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STATE REGISTER

STATE OF MINNESOTA

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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			
50	Monday June 1	Monday June 8	Monday June 15
51	Monday June 8	Monday June 15	Monday June 22
52	Monday June 15	Monday June 22	Monday June 29
SCHEDULE FOR VOLUME 6			
1	Monday June 22	Monday June 29	Monday July 6

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

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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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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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:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A 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:

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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 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Pollution Control Agency

Proposed Amendments to Minnesota Rule APC 1

Notice of Hearing

Please take notice that the public hearing on the proposed amendments to the state ambient air quality standards (Minn. Rule APC 1, 6 MCAR §4.0001) will continue on Monday, July 13, 1981, at 9:30 a.m. in the Board Room of the Minnesota Pollution Control Agency at 1935 W. County Road B-2, Roseville, Minnesota 55113. The hearing will continue on subsequent days at times and places determined during the hearing. The hearing is being conducted by Mr. Howard Kaibel, Jr., Hearing Examiner, Office of Administrative Hearings, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone: (612) 296-8107.

This hearing originally began on February 11, 1981, in response to a petition by the Minnesota Association of Commerce and Industry to amend the ozone and sulfur dioxide standards and a request by the Minnesota Public Interest Research Group to address the acid rain problem. At that time the agency had proposed for consideration a range of numbers for the sulfur dioxide and ozone standards. The notice and proposed amendments were published in the *State Register* on January 5, 1981 (5 S.R. 1063).

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

PROPOSED RULES

The agency has now completed 27 days of hearing on the proposed amendments. There are thousands of pages of testimony and nearly 800 exhibits in the record. The agency is presently considering the evidence received to date and by June 8, 1981, will have proposed specific numbers for the air quality standards for sulfur dioxide and ozone. In some cases the proposed standard may be different than the existing standard. Other proposed changes in APC 1 relate to the definitions of primary and secondary ambient air quality standards, the areas where the standards apply, the agency's enforcement policy, monitoring requirements, and the deadline for compliance with the secondary standards.

A free copy of the proposed amendments is available by contacting Jayne Stilwell, Division of Air Quality, Minnesota Pollution Control Agency, Roseville, Minnesota, telephone: (612) 296-7280.

The agency's authority to promulgate amendments to APC 1 is found in Minn. Stat. §116.07, subs. 2 and 4 (1981).

Notice is hereby given that 25 days prior to the hearing, a statement that explains the reasons why the agency has selected the proposed standards and identifies manuals and reports and testimony and other evidence relied upon will be available for review. This statement will supplement the Statement of Need and Reasonableness that was prepared for the February 11 hearing. The Statement of Need and Reasonableness included a summary of all the evidence and argument that the agency presented at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of both statements may be obtained from the Office of Administrative Hearings at a minimal charge. Copies are also available from the agency by contacting Jayne Stilwell, and copies will be available at the hearing.

At the hearing the agency will introduce into the record its statement and any additional exhibits it has that are not already a part of the record. The agency may present witnesses who will make oral presentations.

Upon completion of the agency's presentation, interested persons will be given an opportunity to address questions to the agency staff. The agency staff will attempt to provide the best information it can in response to the questions, and to that end the staff may ask the questioner to identify the issue or area of concern. Interested persons will also be given an opportunity to present written or oral statements and to introduce reports and other evidence into the record. The agency staff is particularly interested in learning what standards are preferred by members of the public and the reasons for such preference. All interested persons making oral statements are subject to questioning by the agency representatives.

This proceeding is governed by Minn. Stat. §§15.0411-15.0417 and 15.052 (1980) and by the rules of the Office of Administrative Hearings, 9 MCAR § 2.101-2.113, and by other applicable requirements of state law. The hearing will be conducted so all interested persons will have an opportunity to participate. Any person who has any questions about the procedure to be followed may contact the Hearing Examiner.

Upon completion of the hearing, the record will remain open for five (5) working days, or for a longer period not to exceed twenty (20) calendar days, if ordered by the Hearing Examiner. Any person may submit written statements to the hearing examiner during this period.

Please be advised that the proposed amendments are subject to change as a result of the rule hearing process. Any changes made could make the rules more stringent or less stringent. The agency urges those who are interested to any extent in the proposed amendments, including those who support the amendments as proposed, and including municipalities who operate emission facilities like power plants, to participate in the rule hearing process. Those interested in the ambient air quality standards for sulfur dioxide and for ozone are especially encouraged to participate because standards other than those being proposed, including different secondary standards for various regions of the state, could be recommended by the Hearing Examiner and adopted by the agency.

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 working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Please be advised that 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 (1980) 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.

PROPOSED RULES

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.

May 22, 1981

Louis J. Breimhurst
Executive Director

6 MCAR § 4.0001 APC 1 Ambient air quality standards.

Chapter One: APC 1

A. ~~(a)~~ The "primary" ambient air quality standards are levels of air pollutants above which, on the basis of present knowledge, public health hazards or impairment may be produced. ~~Health hazards include not only production, aggravation or possible production of disease, but also interference with function. Health impairment includes sensory irritation and impairment of well being by such phenomena as odor.~~ The "secondary" ambient air quality standards are levels ~~which are desirable~~ established to protect the public welfare from any known or anticipated adverse effects, such as injury to agricultural crops and livestock, damage to or deterioration of property, annoyance and nuisance of persons, ~~sensory impairment and obstruction,~~ or hazards to air and ground transportation.

B. 1. ~~(b)~~ No person shall emit any pollutant in such an amount or in such a manner as to ~~exceed~~ cause or contribute to a violation of any ambient air quality standard ~~herein beyond such person's property line,~~ established in Part E of this rule. The ambient air means that portion of the atmosphere, external to buildings, to which the general public has access.

2. The requirement specified in subparagraph B.1. shall apply without respect to whether emission ~~regulations~~ rules stated in other air pollution control ~~regulations~~ rules of the agency are also being violated. However, in enforcing the ambient air quality standards specified in this rule, the agency shall not seek payment of a civil or criminal penalty from a person to or with whom a permit or stipulation agreement has been issued or entered into by the agency if and only if:

a. that permit or stipulation agreement establishes emission limitations or standards of performance for the pollutant or precursor thereof for which there is an ambient air quality standard which has been violated; and,

b. the person to or with whom the permit or stipulation agreement has been issued or entered into by the agency was in compliance with the corresponding emission limitations and standards of performance at the time of the violation of the ambient air quality standard.

3. Notwithstanding subparagraph B.2., any violations of the ambient air quality standards shall constitute grounds for the modification or revocation of a permit, for action by the agency to amend a stipulation agreement, or for other enforcement action by the agency to further require reduction or control of that person's emissions.

C.1. For all ambient air quality standards except hydrogen sulfide, measurements made to determine compliance with the standards shall be performed as set forth in:

a. 40 C.F.R. Part 50—National Primary and Secondary Ambient Air Quality Standards, or,

b. 40 C.F.R. Part 53—Ambient Air Monitoring Reference and Equivalent Methods, and,

c. 40 C.F.R. Part 58—Ambient Air Quality Surveillance.

C.2. For hydrogen sulfide, measurements made to determine compliance with the standards shall be performed in accordance with any measurement method approved by the director. The director shall approve a measurement method if the director finds:

a. that the method demonstrates acceptable sensitivity, precision, accuracy, response time and interference levels as related to the standard; and

b. that the person seeking to take the measurement has developed and submitted to the agency an acceptable quality assurance plan.

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

PROPOSED RULES

D. The state secondary ambient air quality standards for sulfur dioxide and ozone, that are more restrictive than the state primary ambient air quality standards, shall be attained as expeditiously as practicable but in no case later than December 31, 1986.

E. (e) State Ambient Air Quality Standards ^(a)(b)^(c)

Pollutant/Air Contaminant	Concentration		Remarks
	Primary Standard	Secondary Standard	
(1) Hydrogen Sulfide ^(a) (primary standards)	0.05 ppm by volume (70.0 micrograms per cubic meter)		½ hr. average not to be exceeded over 2 times per yr.
	0.03 ppm by volume (42.0 micrograms per cubic meter)		½ hr. average not to be exceeded over 2 times in any 5 consecutive days
(2) Ozone Photochemical ^(a) Oxidants primary and secondary standards)	0.07 <u>0.10</u> ppm by volume (130 - <u>200</u> micrograms per cubic meter)	0.07 <u>0.10</u> ppm by volume (130 - <u>200</u> micrograms per cubic meter)	maximum 1 hr. concentration not to be exceeded more than once per yr. the standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above the standard is equal to or less than one, as determined by 40 C.F.R. Part 50, Appendix H— Interpretation of the National Ambient Air Quality Standards for Ozone
(3) Carbon ^(a) Monoxide (primary and secondary standards)	9 ppm by volume (10 milligrams per cubic meter)	9 ppm by volume (10 milligrams per cubic meter)	maximum 8 hr. concentration not to be exceeded more than once per yr.
	30 ppm by volume (35 milligrams per cubic meter)	30 ppm by volume (35 milligrams per cubic meter)	maximum 1 hr. concentration not to be exceeded more than once per yr.
(4) Hydrocarbons ^(a) (primary and secondary standards)	0.24 ppm by volume (160 micrograms per cubic meter)	0.24 ppm by volume (160 micrograms per cubic meter)	maximum 3 hr. concentration (6 to 9 a.m.) not to be exceeded more than once per yr., corrected for methane
(5) Sulfur Dioxides ^(a) (primary and secondary standards)	0.02 <u>0.03</u> ppm by volume (60 <u>80</u> micrograms per cubic meter)	0.02 _____ ppm by volume (60 _____ micrograms per cubic meter)	maximum annual arithmetic mean
	0.10 <u>0.14</u> ppm by volume (260 <u>365</u> micrograms per cubic meter)	0.10 <u>0.14</u> ppm by volume (260 <u>365</u> micrograms per cubic meter)	maximum 24 hr. concentration not to be exceeded more than once per yr.
	0.25 <u>0.35</u> ppm by volume (655 <u>915</u> micrograms per cubic meter)	0.25 <u>0.35</u> ppm by volume (655 <u>915</u> micrograms per cubic meter)	maximum 3 hr. concentration not to be exceeded more than once per yr.
(6) Particulate ^(a) Matter (primary standard)	75 micrograms per cubic meter	60 micrograms per cubic meter	maximum annual geometric mean

ADOPTED RULES

Particulate Matter (secondary standard)	260 micrograms per cubic meter	150 micrograms per cubic meter	maximum 24 hr. concentra- tion not to be exceeded more than once per yr.
(7). Nitrogen Dioxides ^{††} (primary and secondary standards)	0.05 ppm <u>by volume</u> (100 micrograms per cubic meter)	0.05 ppm <u>by volume</u> (100 micrograms per cubic meter)	maximum annual arithmetic mean

Footnotes:

- (a) All standards apply throughout the State of Minnesota.
- (b) All measurements of ambient air quality are corrected to a reference temperature of 25° C. and a reference pressure of 760 mm of mercury.
- (c) All measurements and tests shall be conducted by the methodology referenced herein, or other methodology as the Director shall hereafter approve.
- (d) By methylene blue, or other method approved by the Director.
- (e) Neutral buffered one percent potassium iodide colorimetric detection technique corrected for SO₂ and NO₂ interference, gas phase chemiluminescence, or other method approved by the Director.
- (f) Nondispersive infrared spectrometry (N-D.I.R.), or other method approved by the Director.
- (g) Flame ionization, or other method approved by the Director.
- (h) By paruosaniline, colorimetric, or other method approved by the Director.
- (i) High volume method, or other method approved by the Director.
- (j) Jacobs Hochheiser, or other method approved by the Director.

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.

State Designer Selection Board

Adopted Rules Governing the Organization of the State Designer Selection Board and the Selection of Designers

These rules were first proposed by the board in January, 1976. Notification of the public hearing on the proposed rules was sent to all persons, associations, and other interested groups then on file with the Secretary of State for the purpose of receiving such notice. The public hearing was held on April 23, 1976. Through an oversight, the rules were not formally adopted subsequent to the public hearing. On May 8, 1981 the rules were approved by the Attorney General and filed with the Secretary of State. The rules are now adopted with amendments as shown below.

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

ADOPTED RULES

Rules as Adopted

Chapter One: Organization

2 MCAR § 4.001 ~~Design 1~~ Officers.

A.(a) At the first meeting after the last day of June of each year, the voting members shall elect from among their numbers persons to serve as chairman, vice-chairman, and secretary.

B.(b) Persons so elected shall take office at the first meeting following their election and shall serve for one year or through the duration of the meeting at which their successors are elected.

C.(c) Officers may be reelected.

2 MCAR § 4.002 ~~Design 2~~ Quorum. A quorum shall consist of three voting members. No business shall be transacted without a quorum.

2 MCAR § 4.003 ~~Design 3~~ Meetings.

A.(a) The board shall meet at the call of the chair or at the request of any two members.

B.(b) Notice of meetings shall be posted at an appropriate public place, and shall be published in the *State Register*.

C.(c) Meetings of the board shall be public; ~~but there shall be no opportunity for participation by anyone except the persons~~ other than members of the board, its staff, and the candidates; ~~unless shall be~~ by express request or permission of the board.

2 MCAR § 4.004 ~~Design 4~~ Restraints of discussion. Board members shall not discuss with candidates any matters relating to the projects under consideration except during scheduled interviews before the board.

2 MCAR §§ 4.005-4.010 ~~Design 5-10~~ [Reserved for future use.]

Chapter Two: Selection of Designers

2 MCAR § 4.011 ~~Design 11~~ Selection criteria.

In making its selection of designers the board shall consider the criteria listed below. The criteria do not necessarily have the same weight, nor are their relative weights necessarily constant from one project to another. The board may issue statements regarding criteria as they relate to individual projects.

A.(a) Qualifications and technical competence in the required field of design.

B.(b) Ability to deal with aesthetic factors.

C.(c) Capacity to accomplish the work and services within the required constraints.

D.(d) Availability of appropriate personnel.

E.(e) Geographic relationship of the designer's base to the project site.

F.(f) Awards previously made to a designer by the state. (This is in the interest of equitable distribution of commissions.)

2 MCAR §§ 4.012-4.020 ~~Design 11~~ [Reserved for future use.]

Energy Agency Conservation Division

Adopted Rules Establishing the Minnesota Energy Conservation Service Program

The proposed rules 6 MCAR §§ 2.2300-2.2313, Volume 5, Number 18, pp. 698-722, November 3, 1980 (5 S.R. 698) are now adopted with the following amendments:

6 MCAR § 2.2300 Authority and purpose.

A. Authority. The agency's authority to promulgate ~~the proposed~~ these rules is contained in 1980 Minn. Laws, Chapter 579, § 12 (to be codified as Minn. Stat. § 116H.17), as well as §§ 116.H.08(a) (1978), 116H.07(i) (1978).

B. Purpose. The purpose of these rules is to establish a program requiring major regulated utilities to offer their residential utility customers services related to the promotion of energy conservation. The most important of these services include: conducting home energy audits to determine areas of major heat loss and other energy inefficiencies in the home; distributing lists of approved contractors, suppliers and lenders from whom home energy improvements and financing services may be obtained; arranging for the installation of home energy improvements; and arranging for the financing of supply and installation of home energy improvements. The rules establish requirements for the inclusion in the lists, audit training and certification

procedures, procedures for the billing of energy improvement loans on customer utility bills, and post-installation inspection and consumer grievance procedures. The program also includes provisions for voluntary participation of home heating suppliers and non-regulated utilities.

