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VOLUME 6, NUMBER 15

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Pages 613-660



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 6			
16	Monday Oct 5	Monday Oct 12	Monday Oct 19
17	Monday Oct 12	Monday Oct 19	Monday Oct 26
18	Monday Oct 19	Monday Oct 26	Monday Nov 2
19	Monday Oct 26	Monday Nov 2	Monday Nov 9

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

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

The **PROPOSED RULES** section contains:

- 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:

Issues 1-13, inclusive

Issue 39, cumulative for 1-39

Issues 14-25, inclusive

Issues 40-51, inclusive

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

Board of Animal Health

Proposed Repeal of LSB 57, Approved Drylot Feeding Premises; Proposed Rule 3 MCAR § 2.057, Quarantined Feedlots

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), in the Room 594 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, commencing at 9:30 a.m., or as soon thereafter as possible, Tuesday, November 17, 1981; and continuing until all interested or affected persons have had an opportunity to be heard. The proposed rule may be modified as a result of the hearing process; therefore if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

The Board of Animal Health proposes to repeal rule LSB 57 Approved Drylot Feeding Premises and substitute for it 3 MCAR § 2.057 Quarantined Feedlots, so that the rule is in compliance with the Brucellosis Uniform Methods and Rules and Federal interstate regulations with respect to brucellosis. The proposed changes include the following:

1. The designation of "Approved Drylot Feeding Premises" shall be changed to "Quarantined Feedlots."
2. Cattle in a quarantined feedlot will be branded with a "S" brand on the left jaw or high on the tailhead.
3. "S" branded cattle sent to slaughter will be accompanied by a shipping permit issued by the feedlot operator.
4. The quarantined feedlot operator will make available to the Board of Animal Health the names of adjoining property owners for community notification purposes.
5. All quarantined feedlots must be approved by the Secretary and Executive Officer of the Board of Animal Health and the Veterinarian in Charge, Veterinary Services Division, Animal and Plant Health Inspection Services, U.S.D.A.

A free copy of the proposed rule is available and can be obtained from the Minnesota Board of Animal Health, LL70 Metro Square, St. Paul, Minnesota, 55101. Additional copies will be available at the hearing.

Statutory authority to promulgate the proposed rules is vested in the Board of Animal Health by Minn. Stat. § 35.03 (1980). Adoption of the proposed rule 3 MCAR § 2.057 will not require the expenditures of additional public monies by local public bodies.

Relevant statements or written material may be submitted for the record at the hearing or to the hearing examiner, Richard Luis, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, phone (612) 296-8114 before the hearing or within five working days after the public hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner at the hearing. The rule hearing procedure is governed by Minn. Stat. §§ 15.041, 15.0417 and

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

15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedures, call or write the hearing examiner.

Minn. Stat. ch. 10A requires each lobbyist to register with the state Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

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

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

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

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 rule 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 case of the agency's submission or resubmission to the Attorney General).

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

September 21, 1981

J. G. Flint, D.V.M.
Secretary and Executive Officer

Rule as Proposed (all new material)

3 MCAR § 2.057 Quarantined feedlots.

A. Definitions. For the purpose of 3 MCAR § 2.057, the term defined in this part have the meanings given them.

1. "Board" means the Board of Animal Health or its authorized agents.

2. "Quarantined feedlot" means a confinement area under official state quarantine for feeding cattle, jointly approved by the board and the Veterinary Services Division, Animal and Plant Health Inspection Service of the United States Department of Agriculture or its successor.

3. "Shipping permit" means an official document prepared by an accredited veterinarian, an agent of the board, or a veterinary services representative listing the following information about cattle to be shipped: identification numbers, owner's name and address, origin and destination locations, number of cattle, and the purpose of the movement.

4. "'S' brand permit" means a document prepared by an accredited veterinarian, an agent of the board, a veterinary services representative or an official of a quarantined feedlot listing the following information about cattle to be moved: origin; destination; number of cattle; identification numbers; and the purpose of the movement. Use of an "S" brand permit is restricted to movement from a quarantined feedlot to slaughter.

5. "'S' branded cattle" means cattle that are identified by a hot iron brand with the letter "S" at least two inches by two inches on the left jaw or high on the tailhead.

B. Approval of quarantined feedlot. The secretary and executive officer of the board and the veterinarian in charge, Veterinary Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture or their designees may approve any premises within the state to be a quarantined feedlot if the applicant for approval complies with the requirements of this part.

1. An applicant for approval must submit a drawing of the feedlot facilities in sufficient detail for the approving authority to determine the potential for the spread of disease. The drawing shall include:

- a. Lot sizes;
- b. Building locations;

- c. Fence locations and type of fence;
- d. Water tank and feed bunk locations;
- e. Distances to all adjoining premises;
- f. Location of all water courses, drainage directions and bodies of water on the premises.

2. An applicant for approval must agree to maintain cattle in compliance with D.

3. An applicant for approval must submit the names and addresses of property owners immediately adjoining the quarantined feedlot for purposes of community notification.

C. Expiration, renewal and revocation of approval. Approval of a quarantined feedlot shall expire each year on June 30 and may be renewed for a period of one year. Revocation of approval of a quarantined feedlot may be made by the board 21 days following written notice if no cattle have been in the feedlot for one year or the requirements of this rule and the other applicable rules of the board are not met.

D. Requirements; prohibitions. The holder of a quarantined feedlot permit shall:

- 1. Allow no cattle that are not permanently branded with a hot iron letter "S" to enter the premises;
- 2. Allow entry of representatives of the board for inspection purposes at any reasonable time;
- 3. Allow no other species of livestock in the quarantined feedlot;
- 4. Remove manure to fields not used for livestock;
- 5. Keep complete records available for inspection at any reasonable time; and
- 6. Submit monthly reports indicating:
 - a. The number of cattle placed in the feedlot and the source of those cattle;
 - b. The number of cattle sold and where those cattle were sold; and
 - c. The number of cattle deaths or cattle slaughtered.

E. Movement without testing. The board may issue permits for importation of cattle into Minnesota or movement of cattle from a public stockyard in Minnesota to a quarantined feedlot without testing for brucellosis, tuberculosis, or anaplasmosis if the following conditions are met:

- 1. A health certificate which lists each animal's individual ear tag number accompanies the cattle; and
- 2. Each animal is branded with the letter "S" with a hot brand on the left jaw or high on the tailhead.

F. Branding of added cattle. Cattle added to a quarantined feedlot from any other place must be "S" branded immediately upon arrival at the quarantined feedlot.

G. Removal of cattle. Cattle with a visible "S" brand may be sold for slaughter to a slaughtering establishment or market for slaughter purposes if:

- 1. A shipping permit is issued by an accredited veterinarian or the board showing the identity numbers, point of origin, destination, and number of cattle in the shipment; or
- 2. An "S" brand permit is issued by a designated official of the quarantined feedlot with identity numbers or backtag numbers listed on the permit.

Repealer. Rule LSB 57 of the Board of Animal Health is repealed.

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PROPOSED RULES

Department of Commerce Insurance Division

Proposed Rules Exempting Insurers from Certain Filing Requirements for Commercial Lines of Insurance

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the Insurance Division proposes to adopt the above entitled rules, without a public hearing, according to Minn. Stat. § 15.0412, subd. 4h.

