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STATE REGISTER

The seal of the State of Minnesota is positioned behind the title. It features a circular design with the words "STATE OF THE STATE" at the top and "MINNESOTA" at the bottom. The central part of the seal depicts a landscape with a ship on the water and a plow in the field, symbolizing the state's maritime and agricultural heritage.

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VOLUME 5, NUMBER 16

October 20, 1980

Pages 619-654



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 5			
17	Monday Oct 13	Monday Oct 20	Monday Oct 27
18	Monday Oct 20	Monday Oct 27	Monday Nov 3
19	Monday Oct 27	Monday Nov 3	Monday Nov 10
20	Monday Nov 3	Friday Nov 7	Monday Nov 17

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

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

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$120.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the MCAR.

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**Public Hearings on Agency Rules
 October 27-31, 1980**

Date	Agency and Rule Matter	Time & Place
Oct. 27	Economic Security Department Minnesota Economic Opportunity Grant Program Hearing Examiner: Jon Lunde	10:00 a.m., Rm. 715, American Center Bldg., 150 E. Kellogg Blvd., St. Paul, MN

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

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

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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.

Department of Corrections

Proposed Rules Governing Secure Juvenile Detention Facilities

Notice of Second Hearing

Notice is hereby given that a second public hearing in the above entitled matter will be held in the Office of Administrative Hearings, 1745 University Avenue, Room 300, St. Paul, Minnesota, 55104, on November 26, 1980 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

The second hearing is scheduled due to improper notice of the first hearing. The entire record of the first hearing, held on October 8, 1980, will be incorporated into the second hearing and will serve as a basis for the second hearing. The record will be available for inspection through Peter Erickson, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8118. Persons who testified at the October 8, 1980 hearing or submitted written comments need not do so a second time.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules, captioned above, by submitting either oral or written data, statements or arguments. The rules may be modified as a result of the hearing process. Statements or briefs may be submitted, by mail, without personally appearing at the hearing, to Peter Erickson. 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 common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered with and become a part of the record. The conduct of the hearing will be governed by the rules of the Office of Administrative Hearings.

Written material may be submitted and recorded in the hearing record for five (5) working days after the public hearing ends, or for a longer period not to exceed twenty (20) calendar days if ordered by the hearing examiner.

Notice: 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 notifications 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).

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 Administrative Hearings. 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 Administrative Hearings at a minimal charge.

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

Minn. Stat. § 241.021 (1976), as amended by Laws of 1978, ch. 778, effective September 1, 1979 provides that the Commissioner of Corrections shall promulgate rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to the law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for all secure juvenile detention facilities. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 241.021, and to provide a framework for inspection and licensing of secure juvenile detention facilities. A copy of the proposed rules was included with the mailed notice of the October 8, 1980 hearing. However, a free copy may be obtained by contacting the Standards Development Unit, Department of Corrections, 430 Metro Square Building, St. Paul, Minnesota, 55101, 612/296-0138.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) 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 612/296-5615.

The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions about procedure may be directed to the Hearing Examiner, Peter Erickson.

October 3, 1980

Jack G. Young
Commissioner of Corrections

State Board of Education Department of Education Special Services Division

Proposed Amendment and Adoption of Rules Governing the Library Grant Program and Multi-county Multi-type Library Cooperation Development and Operating Grants

Notice of Intent to Adopt Rules Without A Public Hearing

Notice is hereby given that the State Board of Education proposes to amend and adopt the above captioned rules, without public hearing, pursuant to Laws of 1980, ch. 615, § 7 (Minn. Stat. § 15.0412, subd. 4h).

All interested persons may submit written comment or data on these proposed rules, within 30 days of the publication of these proposed rules in the *State Register*, to:

William G. Asp, Director
Office of Public Libraries and Interlibrary Cooperation
301 Hanover Building
480 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-2821

No public hearing will be held unless seven or more persons make a written request for hearing within the 30 day comment period to the above named person.

The proposed rules may be modified if the modifications are supported by the data and views submitted. A statement of need and reasonableness is available without charge by making a written or telephone request to the above named person.

The proposed rules govern grant application, review and award procedures for Minnesota's seven multi-county multi-type library systems. These library systems, approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) plan, develop and operate cooperative programs involving public, academic, school and special libraries.

Multi-county Multi-type Library Cooperation Grants, governed by proposed 5 MCAR § 1.0805, assist systems in initiating major new services or expanding existing services. Applications are reviewed by a committee which makes recommendations to the Director of the Office of Public Libraries and Interlibrary Cooperation.

Multi-county Multi-type Library Cooperation Operating Grants, governed by the proposed 5 MCAR § 1.0806, assist systems in operating cooperative services. The proposed rule establishes a distribution formula awarding sixty percent of available funds equally among the eligible systems, twenty percent in an equal amount per capita and twenty percent in an equal amount per square mile.

Any person who desires to be informed when these proposed rules are submitted to the Attorney General for approval may do so by writing or calling the above named person.

Howard B. Casmev
Commissioner of Education

Amendments as Proposed

Chapter Forty: Libraries

5 MCAR § 1.0800 Grant application and review procedures.

A. Who may apply. Regional library systems designated as eligible under provisions of Laws of 1978, ch. 546, § 5, subd. 3, may apply for establishment grants as specified in 5 MCAR § 1.0801 and for regional library basic system support grants as specified in 5 MCAR § 1.0802 and for special project grants as specified in 5 MCAR § 1.0803. County and city public libraries which are participating in the aforementioned regional library systems may also apply for special project grants as specified in 5 MCAR § 1.0803. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply for grants for institution library service and for library service for the blind and physically handicapped as specified in 5 MCAR § 1.0804. Multi-county multi-type library systems designated by the State Board of Education as eligible under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979), may apply for development grants as specified in 5 MCAR § 1.0805 and for operating grants as specified in 5 MCAR § 1.0806.

B. Application forms. All applications for grants shall be made on application forms provided by the Office of Public Libraries and Interlibrary Cooperation (OPLIC), Division of Special Services, Minnesota Department of Education. Content of application form varies with each type of grant and is specified in 5 MCAR §§ ~~1.0801-1.0804~~ 1.0806.

C. Application dates. All grant applications shall be filed on or before July 1 to be considered for funding during the succeeding state fiscal year provided that applications for establishment grants shall be filed by regional library systems on or before July 1 or on or before January 1, to be considered for funding for the succeeding twelve-month period. Applications for special project grants and for multi-county multi-type library cooperation development grants shall be filed on a date established annually by the State Board of Education and published in the newsletter of OPLIC not less than 90 days before such date. During Fiscal Year 1981 only, applications for multi-county multi-type library cooperation operating grants shall be filed on or before April 1, 1981.

Rule as Proposed (all new material)

5 MCAR § 1.0805 Multi-county multi-type library cooperation development grants.

A. Application. Multi-county multi-type library systems approved by the State Board of Education under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for development grants as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;
2. name, address and telephone number of contact person in multi-county multi-type library system;
3. purposes for which grant funds are requested;
4. narrative description of the project to be developed with grant funds;
5. objectives of the project and results to be accomplished;
6. the project budget.