6 MCAR § 2.2301 Definitions. For the purpose of these rules, the following definitions apply:

A. Agency. The Minnesota Energy Agency

B. Arranged installation. Any installation of MECS Program Measures, coordinated pursuant to 6 MCAR § 2.2304 by a participating utility or heating supplier, which is initiated using a standardized MECS Bid Form.

C. City of the first class. A city, pursuant to Minn. Stat. § 410.01 (1978), which has a population of 100,000 inhabitants or more.

D. Covered utility. Covered utilities shall be determined on a yearly basis. The definition includes all public utilities which during the second preceding calendar year had either:

1. Sales of natural gas for purposes other than resale which exceed 10 billion cubic feet; or
2. Sales of electric energy for purposes other than resale which exceed 750 million kilowatt-hours.

E. Customer. For the purposes of this rule, a customer is any person who:

1. Owns or occupies a residential building; and
2. Receives a fuel bill from a participating utility or home heating supplier for fuel used in such residential building.

F. DOE. Department of Energy.

G. Energy conservation measures. Energy Conservation Measures means any of the following measures in a residential building:

1. Caulking. Pliable materials used to reduce the passage of air and moisture by filling small gaps located at fixed joints on a building, underneath baseboards inside a building, in exterior walls at electric outlets, around pipes and wires entering a building, and around dryer vents and exhaust fans in exterior walls. Caulking includes, but is not limited to, materials commonly known as "sealants," "putty," and "glazing compounds."

2. Weatherstripping. Narrow strips of material placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

3. Furnace efficiency modifications.

a. Replacement furnace or boiler. A furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generation or reduced heat losses.

b. Furnace replacement burner (oil). A device which atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture, and is an integral part of an oil-fired furnace or boiler including the combustion chamber, and uses less oil than the device it replaces.

c. Flue opening modification. An automatically operated damper installed in a gas-fired furnace (often called a vent damper) which:

(1) Is installed downstream from the draft hood; and

(2) Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

d. Electrical or mechanical ignition system. A device which, when installed in a gas-fired furnace or boiler, automatically ignites the gas burner and replaces a gas pilot light.

4. Replacement central air conditioner. A central air conditioner which replaces an existing central air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency.

5. Ceiling insulation. A material primarily designed to resist heat flow which is installed between the conditioned area of

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a building and an unconditioned attic. Where the conditioned area of a building extends to the roofs, the term "ceiling insulation" also applies to such material used between the underside and upper side of the roof.

6. Wall insulation. A material primarily designed to resist heat flow which is installed within or on the walls between conditioned areas of a building and unconditioned areas of a building or the outside.

7. Floor insulation. A material primarily designed to resist heat flow which is installed between the first level conditioned area of a building and an unconditioned basement, a crawl space, or the ground beneath it. Where the first level conditioned area of a building is on a ground level concrete slab, the term "floor insulation" also means such material installed around the perimeter of or on the slab. In the case of mobile homes, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

8. Duct insulation. A material primarily designed to resist heat flow which is installed on a heating or cooling duct in an unconditioned area of a building.

9. Pipe insulation. A material primarily designed to resist heat flow which is installed on a heating, cooling, or hot water pipe in an unconditioned area of a building.

10. Water heater insulation. A material primarily designed to resist heat flow which is suitable for wrapping around the exterior surface of the water heater casing.

11. Storm or thermal window:

a. A window or glazing material placed outside or inside an ordinary or prime window, creating an air space, to provide greater resistance to heat flow than the prime window alone; or

b. A window unit with improved thermal performance through the use of two or more sheets of glazing material affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

12. Storm or thermal door:

a. A second door, installed outside or inside a prime door, creating an insulating air space; or

b. A door with enhanced resistance to heat flow through the glass area created by affixing two or sheets or glazing materials; or

c. A primary exterior door with a R-value of at least two.

13. Heat reflective and heat absorbing window or door material. A window or door glazing material with exceptional heat-absorbing or heat-reflecting properties; or reflective or absorptive films and coatings applied to an existing window or door which thereby result in exceptional heat-absorbing or heat-reflecting properties.

14. Devices associated with electric load management techniques. Customer-owned or leased devices that reduce the maximum kilowatt demand on an electric utility and which are any of the following:

a. Part of a radio, ripple or other utility controlled load switching system located on the customer's premises;

b. Clock-controlled load switching devices;

c. Interlocks, and other load-actuated, load-limiting devices; or

d. Energy storage devices with control systems.

15. Clock thermostat. A device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and uses:

a. A temperature control device for interior spaces incorporating more than one temperature control level, and

b. A clock or other automatic mechanism for switching from one control level to another.

H. Energy conserving practices. Energy conserving practices means any of the following measures in a residential building:

1. Furnace efficiency maintenance and adjustments, which means cleaning and combustion efficiency adjustment of gas or oil furnaces, periodic cleaning or replacement of air filters on forced-air heating or cooling systems, lowering the bonnet or plenum thermostats to 80° F on a gas or oil forced-air furnace, and turning off the pilot light on a gas furnace during the summer.

2. Nighttime temperature setback, which means manually lowering the thermostat control setting for the furnace during the heating season to a maximum of 55° F during sleeping hours.

3. Reducing thermostat settings in winter, which means limiting the maximum thermostat control setting for the furnace to 68° F during the heating season.

4. Raising thermostat setting in summer, which means setting the thermostat control for an air conditioner to 78° F or higher during the cooling season.

5. Water flow reduction in showers and faucets, which means placing a device in a shower head or faucet to limit the maximum flow to three gallons per minute, or replacing existing shower heads or faucets with those having built-in provisions for limiting the maximum flow to three gallons per minute.

6. Reducing hot water temperature, which means manually setting back the water heater thermostat setting to 120° F; and reducing the use of heated water for clothes washing.

7. Reducing energy use when a home is unoccupied, which means reducing the thermostat setting to 55° F when a home is empty for four hours or longer in the heating season, turning an air conditioner off in the cooling season when no one is home, and lowering the thermostat setting of the water heater when a home is vacant for two days or longer.

8. Plugging leaks in attics, basements, and fireplaces, which means installing scrap insulation or other pliable materials in gap around pipes, ducts, fans, or other items which enter the attic or basement from a heated space, installing fireproof material to plug any holes around any damper in a fireplace, and adding insulation to an attic or basement door.

9. Sealing leaks in pipes and ducts, which means installing caulking in any leak in a heating or cooling duct, tightening or plugging any leaking joints in hot water or steam pipes, and replacement of washers in leaking water valves.

10. Efficient use of shading, which means using shades or drapes to block sunlight from entering a building in the cooling season, to allow sunlight to enter during the heating season, and to cover windows tightly at night during the heating season.

I. Heating supplier. A person who sells or supplies home heating fuel (including and not limited to, No. 2 heating oil, kerosene, butane, and propane) to a customer for consumption in a residential building and who has elected to participate in MECS, pursuant to 6 MCAR § 2.2312.

J. Installation standards. DOE Installation Standards pursuant to 10 C.F.R. § 456 subparts G and I (1979).

K. Material standards. DOE Material Standards pursuant to 10 C.F.R. § 456 subparts G and H (1979).

L. Measures warranty. A warranty in writing, by the manufacturer of the program measure, that the residential customer for whom the measure is installed, the contractor who installs the measure, and the supplier of the measure shall at a minimum be entitled to obtain, at no charge, appropriate replacement parts and materials for those measures found within one year from the date of installation or purchase to be defective due to materials, manufacture or design. The warranty shall also provide that the defect shall be corrected, within two weeks after it is reported to the manufacturer.

M. MECS. Minnesota Energy Conservation Service.

N. New customer. A person who first becomes a customer after initial distribution of the Program Announcement but before January 1, 1985.

O. Non-regulated utility. A public utility whose rates are not within the jurisdiction of the Minnesota Public Utilities Commission's ratemaking authority.

P. OCS. Minnesota Office of Consumer Service.

Q. Participating utility. A covered utility or a non-regulated utility which voluntarily participates in the Minnesota Energy Conservation Service.

R. Program announcement. The MECS program information bulletin and utility offer of service to each customer.

S. Program measures. All energy conservation measures, and renewable resource measures ~~and state measures~~ to be included in an MECS audit.

T. Regulated utility. A public utility whose rates are within the jurisdiction of the Minnesota Public Utilities Commission's ratemaking authority.

U. Renewable resource measures. Renewable resource measures means the following measures installed in or connected to a residential building:

1. Solar domestic hot water systems (DHW). Equipment designed to absorb the sun's energy and to use this energy to heat water for use in a residential building other than for space heating, including thermosiphon hot water heaters.

2. Passive solar space heating and cooling system. Systems that make efficient use of, or enhance the use of, natural

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forces—including solar insulation, winds, night time coolness and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective or radiant energy transfer. Passive solar systems include only:

a. Direct gain glazing systems. The use of south-facing (+ or -45° of True South) panels of insulated glass, fiberglass, or other similar transparent substances that admit the sun's rays into the living space where the heat is retained. Glazing is either double-paned, or single-paned equipped with movable insulation.

b. Indirect gain systems. The use of panels of insulated glass, fiberglass or other transparent substances that direct the sun's rays onto specially constructed thermal walls, ceilings, rockbeds, or containers of water or other fluids where heat is stored and radiated.

c. Solaria/sunspace systems. A structure of glass, fiberglass or similar transparent material which is attached to the South-facing (+ or -45° of True South) wall of a structure which allows for air circulation to bring heat into the residence, and which is able to be closed off from the residential structure during periods of low solar insulation.

d. Window heat gain ~~retardants~~ and/or loss. Those mechanisms which significantly reduce summer heat gain or wintertime heat loss through ~~South facing~~ (~~\pm of -45° of True South~~) windows by the use of devices such as awnings, insulated rollup shades (external or internal), metal or plastic solar screens, or moveable rigid insulation.

3. Wind energy devices. Equipment that uses wind energy to produce energy in any form for personal residential purposes.

4. Replacement solar swimming pool heaters. Devices which are used solely for the purposes of using the sun's energy to heat swimming pool water and which replace a swimming pool heater using electricity, gas or another fossil fuel.

5. Active solar space heating. Equipment designed to absorb the sun's energy and to use this energy to heat living space by use of mechanically forced energy transfer such as fans or pumps.

V. Residential building. Any structure used for residential occupancy including any building containing at least one, but not more than four, dwelling units, and: has a system for either heating or cooling living spaces. However, this definition does not include: new buildings to which final standards under Sections 304(a) and 305 of the Energy Conservation and Production Act (42 U.S.C. 6801 *et seq.*) apply.

~~W. States measures. State measures are the following measures in or with respect to a residential building:~~

~~1. Insulated window and glass coverings. A device with a minimum R value of 2 which is designed to reduce heat losses through windows and doors.~~

~~2. Vent damper for waterheaters. A mechanical or thermally operated damper installed in a gas fired waterheater which:~~

~~a. Is installed when a vent damper is installed in a furnace and the two appliances share a common chimney.~~

~~b. Conserves energy by substantially reducing the flow of heated air through the chimney when the waterheater is not in operation.~~

~~3. Positive fireplace shutoffs. A manual shutoff device which can be utilized to produce a seal to inhibit the flow of air when a fireplace or fireplace stove is operating.~~

6 MCAR § 2.2302 Program promotion.

A. Program announcements.

1. Distribution.

a. Each covered utility shall send to all their customers a Program Announcement by June 15, 1981, and thereafter at least once every two years until January 1, 1985.

b. Each covered utility shall send a Program Announcement to each of its new customers within sixty (60) days after the date that the new customer first receives service.

c. Program Announcements shall be submitted to the agency for approval one month prior to the date that the utility intends to print the announcement. The agency shall approve the distribution of program announcements only if:

(1) The criteria of 6 MCAR § 2.2302A.2. have been met; and

(2) The information contained in the program announcement ~~represented~~ is presented in simple language.

2. Content.

a. The Program Announcement shall contain the following elements, at a minimum:

(1) A list of all program measures with an estimate of the savings in energy costs, expressed in percentages, which are likely to be produced by each measure in one year.

(2) A list of all energy conserving practices with an estimate of the savings in energy costs, expressed in percentages, which are likely to be produced by each practice in one year, and a statement that the practices are of low or no cost;

(3) An offer by the covered utility to provide the following services with a description of each:

- (a) A program audit, in accordance with 6 MCAR § 2.2303.
- (b) Installation arrangement services, in accordance with 6 MCAR § 2.2304 B.
- (c) Financing arrangement services, in accordance with 6 MCAR § 2.2304 A.
- (d) Contractor, lender and supplier lists in accordance with 6 MCAR § 2.2305.

The description of each service shall include information on how a customer may obtain these services, and the direct cost to the customer of obtaining these services;

(4) An offer to provide to each new customer upon request a copy of any program audit performed previously on the customer's present residence;

(5) The following disclosure: "Energy savings depend on many factors. The estimates contained in the announcement are based on estimates for typical houses. Your costs and savings will be different if your house is a different size or if your energy using habits are different from those we assumed. The energy audit which we offer will provide more specific estimates for your house.";

(6) An explanation of the benefits of applicable federal and state energy tax credits;

(7) A description of the benefits and eligibility requirements of the Weatherization Assistance Program for Low Income Persons, 10 C.F.R. 440: (1980) including the following statement: "Landlords may be eligible for these benefits under certain circumstances.";

(8) The following statement: "The results of this audit may be used by renters to see if their residence complies with existing state standards for rental property. Call the Minnesota Energy Agency at 296-5175 or toll-free 800-652-9747 for more information and what you can do to get your residence brought up to these standards."

b. The Program Announcement shall not contain:

(1) Advertising for sale, installation, or financing of any program measure or energy conserving practice by a particular person or company, listed or not; or

(2) Information regarding any product which is not a program measure or an energy conserving practice.

c. If a covered utility or participating heating supplier finances the sale or installation of program measures and energy conserving practices, it may describe its financial services.

d. The covered utility or participating heating supplier shall use the calculation procedures in Appendix A for the estimates contained in the Program Announcement. All estimates shall be based upon recent prices and appropriate climatological data for the customer's location. The price data will be taken from the survey conducted pursuant to 6 MCAR § 2.2303 A.2.

6 MCAR § 2.2303 Energy audits.

A. Validation of audit procedures.

1. Alternative audits. The agency shall develop a model program audit based on the calculation procedures in Appendix A for use by participating utilities and heating suppliers in the MECS. A participating utility or heating supplier may use an alternative audit if the alternative has been approved by the agency. The alternative audit will be approved if its results are within $\pm 20\%$ of the results provided by the MECS Audit. To determine this, the agency shall conduct five field tests of the alternative audit on five representative residences of different sizes and ages. The results of these audits shall be reviewed by the agency and compared to the results achieved by the MECS Audit. If the alternative audit does not meet this test, any

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necessary changes may be made in the audits procedures and five additional audits may be conducted and reviewed. ~~All alternative audits shall be submitted to the agency for validation by January 15, 1981.~~

2. Price information. On a semi-annual basis each covered utility shall survey local fuel prices and prices for materials and installation of program measures for use in audit calculations on a form provided by the agency. The results shall be sent to the agency for verification on the 15th day of January and July, starting on July 15, 1981.

