904 Data acquisition ~~plan~~ calendar.

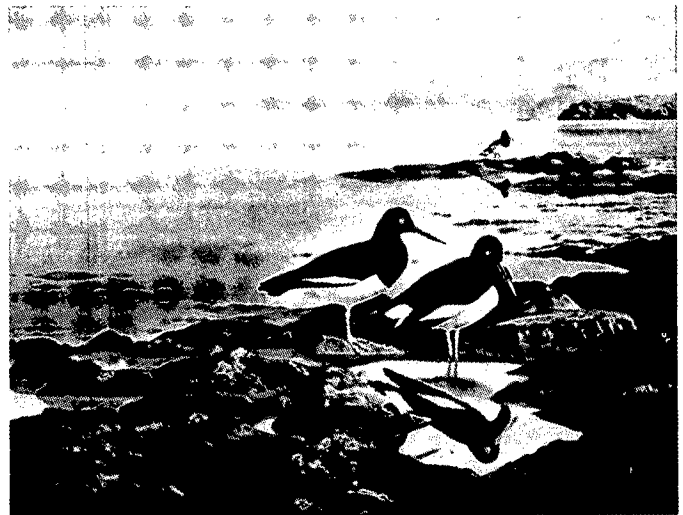
A. ~~By June 1~~ September 1 of each year, the department shall transmit to each district and region an annual data acquisition calendar specifying the reports which school districts are required to submit either directly to the department or through the regional management information center. Amendments may be made to the calendar each quarter thereafter.

B. The data acquisition calendar shall contain, at a minimum, the name and description of the form and the date when it is due to the Department.

C. Only data elements contained in the data element dictionary shall be included in the form and shall be used according to the standards established in the data element dictionary.

D. Proposed forms to be included or deleted from the data acquisition calendar shall be approved only after each data element has been approved by the commissioner as provided in 5 MCAR § 1.0903.

A PERUVIAN EXPEDITION in 1926 provided Lee Jacques with material for this and other oils for Robert Cushman Murphy's book *Oceanic Birds of South America*. Jacques was a newly appointed staff artist with the American Museum of Natural History at the time. Entitled *Fuegian Oyster-catchers, Falkland Sound, Falkland Islands*, this painting was loaned to the Bell Museum of the Yale-Peabody Museum, New Haven, CT. (Courtesy of J. F. Bell Museum of Natural History, U of M)



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Department of Health Community Services Division

Adopted Rules Relating to the Services for Children with Handicaps and Adults with Cystic Fibrosis and Hemophilia for Eligibility, Cost-sharing and Reimbursement

The rules proposed and published at *State Register*, Volume 3, Number 37, pp. 1749-1757, Monday, March 19, 1979 (3 S.R. 1749), previously entitled "Proposed Rules Relating to Crippled Children's Services Criteria, Procedures and Responsibilities for Eligibility, Cost-Sharing and Reimbursement," are adopted with the following amendments:

Rules as Adopted

Chapter Thirty-one: 7 MCAR §§ 1.651-1.657

7 MCAR § 1.651 General.

A. Declaration of purpose, scope and applicability. These rules apply to the parent(s) or guardian(s) of handicapped and potentially handicapped children under the age of 21, self-supporting handicapped and potentially handicapped individuals under 21 years of age, individuals 21 years of age or over with cystic fibrosis or hemophilia, and those health professionals and institutions that provide services to eligible individuals with handicaps. The Federal Act (Title V, USC 42, Chapter 7) authorizing ~~Crippled Children Services (CCS)~~ Services for Children with Handicaps (SCH) provides annual formula funds to the state, which are augmented by state appropriation; therefore, reimbursement to providers under these rules is subject to the limitation of these funds and the funds appropriated under Minnesota ~~Laws 1977, Chapter 453, Section 24.~~ law.

The purpose and scope of these rules is to specify the ~~Crippled Children Services (CCS)~~ Services for Children with Handicaps (SCH) criteria, procedures and responsibilities relating to applicant eligibility, applicant cost-sharing and reimbursement to service providers for service(s) authorized by ~~CCS~~ SCH for physically handicapping conditions in children.

B. Definitions. For the purposes of these rules, the following terms shall have the meaning given them:

1. "Adjusted gross income" means all of the income received by the applicant, less the deductions allowed by the IRS for business and professional expenses as declared on the most recent IRS statement of federal adjusted gross income for the immediately preceding tax year.

2. "Administrative Review Committee" means the

committee, as identified by the Commissioner of Health, composed of administrative personnel from the Division of Personal Health Services and the ~~CCS~~ SCH Program and a representative from the ~~CCS~~ SCH field staff who have responsibility for the review of ~~CCS~~ SCH decisions relating to eligibility and cost-sharing for those applicants who wish such reconsideration.

3. "Allowable deductions" means those expenses incurred by household members for the following items:

a. Medical-dental expenses for treatment and other health care related expenses paid during the previous twelve months which were not reimbursed by a third-party payer such as insurance or Title XIX (Medical Assistance).

b. Transportation costs in order to obtain medical/dental care and services during the previous twelve months.

(1) Travel expenses by car are calculated at ~~\$10~~ \$17 a mile.

(2) Actual costs of train, airplane, bus and taxi fares.

4. "Applicant" means the individual who requests the services offered by ~~CCS~~ SCH or the parent(s) or legal guardian(s) of such an individual.

5. "Application" means a written request for service and/or cost-sharing determination signed by the applicant on forms specified by ~~CCS~~ SCH.

6. "Authorization form" means the document designed and supplied by ~~CCS~~ SCH to the service provider with a copy to the applicant, outlining the service(s) requested for the individual and the conditions of payment by ~~CCS~~ SCH to the service provider.

7. "Child with a handicap" means an individual under 21 years of age who has a disease or physiological condition which might hinder the achievement of normal growth and development.

8. "~~CCS~~" "SCH" means the ~~Crippled Children Services~~ Services for Children with Handicaps Program.

9. "~~CCS~~ SCH adjusted income" means the income figure derived after ~~CCS~~ SCH applies cost-sharing calculations pursuant to 7 MCAR § 1.654 B.4.

10. "Comprehensive Care Center" (applicable to services for hemophiliacs only) means a medical facility in which a multidisciplinary team coordinates a program of total care for hemophiliacs, including emergency and consultation services.

11. "Cost-sharing" means the financial participation in the cost of treatment service(s) on the part of the applicant and established on the basis of ability to pay pursuant to these rules.

12. "Cost-sharing schedule" means the schedule set out in 7 MCAR § 1.654 B.4. which specifies income levels by number of members in the household and the corresponding percentage of that income level an applicant shall be required to share in the cost of treatment service(s), depending upon the level of their ~~CCS~~ SCH adjusted income.

13. "Diagnostic evaluation" means the initial history, examination and necessary tests to establish the diagnosis and outline the plan of treatment. This evaluation is performed by a team of professionals under the direction of a physician who is board-certified or board-eligible in a specialty area.

14. "Federal Act" means the Social Security Act, as amended, Title V, (USC 42, Chapter 7).

15. "Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency and/or abnormality of a blood plasma factor or component.

16. "Household member" means any of the following individuals who shall be counted as part of a household for the purposes of these rules:

- a. Spouse.
- b. Parent(s) and their children who are not self-supporting whether residing in the household or absent from the home.
- c. The unborn child/children of a current pregnancy of a spouse. Self-supporting individuals 18 years and over shall not be included as members of the household.

17. "Household member deduction" means an amount of \$1,000 for each household member which is deducted from the total of the includable assets.

18. "Includable assets" means cash and those fluid assets readily convertible into cash such as commercial paper and negotiable paper instruments. The amount of these instruments is added by CCS SCH to the adjusted gross income. Includable assets include:

- a. Cash.
- b. Checking accounts.
- c. Certificates of deposit.
- d. Savings accounts.
- e. Bonds.
- f. Stocks.
- g. Income not reportable to IRS.

19. "~~Long term physically~~ Handicapping condition" means a ~~condition based upon the diagnostic evaluation and approved by CCS, which cannot be resolved or significantly influenced within two years of the date of initial application~~ physical condition which requires extended, sequential, medical, surgical and/or rehabilitative intervention as determined by a diagnostic evaluation and approved by SCH.

20. "Medical Director" means the physician assigned responsibility by the Commissioner of Health for the administration and management of CCS SCH in the State of Minnesota.

21. "One-person household" means any of the following individuals who shall be counted as a one-person household for the purposes of these rules:

- a. An adult living alone.
- b. An adult living with individual(s) other than a spouse or children who are not self-supporting.
- c. A child living with a relative other than a parent or legal guardian.
- d. An individual 18 years of age or over who is a self-supporting individual and living with parent(s).

22. "Prior authorization" means ~~an~~ a written agreement between CCS SCH and a service provider which details service(s) requested for payment by CCS SCH for the benefit of an applicant. The service(s) and conditions of payment must be approved by an agent of CCS SCH prior to provision of the service(s).

23. "Reimbursement" means the payment by CCS SCH to a service provider for diagnostic evaluation or treatment service(s) of CCS SCH eligible individuals.

24. "Self-supporting individual" means an individual who contributes 50% or more toward his/her living costs.

25. "Service provider" means any of those facilities and personnel whose services are requested by CCS SCH and who meet the criteria for participation as specified in these rules.

26. "State gross median income" means the income level at which 50% of the people in the state have incomes higher than the median and 50% of the people have incomes which are lower, as computed by the Minnesota Department of Employment Services in 1977.

27. "Third-party reimbursement sources" means a third-party payer, other than the applicant who pays for service(s) not directly received by the payer, such as insurance (including Health Maintenance Organizations) and/or Title XIX (Medical Assistance).

28. "Title XIX" (Medical Assistance) means the program authorized by the Social Security Act USC 42, Section 1901-1910 to provide reimbursement for medical care for individuals whose resources do not enable them to purchase such care.

29. "Treatment service(s)" means the ongoing medical case management for a child diagnosed as having a ~~long term~~ physically handicapping condition. This medical case management includes definitive medical, surgical, dental, rehabilitative and follow-up services related to the condition.

30. "Treatment plan" means a written statement developed by a physician who is board-certified or board-eligible in a specialty area in concert with other professionals and which

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ADOPTED RULES

delineates the service(s) required to correct or ameliorate an individual's physically handicapping condition.