B. Development Grants Committee review. Applications shall be reviewed by a committee of seven persons appointed by the chairperson of the Advisory Council to the Office of Public Libraries and Interlibrary Cooperation. One person shall be appointed to the committee from each of the seven multi-county multi-type library system areas. The committee shall consist of two representatives of

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PROPOSED RULES

public libraries, two representatives of school media services, one representative of special libraries, one representative of public supported academic libraries and one representative of private academic libraries. Development grants shall be awarded on a competitive basis. Applications shall be evaluated in terms of the content of the application form with particular emphasis on:

1. the degree to which the project relates to applicant's plan developed under provisions of Minn. Stat. § 134.352 (Supp. 1979) and updated under provisions of 5 MCAR § 1.0805 E.1.;
2. evidence of careful planning of the project, including appropriateness of objectives in order to achieve results to be accomplished;
3. evidence of compatibility with state and national bibliographic standards and practices, when pertinent;
4. appropriateness of methodology for evaluating project results;
5. cost-effectiveness of the project budget, which shall take into consideration sparse population and large geographic region as required by Minn. Stat. § 134.353; and costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and the costs of providing any additional cooperative services agreed to by participating libraries which are consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).
6. evidence that the project activity would not or could not take place without a grant;
7. evidence that the project is of limited duration to accomplish an objective of long-term benefit;
8. evidence that the project will benefit at least two types of libraries.

The Development Grants Committee shall report its recommendations for projects to be funded to the director of OPLIC.

C. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications and the funding recommendations of the Development Grants Committee for development grants using the same standards applied by the Development Grants Committee and shall report recommendations for projects to be funded to the State Board of Education.

D. State Board of Education action. The State Board of Education shall review funding recommendations of the director of OPLIC and shall award development grants using the same standards applied by the Development Grants Committee and subject to the availability of funds. The State Board of Education shall annually determine the amount of funds to be provided as development grants after considering the availability of funds for multi-county multi-type library system grant programs.

E. Criteria for eligibility. In order to be eligible to apply for development grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subsd. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provision of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation, and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

F. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

5 MCAR § 1.0806 Multi-county multi-type library cooperation operating grants.

A. Application. Multi-county multi-type library systems approved under provisions of Minn. Stat. § 134.351, subd. 1 (Supp. 1979) may annually apply for an operating grant as authorized by Minn. Stat. § 134.353 (Supp. 1979). Applicants shall submit the following information:

1. name, address and telephone number of applicant multi-county multi-type library system;
2. name, address and telephone number of contact person representing the applicant;
3. identification of participating libraries by type of library;
4. copies of organizational agreements required by Minn. Stat. § 134.351, subd. 3 (Supp. 1979);
5. narrative descriptions of the programs to be operated with grant funds including objectives and results to be accomplished;
6. statement of relationship of programs to the plan developed under the provisions of Minn. Stat. § 134.352 (Supp. 1979);
7. proposed expenditures for costs incurred in providing the services required by the organizational agreement as specified in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and for the costs of providing any additional cooperative services agreed to by participating libraries and consistent with provisions of Minn. Stat. § 134.351, subd. 2 (Supp. 1979).

B. Office of Public Libraries and Interlibrary Cooperation review. The director of OPLIC shall review all applications for compliance with Minn. Stat. § 134.351 (Supp. 1979) and this rule. The director of OPLIC shall report recommendations to the State Board of Education for action.

C. Criteria for eligibility. In order to be eligible to apply for operating grants, applicants shall have met the requirements in Minn. Stat. § 134.351, subs. 3, 4, and 5 (Supp. 1979) and the following:

1. Plan. Applicants shall provide to OPLIC by the application date a five-year plan which addresses the provisions of the five qualifying services required in Minn. Stat. § 134.351, subd. 3 (Supp. 1979) and any other cooperative services to which participants have agreed and for which funding is sought. The plan shall include projected dates for implementation and cost estimates for implementing the first year of the plan.

2. Each public library participating in a multi-county multi-type library system shall also participate in its regional public library system, and a public library which has remained independent of its regional public library system shall not participate in a multi-county multi-type library system.

D. Calculation of operating grant amounts. The State Board of Education shall annually determine the amount of funds to be provided as operating grants after considering the availability of funds for multi-county multi-type library system grant programs. Of the amount to be provided as operating grants, sixty percent shall be divided into equal amounts for each eligible applicant, twenty percent shall be divided on an equal amount per capita and twenty percent shall be divided on an equal amount per square mile.

E. Audit. Multi-county multi-type library systems which receive grants shall annually submit to OPLIC an audit of receipts and disbursements within 180 days after the end of the multi-county multi-type library system's fiscal year. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant or by a public accountant as defined in and in accordance with Minn. Stat. §§ 6.64-6.71 (1978).

Department of Employee Relations

Proposed Rules Governing the Statewide Affirmative Action Program

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) as amended by Laws of 1980, ch. 615, § 6, in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155 commencing at 9:00 a.m. on Tuesday, November 25, 1980 and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate concerning the proposed 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 Peter Erickson, Office of Administrative Hearings, 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 order at the hearing that the record will remain 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, in order to save time and avoid duplication, it is suggested 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 Minn. Stat. §§ 15.0411-15.0417 and 15.052 (1978) as amended by Laws of 1980, ch. 615 and by the rules of the Office of Administrative Hearings, 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions relating to procedures may be directed to Hearing Examiner Peter Erickson.

Notice: The proposed rules may be modified as the result of the hearing process. The Department therefore strongly urges those who are potentially affected in any manner by the proposed rules to participate in the hearing process.

If adopted, the rules proposed by the Commissioner of Employee Relations would implement Minn. Stat. § 43.15 (1979 Supplement) as amended by Laws of 1980, ch. 614, clarifying and interpreting the obligations of all state agencies to develop and administer a statewide affirmative action program. The proposed rules establish minimum standards and guidelines for individual state agencies' affirmative action efforts, delineating certain responsibilities, establishing a framework for setting goals and timetables, requiring an internal procedure for resolution of employee complaints of discrimination, providing for methods of auditing, evaluating and reporting program results, in an effort to achieve progress in eliminating under-utilization of protected groups in the state service. The authority of the Commissioner to promulgate the proposed rules on the Statewide Affirmative Action Program is contained in Minn. Stat. § 43.15 (1979 Supplement) as amended by Laws of 1980, ch. 614.

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PROPOSED RULES

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Employee Relations, 3rd Floor, 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 agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence and argument which the agency anticipates presenting 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 Administrative Hearings at a minimal charge.

Notice: 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 also 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 (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.

Questions concerning lobbyists or their required registration should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155, at telephone number (612) 296-5616.

Promulgation of the proposed rules will not result in the expenditures of public monies by local public bodies.

October 6, 1980

Barbara L. Sundquist
Commissioner of Employee Relations

Rules as Proposed

Chapter Eighteen: 2 MCAR §§ 2.201-2.269 Definitions.

2 MCAR § 2.201 "Affirmative Action" means a management posture or point of view that all barriers to employment opportunity that are not based on specific job requirements should be identified and removed; further, that initial employment and advancement opportunities for persons in protected groups shown to be underutilized in an agency's work force should be facilitated so that the imbalance is redressed.

2 MCAR § 2.202 "Affirmative Action Plan" means a coherent set of management policies and procedures designed to find the barriers contributing to imbalance in an agency's workforce and to foster the correction of any imbalances which are found to exist.

2 MCAR § 2.201 203 "Agency."

2 MCAR § 2.202 204 "Agency Promotional List."

2 MCAR § 2.205 "Agency Subdivision" for purposes of affirmative action means a state hospital/nursing home, state school, state university, community college, correctional facility or regional or district office under the jurisdiction of a state agency, which is geographically separate and which has an appointing authority.

2 MCAR § 2.203 206 "Allocation."

2 MCAR § 2.204 207 "Appointing Authority."

2 MCAR § 2.205 208 "Board."

2 MCAR § 2.206 209 "Class."

2 MCAR § 2.207 210 "Commission."

~~2 MCAR § 2.207~~ 211 “Continuous Service.”