3. Subcontracting audits.

a. Participating utilities and heating suppliers may subcontract with any auditor who has passed the certification exam pursuant to 6 MCAR § 2.2307, to perform the audits required by these rules. The subcontract may include an indemnification clause concerning liability incurred by the utility from the subcontractor's actions or the audit performed.

b. Whenever possible covered utilities shall, instead of performing the required audits with their own employees, subcontract with local auditors who:

(1) have passed the certification exam pursuant to 6 MCAR § 2.2307; and

(2) have (or whose sponsoring organization has) a demonstrated community involvement, or capacity to generate customer participation, in the area where the audits are to be performed. The criteria used to determine whether an auditor (or his or her sponsoring organization) has a demonstrated community involvement shall be whether the person, organization or group has a history of energy or related community service in the area where the audits are to be performed.

Notwithstanding the above, no covered utility shall be required to enter into a subcontract with an auditor if it reasonably believes that the quality of the auditor's work would not be equivalent to what the covered utility could perform or if the charge for performance by the auditor is not competitive with other auditors in the area, or comparable areas, with whom the utility has subcontracted, or with the cost of performance by the covered utility itself.

c. An auditor proposing to subcontract pursuant to 6 MCAR § 2.2303 A.3.b. may dispute a covered utility's refusal to subcontract by filing a complaint with the agency. After reviewing the complaint and receiving comments from both parties, the agency shall determine whether the refusal was proper under the criteria and requirements of 6 MCAR § 2.2303 A.3.b.

d. Any customer of a covered utility may request to have an audit performed by any auditor with whom the covered utility has subcontracted to perform audit services in the area in which the customer lives, pursuant to 6 MCAR § 2.2303 A.3.b. The covered utility may refuse the request only if:

(1) the auditor refuses to accept the work; or

(2) the covered utility has reason to believe that the auditor would be unable to complete the audit in accordance with the MECS rules or subcontract terms.

B. Scheduling of program audits.

1. Upon prior approval by the agency, a program audit may be offered in the program announcement by a participating utility or heating supplier on a geographically limited ~~conditional~~, but otherwise non-discriminating basis. Approval will be granted if the audit offer schedule allows every customer within the respective utility or heating supplier's service area an equal opportunity to receive a program audit, and if the audit offer schedule is consistent with 6 MCAR § 2.2303. ~~In no case shall an expiration date be attached to a participating utility's audit offer.~~ However, any covered utility which serves a city of the first class and offers audits on a geographic basis in that city must first offer the audits to customers in those neighborhoods that contain the largest number of people below the federal poverty guideline. If two or more covered utilities provide service to the same city of the first class, upon approval by the agency those utilities may enter into an agreement which provides that only one utility will offer the audits on the above priority basis. This agreement will not relieve either utility from responsibilities of offering audits to all eligible customers.

2. Each covered utility shall provide a program audit to a customer:

a. ~~Within thirty (30) days of the customer's request if the audit offer is made on a geographically limited basis; a conditional offer is made.~~

b. ~~Within sixty (60) days of the customer's request if the audit offer is not made on a geographically limited basis. an unconditional offer is made.~~

3. Each participating utility and heating supplier shall submit to the agency, 45 days prior to the first offer of a program audit, a schedule which states when program audits will be offered and completed throughout the state.

4. Participating utilities and heating suppliers are prohibited from preconditioning a program audit upon the purchase or performance of any other audit.

C. Conducting the audit.

1. Each participating utility and heating supplier shall upon request, provide to each customer a program audit which covers all energy conserving practices and all program measures. In each program audit, a state certified auditor shall determine which of the energy conserving practices would save energy in the residence, explain and emphasize the importance of such practices and recommend that they be performed before the installation of any program measure. The auditor shall then determine the applicability of each program measure pursuant to 6 MCAR § 2.2303 D.2. in that residence.

2. The auditor shall estimate energy savings and installation costs of each program measure using the calculation procedures in Appendix A or procedures approved pursuant to 6 MCAR § 2.2303 A. Furthermore, the auditor shall perform each of the following:

a. Take actual measurements or inspections of the building shell and of the space heating, space cooling, and water heating equipment;

b. Base economic calculations on the survey conducted pursuant to 6 MCAR § 2.2303 A.2. for local fuel prices, and local prices for materials and installation of program measures, and also, include in the calculations typical local climate data for the customer's location;

c. Base calculation procedures for active solar domestic hot water and space heating systems on those contained in the HUD Intermediate Minimum Property Standards Supplement, Solar Heating and Domestic Hot Water Systems 4930.2, 1977 Edition; and

d. Base any cost and savings estimate for any applicable furnace efficiency modification to a gas or oil furnace or boiler on an evaluation of the seasonal efficiency of such furnace or boiler. This seasonal efficiency shall be calculated on an estimated peak (tuned-up) steady state efficiency corrected for cycling losses. This shall be done as follows:

(1) For oil furnaces or boilers, the steady state efficiency shall be derived by a flue gas analysis of measured flue gas temperature and carbon dioxide content.

(2) For gas furnaces or boilers, the steady state efficiency shall be derived from manufacturer's design data. If the manufacturer's design data does not exist, then a flue gas analysis, as described in 6 MCAR § 2.2303 C.2.d. shall be done.

3. The auditor shall calculate the energy index for the residence using the procedures in Appendix A.

4. Each customer shall be required to sign a release form prior to an audit of a furnace which uses as its primary source of energy any fuel other than the fuel source sold by the participating utility or heating supplier which employs the auditor. The release shall include the following statement: "Since your home is heated by a source of fuel other than (identify the type of fuel supplier), you must sign this release form to allow us to audit your furnace. It will allow us to give you estimates of energy savings that may be available from making your heating appliances more efficient."

D. Technical criteria for calculating energy savings.

1. The following R-Values shall be recommended during the program audit and be used during the calculation procedure:

a. Ceiling insulation	R-44
b. (1) Wall insulation	R-11
(2) Foundation insulation	R-11
c. (1) Floor insulation	R-19
(2) Rim joist insulation	R-19

2. The following criteria shall be used to determine if an estimate of cost and savings must be given for the particular program measure:

Measure	Criteria
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a. Replacement furnaces or boilers—The furnace is five (5) years or older and has a seasonal efficiency of less than 80%.

b. Flue opening modifications—The furnace combustion air is taken from a conditioned space.

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- c. Replacement central air conditioner—The building has a central air conditioner that is five (5) years or older.
- d. Ceiling insulation—The present level of ceiling insulation is R-30 or less.
- e. Wall insulation—There is no insulation in a substantial portion of the exterior walls and the building is not a mobile home.
- f. Floor insulation.
 - (1) Floor—There is no insulation in the floor over an unconditioned space.
 - (2) Rim joist insulation—The rim joist is accessible.
- g. Water heater insulation—The remaining useful life of the heater appears to be three years or greater and space is available around the water heater to install insulation.
- h. Electric load management devices—The electric utility offers a residential rate which reflects any differences in the utility's cost of service between peak and off peak periods.
- i. Clock thermostat—The residence has a thermostat or the existing furnace or central air conditioner is compatible with a clock thermostat.
- j. Solar domestic hot water system—A site exists on or near the residence, which is free of major obstruction to solar radiation.
- k. Passive solar direct or indirect gain glazing systems—The living space of the residence has either a South facing (+ or -45° of True South) wall or an integral South facing (+ or -45° of True South) roof, which is free of major obstruction to solar radiation.
- l. Heat reflecting and heat absorbing window or door material—The affected rooms of the residence are air conditioned and the cooling degree days for the region exceed 700.
- m. Passive solar solarium/sunspace systems—The living space of the residence has a South-facing ground level wall, which is free of major obstruction to solar radiation.
- n. Passive solar window heat gain retardants—The living space of the residence has South-facing (+ or -45° of True South) window that is not shaded from summer sunshine.
- o. Wind energy systems—The site has an estimated wind speed of greater than 10 mph and there is sufficient unrestricted access to the wind.
- p. Active solar space heating—A site exists on or near the residence which is free of major obstruction to solar radiation.

3. Every program audit addressing solar domestic hot water and active solar space heating systems shall include the following information:

- a. The square feet of the solar collector;
- b. The solar collector characteristics, including glazing materials and other solar collector materials;
- c. Any storage system needed, including the capacity of storage;
- d. Any freeze protection needed;
- e. The estimated percent of the water heating load to be met by solar energy;
- f. Any physical connections needed with existing heating systems;
- g. Any site preparation needed; and
- h. If the results are based on a simulation, the following disclosure or its equivalent:

“The energy cost savings estimates you receive are based on systems which may be different from the ones you purchase. Also, these estimates were not determined using actual conditions but by using simulated measurements. Therefore, the cost savings we have estimated may be different from the savings which actually occur.”

4. Every program audit addressing passive solar space heating systems shall include the following information:

- a. A general description and an illustration of the system;
- b. The estimated percent of the maximum heating requirements of the residence that could be met by the system;
- c. The approximate dimensions of the system;
- d. The method employed by the system to store heat, including the heat capacity for heat storage; and

e. The disclosure provided in 6 MCAR § 2.2303 D.3.h.

5. Every program audit addressing wind energy device shall include the following information:

- a. Installation cost estimates, based on the installation costs of a commercially available device with kilowatt ratings appropriate to the level of electricity consumed in the customer's residence;
- b. The auditor's estimate of the average windspeed at the residence based on data available at the nearest wind measurement station.
- c. The specifications of the device under consideration; and
- d. Estimates of energy cost savings, based on average yearly wind speeds and the specification of the selected wind device.

E. Presentation of audit results.

1. Upon completion of the program audit the auditor shall provide all the following information on-site, in person, in writing to each customer:

- a. An estimate of the total cost (materials and labor) of installation by a contractor expressed in a range of dollars, with a twenty (20) percent maximum range, of each applicable program measure addressed in the program audit;
- b. An estimate of the total cost of installation by the customer expressed in a range of dollars, with a twenty (20) percent maximum range, of each applicable program measure, addressed in the program unit. However, the auditor shall not provide an estimate to a customer of the cost of installation by the customer of replacement central air conditioners, wall insulation, furnace efficiency modifications, devices associated with load management techniques, or wind energy devices;
- c. An estimate of the savings in energy costs expressed in a range of dollars, with a twenty (20) percent maximum range, which occur during the first year from installation of each applicable program measures addressed by the program audit;
- d. An estimate of the payback period, measured in years, for the cost savings of each of the measures installed individually;
- f. The following disclosure: "The procedures used to make these estimates are consistent with the Minnesota Energy Agency criteria for residential energy audits. However, the actual installation costs you incur and energy savings you realize from installing these measures may be different from the estimates contained in this audit report. Although the estimates are based on measurements of your house, they are also based on assumptions which may not be totally correct for your household.";

- g. An estimate of the annual normal maintenance costs, if any, of each applicable program measure; and
- h. Sample calculations of the effect of the federal and state energy tax incentives on the cost to the customer of installing one applicable energy conservation program measure and one applicable renewable resource program measure.

2. The auditor shall also present the following information to the customer during, or upon completion of, the program audit:

- a. An explanation of the arrangement services, post-installation inspection requirement and consumer grievance procedures as established in 6 MCAR §§ 2.2304, 2.2306, and 2.2308, with a brief description of how the customer can qualify for and use such services;
- b. A copy of the most recent Master List of contractors, lenders and suppliers for the region, as issued by the agency;
- c. An explanation of the benefits of and eligibility requirements for the Weatherization Assistance Program for Low Income Person 10 C.F.R. § 440 (1980);
- d. If the audit is of a rental property, a separate list of those improvements necessary to bring the residence in compliance with Minn. Stat. § 116H.129, subd. 3. (1978) and a statement describing remedies available to tenants for violations of those standards. If the presentation is not made to the tenant, the auditor shall give or mail a copy of this information to the tenant.

3. If the eligible customer is not at his or her residence at the time scheduled for presentation of the audit results or

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otherwise declines an in person presentation, the auditor is relieved of any obligation to deliver the results in person. In this case, the results shall be mailed to the customer.

F. Prohibitions.

1. An auditor shall not recommend or discuss any supplier, contractor or lender to any customer. The auditor may state whether the participating utility or heating supplier by whom he or she is employed installs or finances the sale or installation of the program measures, but shall not recommend that service.
2. The auditor shall not exclude any applicable program measures in the presentation of the audit to the customer;
3. An auditor shall not estimate or discuss with the customer the costs or energy cost savings of installing any product which is not defined as an energy conserving practice or a program measure.
4. The auditor shall not recommend fuel switching.

G. Required disclosure. The auditor shall provide the customer with a written statement of any substantial interest which the auditor or the auditor's employer has, directly or indirectly, in the sale or installation of any program measure.

6 MCAR § 2.2304 Arrangement services.

A. Financing arrangement service. Each participating utility and heating supplier shall provide an arrangement service for financing the supply or installation of any program measure, upon request of a customer. This financing arrangement service shall consist of all the following:

1. Providing the customer with the most recent Master List of lenders, and an agency compiled list of other financial programs offered by federal, state or local governments, and explaining these financing programs to the customer;
2. Providing the customer with a standard credit application and offering to assist the customer with a standard credit application; and
3. Providing a service in order to further assist and answer any additional questions of the customer.

B. Installation arrangement service. Each covered utility shall provide an arrangement service for the installation of any program measure, upon request of a customer:

1. For audited homes this installation arrangement service shall consist of:
 - a. Providing a choice to the customer of either the most recent Master List of contractors willing to install measures within the price range that the auditor specifies, or providing the most recent Master List of contractors; and
 - b. All the following:
 - (1) Providing up to three (3) standard bid forms per measure recommended by the auditor and providing the customer with a choice of having the form filled in by either the customer or the auditor.
 - (2) Supplying the customer with written information on recommended measures to be installed; and
 - (3) Providing a service in order to further assist and answer any additional questions of the customer regarding the arrangement process or the actual bids, when received.
2. For non-audited homes, this installation arrangement service shall consist of all the following:
 - a. Providing the Master List of contractors;
 - b. Providing up to three (3) standard bid forms to the customer;
 - c. An offer to supply the customer with written information on various measures; and
 - d. Providing a service in order to further assist and answer any additional questions of the customer regarding the arrangement process or actual bids, when received.

C. Response time for services. The participating utilities and heating suppliers shall provide the services described in 6 MCAR § 2.2304 A. and B. at the time of the energy audit, for a customer requesting an energy audit. If an audit is not performed, the service shall be provided within twenty (20) days of a customer's request.

D. Prohibitions.

1. Participating utilities, heating suppliers and audit subcontractors shall not recommend any particular contractor, lender, supplier or program measure although participating utilities, ~~and~~ heating suppliers and audit subcontractors may inform customers of their own installation and supply services if they are on the most recent Master List.
2. Participating utilities and heating suppliers shall not arrange for financing or installation with any contractor, lender or supplier not on the most recent Master List.

3. Participating utilities and heating suppliers shall not provide arrangement services for measures which are not approved program measures.

E. Standardized bid forms. The agency shall develop a standardized bid form for use pursuant to 6 MCAR § 2.2304. This form shall be the only one used by the participating utilities and heating suppliers for arranging installation under MECS.

6 MCAR § 2.2305 Master list of contractors, lenders and suppliers.

A. Issuance of lists.

1. The agency shall prepare and maintain the Master List of the MECS suppliers, contractors and lenders. The agency shall provide notice through trade organizations to suppliers, contractors and lenders of the procedures for inclusion on the Master List for the MECS Program.