7 MCAR § 1.652 Applicant eligibility for diagnostic evaluation.

A. An applicant shall complete an application provided by CCS SCH as described in 7 MCAR § 1.654 A. Any applicant, regardless of income, who meets all of the following criteria shall be eligible for a diagnostic evaluation authorized by CCS SCH:

1. A resident of the State of Minnesota.
2. A child under 21 years of age or an adult 21 years of age or over with cystic fibrosis or hemophilia.
3. A child who is suspected to be a child with a handicap.

B. In addition to the above criteria:

1. An applicant shall be required to make use of available third-party reimbursement sources for the examinations and tests necessary for a diagnostic evaluation. There shall be no out-of-pocket cost to the applicant.
2. Prior written authorization shall be required for a diagnostic evaluation to be reimbursed in full or for that part not reimbursed by third-party payers by CCS SCH.

7 MCAR § 1.653 Applicant eligibility for treatment services.

A. An applicant shall complete an application provided by CCS SCH and described in 7 MCAR § 1.654 A. Any applicant who meets all of the following criteria shall be eligible for CCS SCH reimbursement to service providers for the cost of treatment service(s):

1. A resident of the State of Minnesota.
2. A child under 21 years of age or an adult 21 years of age or older with cystic fibrosis or hemophilia.
3. A child who has a diagnosed ~~long-term~~ physically handicapping condition as defined in these rules.

B. In addition to the above criteria:

1. An applicant shall agree to participate in cost-sharing if any is required, according to the specifications set out in 7 MCAR § 1.654 B.
2. An applicant shall be required to make use of available third-party reimbursement sources for treatment service(s).
3. Prior written authorization shall be required for treatment service(s) to be reimbursed in full or in part by CCS SCH.

C. An applicant who meets all of the criteria and requirements for eligibility, but whose handicapping condition may be ~~of a short-term nature~~, not require extended or sequential care, shall be eligible for CCS SCH reimbursement to service providers in those instances where the cost of treatment is anticipated to exceed 40% of the applicant's adjusted gross income as defined in these rules.

7 MCAR § 1.654 Application and cost-sharing for applicant(s).

A. Application for service(s).

1. CCS SCH shall provide an application form upon request. Each submitted application shall contain a signed statement by the applicant that the information given is true and complete to the best of his/her ability and knowledge.

2. CCS SCH shall review the completed application within 30 days of receipt. This review determines whether the applicant is eligible for CCS SCH reimbursement of treatment service(s) pursuant to 7 MCAR § 1.653 A. and determines any cost-sharing requirements.

3. CCS SCH shall notify the applicant in writing of any decision related to eligibility for CCS SCH reimbursement to service providers for service(s).

4. For applicants for treatment service(s), CCS SCH shall prepare the cost-sharing agreement, if cost-sharing is indicated under 7 MCAR § 1.654 B. An applicant shall not be eligible to have treatment service(s) authorized through CCS SCH until the cost-sharing agreement is signed by the applicant and received in the CCS SCH office.

5. An applicant who is determined ineligible for reimbursement of treatment costs may reapply when and if he/she feels there are changes of circumstance which are related to the eligibility criteria as contained in these rules.

6. The period in which an applicant shall remain eligible for CCS SCH authorization for reimbursement to service providers of treatment costs shall be as follows:

a. One year from the date of receipt by CCS SCH of the signed cost-sharing agreement, when cost-sharing is required.

b. One year from the date of the original eligibility determination, when no cost-sharing is required.

c. CCS SCH ~~may~~ shall make an exception regarding the beginning date of eligibility in those instances where the child is in an unanticipated treatment situation and the applicant was unaware of the program before this time. Where the time required to process the application will cause delay in the provision of treatment service(s), the documented, initial contact with CCS SCH ~~may~~ shall be considered the beginning of eligibility if the application and signed cost-sharing agreement are received within 60 days of this initial contact.

7. CCS SCH shall send the applicant written notification of the date upon which eligibility begins.

8. To maintain eligibility, an applicant must complete another application at the end of the eligibility period.

B. Cost-sharing.

1. Any applicant whose CCS SCH adjusted income as defined and described in 7 MCAR § 1.651 B.9. is above 60% of the state gross median income shall be required to share in the treatment costs of all service(s) authorized by CCS SCH. CCS

SCH shall reimburse service providers for remaining expenses for authorized treatment service(s) which are not covered by the applicant's cost-sharing or third-party reimbursement sources.

2. No cost-sharing shall be required of an applicant who is currently eligible for Medical Assistance (Title XIX), a ward of the state or whose ~~€€S~~ SCH adjusted income falls below 60% of the state gross median income.

3. The adjusted gross income used in any cost-sharing calculations shall be that of the applicant as defined in 7 MCAR § 1.651 B.4. The income of a step-parent who does not adopt a child is not considered in cost-sharing calculations.

4. The amount of cost-sharing required of an applicant is determined in the following manner:

Step #1: The includable assets are totalled. If applicable, the household member deduction is subtracted from this total.

Step #2: The amount derived in Step #1 is then added to the adjusted gross income.

Step #3: The total of the allowable deductions is subtracted from the amount derived in Step #2. This figure indicates the ~~€€S~~ SCH adjusted income.

Step #4: The percentage that the applicant must share in the cost of treatment is based on the applicant's ~~€€S~~ SCH adjusted income level and on the number of members in the household. This percentage is calculated according to the following chart.

5. Adjustments in cost-sharing ~~may~~ shall be made when extenuating circumstances occur which may alter the ability of an applicant to assume cost-sharing in the amount indicated. The following constitute criteria for a review of an applicant's cost-sharing requirement during the eligibility period:

a. An increase or decrease of 5% in the annual adjusted gross income from that indicated on the application.

b. A change in the number of members included in the household from that indicated on the application.

c. Uninsured property damage of at least \$2,500.

d. Extraordinary expenses for travel, lodging, child care incurred by families as a result of current treatment of eligible children.

6. An applicant shall be responsible for reporting any change in the number of household members or a change of 5% of the adjusted gross income to ~~€€S~~ SCH within 15 days. Failure to provide such information shall constitute grounds for review of an applicant's cost-sharing. [continued on following page.]

ANDREAN CONDOR, another of Lee Jacques' oils, was the result of an experience during his Peruvian expedition. He later noted: "From Lima, the train track led to Ancon, a town farther up the coast where there was a hotel of sorts, and a club which I had to trespass through, due to wire fences, to walk up (or down) the coast . . . It was here that I had eight condors in the field of my glasses at once! This is the area shown in the painting of a Condor which Charlotte Merrick has." The painting was loaned to the Bell Museum by Mr. and Mrs. Robert L. Merrick, St. Paul, MN. (Courtesy of J.F. Bell Museum of Natural History, U of M)



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SCH Cost-sharing Schedule

For each number of household members, the beginning income level on the schedule represents the range of income from 0 to 60% of the state gross median income. Increments of \$1,000 have been used to establish each succeeding income level for that size household in 1977. The percentage at the left of the schedule rises 1% for every \$1,000 rise in the ~~SES~~ SCH adjusted income level.

Percentage which eligible applicants share in the cost of treatment

Income Levels by Number of Members in the Household

	1	2	3	4	5
0	0-\$5,606	0-\$7,332	0-\$9,057	0-\$10,782	0-\$12,507
1	5,607- 6,606	7,333- 8,332	9,058-10,057	10,783- 11,782	12,508- 13,507
2	6,607- 7,606	8,333- 9,332	10,058-11,057	11,783- 12,782	13,508- 14,507
3	7,607- 8,606	9,333-10,332	11,058-12,057	12,783- 13,782	14,508- 15,507
4	8,607- 9,606	10,333-11,332	12,058-13,057	13,783- 14,782	15,508- 16,507
5	9,607-10,606	11,333-12,332	13,058-14,057	14,783- 15,782	16,508- 17,507
6	10,607-11,606	12,333-13,332	14,058-15,057	15,783- 16,782	17,508- 18,507
7	11,607-12,606	13,333-14,332	15,058-16,057	16,783- 17,782	18,508- 19,507
8	12,607-13,606	14,333-15,332	16,058-17,057	17,783- 18,782	19,508- 20,507
9	13,607-14,606	15,333-16,332	17,058-18,057	18,783- 19,782	20,508- 21,507
10	14,607-15,606	16,333-17,332	18,058-19,057	19,783- 20,782	21,508- 22,507
11	15,607-16,606	17,333-18,332	19,058-20,057	20,783- 21,782	22,508- 23,507
12	16,607-17,606	18,333-19,332	20,058-21,057	21,783- 22,782	23,508- 24,507
13	17,607-18,606	19,333-20,332	21,058-22,057	22,783- 23,782	24,508- 25,507
14	18,607-19,606	20,333-21,332	22,058-23,057	23,783- 24,782	25,508- 26,507
15	19,607-20,606	21,333-22,332	23,058-24,057	24,783- 25,782	26,508- 27,507
16	20,607-21,606	22,333-23,332	24,058-25,057	25,783- 26,782	27,508- 28,507
17	21,607-22,606	23,333-24,332	25,058-26,057	26,783- 27,782	28,508- 29,507
18	22,607-23,606	24,333-25,332	26,058-27,057	27,783- 28,782	29,508- 30,507
	6	7	8	9	10
0	0-14,232	0-14,556	0-14,879	0- 15,203	0- 15,526
1	14,233-15,232	14,557-15,556	14,880-15,879	15,204- 16,203	15,527- 16,526
2	15,233-16,232	15,557-16,556	15,880-16,879	16,204- 17,203	16,527- 17,526
3	16,233-17,232	16,557-17,556	16,880-17,879	17,204- 18,203	17,527- 18,526
4	17,233-18,232	17,557-18,556	17,880-18,879	18,204- 19,203	18,527- 19,526
5	18,233-19,232	18,577-19,556	18,880-19,879	19,204- 20,203	19,527- 20,526
6	19,233-20,232	19,557-20,556	19,880-20,879	20,204- 21,203	20,527- 21,526
7	20,233-21,232	20,557-21,556	20,880-21,879	21,204- 22,203	21,527- 22,526
8	21,233-22,232	21,557-22,556	21,880-22,879	22,204- 23,203	22,527- 23,526
9	22,233-23,232	22,557-23,556	22,880-23,879	23,204- 24,203	23,527- 24,526
10	23,233-24,232	23,557-24,556	23,880-24,879	24,204- 25,203	24,527- 25,526
11	24,233-25,232	24,557-25,556	24,880-25,879	25,204- 26,203	25,527- 26,526
12	25,233-26,332	25,557-26,556	25,880-26,879	26,204- 27,203	26,527- 27,526
13	26,233-27,232	26,557-27,556	26,880-27,879	27,204- 28,203	27,527- 28,526
14	27,233-28,232	27,557-28,556	27,880-28,879	28,204- 29,203	28,527- 29,526
15	28,233-29,232	28,557-29,556	28,880-29,879	29,204- 30,203	29,527- 30,526
16	29,233-30,232	29,557-30,556	29,880-30,879	30,204- 31,203	30,527- 31,526
17	30,233-31,232	30,557-31,556	30,880-31,879	31,204- 32,203	31,527- 32,526
18	31,233-32,232	31,557-32,556	31,880-32,879	32,204- 33,203	32,527- 33,526

Add 1% per thousand for higher incomes

7. The amount that an eligible applicant shall share in the cost of treatment shall remain the same regardless of the number of children in the household eligible for treatment under the ~~CCS~~ SCH Program. For example, if the cost-sharing amount is \$780, this amount is not changed if there are two or more children in the household eligible for service.