The proposed rules are intended to exempt insurers from the filing and approval requirements of Minn. Stat. ch. 70A for policy forms issued solely to commercial insureds and rates which apply to these policies. These rules do not apply to rate service organizations. They are issued under authority of Minn. Stat. § 70A.02, subd. 3; § 70A.06, subd. 4; and Laws of 1981, ch. 307.

A statement of need and reasonableness describing the division's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from:

Matthew F. Glover
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
Telephone (612) 296-2283

Interested persons have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the agency warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. If a person desires a public hearing, their written request should identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should submit their comments or request to Mr. Glover at the address above.

Upon adoption of the final rules, without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written request to Mr. Glover.

October 31, 1981

Michael D. Markman
Commissioner of Insurance

Rules as Proposed (all new material)

4 MCAR § 1.9350 Definition. "Commercial policies" means all policy forms regulated by Minn. Stat. § 70A.06 which by general practice are used for business entities. The term does not include policy forms providing private passenger vehicle insurance or homeowners' insurance, personal liability coverage, personal property or personal article floater coverage, credit property coverage, crop hail insurance, title insurance, or professional liability insurance covering individuals. The term does not include policy forms insuring individually owned motorcycles, motorized bicycles, recreational equipment, mobile homes, house trailers, snowmobiles, watercraft, aircraft not used in air commerce, or owner occupied residential dwellings containing fewer than five family dwelling units.

4 MCAR § 1.9351 Exemption from certain filing requirements.

A. Commercial policy forms. If the commercial policy forms of an insurer comply with the requirements set forth in Minnesota Statutes, the insurer shall be exempt from the filing and approval requirements set forth in Minn. Stat. § 70A.06, subd. 2 for those policies.

B. Commercial policy rates. If the rates of an insurer for commercial policy forms comply with the requirements set forth in Minnesota Statutes, the insurer shall be exempt from the filing requirements set forth in Minn. Stat. § 70A.06, subd. 1 for those rates. This paragraph does not apply to guide "a" rates or excess rates, also known as "consent to rate."

C. Other rates. Insurers shall be exempt from the filing requirements set forth in Minn. Stat. § 70A.06 for guide "a" rates and excess rates used for commercial policies of insurance if the rates comply with the requirements set forth in Minnesota Statutes and the insurer maintains a file containing the information required by Minn. Stat. § 70A.06, subd. 1 for the policy for at least one year after the policy has terminated.

4 MCAR § 1.9352 Filing of exempt information. An insurer shall within 30 days of request provide the Commissioner of Insurance with any of the information for which 4 MCAR § 1.9351 provides exemption from filing.

Department of Economic Security

Proposed Changes in Rules Governing the Minnesota Youth Employment Act

Notice of Intent to Adopt Rules without a Public Hearing

The Minnesota Department of Economic Security hereby gives notice that it intends to adopt certain changes in the rule governing procedures under the Minnesota Youth Employment Act, Minnesota Statutes, §§ 268.34-268.36. The department has determined that these changes will be noncontroversial and has chosen to proceed without a public hearing pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4 (h). However, should seven or more persons submit a written request for a public hearing in the manner set forth below, the department will hold a public hearing on its proposed changes. Additionally, the public is invited to comment on the proposed rule, and the rule may be modified if modifications are supported by the data and views submitted. Persons wishing to be notified when the proposed rule is submitted to the Attorney General's office may request such notification by submitting their request to the individual listed below. Additionally, persons desiring a copy of the statement of need and reasonableness may also receive said copy by making their request to the person listed below. Written requests for a public hearing, comment, notification of submission to the Attorney General's office, and/or requests for a copy of the statement of need and reasonableness must be submitted to Lawrence W. Cheetham, State Youth Services Supervisor, Minnesota Department of Economic Security, Room 528, 390 North Robert Street, Saint Paul, Minnesota 55101.

The proposed changes to the rules involve redefining the criteria for economically disadvantaged in E.1. Regular Program and E.2. Post-secondary Program. The new definition of the criteria for economically disadvantaged is more precise and definitive than the current definition and further places the definition of criteria for economically disadvantaged in line with the Federal Comprehensive Employment and Training Act. This will result in a more efficient administration of the Act by program operators.

The second proposed change in the rule is a change in the language to determine certification for the post-secondary part of the program (E.2.). The current rule specifies certification for the post-secondary portion of the program as individuals who are at least 18 years of age and who are certified by the department as intending to enroll or are enrolled in a post-secondary institution. The proposed change would add to that definition 18 years of age or a high school graduate. This change would allow high school graduates under 18 years of age who are intending to enroll in a post-secondary educational institution to participate in the post-secondary program.

The third proposed change is an addition to G. (reallocation procedures). The addition would be known as G.3. This addition would allow the department to shift funds from one CETA prime sponsor to another during the course of the program with the mutual consent of both CETA prime sponsors. The proposed addition would allow a more efficient use of the funds appropriated under the Act and would result in an increased number of youth obtaining employment.

Rule as Proposed

8 MCAR § 4.0010 Summer youth employment.

A. Purpose. This rule adopted pursuant to ~~Laws 1977, ch. 254, § 3,~~ Minn. Stat. § 268.33 is designed to establish a procedure for the allocation of funds under the Youth Employment Act of 1977, ~~Laws 1977, ch. 254~~ Minn. Stat. §§ 268.31-268.36, and to establish contracting, operating, and invoicing procedures to be utilized in the expenditure of ~~said~~ the funds.

B. Definition of terms. The following terms used in this rule shall have the ~~meaning~~ meanings given them.

1. "Act" means the Youth Employment Act of 1977, ~~Laws of 1977, ch. 254~~ Minn. Stat. §§ 268.31-268.36.

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

2. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security.
3. "Contract" means an agreement entered into between a prime sponsor or a political subdivision or a nonprofit organization and the commissioner for the operation of a youth employment program under the Act.
4. "Department" means the Minnesota Department of Economic Security.
5. "Prime sponsor" means a unit of government, combination of units of government, a rural concentrated employment grantee, or an Indian reservation, which has entered into a grant with the United States Department of Labor to provide comprehensive manpower services under the federal Comprehensive Employment and Training Act of 1973 (P.L. 93-203).
6. "Program employer" means an organization which employs a person ~~or persons~~ under the program established by the Act.
7. "Subcontract" means an agreement entered into between a prime sponsor and a political subdivision ~~and/or~~ nonprofit organization, or both, for the operation of a youth employment program under the Act.

C. Allocation of funds. The commissioner shall allocate funds available under the Act as follows:

1. Allocations to counties.

a. Fifty percent ~~(50.0%)~~ of the funds available under the Act shall be allocated to counties on the basis of each county's share of the estimated youth population of the state which is 14 through 21 years of age.

b. Fifty percent ~~(50.0%)~~ of the funds available under the Act shall be allocated to counties according to each county's share of the estimated youth population of the state which is 14 through 21 years of age, adjusted for:

(1) Historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July and August for the post recent three-year period for which such data is available;

(2) The county's proportion of families below the poverty level as evidenced by 1970 ~~U.S.~~ United States Census figures as adjusted by reference to more recent population surveys, provided that ~~such~~ reference to more recent population surveys shall be made only if such data is available for all counties in the state; and

(3) Estimates of postsecondary school enrollment in the county as evidenced by validated statistics from the Minnesota Higher Education Coordinating Board or, in their absence, by the most recent ~~U.S.~~ United States Census data.