2. Application forms and listing criteria for businesses wishing to be on the Master List shall be available from the agency, participating utilities, and heating suppliers. These forms and listing criteria shall be made available at the time of publication of notices of procedures for inclusion on the Master List.

3. Within sixty (60) days following the receipt of an application for inclusion on the Master List, the agency shall evaluate the application pursuant to 6 MCAR § 2.2305 B. and either place the business on the Master List or inform the business, in writing, of the reasons for its exclusion from the list.

4. Every thirty (30) days after the publication of the first Master List, the agency shall issue revisions to the Master List which include any additions, deletions or information changes. These revisions shall be issued to all participating utilities and heating suppliers. Every six (6) months, a new Master List shall be published.

B. Eligibility requirements.

1. To be eligible for listing, contractors, lenders and suppliers must enter into a written agreement with the agency.

a. Contractors shall agree in writing with the agency to meet the following requirements for each arranged installation:

(1) Comply with the applicable DOE installation standards found in 10 C.F.R. 456 subparts, G, I and install only measures that are labeled as meeting DOE material standards;

(2) Install only measures that are covered by the measures warranty (except for caulking and weatherstripping);

(3) Enter into a written contract with each customer detailing the job to be performed, its costs and a statement that the installation will be in compliance with all applicable DOE material and installation standards. This contract shall be in simple language;

(4) Warrant in the contract that any defect in design or manufacture of materials materials manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within two (2) weeks, except that where the defect is in a manufactured item a remedy shall be within two (2) weeks after the manufactured item is available to the contractor or supplier;

(5) Maintain comprehensive general liability insurance covering:

(a) bodily injury; \$100,000 per person
\$300,000 per occurrence

(b) Property damage; \$ 50,000 each occurrence
\$100,000 aggregate; and

(6) Comply with all applicable federal, state and local laws;

(7) Participate in good faith in the conciliation conference when a complaint is made by a customer;

(8) Hold harmless from liability the participating utility or heating supplier in any contract between contractor and customer when the contractor is not a participating utility or a heating supplier. However, this hold harmless agreement shall apply only where any loss occurs due to the negligence of the contractor or supplier and/or materials supplied by the contractor or supplier and shall not apply to any loss resulting from the negligence of or the materials supplied by the participating utility or heating supplier; and

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(9) Agree to notify the MECS inspection agency at the completion of the installation pursuant to 6 MCAR § 2.2306.

b. Suppliers shall agree in writing with the agency to meet the following requirements for each customer:

(1) Supply program measures which meet applicable DOE material standards;

(2) Provide, at a minimum, to any person who purchases a measure from the supplier, a warranty in writing that the person shall be entitled to obtain, within a two week period after notice by the customer to the supplier and at no charge, appropriate replacement parts or materials for those measures found to be defective within one year from the date of purchase due to a defect in materials, manufacture or design.

(3) Comply with all applicable federal, state and local laws;

(4) Have a method for informing customers that the supplier carries products which are program measures, that these products have a measures warranty and are labeled as meeting the DOE material standards;

(5) Participate in good faith in the conciliation conference when a complaint is made by a customer.

c. Lenders shall agree in writing to meet the following requirements for each arranged financing.

(1) Not to take a security interest in real property that is used as a residence unless the customer acknowledges in writing that he or she is aware of the consequence of default on the loan;

(2) Permit a rebate on unearned finance charges and impose no penalties if a customer prepays a loan (either voluntarily or as a result of default). When prepayment is the result of default, the rebate shall be computed from the day of acceleration;

(3) Comply with all applicable federal, state and local laws; and

(4) Participate in good faith in the conciliation conference when a complaint is made by a customer.

2. Disclosure of unresolved complaints. All businesses must inform the agency in their application for listing of the existence of any unresolved complaints against that business on file with the Consumer Division of the Minnesota Attorney General's Office or the Office of Consumer Services. Failure to report this information will result in exclusion from the Master List. The existence of three or more unresolved complaints against an applicant on file with the above agencies involving, but not limited to, the following subject matter shall result in exclusion from the Master List;

a. Misrepresentation of materials used in installation;

b. Improper installation of materials, based on manufacturer's or other standard installation procedure; or

c. False or misleading claims concerning energy savings to be produced by the measure.

C. Removal from the master list.

1. Any supplier, lender or contractor shall be removed from the Master List for violation of either the eligibility requirements in 6 MCAR § 2.2305 B. or the contract between the lender, contractor or supplier and agency as required in the same section.

a. Violations shall be reported to the agency by the post-installation inspectors and the mediators of consumer complaints. The post-installation inspectors and mediators shall also report to the agency whether the violation has been corrected or not, two weeks after the initial report of this violation.

b. Within one (1) week after the surgery receives a report of violation, the agency shall send written notice to the contractor, lender, or supplier notifying the business of the reported violation. The contractor, lender, and supplier shall correct the violation within two weeks of mailing of the notice or within one week, send to the agency a written explanation as to why it is not a violation. The agency shall review the letter and the report of the inspector and will notify the contractor of its decision.

c. If the contractor, lender or supplier fails to correct the violation within two weeks after it has received notice of the agency's decision that a violation exists, it shall be temporarily delisted. This temporary delisting shall be in effect for thirty (30) days. The agency shall then send a second notice to the contractor, lender, or supplier explaining the temporary and permanent delisting procedures and invite a written response from the business prior to the end of the thirty (30) day period. A copy of this notice shall be sent to all participating utilities and heating suppliers. If the violation concerns a contractor, the contractor may see the records of the reported violation. If no resolution is made within thirty (30) days of mailing of the notice the contractor, lender or supplier will be permanently de-listed.

2. Any supplier, lender or contractor permanently removed from the Master List shall not be relisted for at least six (6) months after being so de-listed. To be relisted, all violations under the program must be corrected and inspected and all other listing requirements must be met.

6 MCAR § 2.2306 Post-installation inspections.**A. Inspection procedures.**

1. Each covered utility shall arrange to conduct the post-installation inspections of its customers required in this section. By ~~Dec. 15, 1980~~ June 15, 1981 each covered utility shall submit to the agency, for approval, its plans for conducting the inspections and for coordinating these inspections with the agency and the Office of Consumer Services.

2. No person shall conduct or perform an inspection unless he or she has been qualified by the agency, pursuant to 6 MCAR § 2.2307 C.

3. No inspector shall conduct an inspection if he or she has financial interest in the contractor whose work is to be inspected.

4. During the inspection, the inspector shall determine whether:

- a. The installation conforms with DOE installation standards; and
- b. In the case of a consumer complaint, the complaint is justified.

5. An inspection report shall be developed by the agency. The inspector shall use this report to certify that the installation meets all DOE installation standards. Within five (5) days of the inspection, the inspector shall report to the customer, the contractor and the Agency whether or not any violations of the installation standards were found. If the Agency determines that a violation exists the contractor shall correct any violation within two (2) weeks of receipt of the report and shall arrange for a reinspection of the installation within one week after correction.

B. Mandatory inspections. All installations of the following arranged measures shall be inspected within one week of installation:

1. Flue opening modifications;
2. Electric or mechanical ignition systems;
3. Wind energy devices; ~~and~~
4. Solar domestic hot water systems; and
5. Active solar space heating systems.

C. Random inspections.

1. Four of the first ten arranged installations made by each contractor of each of the following program measures shall be inspected:

- a. Ceiling insulation;
- b. Floor insulation; and
- c. Wall insulation; ~~and~~
- d. ~~Solar domestic hot water systems.~~

2. Ten percent of all utility arranged installations of each program measure listed in 6 MCAR § 2.2306 C.1. shall be inspected each year. The inspections required in 6 MCAR § 2.2306 C.1. shall count toward the fulfillment of this requirement.

3. At least one inspection shall be conducted each year of the arranged installations of the following measures for each contractor on the Master List:

- a. Ceiling insulation;
- b. Floor insulation;
- c. Wall insulation;
- d. Water heater insulation;
- e. Storm or thermal windows;
- f. Storm or thermal doors;

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- g. Replacement burner (oil); and
- ~~h. Solar domestic hot water systems; and~~
- ~~h. i. Replacement solar swimming pool heaters.~~

Before April 1, 1982, the utility, or its designated inspection agency, shall determine whether all listed contractors have been inspected at least once by that date. Any contractor whose work has not been inspected by that time shall then be inspected. An additional inspection shall be required for any contractor whose installation has been found in violation of these rules. This review shall be done annually thereafter.

D. Inspections as a result of consumer complaints.

1. Within two (2) weeks of the receipt by the Office of Consumer Services of any customer complaint concerning arranged installation of the measures listed in 6 MCAR § 2.2306 B. and C.3., an inspection shall be conducted to determine the existence of any violations of these rules. Within five (5) days after the inspection, a copy of the inspection report shall be sent to the Office of Consumer Services.

2. All inspections conducted as a result of a consumer complaint shall be counted toward the fulfillment of the inspection requirement in 6 MCAR § 2.2306 C.1., 2. and 3.

6 MCAR § 2.2307 Qualification procedures for auditors and inspectors.

A. Prohibition of discrimination. No person shall be denied the right to become an auditor or inspector on the basis of race, religion, nationality, creed, sex, age or sexual preference.

B. Auditors.

1. Training.

a. No person shall be eligible for certification pursuant to 6 MCAR § 2.2307 B.2., unless he or she has first participated in a training course which has been approved by the agency and which covers the subject matter tested in the auditors' certification examination.

b. Any present auditor with six (6) months experience who has completed twenty-five (25) audits, or any registered engineer or any architect shall be permitted to take an agency approved orientation session, in lieu of the requirements of 6 MCAR § 2.2307 B.1.a.

c. Two months prior to the first public offer of the audit, the participating utility and heating supplier shall submit to the agency for approval a plan to develop and administer a program of in-service training for the continuing education of certified auditors. The agency shall approve a plan if it reviews and updates the material listed in 6 MCAR § 2.2307 B.2.b., provides the auditors with additional technical information and the program measures and audit techniques and reviews the communications skills needed for the interaction with the ~~homeowner~~ customer.

2. Certification.

a. No person shall participate in the MECS Program as an auditor, unless he or she has first passed a certification examination conducted by the agency.

b. The certification examination shall test for the following qualifications:

(1) A general understanding of the three types of heat transfer and the effects of temperature and humidity on heat transfer;

(2) A general understanding of residential construction terminology and components;

(3) A general knowledge of the operation of the heating and cooling systems used in residential buildings, including the need and provision for combustion air;

(4) A general knowledge of the different types of each applicable program measure, of the advantages and disadvantages and applications of each, and of the DOE installation standards;

(5) The capability to conduct the MECS energy audit including:

(a) A working knowledge of the energy conserving practices defined in this plan,

(b) The ability to determine the applicability of each of the program measures, and

(c) A proficiency in the auditing procedures for each applicable program measure established in 6 MCAR § 2.2303.

(6) A working ability to calculate the steady state efficiency of furnaces or boilers;

(7) An understanding of the nature of solar energy and its residential applications including:

- (a) Insulation,
 - (b) Shading,
 - (c) Heat capture and transport, and
 - (d) Heat transfer for hot water;
- (8) An understanding of the nature of wind energy and its residential applications including:
- (a) Wind availability,
 - (b) Effects of obstruction,
 - (c) Wind capture,
 - (d) Power generation, and
 - (e) Interfaces with residential and utility power lines; and
- (9) A working knowledge of building and fire codes related to the installation and safety of wood burning appliances.
- c. These examinations shall be conducted by the agency and offered at the following times:
 - (1) Within two (2) days after the completion of each state-sponsored training course or orientation session, or
 - (2) Once a month, until February 1982, with a minimum of two examinations per year afterward.
 - d. Certification shall be valid for one year.
 - e. After one year, each auditor must be recertified. Recertification procedures shall be as follows:
 - (1) One month prior to the date of certificate expiration, the auditor shall attend a recertification course, as required by the agency. Attendance in this course shall recertify the auditor for the next year.
 - (2) The recertification course requirement for auditors shall be eliminated for any particular year, if the agency determines that no changes were made in the MECS Program that year. Certification shall then be automatically renewed.
 - (3) This recertification shall occur annually, for the life of the program.
 - f. Any person who is certified to conduct Residential Conservation Service audits in another state shall not be required to take the training course established in 6 MCAR § 2.2307 B.1., but shall be required to pass the Minnesota certification examination.
- C. Inspectors.
- 1. Qualifications to conduct random inspections.
 - a. No person shall participate in the MECS Program as a general inspector unless he or she has been qualified. To become qualified each person must first take a training course, which has been approved by the agency.
 - b. The training course shall cover the following subject matters:
 - (1) The measures listed in 6 MCAR § 2.2306 C.3;
 - (2) Methodology to evaluate whether the installation of a measure conforms to DOE installation standards;
 - (3) The MECS recommended standards for R-values for each insulation measure, pursuant to 6 MCAR § 2.2303 D.1.
 - c. Each covered utility shall submit to the agency for approval a plan for the training of general inspectors, as required in 6 MCAR § 2.2307 C.1.a., by ~~January 15, 1980~~ June 15, 1981. The agency shall approve a plan if it ensures coverage of the subject matter pursuant to 6 MCAR § 2.2307 C.1.b.
 - d. Each covered utility shall notify the agency of each person qualified as a general inspector within two weeks after that person has been qualified.
 - 2. Qualifications to conduct mandatory inspections.

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a. No person shall participate in the MECS Program as a specialized inspector unless he or she has been qualified. To become qualified each person must first take training courses which have been approved by the agency. Each person shall only be qualified to inspect those measures for which that person has been trained.

b. The training courses shall cover:

(1) The following subject matter concerning flue opening modifications and electrical or mechanical ignition systems:

(a) Applicable state and federal codes and regulations;

(b) An understanding of gas appliances used in residential buildings, including basic system requirements, components and operation, and an understanding of potential malfunctions of gas appliances;

(c) An understanding of gas appliance controls and safety controls, including automatic gas valves, limit switches, and thermostats;

(d) An understanding of basic furnace and boiler circuitry, including electrical components, and the use of appropriate meters for testing gas appliance circuitry;

(e) An understanding of the purpose, general structure, and operational systems of vent dampers including the advantages and disadvantages of each type; an ability to service and install electrical, mechanical, and thermal vent dampers;

(f) An understanding of the purpose, basic system requirements and components, and operation of electrical or mechanical ignition systems; an ability to service and install the system, an understanding of schematic diagrams and potential malfunctions of the system;

(g) An understanding of the types of vents, draft diverters, and heat transfer components; an understanding of venting theory including ventilation air, dilution air, vent sizing, and venting installation procedures; an ability to perform leak and spillage checks, and to use instrumentation to measure carbon monoxide and carbon dioxide emissions from gas appliances;

(h) An understanding of proper combustion and proper flame characteristics and gas piping procedures; and

(i) An understanding of the methodology to evaluate whether the installation of the measures conform with DOE installation standards.

(2) The following subject matter concerning wind energy devices:

(a) An understanding of the structural characteristics of wind energy devices;

(b) An understanding of national and local codes governing the electrical interconnection between the wind energy device and the residential and/or utility electrical system; and

(c) Methodology to evaluate whether the installation of a wind energy device conforms with DOE installation standards.