7 MCAR § 1.655 Reimbursement for service(s).

A. ~~CCS~~ SCH shall only reimburse for diagnostic evaluation and/or treatment service(s) for which a prior written authorization has been provided in a format designated by ~~CCS~~ SCH.

B. Emergency authorization of reimbursement for treatment service(s) ~~may~~ shall be provided by ~~CCS~~ SCH in situations which are later determined by the ~~CCS~~ SCH Medical Director to be life threatening or to have the potential for irrevocable damage, injury or long-term consequences if treatment is not provided immediately. In these instances, ~~CCS~~ SCH shall be notified by the physician or hospital staff within 72 hours after admission to a hospital. Eligibility for further authorization shall be determined according to the criteria contained in these rules.

C. Limitations on authorization of reimbursement for treatment service(s).

1. ~~CCS~~ SCH shall authorize reimbursement to a service provider only for treatment that is part of the treatment plan for an individual's handicapping condition.

2. ~~CCS~~ SCH shall not authorize reimbursement for the treatment of conditions determined by ~~CCS~~ SCH to be primarily cosmetic in nature.

3. ~~CCS~~ SCH shall not authorize reimbursement for costs of equipment such as hospital beds or wheel chairs unless no other resource is available.

4. Within any 12-month period, ~~CCS~~ SCH shall pay no more than ~~\$7,500~~ \$10,000 for the care of an individual.

5. ~~CCS~~ SCH shall not authorize reimbursement for treatment service(s) not associated with an individual's eligible condition. An exception ~~may~~ shall be made and routine care ~~may~~ shall be authorized by the ~~CCS~~ SCH Medical Director when, as the result of the eligible condition, it is more probable than not that a life threatening situation or irrevocable damage or injury might occur during what otherwise would be routine care.

6. ~~CCS~~ SCH shall not authorize reimbursement for treatment services for individuals 21 years of age or over with hemophilia except as specified in 7 MCAR § 1.655 D.

D. Reimbursement for care and treatment of hemophiliacs 21 years of age or over shall be available for:

1. Blood, blood components, blood derivatives.
2. Home infusion kits.

3. Other chemical agents suitable for effective treatment in hospitals, medical and dental facilities and at home.

4. Orthopedic braces, splints and special shoes.

5. Periodic evaluation at a comprehensive care center.

E. The following services are not reimbursable under this rule for hemophiliacs 21 years of age or over:

1. Hospital care other than that hospital care necessary to provide those services as specified in 7 MCAR § 1.655 D.

2. Physician care other than that physician care necessary to provide those services as specified in 7 MCAR § 1.655 D.

3. Dental care other than that dental care necessary to provide those services as specified in 7 MCAR § 1.655 D.

4. Medical transportation unless it is a medical emergency as determined by the Medical Director.

7 MCAR § 1.656 Administrative review procedures.

A. An applicant and/or staff person of any agency may request, at any time, a review by the Administrative Review Committee of their eligibility status or cost-sharing requirement.

1. A written request for review shall be submitted to the ~~CCS~~ SCH Medical Director containing the reasons for the request, the issues involved and a brief summary of any previous actions.

2. The review shall take place within 30 days of the receipt of the request. The applicant shall be notified at least 15 days in advance of the date, time and place of the review.

3. If an applicant, through no fault of his/her own, cannot attend the review and wishes to do so, the reasons should be stated in writing. ~~CCS~~ SCH will then reschedule the review.

4. The applicant and/or his/her representative may be present at this review. During this review, the applicant shall have further opportunity to explain his/her circumstances.

5. ~~CCS~~ SCH shall inform the applicant in writing of the decision and the grounds upon which the decision is based.

B. Formal hearing. In the event that an applicant seeks to appeal the decision of ~~CCS~~ SCH such an appeal shall be conducted by the Minnesota Department of Health pursuant to the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

7 MCAR § 1.657 Responsibilities between ~~CCS~~ SCH and service providers.

A. ~~CCS~~ SCH.

1. ~~CCS~~ SCH shall supply, with the written consent of the applicant, referral information to service providers for appli-

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ADOPTED RULES

cants authorized to receive diagnostic evaluations or treatment service(s).

2. ~~CCS~~ SCH shall pay service providers at the same rates for medical, dental, and hospital care up to the maximum allowable charges as set forth in the Medical Assistance Rates Schedule (revised September 7, 1978) established by the Minnesota Department of Public Welfare (Title XIX) pursuant to its authority found in 12 MCAR § 2.047.

a. In instances where there are no established rates, ~~CCS~~ SCH shall reimburse service providers at rates based upon the following criteria:

- (1) Complexity of service.
- (2) Time involved in completing the service.
- (3) Training and skills of the service provider.
- (4) Reasonableness of fees in the context of the community.

b. ~~CCS~~ SCH is the payer of last resort. ~~CCS~~ SCH reimbursement of treatment costs to service providers shall be made only after arrangements have been made by the service provider to collect third-party and cost-sharing payments.

3. ~~CCS~~ SCH shall review reimbursement requests submitted by service providers within 45 days of receipt. This review shall be made to assure that the service(s) rendered were in keeping with those detailed on the authorization form and that arrangements have been made by the service provider for all other third-party and cost-sharing payments.

4. Potential service providers must submit their credentials to the ~~CCS~~ SCH Medical Director. Those service providers who shall be utilized by ~~CCS~~ SCH shall meet the following criteria and, if acceptable, indicate in writing a willingness to participate in the ~~CCS~~ SCH Program in keeping with the goals and procedures of ~~CCS~~ SCH:

a. Hospitals and specialized medical centers shall be approved by the Joint Commission on the Accreditation of Hospitals (JCAH) or their appropriate accreditation body and licensed by the Minnesota Department of Health or their respective states.

b. Physicians and dentists shall:

(1) Be board-eligible or board-certified or, in the instances of dentists not certified, have demonstrated special expertise in pediatric dentistry either through the percentage of their patients, publications they have written or training, and,

(2) be part of a multi-disciplinary group or work closely with other specialists to provide a comprehensive ap-

proach to the care of the identified handicapping conditions, and,

(3) be licensed to practice medicine and/or dentistry in Minnesota or their respective states.

c. Other service provider personnel shall be licensed by their respective boards or associations in the State of Minnesota. Those service provider personnel whose professions do not require licensure may be utilized when they have completed the training and experience requirement specified by the individual professional association to be considered qualified and the child's treatment plan indicates their services are necessary.

d. Service provider personnel who provide a product such as hearing aids or orthopedic appliances shall be registered with the Department of Public Welfare as approved Title XIX vendors.

5. Service providers who are not approved to provide service(s) to ~~CCS~~ SCH eligible children may request reconsideration of their credentials by the ~~CCS~~ SCH Medical Director. In the event that a service provider seeks to appeal the decision of ~~CCS~~ SCH, such an appeal shall be conducted by the Minnesota Department of Health pursuant to the Minnesota Administrative Procedures Act and the rules of the Office of Hearing Examiners.

6. ~~CCS~~ SCH shall maintain case records containing administrative, medical, and case planning information, and shall, consistent with state and federal law and rule, protect the privacy of the individual case records. ~~are classified as private in keeping with the definitions and provisions of Minnesota Statutes 15, Chapter 401.~~

B. Service providers.

1. A service provider shall receive prior written authorization before providing service to a ~~CCS~~ SCH eligible child, with the exception of emergency situations as specified in 7 MCAR § 1.655 B.

2. A service provider shall supply case report and cost-related information in a format as specified by ~~CCS~~ SCH.

3. A service provider shall arrange for third-party reimbursement and the cost-sharing prior to billing ~~CCS~~ SCH for the remaining costs. In instances where third-party reimbursements are delayed more than 90 days, a service provider may bill ~~CCS~~ SCH for reimbursement and refund ~~CCS~~ SCH within 90 days of the receipt of third-party reimbursements.

4. A service provider shall not charge the applicant for treatment service(s) authorized by ~~CCS~~ SCH beyond the cost-sharing amount detailed on the authorization form.

[continued on next page.]

Illustration of Cost-Sharing Determination
Footnote 1

Step #1	Total of Includable Assets	\$ 6,000
	-Household Member Deduction, if Applicable	<u>-4,000</u>
		\$ 2,000
	\$ _____	
Step #2	Adjusted Gross Income	\$ 12,000
	+ Amount Derived in Step #1	<u>+ 2,000</u>
		\$ 14,000
	\$ _____	
Step #3	Amount Derived in Step #2	\$ 14,000
	-Total of Allowable Deductions	<u>-1,300</u>
		\$ 12,700
	<u>\$ CGS SCH ADJUSTED INCOME</u>	

Step #4 Using the cost-sharing schedule, take the percentage for the income level indicated in Step #3 and adjusted for the number of members in the household. The figure obtained from this calculation equals the amount of cost-sharing an applicant will be required to share for the cost of treatment.

Number of members in the household = 4. The percentage for this income level is 2%. 2% of \$12,700 = \$254.00. \$254.00 is the amount required for this applicant.