c. The method of allocation to counties expressed mathematically shall be as follows:

$$A_{ci} = \frac{0.5(YP_{ci})}{YP_s} + \frac{0.5F(YPA_{ci})}{\sum_{i=1}^n (YPA_{ci})} \frac{(U_{ci})(P_{ci})}{(U_{ci})(P_{ci})}$$

where: ~~1-~~ (1) A_{ci} = allocation to the i^{th} county;

~~2-~~ (2) F = funds available under the Act;

~~3-~~ (3) YP_{ci} = youth population 14 through 21 years of age in the i^{th} county, determined by interpolation for the current year from projections of the state demographer;

~~4-~~ (4) YP_s = same as ~~3-~~ (3) above, for the state;

~~5-~~ (5) YPA_{ci} = youth population as in ~~3-~~ (3) above, but adjusted for postsecondary school enrollment as referenced in ~~8 MCAR C.1.b. (3)-;~~

~~6-~~ (6) U_{ci} = most recent three year average of official labor force unemployment rates for the months of June, July, and August for the i^{th} county; and

~~7-~~ (7) P_{ci} = percent of all families with income below the poverty level in the i^{th} county as evidenced by the 1970 United States Census or more recent population surveys as referenced in ~~8 MCAR C.1.b.(2).~~

2. Allocation to cities and Indian reservations. After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

a. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total population of the county as evidenced by the most recent ~~U.S.~~ United States Bureau of Census estimates. Each Indian reservation within the county shall receive that portion of the county's allocation which is proportionate to the population of the Indian reservation as compared to the total population of the county as evidenced by 1970 ~~U.S.~~ United States Census figures.

b. The remainder of the county allocation, that part which is not allocated to cities and Indian reservations under ~~§ MCAR § 4.0010~~ C.2.a., shall be allocated to the county as a whole.

D. Contracting procedures. Each prime sponsor will be offered a contract for the amount of funds allocated to its area. Upon the offer of a contract, each prime sponsor may exercise the following options:

1. Sign the contract for the entire amount of the allocation and directly administer the program-;
2. Sign the contract for the entire amount of the allocation and subcontract the operation of the program to political subdivisions ~~and/or~~ nonprofit organizations, or both, within the prime sponsor's jurisdiction-;
3. Designate all or a part of the allocation to be directly used by a state agency, political subdivision or a nonprofit organization-; or
4. Decline the offer of the contract. In such a case, the commissioner shall offer to contract directly with the cities, Indian reservations and counties in the prime sponsor's area.

E. Operation procedures.

1. Regular program. Youth who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the Act are eligible for program employment. Approximately fifty percent of the youth hired should be from families whose annual incomes do not exceed the poverty guidelines which meet the criteria for economically disadvantaged as established by the Employment and Training Administration of the United States Department of Labor at 20 Code of Federal Regulations, Sections 675.4 and 675.5-10 (1980). However, ~~in the event~~ if there are insufficient eligible youth from economically disadvantaged families below the poverty level available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under ~~§ MCAR § 4.0010~~ C., and the prime sponsor certifies such insufficiency to the department and the department concurs, such poverty level the criteria shall be waived with respect to the funds allocated to such the area. Hereinafter, this portion of the program is referred to as the "regular program."

2. Postsecondary program. Notwithstanding ~~§ MCAR § 4.0010~~ E.1., at least 33 1/3 percent of the funds allocated to the prime sponsor area are to be used to hire youth who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately ~~fifty~~ 50 percent of the youth hired should be from families whose annual incomes do not exceed the poverty guidelines which meet the criteria for economically disadvantaged as established by the Employment and Training Administration of the United States Department of Labor at 20 Code of Federal Regulations, Sections 675.4 and 675.5-10 (1980). However, ~~in the event~~ if there are insufficient eligible youth from economically disadvantaged families below the poverty level available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under ~~§ MCAR § 4.0010~~ C., and the prime sponsor certifies such insufficiency to the department and the department concurs, such poverty level the criteria shall be waived with respect to the funds allocated to such the area. Hereinafter, this portion of the program is referred to as the "postsecondary program." A partial waiver from this part may be obtained in accordance with the procedures set forth in ~~§ MCAR § 4.0010~~ G.

3. To obtain eligible youth, program employers must place a job order with the department and may employ only those youth referred by the department.

4. Eligible youth (not designated as supervisors) shall be paid the federal minimum wage for a period not to exceed 40 hours per calendar week and for not more than 12 weeks.

5. ~~A program employers, at their discretion,~~ employer may designate one eligible youth as supervisor for every ten youth in its employ under the Act. Program employers who employ at least five but less than ten youth may designate one youth as a supervisor. Youth designated as supervisors shall be paid the federal minimum wage plus twenty-five cents ~~(25¢)~~ per hour for up to 40 hours per week for a period not exceeding 12 weeks.

6. Upon signing a contract or subcontract program employers may begin employing eligible youth referred by the department; however, no youth may be employed while attending school as a full-time student. No youth may be employed beyond September 30th of each calendar year.

F. Invoicing. The department shall reimburse contractors for wages paid to eligible youth, employer's contributions to FICA

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PROPOSED RULES

paid in behalf of such youth and workers' compensation insurance costs for such youth. Invoices and specific procedures for reimbursement will be furnished to program employers by the department.

G. Reallocation procedures.

1. Funds may be reallocated within a county or between a county and a city or between counties under the following circumstances:

a. The city or county originally allocated the funds according to the formula in ~~8 MCAR § 4.0010~~ C. refuses the funds; or

b. The city or county originally allocated the funds gives its permission for those funds to be used in another city or county.

c. In addition, the prime sponsors may reallocate up to the equivalent of one full-time slot or position not to exceed \$1,000 between any subdivision above for the purpose of simplified administration of the program.

2. Prime sponsors may shift funds from the postsecondary portion of their program to the regular portion of their program provided that they certify in writing to the department that they are unable to obtain sufficient youth who meet the criteria set forth in ~~8 MCAR § 4.0010~~ E.2., and the department concurs.

3. During the period of the contract, the department may shift funds from one prime sponsor to another prime sponsor with the mutual consent of both prime sponsors if the prime sponsor releasing the funds certifies that such funds are surplus and unlikely to be used within his area by the end of the contract period and the prime sponsor receiving the funds certifies that the funds are likely to be used before the end of the contract period.

State Board of Education Department of Education Special and Compensatory Education Division

Proposed Rules Governing Special Education Staff to Student Ratios (5 MCAR §§ 1.0120-1.0122)

Notice of Hearing

A public hearing concerning the proposed rule will be held at the Veteran's Service Building, Room D, 20 W. 12th Street and Columbus Avenue, St. Paul, MN 55155 on November 16, 1981, commencing at 9:00 A.M. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, MN 55104, telephone (612) 296-5938 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The purpose of the rule is to clarify and allow flexibility in determining special education student to teacher ratios. The agency intends to present only a short summary of the statement of need and reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the statement of need and reasonableness before the hearing. Additional copies will be available at the hearing.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 120.17, subd. 3.

The board estimates that there will be limited cost to local bodies in the state to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Wayne A. Erickson, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rule, contact Wayne A. Erickson at (612) 296-4163.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the board 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 board. 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 board, in the case of the board's submission or resubmission to the Attorney General.

Minn.Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980 Supp.) as any individual:

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

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

September 8, 1981

John J. Feda, Secretary
State Board of Education

Rules as Proposed

5 MCAR § 1.0120 Policies and definitions.

B. Definitions. As used in 5 MCAR §§ 1.0120-1.0129 the ~~following~~ terms ~~used throughout these rules~~ defined in this rule shall have the ~~following~~ meanings ~~ascribed to~~ given them.