(3) The following subject matter concerning solar domestic hot water and active solar space heating systems:

(a) The residential construction methods employed in the region and the characteristics of structures that would preclude a safe and enduring solar installation;

(b) The applicable provisions of the HUD (Intermediate Minimum Property Standards Supplement), Solar Heating and Domestic Hot Water Systems 4930.2, 1977 Edition.

(c) The design, operation, installation and degradation of residential hot water and heating systems with which the solar devices will interconnect; and

(d) The connection of the solar devices into the existing residential systems, including testing for satisfactory performance of the solar devices and the modified system, according to the requirements of the HUD (Intermediate Minimum Property Standards Supplement), Solar Heating and Domestic Hot Water Systems 4930.2, 1977 Edition.

(e) Methodology to evaluate whether the installation of a solar domestic hot water or active solar space heating system conforms with DOE installation standards.

c. Each covered utility shall submit to the agency for approval a plan for the training of specialized inspectors as required in 6 MCAR § 2.2307 C.2.a. by ~~January 15, 1980~~ June 15, 1981. The agency shall approve a plan if it ensures coverage of the subject matter pursuant to 6 MCAR § 2.2307 C.2.b.

d. Each covered utility shall notify the agency of each person qualified as a specialized inspector, within two weeks after that person has been qualified.

6 MCAR § 2.2308 Consumer grievance procedures.**A. Conciliation conference.**

1. OCS shall be responsible for the mediation of customer complaints against lenders, suppliers, contractors, and participating utilities and heating suppliers which are acting as lenders, suppliers, or contractors under the MECS Program.

2. Before utilizing the OCS Mediation Service, customers shall be directed by the participating utilities and heating suppliers or OCS to first bring their complaint to the attention of the contractor, supplier, lender, or participating utility or heating supplier which is acting as a lender, supplier or contractor. ~~If the complaint is not resolved, the customer shall fill out a MECS customer complaint form supplied by OCS.~~

3. Within three working days of receipt of a written MECS customer complaint, an OCS mediator will contact the customer and the party complained against to ascertain their positions in regard to the complaint. If necessary, the OCS mediator shall conduct a conciliation conference between the parties in person or by phone.

4. OCS shall report to the Agency, the name of any lender, supplier or contractor which, after two weeks notice from OCS has failed:

- a. To respond to attempts to contact it; or
- b. To actively participate in good faith in the mediation process within 30 days of initial contact; or
- c. To correct program violations or take remedial measures agreed to in mediation within two (2) weeks after agreement.

B. Annual report. The Office of Consumer Services shall submit to the agency by May 15 each year, up to and including May 15, 1986, a report containing the following information for the twelve (12) month period ending the preceding April:

1. The number and nature of complaints against suppliers, contractors and lenders which have been handled through the conciliation conference; and
2. The number and function of employees within OCS assigned to the MECS Program.

6 MCAR § 2.2309 Customer payments.**A. Customer billing.**

1. Each covered utility and heating supplier, when billing the customer for any costs it incurred under the MECS, including arranged loans, shall identify and list the charges separately on the billing for the charges. The customer shall be allowed to include payment for those charges with payment for the utility bill.

2. When receiving a payment from a customer that includes payment for utility service or fuel and payment for any MECS service, the covered utility and heating supplier shall credit the payment to utility service or fuel first, and then credit the remainder to MECS Program charges, unless the customer specifies otherwise.

B. Loan payments.

1. If the lender agrees, a loan arranged by a covered utility pursuant to 6 MCAR § 2.2304 A. may be repaid by the customer as part of the periodic utility bill. The utility may recover from the lender the cost incurred by the utility in carrying out this repayment.

2. If the lender agrees, any loan for the purchase or installation of program measures made or arranged by a heating supplier shall be subject to the following requirement:

a. The heating supplier shall allow the customer to repay the loan over a period of not less than three years, unless the customer chooses a shorter repayment schedule. The heating supplier may impose a minimum periodic payment of five dollars (\$5).

b. A lump-sum payment of outstanding principal and interest may be required by the lender upon default in payment by the customer.

c. No penalty shall be imposed by a heating supplier or a lender for payment of all or any portion of an outstanding loan prior to the date that such payment would be due.

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C. Termination of service. No participating utility or heating supplier shall terminate or restrict utility or fuel service upon customer default or nonpayment of any MECS Program charges and loans.

6 MCAR § 2.2310 Utility supply, installation and financing.

A. Survey of utilities.

1. Each covered utility which supplies or installs any program resource measure:

- a. Shall be listed as a supplier or contractor pursuant to 6 MCAR § 2.2305, in the same manner and subject to the same requirements as any other supplier or contractor;
- b. Shall charge fair and reasonable prices for the supply or installation of program measures;
- c. Shall not discriminate unfairly among eligible customers in undertaking the above described activities.

2. Beginning in June, 1981, the agency shall conduct an annual survey of prices charged for the supply or installation of goods and services comparable to those the covered utilities supply or install. If the agency determines that the prices charged by covered utilities for the supply and installation of program measures are significantly different from the typical local prices and interest rates disclosed in the agency's survey, or the agency receives complaints from contractors or suppliers regarding the prices, the agency shall notify the covered utility of disparity in prices and request a written justification with supporting documentation. This documentation with copies of the survey shall then be sent to the Minnesota Attorney General's Office, Anti-Trust Division.

B. Financing. Whenever a covered utility undertakes to finance its own lending program for program measures through financial institutions, the utility shall seek such funds from institutions located in the area covered by the lending program. However, if the covered utility determines that this limitation is disadvantageous to its customers, or not feasible, the limitation shall not apply.

6 MCAR § 2.2311 Reporting and recordkeeping.

A. Annual report. Each covered utility and heating supplier shall submit to the agency by May 15 of each year up to and including May 15, 1986, a report containing the following information for the twelve (12) month period ending the preceding April:

1. The approximate number of customers in its system and, if available, the percentage of that number for whom the covered utility or heating supplier provides the primary heating fuel;
2. A copy of the program announcement;
3. The number of requests for each of the following services as well as the number of requests fulfilled:
 - a. Program audit,
 - b. Installation arrangement,
 - c. Financing arrangement, and
 - d. Billing service for repayment of loans;
4. The number of installations of program measures installed by, supplied by, or financed by the covered utility or heating supplier;
5. The number and results of post-installation inspections, including description of violations;
6. The number and function of employees assigned to the program; and
7. The costs incurred, including that portion of the cost paid by individual customers for services received and that portion paid by all ratepayers, in providing each type of the following services:
 - a. the program audit,
 - b. installation arrangement,
 - c. loan arrangement, and
 - d. post-installation inspections.

B. Recordkeeping requirements.

1. Each covered utility and heating supplier shall keep the following records which shall be kept for the periods indicated:

- a. For five (5) years from the date of the program audit, the name and address of each customer who receives a program audit;

b. For five (5) years from the date of the program audit, a copy of the data collected and the estimated cost and savings information for each customer who receives a program audit.

c. For five (5) years from the date of the request, each request for a furnace audit;

d. For five (5) years from the date of the arrangement, the name and address of each customer for whom installation or financing of measures was arranged; and

e. For two (2) years from the date of the program audit, the total amount and cost of fuel purchased for the period of twelve months prior to and twelve months following each audit. This information is only required for those utilities and heating suppliers which supply the primary heating fuel to the customer.

2. This information shall be made available to the agency upon request.

6 MCAR § 2.2312 Heating suppliers.

A. Any heating supplier may apply to the agency to participate in the MECS Program.

B. Any heating supplier or association of heating suppliers may apply to the agency for a waiver of any requirement of this plan, except those listed in 6 MCAR § 2.2312 C. All waivers that do not substantially limit either the delivery of services described in this plan or the conservation potential of the program shall be approved by the agency.

C. The following requirements of these rules shall not be waived:

1. The calculation procedures in Appendix A and the ban on advertising in program announcements offered, as established in 6 MCAR § 2.2302 A.2.b.

2. The reporting and recordkeeping requirements, pursuant to 6 MCAR § 2.2311.

3. The on-site energy audit, pursuant to 6 MCAR § 2.2303.

4. The arrangement service for the financing of program measures, pursuant to 6 MCAR § 2.2304 A., C., and D.

5. The distribution of Master Lists developed, pursuant to 6 MCAR § 2.2305.

6. The offer of the consumer complaint process, pursuant to 6 MCAR § 2.2308, and

7. The exclusive use of certified auditors, pursuant to 6 MCAR § 2.2307.

D. Any participating heating supplier may voluntarily withdraw from this program after completing all outstanding services offered to its customers.

E. A participating heating supplier which does not provide MECS services or does not comply with the requirements listed in 6 MCAR § 2.2312 C., shall be excluded by the agency from participating in the MECS Program.

6 MCAR § 2.2313 Non-regulated utility program.

A. Any non-regulated utility may apply to the agency for inclusion in the MECS Program.

B. A non-regulated utility or an association of non-regulated utilities may apply for a waiver of any requirements in this rule, except as noted in 6 MCAR § 2.2313 C. All waivers that do not substantially limit either the delivery of services listed or the conservation potential of the program shall be approved.

C. The following requirements of these rules shall not be waived:

1. The on-site program audit, pursuant to 6 MCAR § 2.2303.

2. The arrangement services for the financing of program measures, pursuant to 6 MCAR § 2.2304 A., C., and D.

3. The distribution of Master Lists developed pursuant to 6 MCAR § 2.2305.

4. The offer of the consumer complaint process, excluding post-installation inspections, pursuant to 6 MCAR § 2.2308.

5. The exclusive use of certified auditors, pursuant to 6 MCAR § 2.2307.

D. The following requirements of this rule shall not be required for non-regulated utilities:

1. Program Promotion, pursuant to 6 MCAR § 2.2302.

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ADOPTED RULES

2. Post-installation Inspection Services, pursuant to 6 MCAR § 2.2306.
3. Customer Payments, 6 MCAR § 2.2309 A. and B.
4. Reporting and Recordkeeping, pursuant to 6 MCAR § 2.2311.

E. Any participating non-regulated utility may voluntarily withdraw from this program after completing all outstanding services offered to its customers.

F. A participating non-regulated utility which does not comply with the requirements listed in 6 MCAR § 2.2313 C. shall be excluded by the agency from participating in the MECS Program.

Appendix A

Procedures for Calculating Energy Savings for Program Measures and Practices

The following procedures shall be the basis for calculating energy savings for program measures and practices for the program announcements.

A. Energy conserving measures.

1. General energy savings equation. The following equation will be used to calculate energy savings for the practices and measures listed below, except for those that are already termed in E.

$$\text{Equation \#1. } \Delta E = \frac{\Delta H \times D \times 20.4}{N \times V}$$

Where

ΔE = The quantity of annual energy savings in the appropriate energy units, e.g. hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt hours of electricity.

ΔH = The difference in design heat loss per degree Fahrenheit between the improved condition and the existing condition for infiltration and/or thermal transmission. Equations for calculating H are listed in subsequent subsections.

D = The normalized annual degree days as published by the National Oceanic and Atmospheric Administration (NOAA).

N = The seasonal operating efficiency of the heating system.

V = The heating value of the fuel type, consistent with ΔE and ΔH .

2. Caulking.

$$\text{Equation \#2. } \Delta H = .018 \times I \times \text{Vol}$$

Where

I = change in infiltration rate in air changes per hour

Vol = volume of heated space in cubic feet

3. Weatherstripping. Use equation #2

4. Furnace efficiency modifications.

a. Replacement furnaces or boilers.

$$\text{Equation \#3. } \Delta E = E_h \left(1 - \frac{N_o}{N_i}\right)$$

b. Furnace replacement burner. (ΔE is given as a range)

$$\text{Equation \#4. } \begin{array}{l} \text{Low estimate of } \Delta E = .10E_h \\ \text{High estimates of } \Delta E = .18E_h \end{array}$$

c. Flue opening modifications. (ΔE is given as a range)

$$\text{Equation \#5. } \begin{array}{l} \text{Low estimate of } \Delta E = .07E_h \\ \text{High estimate of } \Delta E = .10E_h \end{array}$$

d. Install electronic ignition system.

(1) If pilot is turned off during the summer.

Equation #6.
$$\Delta E = \frac{3600F_p}{V}$$

(2) If pilot is left on in the summer.

Equation #7.
$$\Delta E = \frac{7300F_p}{V}$$

Where

- E_h = Total annual energy used for space heating, in units of fuel.
- N_o = The seasonal operating efficiency of the existing heating system.
- N_1 = The seasonal operating efficiency of the proposed heating system.
- F_p = Rate at which pilot uses energy, in Btu per hours. (Typically 800 to 1000 Btu per hour).
- V = Heating value of the fuel type in Btu per unit of fuel.

5. Replacement central air conditioner.

Equation #8.
$$\Delta E = E_c \left(1 - \frac{PSE}{NSE} \right)$$

Where

- E_c = Annual energy used by existing central air conditioner, in units of fuel.
- PSE = Present seasonal efficiency.
- NSE = New (proposed) seasonal efficiency.

6. Ceiling insulation.

Equation #9.
$$\Delta H = \left(\frac{1}{R_o} - \frac{1}{R_1} \right) A$$

Where

- R_o = Total R-value in present condition.
- R_1 = Total R-value of proposed condition.
- A = Area for which additional insulation is being proposed.

7. Wall insulation. Use equation #9 for above grade walls.

8. Floor insulation. Use equation #9.

9. Duct insulation.

Equation #10.
$$\Delta E = \frac{\left(\frac{1}{R_o} - \frac{1}{R_1} \right) (T_2 - T_1) A \times \text{HRS}}{N V}$$

Where

- R_o = The total R-value of the ducts before improvement.
- R_1 = The total R-value of the ducts after improvement.
- T_2 = Average temperature of air inside ducts during an on cycle of the heating system.
- T_1 = Average temperature of the unconditioned space the ducts pass through.
- A = Duct area for which insulation is proposed.
- HRS = Number of hours the heating system operates in a heating season.
- N = Seasonal operating efficiency of the heating system.
- V = Heating value of fuel in Btu per unit of fuel.

10. Pipe insulation.

Equation #11.
$$\Delta E = \frac{(Q_1 - Q_o) L \times \text{HRS}}{NV}$$

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ADOPTED RULES

Where

Q_1 = Heat loss in Btu/hr. ft. before improvement

Q_0 = Heat loss in Btu/hr. ft. after improvement

L = Length of uninsulated pipes in unconditioned space.

HRS = Number of hours per year the heating system operated in a heating season.

N = Seasonal operating efficiency of the heating system.

V = The heating value of the fuel in Btu per unit of fuel.

11. Water heater insulation.

a. If water heater is in an unconditioned space.

$$\text{Equation \#12. } \Delta E = \frac{8760A \left(\frac{1}{R_0} - \frac{1}{R_1} \right) (T_w - T_a)}{N_r V}$$

b. If water heater is in a conditioned space.

$$\text{Equation \#13. } \Delta E = \frac{H \times A \times \left(\frac{1}{R_0} - \frac{1}{R_1} \right) (T_w - T_a)}{N_r V}$$

Where

R_0 = Total R-value of the water heater before improvement.

R_1 = Total R-value of the water heater after improvement.

T_w = Hot water temperature.

T_a = Average air temperature of area surrounding water heater.

N_r = Recovery efficiency of water heater.

V = Heating value of fuel type in Btu per unit of fuel.

H = Number of hours per year that the outside temperature is above 65° F.

12. Storm and thermal windows.

$$\text{Equation \#14. } \Delta H = (U_0 - U_1) \times A$$

Where

U_0 = The U-value of the existing window assembly.