~~2 MCAR § 2.208~~ 212 “Craft.”

2 MCAR § 2.2121 “Craft-Supervisory” means those positions which meet the definitions of both 2 MCAR §§ 2.212 and 2.259.

~~2 MCAR § 2.209~~ 213 “Day.”

~~2 MCAR § 2.210~~ 214 “Demotion.”

~~2 MCAR § 2.211~~ 215 “Department.”

~~2 MCAR § 2.212~~ 216 “Disabled Veteran.”

~~2 MCAR § 2.213~~ 217 “Disabled Veterans’ Preference.”

~~2 MCAR § 2.214~~ 218 “Eligible.”

~~2 MCAR § 2.215~~ 219 “Eligible List.”

~~2 MCAR § 2.2151~~ 220 “Emergency Employee.”

~~2 MCAR § 2.2152~~ 221 “Exclusive Representative.”

~~2 MCAR § 2.216~~ 222 “Exist or Existing.”

~~2 MCAR § 2.2161~~ 223 “Full-time Employee.”

2 MCAR § 2.224 “Goal” means a numerical objective designed to correct an identified deficiency in the utilization of protected group members.

2 MCAR § 2.225 “Handicapped” means any person who:

- A. has a physical or mental impairment which substantially limits one or more major life activities,
- B. has a record of such an impairment, or
- C. is regarded as having such an impairment.

For purposes of these rules, the term “handicapped” does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

~~2 MCAR § 2.2162~~ 226 “Intermittent Employee.”

~~2 MCAR § 2.217~~ 227 “Intern.”

2 MCAR § 2.228 “Labor Force Statistics” means figures as determined by the most recent Federal census published by the U.S. Department of Commerce, Bureau of the Census on the estimated number of persons sixteen (16) years of age or over who are working or are seeking work or who are unemployed at the time.

2 MCAR § 2.229 “Labor Market Area” means a geographic area in which an employer is seeking a particular occupational category of worker and there is an available supply of workers seeking jobs in that occupational category.

~~2 MCAR § 2.218~~ 230 “Laborer.”

2 MCAR § 2.2301 “Laborer-Supervisory” means those positions which meet the definitions of both 2 MCAR §§ 2.230 and 2.259.

~~2 MCAR § 2.219~~ 231 “Law.”

~~2 MCAR § 2.220~~ 232 “Layoff List.”

~~2 MCAR § 2.221~~ 233 “Leadworker.”

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PROPOSED RULES

2 MCAR § ~~2.222~~ 234 "Managerial."

2 MCAR § ~~2.223~~ 235 "Military Leave."

2 MCAR § ~~2.224~~ 236 "Occupational Category" means one of the groups of classes established under 2 MCAR § ~~2.172~~, and defined in 2 MCAR §§ ~~2.212, 2.2121., 2.230, 2.301 A., 2.234, 2.237, 2.2371, 2.239, 2.2391, 2.249, 2.2491, 2.256, 2.2561, 2.246~~ and ~~2.260~~ and ~~2.2601~~.

2 MCAR § ~~2.225~~ 237 "Office/Clerical."

2 MCAR § 2.2371 "Office/Clerical-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.237 and 2.259.

2 MCAR § ~~2.226~~ 238 "Open Competitive List."

2 MCAR § ~~2.227~~ 239 "Operative."

2 MCAR § 2.2391 "Operative-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.239 and 2.259.

2 MCAR § ~~2.228~~ 240 "Organization Unit."

2 MCAR § ~~2.229~~ 241 "Original Appointment."

2 MCAR § ~~2.230~~ 242 "Overtime."

2 MCAR § ~~2.231~~ 243 "Part-time Employee."

2 MCAR § ~~2.232~~ 244 "Permanent Employee."

2 MCAR § ~~2.233~~ 245 "Pre-Service Trainee."

2 MCAR § ~~2.234~~ 246 "Position."

2 MCAR § ~~2.235~~ 247 "Probationary Employee."

2 MCAR § ~~2.236~~ 248 "Probationary Period."

2 MCAR § ~~2.237~~ 249 "Professional."

2 MCAR § 2.2491 "Professional-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.249 and 2.259.

2 MCAR § ~~2.238~~ 250 "Promotion."

2 MCAR § 251 "Protected Group" means all groups defined as "protected group" by Minn. Stat. § 43.15, subd. 1. See also definition of "Handicapped," 2 MCAR § 2.225.

2 MCAR § ~~2.239~~ 252 "Provisional Employee."

2 MCAR § ~~2.240~~ 253 "Reclassification."

2 MCAR § ~~2.241~~ 254 "Reemployment List."

2 MCAR § ~~2.242~~ 255 "Seasonal."

2 MCAR § ~~2.243~~ 256 "Service."

2 MCAR § 2.2561 "Service-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.256 and 2.259.

2 MCAR § ~~2.444~~ 257 "Statewide Promotional List."

2 MCAR § ~~2.245~~ 258 "Student Worker."

2 MCAR § ~~2.246~~ 259 "Supervisory."

2 MCAR § ~~2.247~~ 260 "Technical/Professional."

2 MCAR § 2.2601 "Technical/Paraprofessional-Supervisory" means those positions which meet the definitions of both 2 MCAR §§ 2.260 and 2.259.

2 MCAR § 2.248-261 “Temporary Employee.”

2 MCAR § 2.262 “Timetable” means a prescribed reasonable time period in which affirmative action goals are expected to be achieved.

2 MCAR § 2.249-263 “Transfer.”

2 MCAR § 2.264 “Underutilization” means the employment, in an occupational category, of fewer qualified protected group members than would reasonably be expected by their availability in the labor market area.

2 MCAR § 2.250-265 “Unlimited Employee.”

2 MCAR § 2.251-266 “Veteran.”

2 MCAR § 2.252-267 “Veterans Preference.”

2 MCAR § 2.253-268 “Work Assignment, Change In.”

2 MCAR § 2.254-269 “Working Day.”

2 MCAR §§ 2.255-270-2.274 Reserved for future use.

Chapter Twenty: 2 MCAR §§ 2.290-2.299 Statewide Affirmative Action Program.

2 MCAR § 2.290 Policy. It is the policy of the State of Minnesota to implement and maintain an affirmative action program designed to eliminate underutilization of qualified protected group members within the state civil service through a series of specific results oriented procedures combined with good faith effort.

2 MCAR § 2.291 Scope. The provisions of this chapter shall apply to all agencies in the executive branch and to both classified and unclassified positions of those agencies, notwithstanding 2 MCAR § 2.004. In event of a conflict or duplication between requirements of these rules and federal regulations and at the request of the agency head, the commissioner shall permit an agency to substitute a federally required procedure for a similar procedure otherwise required by these rules.

2 MCAR § 2.292 Responsibilities and accountabilities of the agency head.

A. The agency head shall be responsible for administering the agency’s Affirmative Action Program in compliance with existing laws, federal regulations and state rules.

B. The agency head shall be accountable to the Governor and to the Commissioner for affirmative action compliance.

2 MCAR § 2.293 Requirements for agency affirmative action plans.

A. The head of each agency with twenty-five (25) or more employees shall submit to the commissioner an agency affirmative action plan that shall contain at least the following but at the discretion of the agency head may contain other provisions not in conflict with these rules:

1. Identification of the protected group or groups covered by the affirmative action plan.

2. Designations of those persons or groups responsible for directing and implementing the agency affirmative action program and the specific responsibilities, accountabilities, and duties of each person or group.