3. "Special education services" means any specially designed instruction to meet the unique needs of a handicapped person, including case management; classroom instruction; or instruction in the home, hospital, institution, residential facility or other public or private facility providing special instruction and services pursuant to Minn. Stat. §§ 120.17 and 124.32. This term includes, but not by way of limitation, the education, instruction, training, aids and services and/or ancillary or supplementary and supportive aids and services necessary for the education of handicapped persons. This term also includes, but not by way of limitation, related services such as transportation, and developmental, corrective, and other supportive services including medical and counseling services, except that such medical services shall be for diagnostic or assessment purposes only, as may be required to assist a handicapped person to benefit from special education services. For purposes of this rule the term also means and includes a "primary placement in a special education program" as that term is defined and used herein; and "special instruction and services," "supplementary services," and "special education program" as those terms are defined and used in Minn. Stat. § 120.17.

11. "Least restrictive alternative" means the principle that to the maximum extent appropriate, handicapped persons, including those in public or private institutions or other care facilities, are educated with persons who are not handicapped, and that special classes, separate schooling, or other removal of handicapped persons from the regular educational environment shall occur only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of special education services cannot be achieved satisfactorily. Furthermore, there must be an indication that the person will be better served outside of the regular program. For the purposes set forth therein this principle shall include the ~~following~~ "Continuum of Placement Model," range of program alternatives as provided in 5 MCAR § 1.0122 C. and D. A staffing team shall determine each individual's appropriate least restrictive program alternative.

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PROPOSED RULES

"Continuum of Placement Model"

Level 1- Students in regular classrooms functioning appropriately without any special education services. This level includes assessment services, monitoring, observation and follow up.

Level 2- Students with handicaps functioning appropriately in the regular education program with the assistance of special education supportive services being provided to the classroom teacher.

Level 3- Students with handicaps functioning appropriately in a primary placement in a regular education program, but needing direct service assistance from special education personnel.

Level 4- Students with handicaps functioning appropriately with a primary placement in a special education program.

Level 5- Students with handicaps functioning appropriately in a primary placement in a special education program at a nonresidential school for children and youth who are handicapped.

Level 6- Students with handicaps functioning appropriately in a primary placement in a special education program at a residential facility for children and youth who are handicapped.

22. "Aide" or "management aide" means a full-time equivalent aide who assists in the classroom under the supervision of the licensed special education staff. The primary responsibilities of an aide are to provide physical management and to implement pupil behavior management techniques as determined by the team staff. An aide may also provide incidental followup instruction and training in conjunction with the primary responsibilities.

23. "Pupil" means a handicapped person eligible for special education pursuant to Minn. Stat. § 120.17.

5 MCAR § 1.0121 Application.

D. Staff count. If the case load actually assigned to a teacher is less than half of the maximum number of pupils permitted to be assigned to one teacher, pursuant to 5 MCAR § 1.0122 F., the district may apply for up to one-half reimbursement even if the staff is actually employed more than half-time. If the case load actually assigned to the teacher is more than half of the maximum number of pupils permitted to be assigned to one teacher, pursuant to 5 MCAR § 1.0122 F., the district may apply for full reimbursement. This provision shall apply only for consultation and indirect services programs, integrated programs, and part-time programs. A fraction shall be rounded down to the nearest whole number.

E. Experimental proposal.

1. The State Board of Education may exempt an experimental proposal by a district from rules of the board. The board shall state the specific rules it waives when it approves a proposal.

2. When a district applies for exemption it shall submit a proposal which sets forth:

a. The proposal's goals and objectives;

b. The method by which the proposal will improve effectiveness and efficiency;

c. A time limit which shall not exceed three years;

d. The rules from which it seeks exemption;

e. Evidence that the teaching staff has been involved in the development of the proposal, that the proposal has been thoroughly discussed with parents and pupils, and that the proposal has the approval of the district board of education; and

f. The evaluation procedures to be used in determining the effectiveness of the proposal.

5 MCAR § 1.0122 Facilities, staff and supervision.

C. Early childhood program alternatives. If a pupil is under four years old and receives special education, the pupil shall be provided services in one or more early childhood program alternatives. If a pupil is four years old but less than seven years old on September 1 of any year, the pupil shall be provided services in one or more early childhood program alternatives or in one or more school age program alternatives listed in D. The early childhood program alternatives are: consultation and indirect services program, center-based program, neutral site based program, and home-based program.

1. A consultation and indirect services program includes ongoing progress review, cooperative planning, demonstration teaching, and modification and adaptation of the curriculum, supportive materials and equipment. The services are provided to teachers, support staff, parents, and public and nonpublic agencies to the extent that the services are related to the pupil's special education.

PROPOSED RULES

2. In a center-based program, a pupil is enrolled in a district operated center. The pupil attends the center to receive services from teachers at the center.

3. In a neutral site based program, a pupil is enrolled and receives services in a center which is not operated by the district.

4. In a home-based program, a pupil receives special education services in the home.

D. School age program alternatives. If a pupil is from four to 21 years old and is not provided services in an early childhood program alternative, the pupil shall be provided services in one or more school age program alternatives. The school age program alternatives are: consultation and indirect services program, integrated services program, part-time services program, and full-time services program.

1. A consultation and indirect services program is described in C.1. The program shall be available in every building in which regular education is available.

2. In an integrated services program, half or less than half of a pupil's constant subjects or constant subject clock hours, as designated in EDU 20 C., EDU 32 C. and D., or EDU 40 A.3., are replaced by special education services. The program shall be available in every building in which regular education is available.

3. In a part-time services program, more than half but less than all of a pupil's constant subjects or constant subject clock hours, as designated in EDU 20 C., EDU 32 C. and D., or EDU 40 A.3., are replaced by special education services.

4. In a full-time services program, all of a pupil's constant subjects or constant subject clock hours, as designated in EDU 20 C., EDU 32 C. and D., or EDU 40 A.3., are replaced by special education services.

E. Case loads for early childhood program alternatives. The case loads for early childhood program alternatives are outlined in Exhibit 5 MCAR § 1.0122 E.-1. The numbers in the first column represent the maximum number of pupils that may be assigned when one teacher in the district provides services in a program alternative to pupils in the indicated age groups. The numbers in the second and third columns represent the number of pupils that may be assigned when more than one teacher in the district provides services in a program alternative to pupils in the indicated age groups. The numbers in the second column represent the average number of pupils per teacher; the numbers in the third column represent the maximum number of pupils per teacher.

Exhibit 5 MCAR § 1.0122 E.-1.

	One Teacher	More Than One Teacher	
	Maximum	Average	Maximum
<u>Consultation and indirect services program</u>	<u>20</u>	<u>20</u>	<u>20</u>
<u>Center-based services program for pupils under four years</u>			
<u>One part-time class, with one aid</u>	<u>5</u>	<u>5</u>	<u>7</u>
<u>More than one part-time class, with one aide</u>	<u>10</u>	<u>10</u>	<u>14</u>
<u>Center-based services program for pupils four to seven years old</u>			
<u>One part-time class, with one aide</u>	<u>8</u>		<u>10</u>
<u>More than one part-time class, with one aide</u>	<u>16</u>	<u>16</u>	<u>16</u>
<u>Neutral site or home-based services program for pupils under four years old</u>	<u>10</u>		<u>10</u>
<u>Neutral site services program for pupils four to seven years old</u>	<u>14</u>		<u>14</u>

F. Early childhood team. A district may assign teachers and support staff as a team in an early childhood center-based program alternative.