U_1 = The U-value of the proposed window assembly.

A = The area of the window assembly.

13. Storm and thermal doors

Use equation #14 where:

U_0 = The U-value of the existing door assembly.

U_1 = The U-value of the proposed door assembly.

A = The area of the door assembly.

14. Heat reflective and heat absorbin window or door material.

$$\text{Equation \#15 } \Delta E = \frac{A \times F_{ss} \times F_{es}}{N_{ac}}$$

Where

A = Area of glazing

F_{ss} = Summer shading factor

F_{es} = Glazing orientation factor

N_{ac} = Seasonal efficiency of the air conditioning system.

15. Load management.

Each utility offering such system will provide ΔE according to the particular system that the utility offers.

16. Clock thermostats.

Energy savings will be given for a single 8 hour night setback.

Equation #16a $\Delta E = .07E_h$ for 5° F setback

Equation #16b $\Delta E = .10E_h$ for 10° F setback

Equation #16c $\Delta E = .11E_h$ for 15° F setback

Where

E_h = Total annual energy used for space heating, in units of fuel.

17. Solar domestic hot water.

Equation #17 $\Delta E = SSF \times E_{hw}$

Where

SSF = Solar saving fraction = fraction of hot water supplied by the solar system. (Target SSF = .7)

E_{hw} = Annual energy used for heating domestic hot water, in millions of Btus.

18. Passive solar systems.

- a. Direct gain glazing, indirect gain-water well storage, indirect gain—trombe wall storage.

Energy savings for 100 square feet of double glazing with R-8 night insulation: (ΔE is given as a range)

Equation #18 $\Delta E = \frac{10 \times PSF \times F_o}{N}$ High estimate

$\Delta E = .6 \times$ High estimate Low estimate

- b. Indirect gain-thermosiphon air panel.

Energy savings for 100 square feet of panels:

Equation #19 $\Delta E = \frac{3.5 \times PSF \times F_o}{N}$ High estimate

$\Delta E = .7 \times$ high estimate Low estimate

- c. Sunspace systems.

Energy savings for 100 square feet of vertical double glazing:

Equation #20 $\Delta E = \frac{5 \times PSF \times F_o}{N}$ High estimate

$\Delta E = .6 \times$ High estimate Low estimate

Where

ΔE is in million of Btu

PSF = Prime Solar Fraction, estimated by auditor.

F_o = Orientation Factor, from tables

N = Heating system seasonal efficiency

- d. Window heat gain retardants

Same as equation #14

19. Wind energy devices.

- a. Systems providing utility grade power that can be sold to the electric utility when the system provides excess power. A system will be chosen with an Annual Wind System Output (AWSO) equal to one half the current annual electric use.

Equation #21a Low estimate of $\Delta E = .8$ AWSO

High estimate of $\Delta E = 1.2$ AWSO

- b. Systems providing variable voltage power for heating use only. A system will be chosen with an Annual Wind Systems Output (AWSO) equal to one half of the annual heat supplied by the space heating system.

Equation #21b Low estimate of $\Delta E = .8$ AWSO

High estimate of $\Delta E = 1.2$ AWSO

Where

AWSO = Annual Wind System Output in kwh

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ADOPTED RULES

20. Replacement solar swimming pool heaters.

$$\text{Equation \#22} \quad \Delta E = \text{SSF} \times E_{\text{sp}}$$

Where

SSF = Solar Saving Fraction = Fraction of swimming pool heat supplied by the solar system. (Target SSF = .5)

E_{sp} = Energy used to heat the pool for the months of May through September.

21. Install positive shut-off's for all fireplaces or fireplace stoves.

$$\text{Equation \#23} \quad \Delta H = 1.08 (Q_0 - Q_1) A$$

Where

Q_0 = The infiltration value in cubic feet per minute per square foot for the existing condition before improvement.

Q_1 = The infiltration value after improvement with a positive shut-off.

A = The cross sectional area of the flue or connector in square feet.

22. Install thermal shutters, shades, or draperies on exterior windows and glass doors. Equation #14 will be used.

B. Energy conserving practices.

1. Furnace efficiency maintenance and adjustments.

- a. Periodic cleaning and combustion efficiency adjustments.

Savings for gas conversion units will be estimated at up to 15%.

Savings for gas-designed systems will be estimated at up to 5%.

Savings for oil heating systems will be estimated at 5% to 15%.

- b. Periodic cleaning or replacing of filters in forced air systems. Savings will be estimated at 5% to 10%.

- c. Fan setting on forced air furnaces reduced to 80° F if possible. Savings will be estimated at up to 5%.

- d. Increase fan speed.

Savings will be estimated at up to 5%.

- e. Reduce aquastat setting to 140° F between December 1 and March 1 and 120° F between March 2 and November 30 or other reduction as appropriate to individual boiler. Savings will be estimated at 5% to 10%.

2. Nighttime temperature setback.

Savings estimates will be the same as for clock thermostats.

3. Reducing thermostat settings in winter.

Savings will be estimated at 3% per ° F increase for 24 hours per day.

4. Raising thermostat settings in summer.

Savings will be estimated at 5% per ° F increase for 24 hours per day.

5. Water flow reduction in showers and faucets.

Savings will be estimated at up to 40% of total energy used for domestic hot water.

6. Reducing hot water temperatures.

Savings will be estimated at about 10% for reducing temperature from 140° F to 120° F.

7. Reducing energy use when a home is unoccupied.

- a. Reducing thermostat setting to 55° F when home is unoccupied for four hours or more. Use equation #16b.

- b. Turning an air conditioner off when no one is home. Savings will be estimated as up to 25% of energy used for air conditioning.

- c. Turning a water heater off when a home is vacant for 2 or more days. Savings will be estimated as 1/365 of water heater jacket losses for each day the heater is turned off.

8. Plugging leaks in attics, basements, and fireplaces. Savings will be estimated as up to 30%.

9. Sealing leaks in pipes and ducts. Savings will be estimated as up to \$6 per month for fixing a dripping hot water pipe or faucet. Savings for patching leaks in ducts in unconditioned spaces will be estimated as up to 15% of the energy used for space heating.

10. Efficient use of shading.

Use Equation #14.

C. Energy Index

$$\text{Energy Index} = E \times F_w$$

Where:

E is energy content of all fuel (including electricity) used during the months of November thru April, in Btus.

F_w is a weather adjustment factor.

It is the ratio of the number of degree days in an average heating season (Nov. 1 thru April 30) to the number of degree days for the heating season preceding the calculation.

SUPREME COURT**Decisions Filed Friday, May 22, 1981****Compiled by John McCarthy, Clerk**

51316/Sp. Bradley Martin Anderson, petitioner, v. State of Minnesota, Department of Public Safety and Department of Transportation, Appellant. Hennepin County

Under Minn. Stat. § 171.17(7) (1980), the Commissioner of Public Safety properly revoked the driver's license of a Minnesota resident who was convicted in Colorado of driving while ability was impaired by alcohol. Accordingly, the district court erred in concluding that revocation was invalid.

Reversed. Otis, J.

51885/Sp. State of Minnesota v. John Charles Kittleson, Appellant. Washington County.

Exclusionary rule does not require suppression of evidence of assault on police officer committed in response to alleged violation of fourth amendment.

Trial court in prosecution for assault with dangerous weapon did not err in refusing to submit lesser offense of pointing a gun at another person or self-defense, and court's instructions on intoxication were adequate.

Evidence of defendant's guilt was sufficient.

Mandatory minimum-term law applies to offense of assault in the second degree (assault with a dangerous weapon).

Affirmed. Otis, J.

51278/Sp. Claude Watts, Jr., petitioner, Appellant, v. State of Minnesota. Hennepin County.

(a) It is not necessary to decide the lawfulness of appellant's arrest under *Payton v. New York*, 445 U.S. 573 (1980), because *Payton* is not to be applied retroactively.

(b) It is not necessary to decide whether appellant consented to police entry of his apartment to conduct a limited search because error, if any, in admission of the evidence seized was harmless.

Trial court did not violate Minn. Stat. § 609.11(1) (1976) in imposing minimum sentences or section 609.035 in imposing multiple sentences for offenses committed at the same time but involving different victims.

Affirmed. Otis, J.

51724/Sp. State of Minnesota v. Norman C. Gant, Appellant. Hennepin County.

Trial court properly denied motion to suppress evidence which defendant claimed was fruit of unlawful warrantless entry of his dwelling to arrest him; arrest preceded decision in *Payton v. New York*, 445 U.S. 573 (1980), which is not retroactive, and in any event, exigent circumstances justified the warrantless entry.

Trial court properly sentenced defendant to two consecutive 20-year prison terms for burglary and for criminal sexual conduct even though the enhancement of the burglary sentence from 10 to 20 years was based on the same act of sexual assault on which the sex conviction was based.

Affirmed. Peterson, J.

SUPREME COURT

51662/24 *State Bank of Rose Creek v. Commerce Commission of the State of Minnesota, Appellant, and State Bank of Rose Creek, petitioner, v. Michael J. Pint, Commissioner of Banks, Appellant. Ramsey County.*

The time period for an appeal from a judgment pursuant to consolidated proceedings, including a related certiorari proceeding, shall be determined by the time period for an appeal from the judgment.

Where an application for a detached facility is uncontested, the Commissioner of Banks should issue his order approving the facility separately, and the certificate authorizing activation of the facility should not issue until reasonable conditions such as FDIC approval have been satisfied.

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

51562/Sp. *State of Minnesota v. Larry Lee Smith, Appellant. Hennepin County.*

Payton v. New York, 445 U.S. 573 (1980), should not be applied retroactively.

On appeal, this court will independently determine the voluntariness of a confession on the basis of the facts found by the trial court; *held*, defendant's confession was voluntary.

Affirmed. Amdahl, J.

Decision Filed Wednesday, May 13, 1981

81-188/Sp. *State of Minnesota v. Michael James Park, Appellant. Dakota County.*

Trial court was justified in departing from "presumptive sentence" by refusing to stay execution, where evidence sufficiently established defendant's unamenability to probation, but court erred in making sentence consecutive to prior sentence.

Affirmed as modified. Sheran, C. J.

Decisions Filed Friday, May 29, 1981

Compiled by John McCarthy, Clerk

51042/Sp. *Solidification, Inc., Appellant, v. Michael S. Minter, et al. Hennepin County.*

It was not clearly erroneous to find appellant negligent.

The exculpatory clause is ambiguous. Construing it strictly, it does not exonerate appellant from negligence.

The trial court erred in not deducting from the damages the amount remaining unpaid on the contract price.

Affirmed as modified. Simonett, J.

51237/Sp. *Snyder Electric Co., Appellant, v. Robert J. Fleming, and Ace Manufacturing, Inc., Appellant, v. Fleming Sheet Metal Co., et al. Hennepin County.*

Transactions between an insolvent corporation and its president or other companies under his control are presumptively fraudulent conveyances, but here this presumption was overcome by evidence showing by clear proof the defendant executive acted with impartiality and fairness to the corporation.

Corporate insolvency and failure to issue dividends does not, absent more, justify piercing the corporate veil to permit corporate creditors to recover from sole shareholder.

Director- and officer-creditors of a corporation financially embarrassed or insolvent have a fiduciary obligation to other corporate creditors not to prefer themselves by virtue of their position over those other creditors. This duty was breached by the defendant here.

Since the only three creditors with significant claims against the corporation were parties to this suit and no corporate assets remain to be sequestered, equitable considerations permit appellants to maintain a claim against the defendant director-officer for breach of his fiduciary duty to them as creditors without acting as a class or through a receiver in dissolution.

Reversed and remanded for proceedings consistent with this opinion. Simonett, J.

STATE CONTRACTS

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

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

Department of Corrections Victim Services Division

Funds Available for Sexual Assault Services

The Minnesota Department of Corrections has received an appropriation of \$318,750 from the Legislature to enable the department to award grants to providers of service to sexual assault victims during the fiscal year beginning July 1, 1981. A majority of the funds will be awarded to continue the services of existing programs. A minimal amount has been set aside for new proposals designed to provide services to populations now unserved or underserved.

The appropriation is intended to implement programs that will provide one or more of the following services: direct crisis intervention and support services to sexual assault victims, training programs, coordination of services of existing agencies, community education and development of services to meet the needs of special populations such as children, racial minorities, developmentally disabled and the elderly.

The deadline for proposals for the funds is Friday, June 26, 1981. Grant proposals will be reviewed.

Organizations interested in applying for a grant should contact the Minnesota Program for Victims of Sexual Assault, 430 Metro Square Building, St. Paul, Minnesota, 55101, (612) 296-7084.

Department of Economic Security Office of Audit Coordination

Notice of Request for Proposals for Auditing Services in Regard to CETA Subgrants

1) Agency name and address: Minnesota Department of Economic Security, Office of Audit Coordination, 390 North Robert Street, St. Paul, Minnesota 55101.

2) Contact Person: Certified Public Accounting firms wishing to receive the Request for Proposal Package or additional information may write or call the contracting officers, James A. Markoe (612) 296-4983 or James L. Feldkamp (612) 297-2798, Room 200, 390 North Robert Street, St. Paul, MN 55101.

3) Description: A Request for Proposals (RFP) will be issued June 17, 1981, for the purpose of contracting auditing services for CETA subgrants by the Prime Sponsor (MN Dept. of Economic Security).

4) Cost: One or more awards will be granted estimated to exceed \$100,000 in aggregate.

5) Final proposals submission date: Proposals must be received by 4:30 p.m. July 7, 1981.

Department of Health

Notice of Availability of Funds for Family Planning Special Project Grants

Any eligible agency interested in administering a Family Planning Special Project in calendar years 1982 and 1983 shall contact the Minnesota Department of Health no later than 4:30 p.m. Friday, June 26, 1981.

Purpose of Eligibility

Family Planning is voluntary planning and action by individuals to *attain or prevent pregnancy*. Family Planning Special Project Grants will be made available to local government agencies and non-profit corporations to continue or develop pre-pregnancy family planning services to Minnesota residents in accordance with the Family Planning Act (Minn. Stat. § 145.925) and the Family Planning Rule (Ch. 27, Part II: 7 MCAR § 1.457)

How to Apply for Funds

A potential applicant should submit a Letter of Intent to apply for funds to the Commissioner of Health. The Letter of Intent

STATE CONTRACTS

must be received by the Department no later than 4:30 p.m. Friday, June 26, 1981 and must include the name of the applicant agency, name and telephone number of an agency contact person and an estimate of the amount of funds to be requested for each of the calendar years, 1982 and 1983.

Because the amount of grant funds available for 1982 and 1983 may be the same as for 1981, the Department requests that agencies awarded Family Planning Special Project funds for 1981 not request an annual sum which exceeds their January, 1981 grant award. Agencies not receiving Family Planning Special Project funds in 1981 are requested to request not more than \$20,000 annually.

An agency expressing an intent to apply will be provided with a copy of the Family Planning Act, the Family Planning Rule, application materials, information on the review and award process, and the name and telephone number of a Family Planning Consultant available to provide technical assistance concerning preparation of the grant application. The completed application must be submitted to the appropriate Regional Development Commission(s), Health Systems Agency(s), and local board(s) of health *prior* to submission to the commissioner. The completed application must be received by the department on or prior to 4:30 p.m., Friday, August 14, 1981.