3. Statement of the agency head’s commitment to affirmative action program and to the implementation of the agency affirmative action plan.

4. Location of posting of the agency’s affirmative action plan.

5. Description of methods by which the agency affirmative action program is communicated internally and externally to employees and other interested persons.

6. Description of internal procedure for processing complaints of alleged discrimination from employees.

a. The initial step shall provide for a determination as to whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on such determinations shall be established to permit the employee to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limitations of those procedures.

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PROPOSED RULES

- b. Complaint procedures shall provide for a final written answer within sixty (60) days of the filing of a formal complaint.
- c. Disposition of complaints shall be filed with the Commissioner within thirty (30) days of final determination.
- 7. Goals and timetables that shall be established using the following standards.
 - a. Numerical goals shall be established for the agency and for each agency's subdivision with 25 or more employees that is in a geographic location with a labor market area separate from that of the central office.
 - b. Agency heads shall use labor force statistics from census data when available to examine work force participation, or when an agency requests the authority to substitute more specific data, the commissioner shall consider alternative data sources and determine their applicability based on the following criteria:
 - 1. the objectivity of the supplying organization,
 - 2. the reliability of statistical procedures used to generate the data, and
 - 3. comparability of data categories (occupational, geographic, handicapping condition, for example) used.
 - c. Underutilization of protected groups shall be determined using statistical formulae which shall be based on the following criteria:
 - 1. Types of jobs within each agency and agency subdivision;
 - 2. Number of employees in those jobs, by state class title and by protected group;
 - 3. Availability of protected group workers having the qualifications for those jobs and;
 - 4. Geographic locations and applicable labor market areas for each type of job in each agency and agency subdivision.
 - d. Goals shall be established for each occupational category by protected group based upon a comparison of the composition of the agency or the agency's subdivision work force to the composition of workers in an identified labor market area.
 - e. Goals shall be established for each occupational category by protected group for which the comparison shows an underutilization of one or more protected groups.
 - f. Timetables shall be established to meet goals based upon turnover and hire rates within each occupational category in the agency or within each agency subdivision.
- 8. Identification and description of methods for developing programs and program objectives designed to meet affirmative action goals.
- 9. Methods of auditing, evaluating, and reporting program success to include a procedure that requires pre-employment review of all hiring decisions for occupational categories with unmet affirmative action goals.
- 10. The official affirmative action transmittal form which provides for section by section verification of the plan's components.
- B. The head of each agency with fewer than twenty-five (25) employees shall submit to the commissioner an agency affirmative action plan that shall contain the following:
 - 1. Statement of the agency head's commitment to the affirmative action program.
 - 2. Statement of the agency head's objective to hire members of protected groups when vacancies occur if an apparent underutilization of protected group members exists in the agency work force.
 - 3. Description of internal procedure for processing complaints of alleged discrimination from employees.
 - a. The initial step shall provide for a determination as to whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. Time limits on such determinations shall be so established to permit the employer to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limitations of those procedures.
 - b. Complaints procedures shall provide for final written answer within sixty (60) days of filing of a formal complaint.
 - c. Disposition of complaints shall be filed with the commissioner within thirty (30) days of the final determination.

2 MCAR § 2.294 Affirmative Action Plan Review.

- A. Agency heads shall submit an affirmative action plan annually to the State Director of Equal Employment Opportunity, within thirty (30) days following the end of the prior fiscal year.
- B. Within thirty (30) days of receipt of the agency plan, the State Director of Equal Employment Opportunity shall review the agency affirmative action plan and shall notify the agency head of the approval or of the need to modify the plan.

C. The State Director of Equal Employment Opportunity shall approve an agency plan which meets the requirements of the foregoing rules and shall indicate the basis on which an agency affirmative action plan was not approved.

D. An agency affirmative action plan that is not approved by the State Director of Equal Employment Opportunity shall be modified as necessary by the agency head and resubmitted to the State Director of Equal Employment Opportunity within thirty (30) days from the date of notification.

E. The State Director of Equal Employment Opportunity shall respond within ten (10) days of receipt of the resubmitted affirmative action plan.

2 MCAR § 2.295 Reporting requirements.

A. Agency heads with twenty-five (25) or more employees shall submit quarterly to the Commissioner a report of the agency's efforts to meet affirmative action goals and the progress resulting from those efforts.

B. Agency heads with fewer than twenty-five (25) employees shall submit semi-annually to the commissioner a report of the agency's efforts to meet affirmative action objectives and the progress resulting from those efforts.

C. Reports shall be due thirty (30) days following the close of the reporting period.

D. Agency heads shall submit biennially to the Governor and to the Legislature with a copy to the commissioner a report on the implementation of the agency affirmative action plan as part of the agency budget request.

Department of Transportation

Proposed Rules Relating to Operating Standards for Special Transportation Service

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 Room 81, State Office Building (between Aurora and Fuller), St. Paul, Minnesota on December 2, 1980, at 10:00 A.M.

The statutory authority of the Department of Transportation to adopt these rules is provided in Minn. Stat. § 15.0412, subd. 3, and Minn. Stat. § 174.30, subs. 2 and 5 (1979 Supp.).

The proposed rules, if adopted, would establish the scope of the rules and provide definitions for terms used therein and would:

1. Require an annual Certificate of Compliance for vehicles used to provide special transportation service—which service is generally defined as motor vehicle transportation provided:
 - a. on a regular basis, and
 - b. designed exclusively or primarily to serve individuals who are
 1. elderly (over the age of 55), or
 2. handicapped, or
 3. disabled, or
 4. economically disadvantaged, and
 5. unable to use regular means of transportation;
2. Establish standards and procedures for the issuance of Certificates of Compliance, including:
 - a. provider qualification procedures,
 - b. information to be provided by persons proposing to provide such service,
 - c. evidence of certification,
 - d. records to be kept by the State,
 - e. time and manner of issuance of the Certificate.
3. Establish procedures for the renewal of Certificates of Compliance;

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PROPOSED RULES

4. Establish procedures for the inspection of provider records and vehicles upon complaint;
5. Establish enforcement procedures by which the Commissioner may revoke a Certificate of Compliance for persons found in violation of the rules;
6. Establish standards for the operation of vehicles used in the provision of special transportation services, including:
 - a. driver training and qualifications
 - b. physician's health certificate, and
 - c. duties of driver or attendant, and;
7. Establish standards requiring certain safety equipment be carried on vehicles;
8. Establish standards for vehicle maintenance, operation, and safety inspection;
9. Establish standards requiring minimum insurance requirements and the filing of evidence of coverage with the State;
10. Establish standards for the form and maintenance of records by providers;
11. Establish standards for the certification of training courses, including:
 - a. application for approval, and
 - b. time and manner of approval, and
 - c. qualifications of instructors, and
 - d. curriculum.
12. Establish standards for granting variances and variance revocation procedures under these rules.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

Peter A. Fausch
Assistant Commissioner for Planning
Minnesota Department of Transportation
413 Transportation Building
St. Paul, Minnesota 55155

The rules will be available at the door on the date of the hearing.

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 Department of Transportation address given immediately above and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Department 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 Administrative Hearings.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Transportation therefore strongly urges those who may be affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules relating to operating standards for special transportation service. 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 George A. Beck, Hearing Examiner, Office of Administrative Hearings, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) working days after the close of the hearing. If so 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 a part of the record for this proceeding. The Department of Transportation hereby requests those submitting written statements to provide a duplicate copy of said materials to the departmental address above, if possible. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 to 15.0412 and § 15.052; as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Department of Transportation 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 Department of Transportation. 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 Department (in the case of the Department's submission or resubmission to the Attorney General).