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PROPOSED RULES

1. A team consists of one teacher and, either a full-time equivalent additional teacher, or a full-time equivalent support staff member. Each team member shall provide services to no more than one-half of the pupils assigned to the team. A full-time equivalent management aide shall assist the team.

2. The district may assign neither more than an average of seven pupils per team member nor more than ten pupils to an individual team member when the pupils are under three years of age.

3. The district may assign neither more than an average of 12 pupils per team member nor more than 15 pupils to an individual team member when the pupils are four to seven years old.

4. The district shall prorate the number of pupils assigned when the age of the pupils served by the team ranges from birth to seven years old. A fraction shall be rounded down to the nearest whole number.

G. Case loads for school age program alternatives. The case loads for school age program alternatives are outlined in Exhibit 5 MCAR § 1.0122 G.-1. The numbers in the first column represent the maximum number of pupils that may be assigned when one teacher in the district provides services in a program alternative to pupils who have the indicated disabilities. The numbers in the second and third columns represent the number of pupils that may be assigned when more than one teacher provides services in a program alternative to pupils who have the indicated disabilities. The numbers in the second column represent the average number of pupils per teacher; the numbers in the third column represent the maximum number of pupils per teacher.

Exhibit 5 MCAR § 1.0122 G.-1.

	<u>One Teacher Maximum</u>	<u>More Than One Teacher Average</u>	<u>Maximum</u>
<u>Consultation and Indirect Services Program</u>			
<u>Speech and language handicapped</u>		<u>50</u>	<u>60</u>
<u>Educable mentally retarded, learning disabled, hearing impaired, visually handicapped, or physically handicapped</u>		<u>30</u>	<u>35</u>
<u>Emotionally or behaviorally disordered</u>		<u>20</u>	<u>24</u>
<u>Developmental adaptive physical education</u>		<u>40</u>	<u>50</u>
<u>Integrated Services Program</u>			
<u>Speech and language handicapped</u>		<u>30</u>	<u>40</u>
<u>Educable mentally retarded, emotionally or behaviorally disordered, learning disabled, hearing impaired, visually handicapped, or physically handicapped</u>		<u>15</u>	<u>18</u>
<u>Developmental adaptive physical education</u>		<u>30</u>	<u>40</u>
<u>Part-time Services Program</u>			
<u>Educable mentally retarded or learning disabled</u>	<u>12</u>	<u>12</u>	<u>15</u>
<u>Trainable mentally retarded</u>			
<u>With one aide</u>	<u>10</u>		<u>10</u>
<u>With two aides</u>	<u>12</u>		<u>12</u>
<u>Severely or profoundly mentally retarded, multiply handicapped, or autistic</u>			
<u>With no aide</u>	<u>3</u>		<u>3</u>
<u>With one aide</u>	<u>6</u>		<u>6</u>
<u>Emotionally or behaviorally disordered</u>			
<u>With one aide</u>	<u>10</u>		<u>10</u>
<u>Hearing impaired, visually or physically handicapped</u>	<u>12</u>		<u>12</u>

Full-time Services Program

PROPOSED RULES

<u>Educable mentally retarded, learning disabled, hearing impaired, visually or physically handicapped</u>	<u>8</u>	<u>8</u>
<u>Trainable mentally retarded</u>		
<u>With one aide</u>	<u>6</u>	<u>6</u>
<u>With two aides</u>	<u>9</u>	<u>9</u>
<u>Severely or profoundly mentally retarded, multiply handicapped, or autistic</u>		
<u>With no aide</u>	<u>2</u>	<u>2</u>
<u>With one aide</u>	<u>4</u>	<u>4</u>
<u>With two aides</u>	<u>6</u>	<u>6</u>
<u>Emotionally or behaviorally disordered</u>	<u>8</u>	<u>8</u>
<u>Developmental adaptive physical education</u>	<u>40</u>	<u>40</u>

H. Class limit. A full-time program alternative class in which school age pupils receive developmental adaptive physical education shall not be larger than eight pupils.

I. Team teaching. A district may assign two or more teachers as a team to provide services to school age pupils who are educable mentally retarded, emotionally or behaviorally disordered, learning disabled, hearing impaired, visually handicapped, or physically handicapped.

1. If any pupil taught by the team has one of the disabilities enumerated in I., at least one team teacher shall be licensed in that disability.

2. The team member licensed in a pupil's disability shall be responsible for developing and coordinating that pupil's individual education program plan.

3. Each team member shall provide services to no more than one-half of the pupils.

4. The case loads in G. shall be prorated among the team members.

5. Pupils may receive instruction from any or all members of the team. Team teaching may be implemented in one or more program alternative.

J. Case management services.

1. Case management includes: initial screening and assessment; development, coordination, and implementation of the individual education program plan; compliance with procedural requirements; communication coordination among home, regular and special education programs; placement facilitation; and coordination and scheduling of team staffings, periodic reviews, and followup reviews. It does not include direct instruction to pupils.

2. A district may assign a teacher to perform case management for school age pupils who are in an integrated program and who all have one of the following disabilities: educable mental retardation, emotional and behavioral disorders, learning disabilities, hearing impairment, visual or physical handicaps.

3. A district may assign one case management teacher and up to five teachers as a team. All teachers shall be licensed in the same disability.

4. A district may not assign to the team of teachers more than:

a. 15 pupils, times

b. the number of teachers in the team plus the case management teacher.

K. Exceptions.

1. A district shall reduce proportionately the number of pupils assigned when a teacher's available time is reduced

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PROPOSED RULES

because of travel time between instructional locations, other duties, or less than full-time employment as may be designated in the district master contract.

2. A district shall reduce a teacher's case load when intense service is needed. The nature and severity of a handicapping condition, the chronological ages and age ranges of pupils assigned to an individual teacher, a pupil's social maturity, and a pupil's emotional or behavioral problems are factors in determining intense service.

3. If a teacher is assigned to more than one program alternative or disability, the district shall reduce the number of pupils assigned to that teacher in proportion to the amount of time the teacher is assigned to each program alternative or disability. A fraction shall be rounded down to the nearest whole number.

4. The Commissioner of Education may grant a variance from the provisions of G.-J. when special circumstances exist or when unanticipated special education enrollment increases are expected to last less than a year.

L. Pupil count. For the purposes of the case loads in E.-J. each pupil who receives services in a program alternative shall be counted as one pupil. An individual pupil may be counted in more than one program alternative if that individual pupil receives services in more than one program alternative.

Relettering. Renumber 5 MCAR § 1.0120 A. 3.-8. as 5 MCAR § 1.0120 A. 2.-7. Reletter 5 MCAR § 1.0122 D. and E. as 5 MCAR § 1.0122 M. and N.

Repealer. Rules 5 MCAR §§ 1.0120 A.2., 1.0121 D., and 1.0122 C. are repealed.

Effective date. The amendments to 5 MCAR §§ 1.0120, 1.0121 and 1.0122 shall be effective for the school year beginning in 1982.

Minnesota Pollution Control Agency Solid and Hazardous Waste Division

Proposed Amendment to a Rule for the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") intends to adopt amendments to the above-entitled rule without a public hearing. The agency has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed amendments will enable the agency to administer the Minnesota Solid Waste Management Planning Assistance Program in the current and future bienniums. Authority for the adoption of this rule is contained in Minn. Stat. § 115A.42.