Award of Funds

Applications will be reviewed as submitted and grants awarded in accordance with the Criteria for Award of Family Planning Special Project Grants found in the Family Planning Rule (7 MCAR § 1.457 E.). For the two year program period, 1982 and 1983, award priority will be given to agencies whose applications meet the criteria for award and propose all family planning components in counties with no family planning services as of December 31, 1978 (7 MCAR § 1.457 E.1.). All other agency applications shall be funded in rank order based on the criteria for award (7 MCAR § 1.457 E.) as funds are available. Annual awards to 1981 Family Planning Special Project grantees shall not exceed the 1981 award. Annual awards to new grantees shall not exceed \$20,000. Applicant agencies will be notified in writing of the status of the application by December 31, 1981.

Further information regarding family planning and application for Family Planning Special Project Grants may be obtained by contacting Ms. Judi Kapuscinski, Supervisor, Family Planning Unit, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, (612) 296-5285.

Duration of Funding

Funds for approved grants for these purposes will be awarded for the period of January 1, 1982 through December 31, 1983. Funding is dependent upon favorable action by the Minnesota Legislature relative to the department's biennial budget requests for family planning funds.

Iron Range Resources & Rehabilitation Board at Eveleth, Mn.

Notice of Request for Proposals for Advertising and Public Relations Services

The Commissioner of IRRRB is seeking proposals from Minnesota advertising and public relations firms to administer the Iron Range Interpretative Center's program of public promotion and advertising.

The purpose of this project shall be administer an advertising and promotion campaign utilizing all media.

For formal Request for Proposal documents, interested parties should contact:

Joseph Engles
Director, Iron Range Interpretative Center
P. O. Box 392
Chisholm, MN 55719

Proposals must be submitted no later than June 19, 1981.

Pollution Control Agency

Source Separation/Waste Reduction Demonstration Grant Program

Cities and counties are eligible to apply for grants to plan for or demonstrate source separation or waste reduction projects which have application in other portions of the state. The grant program, authorized by the Waste Management Act of 1980 and rule 6 MCAR § 4.6086, is being administered by the Minnesota Pollution Control Agency. The program's first application deadline date is June 30, 1981. Deadline dates for future application periods will be publicized. Two or three application periods are planned.

Planning or feasibility study projects are eligible for up to \$3,500 in grant funding while demonstration projects are eligible for up to \$15,000. Both types of grants require a 10% match. No grant funds, however, may be used for the purchase of equipment or structures. Further, only 20% of grant funding in any application period can be used for planning or feasibility projects. Actual grant awards are anticipated to be made in mid August.

The demonstration grant program seeks to provide assistance in the establishment of model systems for waste management and to speed up the acceptance of new ideas in waste reduction and source separation. The program reflects the increased emphasis that resource conservation and recovery have received as landfill space becomes scarce and the costs of energy and materials soar. By focusing on waste recovery and conservation as solutions to solid waste problems, Minnesotans could reduce the waste stream by as much as one-third and save millions of dollars.

The program rules identify a wide range of eligible projects, all of which must have application to other parts of the state. The agency is seeking projects that are associated with existing source separation programs or projects which are less likely to be adversely influenced by varying seasonal market price or recovery rates. For example, some projects are better started in the spring, and applicants may, therefore, find it advantageous to apply during a winter application period. The agency is particularly interested during this current application period in projects that deal with market development for recyclables, school curricula development, various methods of collecting recyclables through existing source separation programs, and other projects that can serve as models for future waste reduction efforts in Minnesota.

Interested cities and counties may obtain applications and more information from Don Kyser, Division of Solid and Hazardous Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113 (612-297-2727).

Department of Transportation Technical Services Division Office of Research and Development

Notice of Availability of a Contract for "Reviewing and Abstracting Technical Reports"

The Department of Transportation in co-sponsorship with the Local Road Research Board requires the services of a consultant for reviewing and abstracting technical reports. This contract involves selection, critical review and digesting important reports and articles of interest to Minnesota state, county and municipal engineers engaged in transportation work. It is estimated that over a dozen abstracts will be disseminated monthly.

A seasoned, registered professional engineer (civil engineering) familiar with design, construction and maintenance practices and problems on Minnesota streets and highways and other modes, as well as national research trends, is desired.

The Department of Transportation and the Local Road Research Board has budgeted \$7000 per year for this two year contract. Interested bidders should note that the department and the board may extend this project for an additional two years if they should decide to continue the service beyond the initial two year period.

Those interested may obtain a request for proposal from:

Gabriel S. Bodoczy, P.E.
Research Services Engineer
Office of Research and Development
Minnesota Department of Transportation
Room B-9, Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-4925

Request for proposals will be available through June 29, 1981. All proposals will be due no later than July 8, 1981.

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 Commerce Banking Division

Bulletin No. 2402: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of June, 1981

Notice is hereby given that pursuant to Section 47.20, Subd. 4a, Minnesota Statutes, the maximum lawful rate of interest for conventional home mortgages for the month of June, 1981, is sixteen and one-half (16.50) percentage points.

Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as it amended Section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of June, 1981, is sixteen and one-half (16.50) percentage points.

May 28, 1981

Michael J. Pint
Commissioner of Banks

Department of Education Vocational-Technical Education Division

Notice of Hearing

This is to announce that a public hearing will be held on Tuesday, June 23, 1981 at 9:00 a.m. in Room 716 of the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on the recommended post-secondary aid distribution levels.

Energy Agency Data and Analysis Division

Notice of Extension of Deadline Concerning Intent to Solicit Outside Opinion Regarding Rules on Annual Electric Utility Information Reported Annually

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "agency") is extending the deadline from May 22, 1981, to June 12, 1981, for the submission of statements and comments from sources outside the agency regarding the amending of rules governing the contents of the annual report and forecast submitted by electric utilities.

The original Notice to Solicit Outside Opinion was published in the September 22, 1980, issue of the *State Register* at 5 S.R. 471.

June 1, 1981

Dan Quillin
Energy Specialist Intermediate

Governor's Council on Employment and Training

Notice of Meeting

Notice is hereby given that a meeting of the Governor's Council on Employment and Training will be held on Friday, June 19, 1981, from 10:00 a.m. to 12:00 p.m., Room 15, State Capitol Building, St. Paul, Minnesota.

Department of Health Environmental Health Division

Notice of Intent to Solicit Outside Opinion on Rules Relating to Public Water Supplies, Swimming Pools, Water Conditioning Contractors' Bond, Children's Camps, Migrant Labor Camps, Formaldehyde, Registration of Engineers, Monitoring Wells and Groundwater Thermal Exchange Devices

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (1980) that the Commissioner of Health is considering the proposal of amendments to existing rules and adoption of new rules relating to the subject matters listed below.

All interested or affected persons may submit information on these subjects. All statements of information and comment received will be introduced into the record of any rules' promulgation proceedings held relating to these subjects. Written comments regarding any of the subjects listed should be addressed to the appropriate persons named below.

Public Water Supplies: considering amendments to 7 MCAR §§ 1.141-1.145 to incorporate recent Federal safe drinking water standards.

Swimming Pools: considering amendments to 7 MCAR § 1.141.

Water Conditioning Contractors: considering amendments to 7 MCAR § 1.135 prescribing the amount of the bond to be filed with the State pursuant to Minn. Stat. § 326.601 (1980).

For comments regarding public water supplies, swimming pools or the water conditioners' bond, contact:

Richard D. Clark
Section of Water Supply and General Engineering
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Children's Camps: considering amendments to 7 MCAR § 1.201 regarding the requirement for a physical examination prior to attendance.

Migrant Labor Camps: considering amendments to 7 MCAR § 1.204 regarding inspections and permits.

For comments regarding children's camps and migrant labor camps, contact:

Charles B. Schneider, Chief
Section of Environmental Field Services
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Formaldehyde: considering proposal of a new rule setting a maximum permissible ambient level for formaldehyde in newly constructed residential units, contact:

Laura Oatman
Section of Health Risk Assessment
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Registration of Civil Engineers: considering adoption of a new rule for engineers who drill monitoring wells.

Monitoring Wells and Groundwater Thermal Exchange Devices: considering amendments to the water well construction code, 7 MCAR §§ 1.210-1.225.

For comments regarding registration of civil engineers, monitoring wells and groundwater thermal exchange devices, contact:

Edwin Ross
Section of Water Supply and General Engineering
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Metropolitan Council

Public Hearing on Solid Waste Policy Plan Amendments

The Metropolitan Council will hold a public hearing on July 1, 1981 on a proposed revision of its Regional Policy Plan on Solid Waste Management. The revision is an update of the council's 1979 plan, bringing it into conformity with the council's responsibilities under the 1980 State Waste Management Act.

The hearing will be at 7:30 p.m. in the council offices at 300 Metro Square Building, St. Paul.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register to do so in advance by contacting the council's Public Hearing Coordinator at 291-6421. Those registering first will be scheduled first. Written comments may also be submitted until July 10, 1981 to Paul Smith of the council staff. Copies of the proposed plan revisions are available free of charge from the council Public Information Office at 291-6464.

Minnesota Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association, will hold a meeting on Wednesday, June 24, 1981, at 2 p.m. in the office of the association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the board.

Department of Transportation

Allocation of Funds from the State Highway Safety Devices Appropriation for the Installation of Passive Advance Warning Signs in Minnesota along the Chicago, Milwaukee, St. Paul and Pacific Railroad Company Mainline from: Austin to Owatonna (via) Blooming Prairie; and the Chicago and North Western Transportation Company Mainline from: Plainview to Eyota (via) Elgin; and the Illinois Central Gulf Railroad Company Mainline from: Lyle to Glenview (via) Myrtle; and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company Mainline from: Alden to Jackson (via) Winnebago, Wells to Minnesota Lake, and Albert Lea to the South State Line (via) Bricelyn; and the Chicago, Rock Island and Pacific Railroad Company Mainline from: Worthington to the South State Line (via) Round Lake; and the Chicago North Western Transportation Company Mainline from: Org to Bigelow; and the Burlington Northern, Incorporated Mainline from: Beaver Creek to Hills

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given, that a contested case hearing concerning the above-entitled matter will be held on July 10, 1981 at 9:00 a.m. in the Public Meeting Room, City Library, Fairmont, Minnesota.

The hearing will be held before Mr. Richard DeLong, 1745 University Avenue, Saint Paul, Minnesota 55104 (Telephone: 612-296-8117) a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.052 and 9 MCAR §§ 2.201 through 2.222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Mr. Robert G. Swanson, Manager, Railroad Operations, 419 Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2472).

The purpose of the hearing is to ensure that under the provisions of Minn. Stat. §§ 219.14, 219.17, and 219.26 all parties and potential parties of interest are given an opportunity to be heard on the proposed allocation of funds from the State Highway Safety Devices Appropriation pursuant to Minn. Stat. § 219.40 and Laws of Minnesota 1979, Extra Session, Chapter 1, Section 3, Highway Improvement. Said funds will be used in conjunction with assistance available to the State of Minnesota under the Surface Transportation Assistance Act of 1978 (Public Law 95-599) to erect and install passive advance warning signs in Minnesota along the Chicago, Milwaukee, St. Paul and Pacific Railroad Company Mainline from: Austin to Owatonna (via)

Blooming Prairie; and the Chicago and North Western Transportation Company Mainline from: Plainview to Eyota (via) Elgin; and the Illinois Central Gulf Railroad Company Mainline from: Lyle to Glenview (via) Myrtle; and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company Mainline from: Alden to Jackson (via) Winnebago, Wells to Minnesota Lake, and Albert Lea to the South State Line (via) Bricelyn; and the Chicago, Rock Island and Pacific Railroad Company Mainline from: Worthington to the South State Line (via) Round Lake; and the Chicago North Western Transportation Company Mainline from: Org to Bigelow; and the Burlington Northern, Incorporated Mainline from: Beaver Creek to Hills at locations on the attached listings.

Any person who desires to become a PARTY to this matter must submit a timely PETITION TO INTERVENE to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 10, 1981, the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Administrative Hearings or may be purchased from the Documents Section of the Department of Administration, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155 (Telephone: 612-297-3000). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents. If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Dated this 1st day of June, 1981.

Richard P. Braun
Commissioner

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
Austin to Owatonna (via) Blooming Prairie

D - 5080
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Mower	50-03-60	380-232L	City of Austin	8th Ave. N.E.-MSAS10
	50-03-66	380-242S	Lansing Township	TWP. 269
	50-03-68	380-244F	Lansing Township	TWP. 268
	50-03-69	380-246U	Udolpho Township	TWP. 262
	50-03-70	380-247B	Udolpho Township	TWP. 260
	50-03-71	380-249P	Udolpho Township	TWP. 146
	50-03-72	380-251R	Udolpho Township	TWP. 255
	50-03-74	380-255T	Udolpho Township	TWP. 250
	50-03-75	380-257G	Udolpho Township	TWP. 146
	Steele	74-03-01	380-260P	County of Steele
74-03-04		380-264S	County of Steele	CSAH 16 (Blooming Prairie)
74-03-05		380-265Y	Blooming Prairie TWP.	TWP. 187
74-03-06		380-266F	Blooming Prairie TWP.	TWP. 185
74-03-07		380-267M	Blooming Prairie TWP.	TWP. 186
74-03-08		380-268U	County of Steele	C.R. 78
74-03-09		380-269B	Blooming Prairie TWP.	TWP. 183
74-03-09B		380-270V	Blooming Prairie TWP.	TWP. 212
74-03-10		380-272J	County of Steele	CSAH 47
74-03-12		380-279G	Aurora Township	TWP. 140

OFFICIAL NOTICES

74-03-13	380-282P	County of Steele	CSAH 6
74-03-15	380-284D	Owatonna Township	TWP. 142
74-03-16	380-285K	Owatonna Township	TWP. 121
74-03-18	380-288F	Owatonna Township	TWP. 118
74-03-19	380-289M	County of Steele	C.R. 71 (Owatonna)
74-03-20	380-291N	City of Owatonna	School Street
74-03-20C	380-293C	City of Owatonna	Rice Lake St.
74-03-21	380-294J	City of Owatonna	Vine St.
74-03-301	380-295R	City of Owatonna	Chestnut St.
74-03-302	380-296X	County of Steele	CSAH 19 (Rose St.)
74-03-25	380-299T	City of Owatonna	Elm St.
74-03-27	380-300K	City of Owatonna	Winona St.
74-03-28	380-302Y	City of Owatonna	Cedar Ave.