**Department of Natural Resources
Waters Division
Adopted Rules for Establishment of Lake Improvement Districts**

The proposed rules published at *State Register*, Volume 3, Number 40, pp. 1876-1882, April 9, 1979 (3 S.R. 1877) are adopted as proposed, with the following amendments:

6 MCAR § 1.5060 D. ~~“Watercourse” means any channel which has definable beds and banks capable of conducting confined runoff from adjacent lands.~~

6 MCAR § 1.5063 7. G. Public access. The proposed plan shall provide for public access when adequate public access consistent with the size of the lake, the extent of public interest in using the lake, and the combined beneficial uses of the lake, is unavailable. ~~If s~~Service charges ~~are to~~ may not be imposed on the use of a public accesses, ~~the cost schedule for such charges shall be specified if other units of government cost share the acquisition, development or maintenance of the public access.~~

6 MCAR § 1.5063 9. I. Coordination with other special purpose districts. The proposal shall demonstrate how the proposed district programs will be coordinated with existing special purpose districts formed for water and related land management. Examples of such units of government are watershed

districts, sanitary districts, drainage and conservancy districts, lake conservation districts and soil and water conservation districts. Lake improvement districts shall not be established where a special purpose unit of government for water and related land management exists which can implement the purposes of the proposed lake improvement district, unless written approval is acquired from such unit of government ~~and~~ or from the Commissioner. The proposal should demonstrate efforts in good faith to resolve at the local level ~~Any conflicts arising between an existing special purpose district and the proposed lake improvement district shall be resolved at the local level.~~

6 MCAR § 1.5064 A. Petition or ~~resolution~~ county board document requirements. A county board ~~resolution creating document proposing the creation of~~ or a petition to create a lake improvement district shall contain the following elements:

1. A written statement of lake problems and objectives.
2. The proposed type or types of water and related land resource management programs to be undertaken by the proposed district. This shall include a detailed statement of intended studies, management programs, remedial actions, and construction projects.
3. A statement of the means by which the programs will be financed.
4. A map showing the boundaries of the proposed lake improvement district. The map shall show the number and location of permanent homes and seasonal dwellings in the district. The scale of the map, and basic geographical information, such as range, township, and section numbers, shall be clearly indicated on the map.
5. The number of directors proposed for the district.
6. Copies of local ordinances which regulate use of the lake or any public access.
7. Any information indicating the degree of local interest and commitment to future management.
8. The identification of any lands and waters which may be adversely affected by the implementation of district purposes, and a preliminary assessment of these adverse effects.
9. A statement outlining the adequacy and ownership of public accesses, including public lands and beaches.
10. An estimate of the total equalized valuation of the property within the district.
11. Any other information demonstrating accordance with the criteria and standards for establishment as contained in 6 MCAR § 1.5063.

6 MCAR § 1.5064 B.1. a. Creation by petition. No later than five days after the official filing of a petition for the establish-

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ment of a lake improvement district with the county board, the citizens or organization sponsoring the petition shall provide a certified copy of the petition to the Commissioner and the Agency. This is necessary in order to facilitate preliminary review of the ~~petition~~ proposed district boundaries prior to notification of the public hearing.

6 MCAR § 1.5064 B.2. Notification of the public hearing. At least 21 days prior to the public hearing, the county board shall give notice of the public hearing to the Commissioner and the Agency, and make a reasonable attempt to notify every resident and every resident owner within the proposed district of the pending resolution or petition and the public hearing. A reasonable attempt to notify shall consist of mailing notice to the last known address of each landowner within the proposed district, publication of notice in two successive issues of a newspaper widely circulated in the proposed district, and posting notice in public buildings and several leading commercial establishments in or near the proposed district, as appropriate and reasonable. All local and regional units of government, special purpose districts, and development commissions within and adjacent to the boundaries of the proposed district shall be given notice of the public hearing. All corporations and utilities owning real estate or corporate property within the proposed district shall be given notice of the public hearing.

As part of the notification procedure, a statement shall accompany the notice setting forth the following:

~~**6 MCAR § 1.5065 C.** No action shall be brought against the State, the Commissioner or the Agency for the recovery of damages caused by the partial or total failure of any undertaking or project constructed by a lake improvement district.~~

6 MCAR § 1.5065 E. Inspections. The Commissioner shall be given prompt access to and inspection of all records, plants, structures, facilities, and operations at all reasonable times as may be necessary to monitor compliance with the terms of existing permits and to insure protection of the public health, safety, and welfare. The Commissioner's inspections shall not relieve the lake improvement district from the full responsibility of providing adequate inspection and supervision for all programs and projects undertaken by the district.

Pollution Control Agency

Adopted Amendments to APC 4 Relating to Power Plants and APC 21(a) and (b) Relating to Opacity; Withdrawal of Proposed Amendment to APC 21(c) and (d) and Proposed Adoption of 6 MCAR § 4.0020 Relating to Malfunctions and Breakdowns of Control Equipment and Process Equipment

The amendments to APC 4 and to APC 21(a) and APC 21(b), proposed and published at *State Register*, Volume 3, Number 50, pp. 2239-2243, June 18, 1979 (3 S.R. 2239) are now adopted and are identical to the proposed form with the amendments noted below.

Please note that the Agency withdrew its proposals relating to malfunctions and breakdowns of control equipment and process equipment also published at *State Register*, Volume 3, Number 50, pp. 2243-2246, June 18, 1979 (3 S.R. 2243). These proposals consisted of (1) the adoption of new rule 6 MCAR § 4.0020 and (2) the amendment of APC 21 by the deletion of those sections of the existing rule which the proposed new rule would have addressed [i.e., APC 21(c) and (d)]. Notice of this withdrawal was published at *State Register*, Volume 4, Number 7, pp. 204-205, August 20, 1979 (4 S.R. 204).

Because the Agency withdrew its proposals to adopt new rule 6 MCAR § 4.0020 and to amend APC 21(c) and (d), the Agency took no action on 6 MCAR § 4.0020 or on APC 21(c) and (d) when it adopted the amendments to APC 4 and APC 21(a) and (b) described herein. APC 21(c) and (d) continue to exist in their unamended form and are, therefore, not reprinted below.

Amendments as Adopted

APC 4 H.7. When the emission factor cannot be calculated by means of the method outlined in H.6., ~~the actual heat input shall be used in calculating emission factors for all pollutants for new and existing indirect heating equipment.~~ the emission factors for all pollutants for all new and existing indirect heating equipment expressed in nanograms/joule (lb./million BTU) shall be determined by the following procedure:

$$E = \frac{E_t}{Z}$$

where:

E = pollutant emissions, in nanograms/joule (lb./million BTU).

E_t = pollutant emission rate, in nanograms/hr. (lb. hr), determined by Method 5.

Z = actual heat input, in joules/hr., (million BTU/hr).

1.3.(b) Use a ~~six (6) minute~~ one (1) hour averaging period in determining an excess above derate with corrections for deviations in steam pressure or temperature if required.

APC 21(a) Continuous monitoring.

(9) Monitoring data. Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six (6) minute averages except that ~~other averaging periods may be used as specified in other regulations or limitations~~ a one minute averaging period as described in (b)(7)(cc)(ii) shall be used in the event an applicable standard of performance for opacity allows an excursion above the standard for a specified number of minutes in a one-hour period. Opacity averages shall be calculated from all equally spaced consecutive fifteen second (or shorter) data points in the applicable averaging period. For systems other than opacity, the data shall be reduced to one hour averages, which shall be computed from four or more data points equally spaced over each one hour period.

Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or non-reduced form (e.g. ppm pollutant and percent O₂ or lb of pollutant/million BTU). All excess emissions shall be converted into units of the standard using the conversion procedures specified in the applicable regulation. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in the regulation to specify the applicable standard (e.g. rounded to the nearest one percent opacity).

APC 21(b) Performance tests.

(7) Opacity.

(bb) The opacity standards set forth in a regulation shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

~~(bb)~~ (cc) Paragraph 2.5 of Method 9 (Data Reduction) is amended to read as follows, and this

language shall be used whenever Method 9 is referenced in the rules:

(i) 2.5. Data reduction. Except as provided in paragraph (cc) (ii), Opacity opacity shall be determined as an average of 24 consecutive observations recorded at 15 second intervals. Divide the observations recorded on the record sheet into sets of 24 consecutive observations. A set is composed of any 24 consecutive observations. Sets need not be consecutive in time and in no case shall sets overlap. For each set of 24 observations, calculate the average by summing the opacity of the 24 observations and dividing this sum by 24. Record the average opacities on a record sheet.

(ii) In the event that an applicable standard of performance for opacity allows an excursion above the standard for a specified number of minutes in a one-hour period, determine the opacity as an average of 4 consecutive observations recorded at 15 second intervals. Determine the number of minutes in any one-hour period that the opacity exceeds a given opacity and record this information.

APC 21(c) [Proposal to amend has been withdrawn.]

APC 21(d) [Proposal to amend has been withdrawn.]

Department of Public Welfare Merit System

Adopted Temporary Rules Governing Minnesota Merit System

The proposed temporary rules 12 MCAR §§ 2.490a and 2.491a published at *State Register*, Volume 4, Number 19, p. 759, November 12, 1979 (4 S.R. 759) were adopted as proposed on December 12, 1979, approved by the Office of the Attorney General on December 12, 1979, and filed with the Office of the Secretary of State on December 17, 1979.

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PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

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 time 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.

Board of Cosmetology

Proposed Rules Relating to Continuing Education for Licensed Senior Instructors

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) in the Hearing Room, Minnesota Department of Commerce, 500 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota, on Monday, February 8, 1980, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules relating to continuing education for licensed senior instructors captioned above. Statements may be made orally and written material may be submitted at the hearing. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Jon L. Lunde, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-5938, either before the hearing or within five (5) working days after the close of the hearing. If ordered by the Hearing Examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become part of the record.

The proposed rules are subject to change as a result of the rule hearing process. The Cosmetology Board therefore strongly urges those who are potentially affected by these proposed rules to participate in the rule hearing process.

The proposed rules if adopted would require persons licensed as cosmetology senior instructors in the State of Minnesota to complete a minimum of fifteen continuing education hours approved by the board during each license year. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota State Board of Cosmetology, 500 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Public Hearings on Agency Rules January 7-11, 1979

Date	Agency and Rule Matter	Time & Place
Jan. 7	State Planning Agency Administration of State Assistance to Regional Development Commissions Hearing Examiner: George Beck	8:30 a.m., Conference Rm. A, Capitol Square Bldg., 550 Cedar St., St. Paul, MN 55101
Jan. 8	Natural Resources Dept. Appropriation of Waters of the State Hearing Examiner: Howard Kaibel	9:00 a.m., Multi-purpose Rm., Vocational-Technical Institute, Detroit Lakes, MN
Jan. 10 and Jan. 15	Same as above	9:00 a.m., 123 Capitol Bldg., St. Paul, MN (Jan. 10); Rms. 158 & 159, Student Center, Southwest State University, Marshall, MN (Jan. 15)
Jan. 10	Agriculture Dept. Shade Tree Program Hearing Examiner: Jon L. Lunde	10:00 a.m., Regional Law Enforcement Center Bldg., Basement Mtg. Rm., Front & Library Sts., Mankato, MN
Jan. 11	Same as above	9:00 a.m., Administration Bldg., Rm. 116A, 50 Sher- burne Ave., St. Paul, MN
Jan. 11	Same as above	3:00 p.m., Stearns Co. Courthouse, Courthouse Square, St. Cloud, MN

Notice is hereby given that twenty-five (25) days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge. The statutory authority of the Board of Cosmetology to promulgate and adopt these rules is contained in Minn. Stat. § 214.12 (1978).