The agency has prepared a statement of need and reasonableness that describes the agency's reasons for each provision of the proposed amendments and identifies the data and information relied upon by the agency to support the proposed rule. Copies of the statement of need and reasonableness and the proposed amendments are available and may be obtained by contacting:

Mr. Edward R. Meyer
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 297-3362

All interested or affected persons have until November 11, 1981 to submit written comments on the proposed amendments. The proposed rule may be modified if the data and views submitted to the agency warrant modifications and the modifications do not result in a substantial change in the proposed language.

If, during the comment period, seven or more persons submit to the agency a written request for a hearing on the proposed amendments, the agency shall proceed to schedule a public hearing before adoption of the proposed rule. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or to request a public hearing should submit such comments or requests to Mr. Edward Meyer at the address given above. The agency requests that if a person desires a public hearing, that when submitting a

written request for a hearing, the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

In the event a hearing is required, a new notice of hearing will be mailed out and published in the *Stat Register*. If no hearing is requested, the agency will consider the adoption of the proposed amendments at the November, 1981, agency meeting or as soon thereafter as possible. Persons who wish to receive a copy of the final rule as proposed for adoption by the agency should submit a written statement of such desire to Mr. Meyer.

After adoption of the final rule by the agency, without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Edward Meyer.

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 as any individual:

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

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

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

September 28, 1981

Louis J. Breimhurst
Executive Director
Minnesota Pollution Control Agency

Rule as Proposed

6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program.

A. Purpose. This rule implements the solid waste management planning assistance program, created and described in ~~Article V of the Waste Management Act of 1980, Minn. Stat. §§ 115A.42 through 115A.46 (1980),~~ by establishing the substantive criteria and procedural conditions according to which the agency shall award solid waste management planning assistance grants.

B. Overview of procedures for applying for and receiving a grant.

1. Application for a grant. To be eligible for a grant under ~~these rules~~ this rule, an applicant shall ~~make an application~~ apply for a grant.

a. The procedures the applicant shall follow in applying for a grant are set out in ~~Part E. of this rule.~~

b. The information and documentation the applicant shall provide in the grant application are set out in ~~Part F. of this rule.~~

2. Award of a grant. The agency shall award the applicant a grant, in accordance with the procedures and limitations set out in ~~Part G. of this rule~~, if the agency determines:

a. That the applicant, cost, and project specified in the grant application ~~is~~ are grant eligible; and

b. ~~That the costs specified in the grant application are grant eligible, and,~~

c. ~~That the project specified in the grant application is grant eligible.~~ That the application deadlines are met.

The criteria the agency shall use in determining the grant eligibility of the applicant ~~is~~ are set out in ~~section D.1. of~~

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PROPOSED RULES

~~this rule~~; the criteria the agency shall use in determining the grant eligibility of the costs ~~is~~are set out in ~~section D.2. of this rule~~; ~~and~~, the criteria the agency shall use in determining the grant eligibility of the project ~~is~~are set out in ~~section D.3. of this rule~~; and the criteria the agency shall use in determining compliance with deadlines are set out in E.1., 4., 5., and G.2.

C. Definitions.

1. "Acceptable plan" means a written report prepared by a grantee to ~~determine and~~ provide the planning information set out in Minn. Stat. § 115A.46 ~~(1980)~~. To be considered an acceptable plan under ~~these rules~~ this rule, all plans in the written report for location, establishment, operation, maintenance, and post-closure use of facilities and facility sites shall be consistent with rules adopted by the agency and the written report shall:

a. Contain descriptions, estimates, or assessments of existing and proposed waste practices, including the following:

(1) A description of the existing collection, storage, transportatoin, processing, and disposal systems used ~~by~~ within the political ~~subdivision(s)~~ subdivision being studied by the named grantee, including schedules of rates and charges, financing methods, environmental acceptability, and ~~opportunity~~ opportunities for improvements in the systems;

(2) An estimate, calculated on the basis of current and projected waste generation practices, of the land disposal capacity in acre-feet which will be needed to serve the political subdivisions being studied by the named grantee ~~shall need~~ through the year 2000;

(3) An assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery ~~;~~ as defined in Minn. Stat. § 115A.03, subd. 27 ~~(1980)~~ ~~;~~ including ~~and an~~ assessment of:

(a) The alternative degrees of reduction achievable;

(b) The comparative costs of the alternatives ~~(, including capital and operating costs);~~ and

(c) The effects of the alternatives on the cost to generators of the waste.

(4) A description of existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management, including a description of the existing and proposed regulations and enforcement procedures relevant to those requirements; ~~and~~,

b. Establish a detailed, relevant siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten year period, including:

(1) Estimated costs and implementation schedules;

(2) Proposed procedures for operation and maintenance;

(3) Estimated annual costs and gross revenues; and

(4) Feasible proposals for the use of facilities after they are no longer needed or useable; ~~and~~;

c. ~~Address~~ Evaluate and recommend specific options for the resolution of conflicting, duplicative, or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and,

d. Establish a schedule of actions which ~~need~~ needs to be undertaken followed to put the procedures, programs, and resolutions described in the plan into effect, including a statement of the appropriate entity to take each action.

2. "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minn. Stat. § 116.02, subd. 1 ~~(1980)~~.

3. "Director" means the executive director and chief executive officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

4. "Grant eligible" or "grant eligibility" means ~~meets~~ meeting the criteria to receive funding assistance under ~~these rules~~ this rule. The fact that an item or person is "grant eligible" under ~~these rules~~ this rule does not automatically assure that a grant ~~shall~~ will be awarded. A grant shall only be awarded if the grant eligibility criteria are met and if sufficient funds are available to cover the grant.

5. "Metropolitan area" has the meaning given it in Minn. Stat. § 115A.03, subd. 18 ~~(1980)~~.

6. "Project manager" means an employee of the grantee who is given the responsibility and the authority to direct and coordinate all aspects of the project as defined in the contractual agreement between the grantee and the agency. The project manager shall be capable of performing all contract and project management functions.

~~6- 7.~~ "Political subdivision" has the meaning given it in Minn. Stat. § 115A.03, subd. 24 ~~(1980)~~.

~~7- 8.~~ "Regional development commission" has the meaning given it in Minn. Stat. § 115A.03, subd. 26 ~~(1980)~~.

D. Grant eligibility criteria.

1. Eligible applicants. Except for political subdivisions located within the seven county metropolitan area, any political subdivision within the State of Minnesota is grant eligible.

2. Eligible costs.

a. The following costs are grant eligible:

(1) Salaries of staff persons, consultants, and other persons employed to develop and publish an acceptable plan;

(2) Costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to develop or publish an acceptable plan, including, ~~but not limited to,~~ reasonable ~~attorneys~~ attorney's fees;

(3) Costs associated with holding meetings to inform the public of the development of the plan and to provide an opportunity for the public to participate in and comment on the development of the plan, including, ~~but not limited to,~~ costs associated with ~~noticing~~ providing notices of and recording the meeting;

(4) Costs associated with the printing and distribution of plans and draft plan materials;

(5) Costs of any ~~in-state~~ travel in the state, the primary purpose of which is to attend meetings or gather information needed for the development and publication of an acceptable plan, including, ~~but not limited to,~~ reimbursement for mileage consistent with state allowances;

(6) Costs of any necessary supplies required for the development and publication of an acceptable plan. (The costs of any commodities, materials, capital expenditures, and equipment which could be used after the plan is completed shall not be considered supplies and are, therefore, not grant eligible under ~~these rules~~; this rule; and;

(7) Overhead costs.

b. The amount of the grants available under this rule is limited as follows:

(1) For planning by a regional development commission, joint planning by two or more contiguous counties, or joint planning by political subdivisions located in two or more contiguous counties:

(a) The agency shall award grants to cover 90 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and;

(b) The grantee shall ~~fund~~ assume the responsibility for the remaining costs of completing the planning efforts.