Chicago & Northwestern Transportation Co.
Plainview to Eyota (via) Elgin

D - 5077
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Wabasha	79-02-110	195-127C	City of Plainview	7th St. S.W.
	79-02-109	195-128J	County of Wabasha	CSAH 57 (Plainview)
	79-02-108	195-133F	Elgin Township	TWP. 234
	79-02-107	195-184R	Elgin Township	TWP. 233
	79-02-106	195-188T	County of Wabasha	CSAH 25
	79-02-105	195-189A	City of Elgin	2nd St. N.E.
	79-02-104	195-190U	County of Wabasha	CSAH 50 (Elgin)
	79-02-103	195-191B	City of Elgin	1st St. S.E.
	79-02-101	195-194W	Elgin Township	TWP. 271
Olmsted	55-02-156	195-196K	Viola Township	TWP. 299
	55-02-155	195-198Y	Viola Township	TWP. 281
	55-02-153	195-200X	Viola Township	TWP. 232
	55-02-152	195-203T	Viola Township	TWP. 229
	55-02-150	195-205G	Eyota Township	TWP. 212

Illinois Central Gulf Railroad Company
Lyle to Glenville (Via) Myrtle

D - 5076
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Mower	50-12-401	309-019B	City of Lyle	Elm St.
	50-12-303	309-020V	City of Lyle	So. of Pine St.
	50-12-304	309-021C	City of Lyle	Pine St.
	50-12-305	309-024X	Lyle Township	Twp. 95
	50-12-308	309-029G	County of Mower	CSAH 6
	50-12-309	309-030B	Lyle Township	Twp. 68
Freeborn	24-12-301	309-033W	London Township	Twp. 22
	24-12-306	309-03BF	County of Freeborn	C.R. 107
	24-12-307	309-041N	London Township	Twp. 264
	24-12-308	309-042V	County of Freeborn	C.R. 107
	24-12-309	309-043C	London Township	Twp. 33

OFFICIAL NOTICES

24-12-311	309-049T	London Township	Twp. 275
24-12-312	309-050M	London Township	Twp. 44
24-12-314	309-055W	Shell Rock Township	Twp. 69
24-12-315	309-057K	County of Freeborn	CSAH 13
24-12-317	309-061A	Shell Rock Township	Twp. 5
24-12-318C	309-069E	City of Glenville	2nd Ave. N.W.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
Alden to Jackson (Via) Winnebago

D - 5109
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Freeborn	24-03-160	380-762B	City of Alden	Powers Ave.
	24-03-161A		City of Alden	Ext. of Mason St.
	24-03-162	300-764P	Alden Township	Twp. 345
	24-03-163	380-765W	Carlston Township	Twp. 125
	24-03-164	380-767K	Carlston Township	Twp. 146
	24-03-166	380-772G	Carlston Township	Twp. 125
Faribault	22-03-117	380-775C	County of Faribault	CSAH 31
	22-03-118	380-778X	Clark Township	Twp. Rd.
	22-03-119	380-782M	Clark Township	Twp. 168
	22-03-119A		Clark Township	Twp. Rd.
	22-03-120	380-783U	County of Faribault	CSAH 32 (3rd St. S.E.)
	22-03-121	380-787W	County of Faribault	CSAH 62 (1st St. N.E.)
	22-03-122A	380-789K	County of Faribault	CSAH 60 (NB Roadway)
	22-03-124	380-791L	Clark Township	Twp. 308
	22-03-124A	382-725F	Clark Township	Twp. 122
	22-03-125	380-792T	Clark Township	Twp. 173
	22-03-126	380-793A	Clark Township	Twp. 200
	22-03-128	380-798J	Walnut Lake Township	Twp. 120
	22-03-129	380-799R	MN. Lake Township	Twp. 186
	22-03-130	380-800H	MN. Lake Township	Twp. 187
	22-03-132	380-804K	County of Faribault	C.R. 115
	22-03-134	380-806Y	City of Easton	W. of 2nd St.
	22-03-136	380-809U	Lura Township	Twp. 205
	22-03-138	380-814R	City of Delavan	Thompson St.
	22-03-142	380-819A	Delavan Township	Twp. 223
	22-03-143	380-821B	Delavan Township	Twp. 229
	22-03-145	380-827S	County of Faribault	CSAH 54 (4th St. S.E.)
	22-03-146	380-828Y	City of Winnebago	3rd St. S.E.
	22-03-147	380-829F	City of Winnebago	4th Ave. S.E.
	22-03-149	380-831G	City of Winnebago	5th Ave. S.W.
	22-03-150	380-833V	Verona Township	Twp. 123
	22-03-151	380-836R	Verona Township	Twp. 270
	22-03-152	380-839L	Verona Township	Twp. 253
22-03-153	380-840F	Verona Township	Twp. 257	
Martin	46-03-101	380-845P	Center Creek Township	Twp. 56
	46-03-103	380-848K	Center Creek Township	Twp. 1
	46-03-106	380-855V	City of Granada	1st St.
	46-03-107	380-856C	Center Creek Township	Twp. 122
	46-03-108	380-858R	Rutland Township	Twp. 41
	46-03-109	380-859X	Rutland Township	Twp. 41

OFFICIAL NOTICES

	46-03-110	380-861Y	Rutland Township	Twp. 40
	46-03-110D	380-863M	City of Fairmont	Incinerator Road
	46-03-111	380-864U	City of Fairmont	Winnebago Ave.
	46-03-111C	380-866H	City of Fairmont	Industrial St.
	46-03-122	380-878C	T.H. 263 (Welcome)	Guide St.
	46-03-123	380-879J	City of Welcome	Kelser St.
	46-03-129	380-900M	City of Sherburn	So. Lake St.
	46-03-130	380-901U	City of Sherburn	Manyaska St.
	46-03-131	380-902B	City of Sherburn	So. Main St.
	46-03-133	380-906D	Jay Township	Twp. 69
	46-03-136	380-911A	Jay Township	Twp. 61
	46-03-138	380-914V	Jay Township	Twp. 59
Jackson	32-03-103	380-919E	Wisconsin Township	Twp. 127
	32-03-104	380-920Y	Wisconsin Township	Twp. 129
	32-03-105	380-922M	Wisconsin Township	Twp. 195
	32-03-106	380-923U	Wisconsin Township	Twp. 196
	32-03-107	380-925H	Wisconsin Township	Twp. 44
	32-03-110	380-929K	City of Jackson	Moore St.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
Wells to Minnesota Lake

D - 5109 - a
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Faribault	22-03-101	382-728B	Clark Township	TWP. 120
	22-03-102	382-729H	Dunbar Township	TWP. 173
	22-03-103	382-731J	Dunbar Township	TWP. 131
	22-03-104	382-733X	Dunbar Township	TWP. 200
	22-03-105	382-734E	Mn. Lake Township	TWP. 132
	22-03-107	382-737A	Mn. Lake Township	TWP. 146
	22-03-108	382-739N	Mn. Lake Township	TWP. 147
	22-03-111	382-744K	City of Mn. Lake	Lake Avenue
	22-03-112A	382-745S	City of Mn. Lake	Park St.

Chicago, Rock Island & Pacific Railroad Co.
Albert Lea to S. State Line (via) Bricelyn

D - 5109-b
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Freeborn	24-07-257	608-633R	Albert Lea Township	TWP. 76
	24-07-252	608-652D	Pickerel Lake Township	TWP. 332
	24-07-251	608-650P	Pickerel Lake Township	TWP. 337
	24-07-248	608-646A	Alden Township	TWP. 343
	24-07-243	608-638H	Alden Township	TWP. 1
Faribault	22-07-219	608-630D	Foster Township	TWP. 170
	22-07-216	608-627V	Foster Township	TWP. 175
	22-07-215	608-625G	Seely Township	TWP. 18
	22-07-214	608-622L	Seely Township	TWP. 178
	22-07-213	608-621E	Seely Township	TWP. 17
	22-07-212	608-618W	Seely Township	TWP. 10

OFFICIAL NOTICES

22-07-208A	608-614U	Seely Township	TWP. 184
22-07-208	608-615B	Seely Township	TWP. 8
22-07-206	608-612F	Seely Township	TWP. 6
22-07-205	608-610S	Seely Township	TWP. 190
22-07-204	608-609X	Seely Township	TWP. 3

Chicago, Rock Island & Pacific Railroad Co.
Worthington to S. State Line (via) Round Lake

D - 5109 C
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>	
Nobles	53-07-201	608-174F	City of Round Lake	Rohrer Ave.	
	53-07-203	608-176U	Indian Lake Township	TWP. 36	
	53-07-204	608-179P	Indian Lake Township	TWP. 61	
	53-07-205	608-181R	Indian Lake Township	TWP. 62	
	53-07-206A	608-183E	County of Nobles	CSAH 3	
	53-07-207	608-185T	Indian Lake Township	TWP. 55	
	53-07-208	608-186A	Indian Lake Township	TWP. 20	
	53-07-209	608-188N	Indian Lake Township	TWP. 22	
	53-07-211	608-409M	City of Worthington	East Ave.	
	53-07-211A	608-410H	City of Worthington	Circle Dr.	
	53-07-213	608-412W	City of Worthington	Kracness Ave.	
	53-07-214	608-413D	City of Worthington	Nobles St.	
	Jackson	32-07-201	608-167N	County of Jackson	C.S.A.H. 5
		32-07-202	608-168C	Round Lake Township	TWP. 188
32-07-203		608-169J	Round Lake Township	TWP. 1	
32-07-204		608-172S	Round Lake Township	TWP. 14	

Chicago Northwestern Transportation Company
Org to Bigelow

D - 5109 - d
R - 3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Nobles	53-02-18	185-748V	Bigelow Township	TWP. 117
	53-02-19	185-749C	Bigelow Township	TWP. 112
	53-02-20	185-751D	Bigelow Township	TWP. 121
	53-02-22	185-753S	Bigelow Township	TWP. 145

Burlington Northern, Inc.
Beaver Creek to Hills

D-5109-e
R-3811

<u>County</u>	<u>State Crossing No.</u>	<u>Federal Crossing No.</u>	<u>Road Authority</u>	<u>State Road Designation</u>
Rock	67-01-111	82-449C	Beaver Creek Township	TWP. 110
	67-01-113	82-453S	Beaver Creek Township	TWP. 42
	67-01-401	82-456M	County of Rock	CSAH 4
	67-01-116	82-458B	Martin Township	TWP. 40
	67-01-117	82-308T	Martin Township	TWP. 38
	67-01-118	82-312H	Martin Township	TWP. 18

OFFICIAL NOTICES

67-01-118A	82-312H	Martin Township	TWP. 37
67-01-119	82-315D	County of Rock	C.R. 57
67-01-120	82-317S	Martin Township	TWP. 20
67-01-122	82-321G	Martin Township	TWP. 23
67-01-123	82-323V	Martin Township	TWP. 25

Notice of Appearance

Date of Hearing: July 10, 1981

Name and Telephone Number of Hearing Examiner: Richard DeLong
1745 University Avenue
Saint Paul, Minnesota 55104
612-296-8117

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Department of Transportation

Rehearing for the Taking of Further Evidence in the Matter of the Resolution of the City of Bemidji's Request that the Department of Transportation Investigate the Closing of the Soo Line Railroad Bridge on Irving Avenue and Blockage of the Adjacent Grade Crossings by Soo Line Railroad Company and Burlington Northern, Inc. Train

Order for Rehearing and Notice Thereof

It is hereby ordered, and notice is hereby given, that a contested case hearing concerning the above-entitled matter will be held on July 1, 1981 at 10:30 a.m., in the City offices, City of Bemidji, City Hall, Bemidji, Minnesota 56601.

The hearing will be held before Mr. Richard DeLong, 1745 University Avenue, Saint Paul, Minnesota 55104 (Telephone: 612/296-8117) a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and 9 MCAR §§ 2.201-2.222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Mr. Gordon W. Boldt, Director, Office of Railroad Administration, 419 Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612/296-2452).

The purpose of the hearing is to ensure that all parties and potential parties of interest are given an opportunity to be heard by the Commissioner of Transportation as to further evidence regarding the benefits enuring respectively to the Soo Line Railroad and the City of Bemidji by the presence of a bridge carrying Irving Avenue over the Soo Line tracks in the City of Bemidji. The City of Bemidji originally requested the Minnesota Department of Transportation, by City Council resolution, to investigate the closing of the Soo Line Railroad bridge on Irving Avenue and blockage of the adjacent grade crossing by the Soo Line Railroad Company and Burlington Northern, Inc. trains. The Commissioner of Transportation affirmed the recommendation of the hearing examiner that the Soo Line be required to provide a replacement bridge at its expense. That decision, however, was appealed to the Hennepin County District Court, and thereafter to the Minnesota Supreme Court by the Soo Line Railroad. This hearing is conducted pursuant to the order of the Minnesota Supreme Court in its opinion reversing the decision of the commissioner and the District Court, and remanding this matter for further hearings, with instructions. The Supreme Court

action is entitled *Soo Line Railroad Company, petitioner, Appellant, v. Minnesota Department of Transportation, Respondent, City of Bemidji, Respondent*, Supreme Court File Number 51126, filed March 13, 1981.

Any person who desires to become a PARTY to this matter must submit a timely PETITION TO INTERVENE to the Hearing Examiner pursuant to 9 MCAR § 2.210 showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 1, 1981 at 10:30 a.m., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the State Register and Public Documents Division of the Department of Administration, 1st Floor, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155 (Telephone: 612/297-3000). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents. If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Dated this 29th day of May, 1981.

Richard P. Braun
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 1, 1981

Name and Telephone Number of Hearing Examiner: Richard DeLong
1745 University Avenue
Saint Paul, Minnesota 55104
612/296-8117

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Waste Management Board**Guidelines for Consideration of Proposals for Hazardous Waste Land Disposal Sites**

The Minnesota Waste Management Board recognizes that the regional screening process which it is employing in the selection of sites for hazardous waste land disposal facilities may not identify some sites in the state suitable for such facilities even though it is a practical and efficient process. The board will therefore consider proposals for sites not identified in the regional screening process provided that such proposals meet the conditions given below. Consideration of such proposals will in no way obligate the board to include the proposed sites among those to be further evaluated or to ultimately approve the proposed sites as suitable for hazardous waste land disposal facilities. Any proposals which do receive further consideration will be evaluated on the same basis and according to the same criteria as those identified in the regional screening process.

A. The board will consider only those proposals which meet the following requirements:

1. Any party intending to submit a site proposal to the board must notify the board in writing of such intent no later than July 20, 1981.

OFFICIAL NOTICES

Proposals for sites, in written form and with all data necessary for the board's consideration, must be submitted to the board at its Crystal offices no later than August 21, 1981.

2. Proposals must be presented to the board at a regularly scheduled board meeting no less than five days subsequent to the submission of the written proposal. The board shall determine at which of its meetings the presentation is to be made, but in no case will it be later than August 27, 1981.

3. The party making a proposal must notify in writing any unit of local government which would be affected by the proposal at the time a written proposal is submitted to the board. In the case of a proposal for a site located on public land, the party making a proposal must also notify in writing the government agency owning or controlling that land. A copy of such notification must be attached to the written proposal submitted to the board.

4. Proposals must be for sites of a size and configuration which would be suitable for a land disposal facility. The board currently anticipates that a site of approximately one square mile will be suitable.

5. Proposals must include data which demonstrate that the proposed site meets the minimum criteria used by the board to select study areas through the regional screening process and additional data which demonstrate that the proposed site can reasonably be expected to meet the criteria used to further evaluate specific sites within study areas. The board's staff will provide information on these criteria upon request.

B. The board will consider only those proposals submitted by one of the following parties:

1. Persons or private firms proposing sites on land which they own or on which they hold options to buy, or proposing sites on publicly owned land.

2. Local units of government; including but not limited to counties, municipalities, and townships; proposing sites on land within their jurisdictions.

3. State agencies holding significant amounts of public land proposing sites on land which they hold.

4. State agencies not holding significant amounts of public land proposing sites on any land whether publicly or privately held or controlled.

5. Regional Development Commissions proposing sites on lands within their regions by formal resolution of the Commission.

Proposals and questions should be directed to:

Minnesota Waste Management Board
Attn: Gordon Hester
7323 58th Avenue North
Crystal, MN 55428
Phone: (612) 536-0816 or Toll-free 1-800-652-9747

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