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The board expects that 50 to 100 persons may attend the hearing and it estimates that two to three hours will be necessary for the board to present its evidence at the hearing.

It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he commences lobbying. As defined by Minn. Stat. § 10A.01, subd. 11 "lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding his own travel expenses, in any year in communicating with public officials.

Questions concerning lobbyist registration should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5148.

Ailie Norlin
Executive Secretary

Rules as Proposed (all new material)

Chapter Five: 5 MCAR § 10.080-§ 10.090 Continuing Education

5 MCAR § 10.081 Definitions. For the purpose of Chapter Five, the following definitions shall apply:

A. "Board" means the Minnesota State Board of Cosmetology.

B. "Licensee" means any person licensed as a senior instructor in the State of Minnesota.

C. "Continuing education hour" means a clock-hour spent by a licensee in actual attendance at an approved program or activity.

D. "Approved program or activity" means a continuing education program which meets the standards set forth in these rules, which has received approval by the board pursuant to these rules and which is offered by an accredited sponsor.

E. "Accredited sponsor" means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules.

F. "Compliance period" means that period of time extending from April 1, to the following March 31.

5 MCAR § 10.082 Continuing education requirements.

A. Beginning April 1, 1980, each licensee shall complete during each compliance period a minimum of 15 continuing education hours approved by the board. Compliance with the requirements of continuing education is a prerequisite for license renewal for the license year beginning July 1 following the end of each compliance period.

B. Continuing education hours may be obtained by attending or participating in an approved program or activity offered by an accredited sponsor.

C. Such attendance must be reported to the board on such forms as may be approved by the board no later than April 15

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PROPOSED RULES

following the close of the compliance period for which attendance is to be reported.

D. A licensee who completes more than 15 hours of approved programs or activities during a single compliance period may apply excess credits, up to a maximum of 30 additional hours, to the succeeding one or two compliance periods, by reporting the carry-over credits at the time of filing the annual report to the board for the period during which the credits were earned.

E. Persons who first become licensed as senior instructors between September 30 and the following April 1, need not obtain as a prerequisite for license renewal 15 hours of continuing education until the end of the compliance period following that during which they were first licensed. Such persons must, however, file an attendance report form after the end of the compliance period during which they were first licensed if they attended any approved programs or activities during such period.

5 MCAR § 10.083 Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

A. It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

B. It consists of at least one clock hour of learning activity; and

C. It deals with subject matters which integrally relate to the practice of a senior instructor; and

D. It is conducted by individuals who have special education, training or experience concerning the subject matter of the program, and is accompanied by a paper, a manual or a written outline which relates to the subject matter of the program.

E. It is offered by an accredited sponsor.

5 MCAR § 10.084 Approval of sponsors, programs, and activities.

A. Accreditation of sponsors. An organization or person which desires accreditation as a sponsor of courses, programs, or other continuing education activities, shall apply for accreditation to the board.

The application shall state the applicant's teaching history, if any, for the preceding two years, including dates of programs, subjects offered, total hours of instruction presented, and the names and qualifications of each instructor. The application for accreditation shall also state the full name of the person or organization desiring accreditation, including the names of the owners, partners and/or directors of the organization; the past and current occupations and training of such persons making application, and the purposes and activities of applying organizations; and a complete financial statement, prepared by an independent accountant or C.P.A., showing all the assets and liabilities of the applicant.

By January 31 of each year, commencing January 31, 1980,

all accredited sponsors shall provide a written report to the board stating the education programs conducted during the preceding calendar year on a form approved by the board. The board may at any time reevaluate an accredited sponsor. If after such reevaluation, the board finds there is a basis for consideration of revocation of the accreditation of an accredited sponsor, the board may suspend or revoke the accreditation of the sponsor.

B. Prior approval of activities. An organization or person which has not been accredited and which desires approval of a course, program or other educational activity, shall apply to the board for accreditation as a sponsor at least ninety days in advance of the commencement of the activity on a form provided by the board. A previously accredited sponsor shall submit specific courses, programs or other educational activities to the board for approval at least sixty days in advance of the proposed commencement of the activity. The application for program approval shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, fees to be charged and other pertinent information. Application for accreditation of sponsorship and approval of programs may be submitted simultaneously; however, the board will not approve programs prior to accreditation of the program sponsor.

The board shall approve or deny applications for accreditation of sponsors or approval of programs complete in writing within sixty days of receipt of applications.

C. Post approval of activities. The board will not recognize continuing education hours for attendance and participation in an educational activity in the State of Minnesota which was not conducted by an accredited sponsor or which was not approved by the board prior to its offering. Licensees seeking continuing education hours for participation in programs outside Minnesota and not approved and conducted by an accredited sponsor shall submit to the board a request for credit, including a brief resume of the activity, its dates, subjects, instructors and their qualifications and the number of credit hours requested. Within ninety days after receipt of such application the board shall advise the licensee in writing by mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this paragraph shall be denied credit for such activity.

D. Review of programs. The board may monitor or review any continuing education program already approved by the board, and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted the program.

5 MCAR § 10.085 Hearings. In the event of denial, in whole or part, of any application for accreditation of a sponsor or for approval of a continuing education program, the applicant shall have the right, within twenty days after the sending of the notification of the denial by mail, to request a hearing which shall be held within sixty days after receipt of the request for hearing. The hearing shall be conducted by a hearing officer from the Minnesota Office of Hearing Examiners pursuant to Minn. Stat. ch. 15. Post approval of activities shall be entirely within the discretion of the board.

5 MCAR § 10.086 Attendance record report. The person or organization sponsoring approved programs or activities shall make a written record of the Minnesota licensees in attendance at such activities during each compliance period and shall send a signed copy of the attendance record to the executive secretary of the board upon completion of the education activity, but in no case later than April 15 following the close of the compliance period for which such attendance is being reported. The report shall be sent to the Minnesota State Board of Cosmetology, 500 Metro Square Building, St. Paul, Minnesota 55101.

5 MCAR § 10.087 Physical disability or illness. The board may in individual cases involving physical disability or illness, grant waivers of the education requirements or extensions of time within which to fulfill the education requirements or make the required reports. No waiver or extension of time shall be granted unless written application is made on forms provided by the board and signed by the licensee and a licensed physician. Waivers of the educational requirements may be granted by the board for any period of time not to exceed one compliance period. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by methods as may be prescribed by the board.

5 MCAR § 10.088 Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Minnesota who resides within or without the state of Minnesota may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not practice as a senior instructor in Minnesota without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

5 MCAR § 10.089 Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to practicing as a senior instructor in the state of Minnesota satisfy the following requirements for reinstatement:

A. Submit written application for reinstatement to the board upon forms provided by the board; and

B. Furnish in the application evidence of one of the following:

1. The full-time practice of beauty culture in another of the United States or the District of Columbia and completion of continuing education for each year of inactive status substan-

tially equivalent in the opinion of the board to that required under these rules; or

2. Completion of a total number of hours of accredited continuing education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant; or

3. Successful completion of the Minnesota state license examination requirements conducted within one year immediately prior to the submission of the application for reinstatement.

5 MCAR § 10.090 Penalties. The board may refuse to renew the license of any licensee who has failed to complete or timely report the continuing education hours required by this chapter. In the event of such refusal to renew a license, the licensee shall have the right within 20 days, after the mailing of a notification of the refusal to renew to his last known address, to request a hearing, which shall be held within 45 days after receipt by the board of the request for hearing. The hearing shall be conducted according to the procedures set forth in Minn. Stat. ch. 15 by a hearing examiner from the Minnesota Office of Hearing Examiners.

Department of Economic Development Indian Business Loan Division

Proposed Rule Governing Business Loans to Indians in Minnesota

Notice of Hearing

Public hearings concerning the proposed rule will be held at the State Capitol Building, Rm. 125, St. Paul, Minnesota, 55155 on February 4, 1980, commencing at 7:30 p.m. and in Cass Lake, Minnesota, at the Neighborhood Facility Center, Tribal Chambers Room, Commencing at 7:30 p.m. on February 5, 1980. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner,

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

PROPOSED RULES

Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-5938, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

The proposed rule will govern the administration of the Indian Business Loan program as set out in Minn. Stat. § 362.40. The proposed rule would lay out criteria for acceptance of or rejection of loan applications under the program, including credit verifications, approval by the Commissioner of Economic Development of operating statements and project descriptions, income and expense projections, and other data bearing on the applicant's credit worthiness and the quality of the project to be financed with the loan proceeds. The rule would also provide for procedures to be followed in applying for a loan under the program, and procedures regarding time limitations for construction financed with loan proceeds, review, repayment, and prohibited uses for loan proceeds.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. § 362.40 and Minn. Stat. § 15.0412, subd. 3.

The agency estimates that there will be no cost to local bodies in the State to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Charlotte White, Director, Indian Business Loan Program, Department of Economic Development, Hanover Building, 480 Cedar Street, St. Paul, Minnesota 55101, telephone (612) 297-2286. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule, contact Ms. White.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's

report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone (612) 296-5616.

David L. Printy

Commissioner of Economic Development

Rule as Proposed (all new material)

4 MCAR § 2.201. Proposed rule governing business loans to Indians in Minnesota.

A. Scope of the program: To provide an opportunity for eligible Indians in Minnesota to improve economic independence by implementing a business loan program which will promote an environment for economic expansion and diversification in the field of business ownership.

B. Purpose of proposed rule. The purpose of the rule is to augment Minn. Stat. § 362.40 (1978) and Laws of 1979, ch. 333, §§ 100-102, by establishing criteria which will enable Indians in Minnesota to utilize the business loan program for the expansion or establishment of Indian-owned businesses in the state.

C. Definitions. As used in this rule, the following words and terms shall have the meaning given, except where the context clearly indicated otherwise.

1. "Department" means the Department of Economic Development.

2. "Administrative costs" means those costs incurred in administering the Tribal Council's portion of the program.

3. "Commissioner" means the Commissioner of the Department of Economic Development or his/her designated representative.