(2) For all planning efforts other than that described in ~~paragraph D-2.b.(1):~~

(a) The agency shall award grants to cover 50 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and;

(b) The grantee shall ~~fund~~ assume the responsibility for the remaining costs of completing the planning efforts.

(3) For ~~section D-2.b.(1) grants and D-2.b.(2) grants~~, the maximum amount that a grantee shall be awarded to complete the plan is 90 percent and 50 percent, respectively, or the total ~~requested~~ project cost detailed by the grantee in its application. Within these maximums, adjustments between funds awarded to cover the costs specified in ~~section D-2.~~ shall be made if the agency and the grantee determine that ~~such~~ the adjustments ~~shall~~ will result in the development of an acceptable plan in a more efficient manner.

(4) If, while working to complete the grant, a grantee finds that more funds are needed, the grantee shall not be awarded additional funds unless the grantee makes application for an additional grant in accordance with the grant application procedures set out in ~~Part E. of this rule.~~ The agency shall treat an application for an additional grant in the same manner as it treats applications for original grants, as provided in ~~Part G. of this rule.~~

c. Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during

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PROPOSED RULES

the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

d. The availability of funds is a precondition to the award of any grant by the agency.

3. Eligible projects.

a. The agency shall consider grant eligible all projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in ~~section C.1. of this rule~~ A project shall not be considered eligible if it proposes to include a study area for which an acceptable plan has previously been approved by the agency under this grant program.

b. The agency shall determine that a project is reasonably designed to result in an acceptable plan if the agency finds that the grant application required to be submitted under ~~Part E. of this rule~~ is complete. The agency shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in ~~Part F.~~

E. Grant application procedures.

1. ~~For grants to be awarded during the fiscal year ending June 30, 1981.~~

~~a. As soon as possible and no later than April 15, 1981, a grant applicant shall submit a grant application to the agency~~ There shall be two application deadline dates during each biennium, except that in the 1982-1983 biennium there shall be two application deadline dates. A grant applicant shall submit a grant application to the agency no later than one or more of the following application deadlines: 4:30 p.m. on the first Monday of August of each year or on the third Monday of January of each even numbered year. The application must be received in the solid and hazardous waste division office by the appropriate deadline or must have a postmark dated no later than the Friday immediately preceding the deadline in order to qualify as meeting that deadline.

~~b. 2. The grant application to be submitted to the agency shall include all the information and documentation set out in Part F. of this rule.~~

~~c. 3. Upon receiving a grant application, the director shall promptly review the application and shall make a determination as to~~

~~(1) the eligibility of the applicant, costs, and project specified in the preliminary application;~~

~~(2) The eligibility of the costs specified in the preliminary application; and,~~

~~(3) The eligibility of the project specified in the preliminary application.~~

~~d. 4. Within two weeks after receiving the application, the director shall notify each applicant as to the director's determinations of the following:~~

~~(1) a. If the director determines that the applicant, the costs, and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in Part G of this rule;~~

~~(2) b. If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified;~~

~~(3) c. If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete:~~

~~(a) (1) The director shall note the inadequacies in the application and shall so notify the applicant;~~

~~(b) (2) The applicant shall have an opportunity to cure the inadequacies noted by the director, except that, No information received by the agency after May 1, 1981, the 42nd day beyond the appropriate deadline in 1., except as provided in 5., shall be considered by the director in determining the grant eligibility of the applicant, costs, or project.~~

~~(i) (a) An application which is considered inadequate under this section rule shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.~~

~~(ii) (b) An application which is considered inadequate under this section rule shall be considered final on the date all necessary supplemental information is received by the agency.~~

~~(iii) (c) Once the application is considered final, it shall be treated in accordance with the agency review provisions established in Part G. of this rule.~~

2. ~~For grants to be awarded during all fiscal years other than that described in paragraph E.1.:~~

~~a. Preliminary grant applications. {reserved}.~~

~~b. Final grant applications. [reserved].~~

5. If the agency exceeds the two week review period in 4. for an application, the 42-day periods specified in 4.c.(2) and G.2. shall be extended for only that application by the number of days equal to the number of review days in excess of two weeks.

F. Grant application content.

~~1.~~ Applications for grants ~~to be awarded during the fiscal year ending June 30, 1981~~ shall include the following information:

~~a.~~ 1. The ~~name(s)~~ name of each political ~~subdivision(s)~~ subdivision making the grant application;

~~b.~~ 2. Resolutions from each political subdivision named on the application which:

(1) ~~a.~~ a. Demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and;

(2) ~~b.~~ b. Demonstrate the political subdivision's commitment to provide the required financial input to complete the planning efforts described in the grant application;

~~c.~~ 3. In the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;

~~d.~~ 4. The ~~name(s) and address(es)~~ name, address, and qualifications of the project ~~manager(s)~~ manager;

~~e.~~ 5. The total project cost;

~~f.~~ 6. The amount of grant funding requested;

~~g.~~ 7. The amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

~~h.~~ 8. The regional boundaries of, and the population in, the area to be considered in the planning study;

~~i.~~ 9. A work plan which provides the following information and details:

(1) ~~a.~~ a. A brief description of the problem which the grantee hopes to address through the planning efforts, including, a statement of any known waste management problems to be addressed by the grantee and any present support or opposition to current or proposed solid waste disposal alternatives;

(2) ~~b.~~ b. A breakdown of the specific work tasks to be completed under the terms of the grant, including, ~~but not limited to,~~ each of the tasks required to be completed by Minn. Stat. § 115A.46 ~~(1980)~~;

(3) ~~c.~~ c. A breakdown of the number of work hours needed to complete each of the tasks specified in ~~paragraph (i) (2)~~ b.;

(4) ~~d.~~ d. A breakdown of all the costs associated with completing each of the tasks specified in ~~paragraph (i) (2)~~ b., including an explanation of how each cost was calculated;

(5) ~~e.~~ e. A breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in ~~paragraph (i) (2)~~ b.;

(6) ~~f.~~ f. A breakdown of the amount of time needed to complete each of the tasks specified in ~~paragraph (i) (2)~~ b.; and;

g. An overall time schedule for the project showing estimated dates of completion of the tasks specified in b.; and

(7) ~~h.~~ h. A description of the program to be completed by the applicant to ensure public participation in the planning efforts.

~~2.~~ Applications for grants ~~to be awarded during all fiscal years other than the one described in paragraph F.1.~~ ~~[reserved].~~

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PROPOSED RULES

G. Agency review of grant applications and award of grants.

1. Review and award of grants to be awarded during the fiscal year ending June 30, 1981.

a. Grants shall be awarded to eligible grantees, to the extent funding is available, on a first come, first serve basis.

b. The agency shall make these first come, first serve determinations as follows:

(1) The director shall mark each and every application and supplemental submittal the agency receives with a notation of the date the application and submittal is received. The date the agency shall use in determining the rank of the application is the date that the application is considered final.

(a) For applications which are complete on the day they are submitted, the application shall be considered final on the date the application is received by the agency.