The department expects that one hundred persons may attend the hearing and it estimates that one to two hours will be necessary for the department 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 of government to implement the rules for the two years immediately following their adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

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 (1979 Supp.) 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* 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, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 1, 1980

Richard P. Braun
Commissioner of Transportation

Rules as Proposed (all new material)

14 MCAR § 1.7001 Scope.

A. These standards apply to special transportation service provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

B. These standards do not apply to transportation provided by:

1. A common carrier operating on fixed routes and schedules;
2. A taxi;
3. A volunteer driver using a private automobile which belongs to the volunteer;
4. A school bus as defined in Minn. Stat. § 169.01, subd. 6; or

5. An ambulance regulated under Minn. Stat. ch. 144. However, these standards shall apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7002 Authority. These standards are adopted pursuant to the requirements of Laws of 1979, Ex. Sess., ch. 1, § 28, subs. 2 and 5, now codified as Minn. Stat. § 174.30, subs. 2 and 5 (1979 Supp.).

14 MCAR § 1.7003 Definitions.

- A. "Ambulance" has the meaning given to it in Minn. Stat. § 144.801, subd. 2.
- B. "Commissioner" means the commissioner of transportation.
- C. "Common carrier" means a regular route common carrier operating on fixed routes and schedules as defined in Minn. Stat. § 221.011, subd. 9.
- D. "Disabled" means handicapped.
- E. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.
- F. "Elderly" means age 55 and older.
- G. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.
- H. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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PROPOSED RULES

I. "Motor vehicle" has the meaning given to it in Minn. Stat. § 169.01, subd. 3.

J. "Municipality" has the meaning given to it in Minn. Stat. § 466.01, subd. 1.

K. "Person" means every natural person, firm, partnership, corporation, association and body politic.

L. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction and alcoholism.

M. "Provider" means a public or private entity or person who operates special transportation service vehicles.

N. "Regular basis" means providing more than 12 round trips per month in a single vehicle or transporting more than 30 passengers per month, whichever is less.

O. "School bus" has the meaning given to it in Minn. Stat. § 169.01, subd. 6.

P. "Semi-ambulatory" means having the ability to walk with difficulty and with the aid of a prosthetic or orthotic device.

Q. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

R. "State" has the meaning given to it in Minn. Stat. § 3.732, subd. 1(1).

S. "Variance" means permission to comply in a manner other than that specified.

T. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR § 1.7004 Compliance.

A. No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner.

1. A certificate of compliance shall be issued when the standards set forth in these rules have been met.

2. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the commissioner of public safety pursuant to Minn. Stat. § 299A.14.

B. No special transportation service provider shall provide, offer to provide or represent itself as capable of providing life support transportation service unless it is licensed as required by Minn. Stat. § 144.802.

14 MCAR § 1.7005 Certification.

A. Application for a certificate of compliance shall be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Minnesota Department of Transportation district office. All applications shall be delivered or mailed to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155.

B. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. whether the application is new or a renewal;

b. the name, address, telephone number and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule or other;

d. the category of passengers served (elderly, handicapped, disabled or economically disadvantaged);

e. for each vehicle:

(1) make and year;

(2) seating capacity;

(3) completed checklists showing whether each vehicle carries the safety equipment required by 14 MCAR § 1.7009

B.1.;

f. if the vehicle will carry an occupied wheelchair:

(1) whether the vehicle is equipped with an approved wheelchair securement device;

(2) the date that the wheelchair securement device was approved by the commissioner of public safety and the number on the certificate issued by the commissioner of public safety;

- g. the name and title of the person who is responsible for the provider's special transportation service;
- h. the name and address of each driver, stating whether each complies with the standards set forth in these rules.

2. A certificate of insurance which shall be mailed to the Department of Transportation by the applicant's insurer.

C. A certificate of compliance shall be granted when the commissioner determines that the applicant complies with the standards set forth in these rules.

D. All applications shall be processed and a certificate of compliance issued or denied in writing within thirty days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed or revoked.

14 MCAR § 1.7006 Renewal.

A. Thirty to sixty days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

B. The commissioner shall grant or deny requests for renewal in writing prior to the expiration date of the current certificate.

C. A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

14 MCAR § 1.7007 Inspection.

A. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in these rules, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection shall be conducted within four weeks of receipt of the complaint.

B. All complaints shall be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint and the result of the inspection.

C. The commissioner shall notify any provider not less than 1 week in advance of an inspection and shall conduct the inspection at the provider's office or garage.

D. Inspections conducted under these standards shall comprise:

- 1. Examination of the records listed in 14 MCAR § 1.7011 A.; and
- 2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B.

E. Failure to permit an inspection as provided in this section shall be grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR § 1.7008 Enforcement.

A. Any provider found in violation of any provision of these rules shall be given a thirty day written notice to correct the violation.

B. At the expiration of thirty days, the commissioner shall conduct an inspection to determine whether the violation has been corrected.

C. If the violation is not corrected within thirty days, the commissioner shall revoke the certificate of compliance after holding a hearing upon reasonable notice to the provider.

D. Any enforcement hearing conducted pursuant to these standards shall be conducted in accordance with Minn. Stat. ch. 15.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1. No driver shall operate a special transportation service vehicle unless that driver:

- a. has visual acuity of 20/40 in each eye corrected and a field of vision of at least seventy degrees in the horizontal meridian of each eye; and
- b. does not have a hearing loss greater than thirty db in the better ear with or without a hearing aid; and
- c. has no current medical condition which interferes with the ability to drive safely.

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PROPOSED RULES

2. Every two years each driver shall obtain, on a form prescribed by the commissioner, a physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely. This shall be obtained prior to employment as a driver of a special transportation service vehicle.

3. Each driver, or an attendant in the case of a vehicle which is staffed by a driver and an attendant, shall be able to perform a vehicle safety inspection, assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

4. Each driver shall also meet the following criteria:

- a. possess a Minnesota driver's license which is valid for the type of vehicle which he or she drives;
- b. be at least eighteen years of age and have not less than one year of experience as a licensed driver; and
- c. have a driving record clear of revocations, suspensions and cancellations for the past three years except for suspensions which result from unpaid parking tickets.

5. By January 1, 1982, each driver and attendant shall successfully complete a first aid or emergency care course of not less than four hours which shall include instruction in the following elements:

- a. treatment of shock;
- b. control of bleeding;
- c. airway management;
- d. prevention and treatment of frostbite and exposure to cold;
- e. prevention and treatment of heat exhaustion and heat stroke;
- f. identification of sudden illness such as stroke, heart attack, convulsions, fainting and seizures; and
- g. appropriate use of emergency medical assistance services.

6. By January 1, 1982, each driver and attendant who transport passengers seated in wheelchairs or who assist passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers which shall include instruction in the following elements:

- a. discussion of characteristics of the aging process and major disabling conditions;
- b. discussion of common assistive devices used by elderly and handicapped persons;
- c. discussion of attitudes toward elderly and handicapped persons which includes the participation of handicapped and elderly persons;
- d. instruction in methods of handling wheelchairs;
- e. instruction in moving, lifting and transferring passengers;
- f. guidelines for transporting handicapped persons; and
- g. instruction in the operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them.

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which shall include instruction in the elements listed in 14 MCAR § 1.7009 A.6.a., b., c. and f.

8. Each driver and attendant shall receive instruction in the use of the fire extinguisher.

9. A driver or attendant hired after October 1, 1981, who has not completed the required training prior to providing special transportation service, shall do so within ninety days after beginning to provide such service. Copies of certificates indicating successful completion of courses shall be maintained in the provider's files.