4. "Borrower" means the person making application to the department for loan funds to start or expand a business.

D. Criteria for the acceptance or rejection of business loan

applications. Criteria for the acceptance or rejection of business loan applications will be based on the following requested information which will convey to the department, a complete basis of information on which to evaluate the loan request, ability to repay and management of the business so that comparisons may be made with known industry standards as indicators of a company's ability to succeed.

1. Application must only be made for a profit oriented business and may not be for a purpose not allowed within the meaning of 13 C.F.R. § 120.2, subd. d (2-11).

2. Approval by commissioner of:

a. Personal financial statement(s) and resume(s) of management personnel which will indicate that applicant is not in an excessive debt position and serve to demonstrate the expertise of management.

b. Operating statements of existing business for which expansion, technical or management assistance loans are requested which will demonstrate the need for and feasibility of the application.

c. Financial statements for past three (3) years for existing businesses, if applicable.

d. Credit verifications to ascertain financial responsibility.

e. Employment verification to ascertain steadiness and extent of past work experience.

f. Documentation supporting cost of real estate, building(s), machinery and/or equipment which will be used to ascertain reasonableness of cost and present condition(s).

g. Detailed project description which will demonstrate dollar scope of the project, estimated revenue anticipated and indicate ability to repay the loan.

h. Equity or collateral available which must be at least five percent (5%), to demonstrate applicant's insertion of risk capital.

i. Income and expense projections which will indicate cash flow anticipated and should be verified by a CPA, if possible.

j. Applicants who will establish a business on a reservation must have or obtain approval of: tribal licenses if applicable, and/or leases when tribal lands are to be leased by the proposed business enterprise.

k. Last two (2) filed tax returns, if applicable.

3. All documents a.-k. shall be submitted to the department at one time, and because this program is a participant in the total loan package, the department's evaluation will be only one of other financial institutions' evaluations.

4. Loans for the purchase of land will require the construction of a physical facility and establishment of a business on that land within one year of receiving the loan approval; construction of a physical facility to begin within six (6) months of receiving loan approval.

5. Business loans shall not be made to repay or consolidate existing liabilities.

6. If at any point in time, the business changes eligible Indian ownership, the loan becomes due and payable.

E. Procedures for making business loan applications.

1. Complete standard application on forms prescribed by the department.

2. Applicant shall provide additional information to the department if required for approval by the commissioner.

3. A time limitation of sixty (60) days may be imposed for the completion and submission of all documentation, which will allow applicant a reasonable time to obtain supplemental financing for the total project. The commissioner may extend the time limitation if based on good cause shown in writing.

F. Repayment. The department shall establish repayment of the loan on a schedule which will be determined by an assessment of the cash flow and ability to repay.

G. Review. There will be a monthly review of all loan accounts by the commissioner.

H. Maximum participation. Maximum participation in any one loan will be twenty-five percent (25%) of the project cost, not to exceed twenty percent (20%) of one (1) year's tax revenue allotted to the Indian Business Loan fund as per Minn. Stat. § 362.40, subd. 14.

Department of Personnel Social Security Retirement Division

Proposed Amendments to Rules Relating to Depositing of Social Security Contributions

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), in the Large Conference Room, Department of Personnel, 3rd Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101, on Tuesday, February 5, 1980 commencing at 9:30 a.m.

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

PROPOSED RULES

All interested or affected persons will have an opportunity to participate concerning the amendments to the rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to George Beck, Hearing Examiners Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within five (5) working days after the close of the hearing. The hearing examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners (9 MCAR §§ 2.101-2.112).

If adopted, the amendments proposed by the Commissioner of Personnel would result in the more frequent depositing of social security contributions with the State Agency by political subdivisions and state agencies effective July 1980 and the change from quarterly reporting of social security wages to annual reporting effective for calendar year 1981 and thereafter. The authority of the commissioner to make such is contained in Minn. Stat. § 355.05 (1978).

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Personnel, Social Security Retirement Division, Room 656, Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Department of Personnel and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Department of Personnel at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the commissioner may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 supplement) as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

December 7, 1979

Barbara L. Sundquist
Commissioner of Personnel

Amendments as Proposed

2 MCAR § 2.198 E. Employee's contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of the agreement or modification entered into between the state and the Secretary of Health, Education and Welfare (hereinafter referred to as "State Agreement") with respect to services performed in employment by the employee in a coverage group included in such agreement or modification. After the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee during the remainder of the calendar year are not subject to deductions for ~~social security~~ taxes and no further wage contributions are required ~~by the employee during the remainder of the calendar year~~.

1. The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the reporting payroll record unit of the state or political subdivision (hereinafter referred to as the "reporting unit") are the contribution rates established by Title II of the Federal Social Security Act.

2. Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

However, ~~remuneration~~ wages received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are, ~~therefore~~, not subject to tax: Therefore, where the State

Agreement makes social security coverage effective January 1, of a calendar year, ~~remuneration~~ wages received by an employee in such calendar year for services rendered in the previous calendar year cannot be regarded as "wages received for employment" and such amounts are, ~~therefore,~~ not subject to tax.

3. Where an employee performs services during a calendar year for the State and ~~more than one or more~~ two or more political subdivisions or ~~for two or more political subdivisions,~~ the wages paid in any calendar year to such employee by the state and each such political subdivision not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act shall be reported by the state and each such political subdivision, with the following exception: Where the State of Minnesota pays the matching employer social security contributions tax, such as for teachers in Minnesota public schools, then only the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate ~~by all Minnesota Public Schools~~ are subject to the social security tax and reported as wages.

4. The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in ~~media~~ any medium other than money cash. After the matching amount has been provided by the reporting unit, the total social security contribution shall be remitted to the State Agency, ~~State of Minnesota,~~ for credit to the Social Security Contributions Fund in accordance with the following schedule:

a. Except as provided in paragraphs ~~b. and c.,~~ the social security contributions due on the wages ~~being reported~~ paid during the first and second months of each quarterly period shall be forwarded to the State Agency at the time the quarterly wage report, Form OAR S3, is submitted to the State Agency in accordance with the time schedule set forth in 2 MCAR § 2.198 F.2. of these rules and regulations within five working days after the end of each month beginning with the month of July 1980.

b. Effective July 1, 1975, if at the end of any month during a quarterly period, the unremitted employee social security deductions amount to \$200 or more, such employee social security contributions shall be remitted to the State Agency within 20 calendar days after the end of such month. Except as provided in paragraph c., the social security contributions due on the wages paid during the third month of each quarterly period shall be forwarded to the State Agency within 20 days after the end of such month along with the quarterly report.

c. Notwithstanding item b. above, effective July 1, 1975, if the total employee social security contributions deduction amounts to \$1,000 or more for any given payroll period

~~during a quarterly period, then the employee social security contributions so withheld shall be remitted to the State Agency within 10 working days after the salary payment has been made to the employees covering that period. Where the state assumes the responsibility for the matching employer social security contribution pursuant to Minn. Stat. § 355.46, subd. 3(b), the payments under a. and b. above shall be equal to the required employee contribution withheld only.~~

~~d. The matching employer social security contributions covering items b. and c. above shall be remitted at the time the quarterly wage report, Form OAR S3, is submitted to the State Agency in accordance with the time schedule set forth in 2 MCAR § 2.198 F.2. of these rules and regulations. This paragraph does not apply wherein the state, by law, assumes the responsibility for the matching employer social security contributions pursuant to Minn. Stat. § 355.46, subd. 3(b).~~

The social security contribution remittances indicated above must be submitted with an approved Remittance Form prescribed by the State Agency unless the remittance accompanies the quarterly wage report form. In lieu of remitting at times indicated above, the reporting unit may remit the required social security contribution payment at the end of each payroll period or after each salary payment made to the employees, but in no event shall the contribution payment be made later than the time periods specified in paragraphs a. and b. of this section.

e. With each contribution payment, the reporting unit must submit a completed approved Remittance Form prescribed by the State Agency.

f. If any monthly contribution payment is not received by the State Agency within the deadlines specified in paragraphs a. and b. above, interest will be charged to the reporting unit at the rate of six percent per annum on the contributions due for each month or part of a month from the due date, but in no case shall such interest charge or penalty be less than five dollars (\$5.00).

5. The reporting unit is liable to the State Agency for the employee's share of the tax whether or not such share has been withheld from the employee's wages. ~~In like manner~~ Notwithstanding the foregoing, the employee shall be ~~deemed~~ remains liable for the employee's share of the tax on all wages received by the employee not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

6. If any political subdivision reporting unit which has been included in the coverage agreement, or any modification thereof, fails to make the social security contribution payments required by law and these ~~regulations~~ rules, the delinquent payments due, with interest thereon at the rate of six percent per annum, or the minimum penalty as established by 2 MCAR §

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PROPOSED RULES

~~2.198 F.6.~~ of these rules, whichever is greater, may be recovered by in an action of by the ~~s~~State ~~a~~Agency in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the ~~s~~State ~~a~~Agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

7. The state or ~~A~~ a political subdivision is not authorized to begin making deductions for ~~S~~social ~~S~~security taxes from the earnings of employees until after the ~~coverage agreement, or any modification thereof,~~ State Agreement has been approved on behalf of the Federal Government by the Secretary of Health, Education and Welfare. However, as soon as the State ~~a~~Agreement has been fully executed and ~~the modification thereof, if any,~~ has been approved, the political subdivision ~~must~~ shall make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that ~~in the aggregate such deductions may be the total contribution payments required from the effective date of the State Agreement~~ are transmitted to the State Agency along with initial reports before the initial deadline as determined by the ~~s~~State ~~a~~Agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

8. The responsibility of each ~~political subdivision reporting unit~~ to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

F. Wage reports. Every political subdivision, and coverage group therein, included in the ~~coverage State aAgreement, or any modification thereof,~~ shall make a wage report to the State Agency for each ~~calendar quarter reporting period~~ beginning with the first ~~calendar quarter reporting period~~ with respect to which the agreement or modification is effective, until it files a final report as required by law.

1. Quarterly reporting of covered wages paid is required for periods prior to January 1, 1981.

a. The original and one duplicate copy of the consolidated quarterly payroll report shall be submitted on Form ~~OAR S3 SSA-3963~~ for each ~~political subdivision reporting unit~~ in conformity with the requirements of the Secretary of Health, Education and Welfare. Each quarterly report must be a consolidated report, which shall include all covered wages paid to personnel employed by any department, boards, and commissions reportable under the identification number assigned to the political subdivision or coverage group. The summary information shall be shown at the bottom of page 1 of the Form ~~AOR S3 SSA-3963 report.~~

b. ~~2.~~ Each quarterly report, properly completed, must be received by the State Agency, ~~State of Minnesota,~~ not later than the following dates:

- April 20 (for the quarter ~~ended~~ ending March 31)
- July 20 (for the quarter ~~ended~~ ending June 30)
- October 20 (for the quarter ~~ended~~ ending September 30)
- January 20 (for the quarter ~~ended~~ ending December 31)

c. ~~3.~~ Each quarterly report must be accompanied by a check or checks made payable to Minnesota State Treasurer, Contribution Fund, or by a copy of the Remittance Form prescribed in 2 MCAR § 2.198 E.4. above, which amount shall equal the sum of both the required contribution of the political subdivision and the required deductions from the earnings of all personnel in the coverage group. ~~Fractional parts of a cent shall not be disregarded in the computation of contributions.~~ In payment of contributions to the State Agency, ~~a political subdivision the reporting unit~~ may disregard a fractional part of a cent unless it amounts to one-half cent or more, in which case it shall be increased to the nearest cent.

d. ~~4.~~ the initial quarterly reports and required remittances for the period from the effective date of coverage to the end of the quarter in which any political subdivision becomes covered under the State ~~a~~Agreement, ~~or any modification thereof, between the State and the Secretary of Health, Education and Welfare~~ must be transmitted so as to be received by the State Agency, ~~State of Minnesota,~~ on or before the date fixed by the State Agency for the filing of such initial reports.

e. ~~5.~~ Even though no wages are paid in a quarter, ~~it is necessary that the reporting unit must file a report on Form OAR S3 SSA-3963 be filed by the coverage group~~ indicating "no covered wages paid". This notation ~~should~~ shall be made on the body of the form.

f. ~~6.~~ If any quarterly report is not received by the State Agency within the respective established deadlines, interest will be charged to the ~~political subdivision reporting unit~~ at the rate of six percent per annum on reportable contributions for each month or part of a month from the date due, but in no case will shall such interest charge or penalty be less than five dollars (\$5.00).

2. Annual reporting of covered wages required for calendar year 1981 and for each year thereafter.

a. Each report must be a consolidated report which shall include all covered wages paid and reportable under the identification number assigned to the political subdivision. The information shall be furnished on forms prescribed by Social Security Administration.

b. Each report must be received by the State Agency not later than January 31 of the following year. Reports and contribution payments which have not been prepared in accordance with State Agency rules and instructions will not be accepted and will be subject to the penalties imposed by these rules.

c. The contribution payments remitted for each calendar year pursuant to E.4. shall equal the social security contributions due on the covered wages included on the report submitted pursuant to this section. Any differences shall be fully explained and the additional contributions, if any, shall be remitted with the completed report.

d. Wage reports received after the established due date will be considered delinquent. To cover the additional

administrative costs, a penalty of five dollars (\$5.00) for the first day of the delinquency and one dollar (\$1.00) for each additional day that the report is delinquent will be assessed against the reporting unit.

c. In addition to the wage reports required by the above paragraphs of this section, quarterly summary data as prescribed by Federal Social Security regulations shall be submitted in accordance with State Agency instructions.

~~3. 7.~~ The original and one copy of any adjustment report called "State's Report of Adjustments," Form ~~OAR-S4 SSA-3964~~ shall be immediately completed and forwarded to the State Agency upon determination by the ~~political subdivision~~ reporting unit that one or more of the following errors were made on one or more quarterly wage reports or on a previously submitted adjustment report.

- a. Wages omitted from report.
- b. Not enough wages reported.
- c. Excessive wages reported.
- d. Wages reported in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act reported.
- e. Wages shown on report for wrong quarter period.
- f. Wages reported for wrong individual.

The ~~political subdivision~~ reporting unit shall be liable for the payment of interest on any Form ~~OAR-S4 SSA-3964~~ adjustment report which is determined by the federal government to be delinquent.

~~4. 8.~~ The adjustments listed in 2 MCAR § 2.198 F.7.3. above must be submitted before the expiration of the time limitations established by the Federal Statute of Limitations which are as follows:

a. Adjustments covering reporting of additional wages resulting in the assessment of additional taxes must be received by Social Security Administration before the latest of the following:

- (1) 3 years, 3 months, and 15 days after the year in which the wages, upon which the additional tax became due under the State Agreement, were paid; or
- (2) 3 years after the date on which such tax became due.

b. Adjustments covering reduction or cancellation of wages previously reported and resulting in a claim for refund or credit must be received by Social Security Administration before the latest of the following:

- (1) 3 years, 3 months and 15 days after the year which includes the calendar quarter in which wages were paid or

alleged to have been paid with respect to which wages were paid or alleged to have been paid with respect to which the overpayment occurred; or

(2) 3 years after the due date of the payment which included the overpayment; or

(3) 2 years after the overpayment was made to the Secretary of the Treasury by the State Agency.

G. Records. Every political subdivision shall keep accurate records of all ~~remuneration~~ wages, whether in cash or in a medium other than cash, paid or available for payment to employees of the political subdivision.

1. Each political subdivision shall use such forms and systems of accounting as will enable the State Agency, the State Agency's duly authorized representatives, or the agents of the Secretary of Health, Education and Welfare, to ascertain whether the social security taxes for which the political subdivision or coverage group is liable are correctly computed and paid. Such records shall show with respect to each employee:

a. The name, address and account number of the employee and such additional information with respect to the employee as is required by these regulations when the employee does not show the employee's social security account number card as issued to the employee.

b. The total amount (including any sum withheld therefrom as contribution or any other reason) and date of each ~~remuneration~~ wage payment and the period of services covered by such payment.

c. The amount of such ~~remuneration~~ wage payment which constitutes wages subject to tax.

d. The amount of employee's contributions withheld or collected with respect to each total ~~remuneration~~ wage payment, and if collected at a time other than the time such payment was made, the date collected.

If the total ~~remuneration~~ wages, item b. above, and the amount thereof which is subject to tax, item c. above, are not equal, the reason therefor shall be made as a matter of record.

Accurate records of the details of each adjustment or settlement, made pursuant to any ~~State Agency~~ instructions or ~~regulations~~ rules or federal regulations, shall also be kept by the political subdivision.

2. ~~(1)~~ Each such political subdivision shall keep a copy of any return, report, schedule, statement or any other documents as a part of its records.

3. ~~(2)~~ Any such political subdivision or any employee claiming refund, credit or abatement of any tax or interest collected shall present a detailed record to establish the validity of such claim.

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

PROPOSED RULES

4. ~~(3)~~ All records required by these rules and federal regulations shall be kept at a convenient and safe location accessible to representatives of the Secretary of Health, Education and Welfare and of the State Agency, ~~State of Minnesota~~. Such records shall at all times be open for inspection by such officials.

5. ~~(4)~~ ~~Every such~~ Each political subdivision shall establish a system of controls whereby no employee shall be taxed on wages in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act for each calendar year. These controls shall be set up so that the tax will be withheld on the exactly amount of the maximum reportable wages as provided in Title II of the Federal Social Security Act received by an employee in a calendar year. There shall be no pro-rating of the year's total tax liability of such employees over the twelve months' period.

6. ~~(5)~~ All records required by these rules and federal regulations shall be maintained for a period of at least four years after the date the contributions, to which they records relate, became due, or after the date the contributions were paid, whichever is later. Records required in 2 MCAR § 2.198 G.3. above shall be maintained for a period of at least four years after date in which the claim is filed. No records shall be destroyed or otherwise disposed of, even after the lapse of the four years, without the written consent required pursuant to Minn. Stat. § 138.17.

7. ~~(6)~~ Any political subdivision whose existence is terminated by reorganization, consolidation or annexation or which is abolished by the statute or other legal action ~~must shall~~ report such fact to the State Agency at the time the final Quarterly Wage Report (Form OAR-S3) report is submitted and also indicate at that time where all records and documents will be stored or maintained and the name of the individual or officer responsible for the ~~safe-keeping~~ safekeeping of such records and documents.

8. ~~(7)~~ Each such political subdivision shall furnish to each individual performing service in employment as an em-

ployee in a coverage group included in the State Agreement, ~~or any modification thereof~~, a written statement showing with respect to wages paid or available for payment to the employee for such service on or after the effective date of the agreement or modification:

- a. The name and identification number of the political subdivision or coverage group in which services were performed;
- b. The name and account number of the employee;
- c. The period covered by the statement;
- d. The total amount of wages subject to contributions paid during this period; and
- e. The amount of employee's contribution withheld in respect to wages.

The statements must be given to employees not later than January 31 of the year following the calendar year covered by the statement unless the employee leaves employment in a coverage group, in which case, the final statement must be given to the employee on the date of the last payment of wages is made. Since all employers, including the state and political subdivisions, are required to furnish employees with statements of income tax withheld and statements of social security contributions withheld, Form W-2, Withholding Statement, ~~should~~ shall be used for the above purposes.

~~8. Each political subdivision or reporting unit shall, at the request of the State Agency, furnish the State Agency within thirty days after the end of a calendar year a consolidated report listing the following information as it appears on the W 2 Form issued to each individual for that calendar year.~~

- ~~a. Names and Social Security Account Number of each employee,~~
- ~~b. Total wages paid,~~
- ~~c. Social Security (FICA) taxes withheld, and~~
- ~~d. Retirement system membership, if any.~~

SUPREME COURT

Decisions Filed Friday,
December 21, 1979

Compiled by John McCarthy, Clerk

47935, G. L. Dosland, Appellant-Respondent, vs. 49156/48(1978) State of Minnesota and Minnesota State Retirement System, Respondents-Appellant, County of Clay. Ramsey County.

A judge's retirement benefits payable under Minn. Stat. § 490.124, subd. 4(a) may extend beyond the mandatory retirement date as defined in Minn. Stat. § 490.121, subd. 12 in situations where the judge would be entitled to obtain an extension of his term under Minn. Stat. § 490.124, subd. 2 had he not become disabled.

Affirmed. Sheran, C. J.

48430/16 State of Minnesota vs. Fred John Waldon, Appellant. Martin County.

In proceedings brought under Minn. Stat. § 246.43 (1978) by a sex offender, confined in the security unit of the St. Peter State Hospital, to secure his discharge from the control of the commissioner of public welfare, the offender is entitled to the relief sought unless the commissioner sustains his burden of proving that such discharge would be dangerous to the public.

Evidence that the discharge of a sex offender from control of the commissioner of public welfare would be dangerous to the public, held inadequate to support an order retaining control in the commissioner.