10. Each driver and attendant must successfully complete a refresher first aid or emergency care course every three years. The refresher course shall include instruction in the elements listed in 14 MCAR § 1.7009 A.5.

B. Equipment.

1. Each vehicle when in use shall carry the following safety equipment:

- a. one five pound, dry chemical fire extinguisher, A:B:C type, bearing a tag indicating that it has been serviced within the preceding year;

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit shall contain at least the following items:

- (1) six—4" x 4" sterile gauze pads;
- (2) two—soft roll bandages 6" x 5 yards;
- (3) adhesive tape; and
- (4) scissors;

c. a spare tire and jack unless the vehicle is radio-equipped and the provider has a service contract which enables him to summon assistance to change the tire or to summon a substitute vehicle;

d. an operable flashlight;

e. if a vehicle carries children who weigh less than fifty pounds, there shall be available in the vehicle a child restraint system which meets the requirements of federal motor vehicle safety standard no. 213, 49 C.F.R. § 571.213;

f. three emergency warning triangles. Both faces of each triangle shall consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device shall be seventeen to twenty-two inches long and shall be two to three inches wide. The units shall be kept clean and in good repair and stored so as to be readily available when needed;

g. from October 1 to April 30, each vehicle shall carry an ice scraper and a blanket;

h. all vehicles with interior fuse boxes shall carry extra electrical fuses.

2. All seats shall be securely fastened to the floor or frame of the vehicle and all vehicles purchased after January 1, 1981 shall have a usable seat belt for each person being transported and for the driver.

3. All ramps shall have a slip-proof surface to provide traction and one end of the ramp shall be secured to the floor of the vehicle when the ramp is in use.

4. A vehicle which is equipped with a wheelchair lift and which carries semi-ambulatory persons who use the wheelchair lift shall be equipped with either a wheelchair lift with adjustable or removable railings which are thirty-six inches high on two sides of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters shall comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR § 1.603 C.4. and C.1.b.

C. Operation.

1. All vehicles shall be maintained and operated in compliance with Minn. Stat. ch. 169 and rules adopted pursuant to that chapter.

2. All providers shall conduct or cause to be conducted, a daily visual safety inspection of the following items:

- a. coolant level;
- b. lights, turn signals, hazard flashers;
- c. tires;
- d. windshield wipers and washer fluid;
- e. mirrors;
- f. fuel level.

3. All providers shall conduct or cause to be conducted a vehicle safety inspection once each week or every 1000 miles, whichever comes first. The date and mileage at each safety inspection and a notation of needed repairs and replacements shall be made in a driver's logbook which shall be maintained in the vehicle or in the provider's files. The safety inspection shall include inspection of the following items:

- a. coolant level;
- b. oil level;
- c. lights, turn signals, hazard flashers;

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PROPOSED RULES

- d. tires and tire pressure;
- e. brake, parking brake and brake fluid level, if visible in the engine compartment;
- f. instrument panel;
- g. horn;
- h. windshield wipers and washer fluid;
- i. fan belt;
- j. mirrors, inside and outside;
- k. wheelchair ramps and lifts and lift electrical systems, if applicable; and
- l. wheelchair or stretcher securement device, if applicable.

4. Smoking shall be prohibited in vehicles at all times. A sign stating "NO SMOKING" shall be posted in the vehicle so that it is visible to all passengers.

5. Drivers and passengers shall use seat belts at all times in vehicles which are equipped with them and drivers shall instruct each passenger to use the seat belt. Children who weigh less than fifty pounds shall use approved child restraint systems at all times.

6. When any vehicle is stopped for any emergency purpose or is disabled on the roadway or shoulder of any highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle shall be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on any one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

D. Maintenance.

1. All vehicles shall be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

2. Providers shall correct any deficiency which might interfere with the safe operation of the vehicle before the vehicle is placed in service.

3. Windows and lights shall be kept clean.

4. Interior of vehicles shall be clean and in good repair.

14 MCAR § 1.7010 Insurance.

A. Each provider shall have in effect an insurance plan which provides the following minimum coverage for each vehicle:

1. Basic economic loss benefits as required by Minn. Stat. ch. 65B;

2. Residual liability coverage in the following minimum amounts:

a. private providers; \$100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of \$300,000 for bodily injuries to, or the death of two or more persons in a single accident, and \$50,000 for destruction of, or damage to property in a single accident, or if the policy is written on a single limit basis, \$300,000 per occurrence;

b. municipalities; \$100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of \$300,000 for bodily injury to, or death of two or more persons in a single accident, and \$50,000 for destruction of, or damage to property in a single accident;

c. the state; \$100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of \$500,000 for bodily injury to, or death of two or more persons in a single accident, and \$100,000 for destruction of, or damage to property in a single accident;

3. uninsured motorist coverage as required by Minn. Stat. ch. 65B.

B. Each provider shall obtain a certificate of insurance for the special transportation service vehicles which it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155. The certificate shall show the vehicles covered by the policy and the policy limits. The insurer shall notify the department in writing ten days prior to the termination of coverage by either party.

C. A provider shall qualify as a self-insurer by providing evidence that it has complied with the requirements of Minn. Stat. § 65B.48, subd. 3.

14 MCAR § 1.7011 Records.

- A. Each provider shall maintain files containing the following information:
1. For each driver, a driver's application form which contains the following information:
 - a. the name, address and birthdate of the driver;
 - b. the driver license number and the class of the license;
 - c. whether the driver has had at least one year of driving experience;
 - d. whether the driver's license has been revoked, suspended or cancelled within the three year period prior to this application;
 - e. the date on which the driver successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A.5.;
 - f. the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A.6. or 7. whichever is applicable;
 - g. the date and location at which driver was trained in the use of the fire extinguisher;
 2. For each driver, the physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely.
 3. For each attendant, an attendant's application form which contains the following information:
 - a. the name and address of the attendant;
 - b. the date on which the attendant successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A.5.;
 - c. the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A.6. or 7. whichever is applicable;
 - d. the date and location at which the attendant was trained in the use of the fire extinguisher;
 4. All correspondence with the commissioner, including the certificate of compliance;
 5. All accident reports;
 6. A record of all insurance claims arising from the operation of the vehicle;
 7. Service records for each vehicle indicating the date, the odometer reading and the nature of the repair or replacement each time the vehicle was serviced;
 8. The driver's logbook for each vehicle, unless the logbook is maintained in the vehicle.
- B. The following documents shall be maintained in each vehicle:
1. A card showing the name of the insurance company which insures the vehicle and the telephone number of the insurance agent;
 2. Accident report forms;
 3. A card showing local emergency telephone numbers.

14 MCAR § 1.7012 Certification of training courses.

- A. All training courses shall be approved by the commissioner prior to being offered to fulfill the requirements of these rules.
- B. The application for approval of a training course shall be made on a form prescribed by the commissioner. A course shall be approved if it meets the following minimum standards:
1. It shall include instruction in the elements required by these standards;
 2. The application shall specify when and where the instructor has previously taught the course;
 3. The name, address, employment and relevant training of the instructor must be shown;
 4. The name and address of any institution which is sponsoring the course must be shown.

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PROPOSED RULES

C. Instructors.

1. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician or a certified first aid instructor.

2. Passenger assistance technique training shall be taught by any person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse or other health professional who has had work experience with physical disabilities, aging and communication disorders or by a team which includes one of those persons.