Sex offenders who are under the control of the commissioner of public welfare but who have been transferred by him to the state prison are entitled to all of the benefits enjoyed by other prisoners such as credit for good behavior and the use of the matrix system in determining parole eligibility.

Remanded. Otis, J.

49104/148 Standard Packaging Corporation vs. Commissioner of Revenue, Relator. Tax Court.

The right to use transparencies furnished by photographers, and paintings provided by artists, in the manufacture of decorative playing cards, calendars, and other advertising specialties, is exempt from a use or sales tax under Minn. Stat. 297A.25, subd. 1(h) (1978) which excludes materials used or consumed in industrial production of personal property intended to be sold ultimately at retail.

Affirmed. Otis, J.

49155, Horace Tuseth, et al, Appellants, vs. Thoreson, Inc. Polk County. 49302/412

Where plaintiff was involved in a motor vehicle accident and a blood test showed his blood to contain at least 0.10 percent ethyl alcohol, in a civil action arising out of the accident Minn. Stat. §§ 169.121, subd. 1(d); .96 (1978) authorized the admission of the test results and instructions to the jury that operating a motor vehicle in such condition is unlawful and constitutes prima facie evidence of negligence.

The trial court properly exercised its discretion in denying a new trial on the ground that expert testimony is generally not newly

discovered evidence within the contemplation of Minn. R. Civ. P. 59.01 (4).

Affirmed. Otis, J. Took no part, Todd, J.

49969/482 Theodore M. Gaspers, Relator, vs. Minneapolis Electric Steel Castings Co., et al. Workers' Compensation Court of Appeals.

A finding that an injury sustained by employee in 1977 while rollerskating was a new injury, not causally related to a compensable injury he had sustained in 1969, has substantial evidentiary support and requires denial of compensation for disability sustained as the result of the 1977 injury.

Affirmed. Yetka, J.

49250/490 State of Minnesota vs. Terry Lee Hill, Appellant. Ramsey County.

Although negligent destruction by the police of evidence under subpoena by the defense could easily require a reversal and entry of a judgment of acquittal in an appropriate case, in this case the evidence of defendant's guilt was such that it is extremely unlikely that the admission of the evidence, if it had not been destroyed, would have resulted in a verdict of acquittal.

Trial court properly held a *Schwartz* hearing to question jurors concerning statements made by bailiff during jury deliberations and court properly concluded that nothing the bailiff said had any influence on the deliberations.

One who intentionally participates in a crime covered by Minn. Stat. § 609.11 (Supp. 1977) knowing that his accomplice will have a firearm in his possession during commission of the crime is subject to the minimum term provided by the statute.

Affirmed. Yetka, J.

49991/497 State of Minnesota vs. Russell Sperl, Appellant. Brown County.

A defendant cannot prevent the submission of lesser offenses if their admission is justified by the evidence.

Evidence held sufficient.

Affirmed. Yetka, J.

48977/493 State of Minnesota vs. Frank Allen King, Appellant. Scott County.

Trial court did not err in any of its evidentiary rulings, nor did its instructions to the jury create the erroneous impression that defendant had the burden of proof on self defense; postconviction court did not clearly abuse its discretion in concluding that alleged newly discovered evidence was not in fact newly discovered material evidence requiring a new trial.

Affirmed. Wahl, J.

50111/503 In the Matter of the Application for the Discipline of James L. Wegner, an Attorney at Law of the State of Minnesota. Supreme Court.

Where an attorney is convicted of smuggling marijuana; where the attorney takes an active part in the smuggling operations including the recruitment of drivers, and purchasing of vehicles, and personally driving on some of the trips; and where the smuggling operation involved some of his clients, disbarment is the appropriate sanction.

Disbarred. Per Curiam.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Economic Security Program and Management Support

Request for Proposal for Audio-Visual Presentations

Agency Name and Address

Minnesota Department of Economic Security, 390 North Robert Street, St. Paul, Minnesota 55101.

Contact Person

Richard Williams, Director, Public Information and Education, Minnesota Department of Economic Security, 390 North Robert Street, St. Paul, Minnesota 55101. Telephone: (612) 296-1082.

Complete Description of Project and Tasks

The vendor will be expected to prepare slide-sound presentations using its own resources and those supplied by the department. The vendor must have the capability to: conceive and produce a script from supplied narratives and information; produce a sound track by providing narrator, music, location recording, extra voices; provide a complete master copy and as many duplicates as requested; furnish artwork and graphics, as required; combine audio and visual elements into a completed production. This Request for Proposal does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Cost Estimate—\$40,000

Length of Contract

Until funds are expended, or for the duration of one year, whichever comes first.

Final Submission Date for Proposals

Detailed requests for proposal are available from the contact person. All proposals must be received by 4:30 p.m., January 21, 1980.

Request for Proposal for Creative Services

Agency Name and Address

Minnesota Department of Economic Security, 390 North Robert Street, St. Paul, Minnesota 55101.

Contact Person

Rick Naymark, Public Information and Education, Minnesota Department of Economic Security, 390 North Robert Street, St. Paul, Minnesota 55101. Telephone: (612) 296-2369.

Complete Description of Project and Tasks

The creative services contract covers consultation, creation, production and delivery of the following: concept development, audio-visual script preparation, graphic design and layout, photography (black and white, and color; studio and location), photograph retouching, illustration, graph-chart-table design and artwork, typesetting, keylining and display art. Assignments within the scope of the contract will be made on an as-needed basis. This Request for Proposal does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Cost Estimate—\$10,000

Length of Contract

Until funds are expended.

Final Submission Date for Proposals

Detailed requests for proposal are available from the contact person. All proposals must be received by 4:30 p.m., January 21, 1980.

Department of Health Environmental Health Division

Notice of Extension of Deadline for Proposals to Design Procedures for Reducing Contamination of Ground Water by Creosote in St. Louis Park, MN

A notice requesting proposals on the above referenced project was printed in the November 19, 1979 issue of the *State Register*, p. 836. The December 28, 1979, deadline for submission of proposals which was contained in that notice is hereby extended until 4:30 p.m., Friday, January 18, 1980. Inquiries may be addressed to:

Michael Convery
Ground Water Quality Control Unit
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
(612) 296-5297

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Ethical Practices Board Request for Advisory Opinion

7th Congressional District Senate

Legislative Caucus Committee

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion which will be discussed at its January Board meeting. No formal action will be taken at that meeting. Written comments concerning the opinion request should be forwarded to arrive at the Board's office prior to January 10, 1980.

December 20, 1979

B. Allen Clutter III
Executive Director
Ethical Practices Board
Room 41, State Office Building
St. Paul, MN 55155

Dear Mr. Clutter:

Some questions in regard to the 7th District DFL Senate Caucus have arisen that need further clarification under the ethical practices statutes of the State of Minnesota. I would, therefore, like to ask the following questions of the Ethical Practices Board.

1. Is the 7th District DFL Senate Caucus a political party subdivision or is it an independent political committee in itself?
2. Do the expenses of the 7th District DFL Senate Caucus have to be allocated to those individual candidates or their committees who receive contributions from the 7th District DFL Senate Caucus?
3. Do contributions to the 7th District DFL Senate Caucus have to be aggregated by individual candidates or his or her committee when that candidate or committee receives a contribution from the same source making a contribution to the 7th District DFL Senate Caucus?

Your consideration in this matter will be greatly appreciated.

Sincerely yours,

Roger Strand, Chairman
7th District DFL Senate Caucus

Office of Hearing Examiners For the Minnesota Energy Agency

Northern States Power Company Certificate of Need Application to Increase Storage Capacity of Spent Fuel Pool at Prairie Island Nuclear Generating Facility

First Prehearing Order

The Order for Hearing and Notice Thereof stated that the first prehearing conference would be held on Friday, January 11, 1980, in Red Wing.

The Hearing Examiner has been notified that this date creates a significant scheduling problem for one of the parties. A request has been made that the date be changed to Monday, January 14, 1980.

Now, therefore, it is ordered that the **first prehearing conference** be **postponed** until 2:00 p.m. on Monday, January 14, 1980. The location will remain the same: The Red Wing Public Library, 225 Broadway, Red Wing, Minnesota.

December 20, 1979

Allan W. Klein
Hearing Examiner

Pollution Control Agency Air Quality Division

Notice of Opportunity to Participate in and Comment on Revisions to the State Implementation Plan Proposed to Bring Rochester, Minnesota into Compliance with the National Ambient Air Quality Standards for Sulfur Dioxide

Notice is hereby given that, in accordance with the requirements of the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the rules adopted thereunder, 40 C.F.R. § 51.4, a

OFFICIAL NOTICES

meeting will be held in the City of Rochester, Minnesota, to provide an opportunity for the public to participate in and comment on the revisions to the State Implementation Plan (hereinafter, "SIP") which the Minnesota Pollution Control Agency (hereinafter, "MPCA") proposes as a means of bringing Rochester into compliance with the national ambient air quality standards for sulfur dioxide. This meeting will be held in Room 130 A-B at the University of Minnesota, Rochester Center (Friedell Building), 1200 S. Broadway, Rochester, Minnesota 55901, on Wednesday, January 30, 1980, beginning at 7:15 p.m. and continuing until all persons have had an opportunity to be heard.

The SIP revisions which are the subject of this meeting are required by the Clean Air Act because the City of Rochester has been designated an area not attaining the federal sulfur dioxide standards. The SIP revisions proposed by the MPCA specify control strategies to assure that Rochester comes into compliance with the federal sulfur dioxide standards. These control strategies include proposed revisions to the operating permits

for the Rochester State Hospital and for the Rochester Public Utility's Broadway and Silver Lake Plants.

Please note that, at least thirty days prior to the meeting, the MPCA's proposed SIP revisions will be available for public inspection, during business hours, at the Regional Office of the MPCA, 1200 South Broadway, Suite 140, Rochester, Minnesota, 55901, and also at the Office of the MPCA, Division of Air Quality, 1935 West County Road B-2, Roseville, Minnesota, 55113. In addition, a copy of these revisions may be obtained by contacting either Catherine Reynolds, Public Information Office, MPCA, 1935 West County Road B-2, Roseville, Minnesota, 55113, [telephone: (612) 296-7294] or Larry Landherr, Regional Director, MPCA, 1200 South Broadway, Suite 140, Rochester, Minnesota, 55901, [telephone: (507) 285-7343]. Further information regarding the SIP revisions and the meeting may also be obtained by contacting either Catherine Reynolds or Larry Landherr at the addresses and telephone numbers indicated above.

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