D. Applications for approval of training courses shall be granted or denied in writing by the commissioner within thirty days of receipt of the complete application.

14 MCAR § 1.7013 Variance.

A. The commissioner may grant a variance from any of these rules except 14 MCAR § 1.7004.

1. A variance shall be granted if the applicant shows that:

a. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;

b. the application of the rule in question would impose an excessive burden on the applicant; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing his reasons for granting or denying the variance.

3. Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

4. Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

5. A variance shall be revoked if a material change occurs in the circumstances which justified granting the variance, or if the applicant fails to comply with the alternative practice specified in the application for a variance.

14 MCAR §§ 1.7014 to 1.7050 Reserved for future use.

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 Agriculture Plant Industry Division

Adopted Rules Governing Disposal of Refuse from Transport Involved in Foreign Commerce (3 MCAR §§ 1.0190-1.0192)

The rules proposed and published at *State Register*, Volume 4, Number 28, pp. 1125-1128, January 14, 1980 (4 S.R. 1125) are now adopted, with the following amendments:

Amendments as Adopted

3 MCAR § 1.0190 General.

B. Definitions. For purposes of these rules, the following definitions and those in Minn. Stat. § 18.46 shall apply:

2. "Dunnage" means structural wood products in any form used to secure cargo in any manner. Standards and criteria for handling and disposing of dunnage are contained in 3 MCAR § 1.0192.

3. "Refuse" means all material derived in whole or in part from the fruits, vegetables, meats, or other plant or animal (including poultry) material which is carried aboard any vehicle involved in foreign commerce. Standards and criteria for handling and disposing of refuse are contained in 3 MCAR § 1.0192.

3 MCAR § 1.0191 Registration.

A. Every person who engages in the business of removing or disposing of refuse and/or dunnage from transport involved in foreign commerce shall register annually with the commissioner, and shall furnish such information as may be required to demonstrate compliance with the certification requirements and operating standards set forth in these rules.

B. An annual inspection shall be made of equipment utilized in the removal, transportation and disposal of refuse and/or dunnage by the commissioner before a certificate is granted. If all the requirements are satisfied, a certificate of approval shall be issued by the commissioner. This certificate must be retained by the certificate holder.

C. If at any time the requirements of these rules are not met, after notice and hearing pursuant to Minn. Stat. ch. 15, the certificate shall be revoked. The commissioner may, when it is deemed upon proper investigation and consultation that the continued operation of certificate holder poses an imminent threat of plant pest dissemination, suspend the certificate until the commissioner has issued an order on the certificate revocation.

3 MCAR § 1.0192 Operating standards.

B. Approved refuse disposal. The following methods shall be used for refuse disposal:

1. Incineration, providing the incinerator is capable of reducing its contents completely to ash in a 24 hour period. No refuse residue shall be removed from an incinerator for disposal unless it has been reduced to ash or slag.

2. Sterilization by live steam, cooking, or boiling at a temperature of no less than 212 degrees F (100 degrees C) for 30 minutes.

3. Grinding into an approved sewage system.

4. If the above methods are not available or practical, any ~~Any other manner approved by the commissioner that would sufficient to eliminate all pest risks.~~

C. Dunnage disposal.

2. Pest risk. If evidence of plant pests is found, all of the dunnage material involved shall be treated in a manner prescribed.

a. Complete incineration or open burning in compliance with Minnesota Air Pollution Control rules.

b. Fumigation by chemicals and treatment schedules ~~deemed necessary by the commissioner~~ sufficient to eliminate the pest risk.

c. Spraying or dusting with proper chemical concentrations ~~deemed necessary by the commissioner~~ sufficient to eliminate the pest risk and in conformance with 3 MCAR § 1.0338.

d. Steam sterilization in a manner ~~approved by the commissioner~~ sufficient to eliminate the pest risk.

D. ~~If the commissioner determines that~~ the preceding methods of disposal are not available, the refuse and/or dunnage shall be required to remain on the transport involved in foreign commerce until an alternative means of disposal has been approved by the commissioner as complying with the purpose of these rules.

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."

SUPREME COURT

Decisions Filed Friday, October 10, 1980

Compiled by John McCarthy, Clerk

50559/SP State of Minnesota v. Kevin Peter Anderson, Appellant. Hennepin County.

Examination of entire record reveals that while defendant was promised that a woman friend would be released from jail if he gave a written statement, defendant's subsequent admissions were the product of defendant's free will and were not coerced.

Trial court did not commit prejudicial error in permitting the prosecutor to impeach its own witness with prior inconsistent hearsay statements which implicated defendant.

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

49873/450 Anthony Crea v. Sally Bly, et al, Skarda's Liquors, Defendant, and Mancini's Bar and Liquors, Appellant. Ramsey County.

As a matter of law a dram shop's serving of liquor to an obviously intoxicated person is not the proximate cause of plaintiff's injuries which were inflicted by a third person who had been encouraged by the intoxicated person to inflict the injuries.

Reversed. Otis, J. Took no part, Todd, Amdahl, and Simonett, JJ.

50911/219 In re Condemnation Proceedings for the Wilmarth Line of the C U Project. Blue Earth County.

The statutory notice required in a certificate of need hearing was not conformed with in this case. The matter is remanded with instructions.

Reversed and remanded. Todd, J. Concurring Specially, Yetka, J. Took no part, Peterson, J.

51050/SP State of Minnesota v. Eugene Azor Scott, Appellant. Cass County.

Offenses of burglary and possession of burglary tools were part of same behavioral incident and therefore, under Minn. Stat. § 609.035 (1978), trial court properly could sentence defendant for only one of the two offenses.

Judgments of conviction affirmed but lesser sentence vacated. Scott, J. Took no part, Simonett, J.

50180/190 In the Matter of the Application for the Discipline of Victor John Michaelson, Jr., an Attorney at Law of the State of Minnesota. Supreme Court.

In disciplinary proceedings, respondent, a member of general counsel staff for a St. Paul industry, was suspended indefinitely from practicing law in Minnesota except on behalf of his employer; fined \$5,000; and required to comply with all continuing legal education requirements for those in general practice. After five years respondent may petition for reinstatement to general practice.

Suspended indefinitely. Per Curiam. Took no part, Amdahl and Simonett, JJ.

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.

Housing Finance Agency

Notice of Availability of Contract for a Real Estate Property Appraisal for Mortgage Purposes

The Minnesota Housing Finance Agency intends to engage the services of a professional real estate appraiser to express an opinion of value for residential property in Duluth. The appraisal is to be completed by November 7, 1980.

The estimated fee for this project is \$3,000 to \$4,000.

Proposals must be received in writing by the agency no later than 12:00 noon, October 20, 1980. For detailed information, contact:

Kevin Filter
Housing Development Officer
Minnesota Housing Finance Agency
333 Sibley Street, Suite 200
St. Paul, Minnesota 55101
(612) 296-9826

Department of Natural Resources Forestry Division

Notice of Availability of Contracts for Incentives Programs (Forestry)

The Department of Natural Resources is seeking self-employed foresters to perform special technical forestry contractual services. These services will be directly related to both the forestry Incentives Program and the Agricultural Conservation Program.

Technical services will include:

1. Privately owned woodland inventory and analysis.
2. Management plan preparation.
3. Incentive programs needs and compliance determinations.

The estimated amount of the 7 (seven) contracts is expected to be \$10,000 each. Contracts may begin November 15, 1980.

Qualified self-employed foresters should contact the Minnesota Department of Natural Resources Forestry Office for a resume outline by phone at 612-296-4484 or in writing to:

Raymond Hitchcock, Director
Department of Natural Resources
Box 44
Centennial Office Building
St. Paul, MN. 55155

All inquiries should be made no later than October 31, 1980.

Department of Transportation Technical Services Division Research and Development Office

Notice of Availability of A Contract for A Synthesis Study of Surfacing Design and Construction Technology for Low Volume Roads

The Department of Transportation acting as the agent for the Local Road Research Board requires the services of a consultant for a synthesis study of surfacing design and construction technology for low volume roads.

The study will be a synthesis and report identifying, compiling and categorizing the various designs and construction technologies, rate these for applicability in Minnesota and compare them to the present Minnesota State Aid Standards and current Minnesota practices on a benefit/cost basis.

The Local Road Research Board has budgeted a maximum of thirty thousand (\$30,000) dollars for this work.

Those interested may obtain a Request for Proposal from:

Gabriel S. Bodoczy, P.E.
Research Services Engineer
Research and Development Office
Minnesota Department of Transportation
Room G29-D, Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-4925

Requests for Proposals will be available through November 5, 1980. All proposals will be due no later than November 10, 1980.

X. Proposal Contents:

References to company background
References to zoo-related clients
Examples of creative and media effectiveness
Restatement of objectives as the responder views them
Identify and describe the deliverables to be provided
Billing/rate proposed based on complementing MZG developed creative work
Account team assigned to the project

XI. Evaluation:

All proposals will be evaluated by representatives of the Minnesota Zoological Garden. Finalist companies will be asked to discuss their programs before a selection committee. The final decision will be based on, but not limited to, the criteria listed above in IX and X. The evaluation and selection will be completed by November 30, 1980. All applicants will be notified of the decision by letter that same day.

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.

**Department of Administration
Data Privacy Division****Notice of Intent to Consider An Application for Temporary Classification for Statewide Applicability**

The Commissioner of Administration has received an application for temporary classification of data collected pursuant to the Domestic Abuse Act; this application was submitted by the County of Anoka, Minnesota. The commissioner has determined that it is advisable to consider this application for statewide applicability under the authority vested in him by Minnesota Statutes, § 15.1642 as amended by Chapter 603, Laws of Minnesota 1980. The commissioner hereby gives notice of his intent to approve or disapprove, for the use of all clerks of court, sheriff's offices and local police departments in the State of Minnesota, a "confidential" classification of data for the following:

All government data on individuals which is collected, created, received or maintained pursuant to the Domestic Abuse Act (Minn. Stat. § 518B.01), until such time as a temporary court order made pursuant to subdivisions 5 or 7 of the Act is executed and/or served upon the data subject who is the respondent to the action.

Following the execution or service of the order, the data shall be public.

Any governmental agency, public or private association or member of the public who wishes to submit comments on this application must do so within 30 days of the publication of this notice. Comments received after 30 days need not be considered by the commissioner. Comments should be submitted to the Commissioner of Administration, c/o Data Privacy Division, 200 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. A copy of the application may also be obtained from the Data Privacy Division.

**Minnesota State Agricultural Society
Minnesota State Fair****Meeting Notice**

The board of managers of the Minnesota State Agricultural Society, governing body of the Minnesota State Fair, will conduct a business meeting at 10 a.m. Friday, Nov. 14, at the Administration Building on the fairgrounds, Falcon Heights. Preceding the general meeting will be a meeting of the board's space rental committee at 9:30 a.m.

Ethical Practices Board

Advisory Opinion #73

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

Approved by the Ethical Practices Board on September 19, 1980.

Issued to:

Michael L. Flanagan, Esq.
2350 IDS Center
Minneapolis, MN 55402

William F. Brooks, Jr., Esq.
900 Midland Bank Building
Minneapolis, MN 55401

#73. A corporation may spend money to promote or defeat a ballot question either by registering its own political fund or by contributing to an already registered political fund.

Department of Public Welfare Social Service Bureau

Notice of Intent To Solicit Outside Opinion Concerning A Proposed Rule Relating to the Investigation and Reporting of Maltreatment of Vulnerable Adults

Notice is hereby given that the Minnesota Department of Public Welfare is drafting a proposed rule 12 MCAR § 2.221 (The Investigation and Reporting of Maltreatment of Vulnerable Adults).

This rule will govern the reporting of suspected abuse or neglect of vulnerable adults, investigation of reports, provision of protective and counseling services and outreach.

Authority for this rule is contained in Minnesota Statute § 626.557, subd. 15(c), passed by the 1980 Legislature on Reporting of Maltreatment of Vulnerable Adults.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be made addressed to:

Art Jauss
Division of Social Services
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3730.

All statements of information and comment must be received by December 1, 1980. Any written material received by the Department shall become part of the hearing record.

Department of Public Welfare Support Services Bureau

Notice of Intent to Solicit Outside Opinion on Rules for Determining Welfare Per Diem Rates for Nursing Home Providers under the Title XIX Medical Assistance Program

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.049 (DPW Rule 49), rules for determining welfare per diem rates for nursing home providers under the Title XIX Medical Assistance Program. This rule governs the rate-setting for all nursing and boarding care homes participating in the Medical Assistance Program and those boarding care homes participating in the Minnesota Supplemental Aid Program. The rule defines cost reporting requirements and reasonable cost principles in order to provide a uniform and equitable mechanism for promoting efficiency and economy in the aforementioned programs.

Authority for this rule is contained in Minn. Stat. §§ 256B.27 and 256B.04, subd. 2. Such legislative authority allows the Commissioner of Public Welfare to require reports, information and audits and to promulgate rules and regulations for carrying out and enforcing the Medical Assistance provisions.

The proposed changes relate to C.3.a.-c., C.4.a., D.1.i.-j. and D.2.c. of the current DPW Rule 49. Paragraph C.3. is currently titled "Definitions" and is proposed to be changed to "Cost to be Included in the Per Diem." The proposed changes to C.3.a.-c. redefine and expand the costs which will be allowable for welfare rate determination. Specific amendment has been made to nursing service items, such as, nursing supplies and durable medical equipment and to therapy service. Paragraph C.3.d. was added to restate the definition of patient days. Paragraph C.4.a. has been revised to identify the adjustments for revenue received from Medicare or other third party payors. Paragraph D.1.i. and j. were added to the rule to identify the reimbursement for oxygen and wheelchairs. D.2.c. identifies nursing care exceptions as required by Laws of 1980, ch. 614, § 184.

All interested or affected persons or groups are invited to participate. Copies of this agency's proposal shall be transmitted upon request. Such requests and statements of information or comment may be made in writing to the following individual:

Robert Rau
Audit Division
Department of Public Welfare
Centennial Office Building
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2738.

All statements of information and comment must be received by November 14, 1980. Any written material received by the department shall become part of the hearing record.

Department of Transportation

Petition of Sibley County for A Variance from Standards for Diagonal Parking in the City of Arlington, MN

Notice is hereby given that the Sibley County Board of Commissioners has made a written request to the Commissioner of Transportation for a variance from minimum design standard for diagonal parking along County State Aid Highway No. 17 from 2nd Avenue to Trunk Highway No. 5, located in the City of Arlington.

The request is for a variance from 14 MCAR § 1.5032, H.4.a., Rules for State Aid Operations under Minn. Stat. chs. 161 and 162, (1978) as amended, so as to permit a minimum roadway width of 60 feet and that diagonal parking be permitted along both sides of the street.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155 within 20 days of the publication of this notice in the *State Register*.

If a written objection is received within said 20 days, the variance shall be granted only after a contested case hearing has been held on the request.

Dated this 13th day of October, 1980.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building
408 St. Peter Street
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