(b) For applications which require the submission of supplemental information to be complete, the application shall be considered final on the date all necessary supplemental information is received by the agency.

(c) In those instances in which more than one application is received by the agency during any one day, the priority status of the applications shall be determined by lottery.

(2) Once the grant application is considered final [as provided in Part E.1.d.(1) and (3)(b)], the director shall proceed as follows:

(a) Within four weeks after notifying the applicant that the application is considered final, the director shall draft a grant for the applicant, in accordance with the requirements and conditions set out in Part H. of this rule.

(b) At the next regularly scheduled meeting the agency holds after the grant is drafted, the director shall present the grant to the agency for its consideration and review.

(c) The agency shall review the director's determinations as to applicant, cost and project eligibility, and, if it agrees with these determinations, shall award the grant.

(d) The agency is authorized to delegate to the director the authority to issue grants under this program. If the agency delegates such authority to the director, the agency review provisions set out in b.(2)(b) and (c) are waived.

2. Review and award of grants to be awarded during all fiscal years other than the one described in paragraph C.1. [reserved].

1. The director shall review all applications received prior to the appropriate deadline specified in E.1., and shall exclude from consideration all applications received after that deadline.

2. Only grant applications considered final pursuant to E.4.a. and E.4.c.(2) as of 4:30 p.m. on the 42nd day following the application deadlines specified in E.1., except as provided in E.5., shall be eligible for a grant award.

3. The director shall assign a priority ranking to each of the applications which are eligible for a grant award under 2. The priority ranking shall be based first upon remaining landfill capacity and the environmental desirability of the location of existing landfills, and second upon the rate of population growth.

a. The director shall determine whether the remaining permitted landfill capacity available to and being used by each of the counties to be studied under applications which are eligible for a grant award under 2. is greater than five years or is less than or equal to five years.

b. The director shall determine for every permitted landfill in the state whether the landfill's location is environmentally undesirable. This determination for each landfill shall be based upon known, suspected, or potential pollution of ground water or surface water. The director shall then determine which counties contribute a majority of their solid wastes to landfills whose locations are determined to be environmentally undesirable. The director shall publish a list of these counties in the *State Register* no later than seven days prior to the application deadlines in E.1.

c. The director shall divide the grant applicants into two groups. All applicants whose study areas contain one or more counties which have less than or equal to five years of landfill capacity remaining, as set out in a., or which are identified in b., shall be placed in group number one. All other applicants shall be placed in group number two.

d. The director shall determine the population growth rate within each applicant's proposed study area using 1970 and 1980 United States Census Bureau data. The director shall assign a priority ranking first to those applicants in group one and then to those applicants in group two based upon population growth rate, with the highest priority within each group being given to the applicant with the highest growth rate.

4. The director shall award grants to applicants in the order of the priority ranking in d. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

5. Once the director has determined which grantees will receive grants, the director shall proceed as follows:

a. The director shall provide a complete listing of grant awards and of applicant rankings to each applicant; and

b. Within three weeks of the notification required by a., the director shall draft a grant for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with section F.1. of this rule.

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year, unless the agency determines for a specific grantee that a longer term is necessary. The agency shall then set the term of the grant.

3. Grants Grant projects not being performed or completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that ~~ten~~ the last 25 percent of each payment made under the grant agreement (the total grant award, except reimbursable travel costs, be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld ~~ten~~ 25 percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

5. The grant agreement shall provide that the grantee ~~shall be~~ is authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall ~~further~~ also require that all such contracts name the agency as a third-party beneficiary to that contract.

1. Apportionment

1. For grants to be awarded during the fiscal year ending June 30, 1981, the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. §§ 115A.42 through 115A.54 (1980), as follows:

a. Article V grants (grants awarded under these rules): forty percent of the amount appropriated to the agency; and

b. Article VI grants (grants awarded under other rules): sixty percent of the amount appropriated to the agency.

c. If the agency receives more eligible requests for grant assistance under Article V than the agency has funds available and the agency receives less eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. Similarly, if the agency receives less eligible requests for grant assistance under Article V than the agency has funds available and more eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. No such adjustment shall be made until the last date that final grant applications are permitted to be submitted to the agency under this rule and the rule developed to implement Article VI of the Waste Management Act.

2. For grants to be awarded during all fiscal years other than that described in paragraph 1.1., the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. § 115A.42 through 115A.54 (1980), as follows: [reserved].

3. Severability. If any provision of this rule or the application thereof of it to any person or circumstance is held to be invalid, such the invalidity shall not affect any other provision or the application of any other part of this rule or any other rule which can be given effect without the invalid provision or application; and. To this end, the provisions of this rule and the various applications thereof of it are declared to be severable.

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Pollution Control Agency Water Quality Division

Proposed Amendments to 6 MCAR § 4.8024, Classifications of Intrastate Waters of Minnesota

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") intends to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 15.0412, subd. 4h (1980).

If adopted, the proposed rules would classify certain water segments as Class 7, Limited Resource Value Waters. Class 7 waters are protected so as to allow secondary body contact use, to preserve the groundwater for use as a potable water supply, and to protect aesthetic qualities of the water. Class 7 waters are not protected for fisheries and recreation uses. The criteria for classifying water segments as Class 7 waters are contained in 6 MCAR §§ 4.8014 B.7. and 4.8015 B.7.; the water quality standards for Class 7 waters are contained in 6 MCAR §§ 4.8014 D.7 and 4.8015 D.7.; and the effluent limitations for discharges to Class 7 waters are contained in 6 MCAR §§ 4.8014 C.6. and C.16., and 4.8015 C.6. and C.16. A copy of the proposed rule is attached to this notice.

The agency will consider each stream segment classification as a separate rule. Therefore, the agency has prepared a statement of need and reasonableness for each of the stream segments proposed to be classified as a Class 7 water. Copies of these statements may be obtained by contacting: Mr. Gerald Blaha, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113, (612) 296-7384.

The request should identify the stream segment(s) for which you are requesting the statement.

The agency is authorized to adopt these rules under Minnesota Statutes, §§ 115.03 and 115.44 (1980).

Persons interested in these rules have until November 12, 1981 to submit comments on the proposed rules. The comments should identify the stream segment(s) to which the comment applies. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the classification of a particular stream segment within the comment period, a public hearing will not be held on that stream segment. In the event a public hearing is required on the classification of a particular stream segment the agency will proceed according to the provisions of Minnesota Statutes, § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request no later than November 12, 1981, to Mr. Gerald Blaha at the address given above. As noted above, the persons requesting a public hearing should identify the particular water segment for which a hearing is requested. Also, persons submitting written comments should identify the particular stream segment to which the comment applies, the suggested modifications to the proposed classification, and the reasons and data relied on to support the suggested modifications.

In those cases where the final rules can be adopted without a public hearing, the proposed rules, this notice, the statements of need and reasonableness, all written comments received and the final rules as adopted will be delivered to the Attorney General for review as to its legality, and its form to the extent the form relates to legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Gerald Blaha at the address noted above.

Please be advised that Minnesota Statutes chapter 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 Minnesota Statutes, § 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.

September 25, 1981

Louis J. Breimhurst
Executive Director
Minnesota Pollution Control Agency

Rule as Proposed

6 MCAR § 4.8024 Classifications of intrastate waters of Minnesota.

Supplement I

Class 7 Limited Resource Value Waters

Lake Superior Basin

St. Louis River Watershed (No. 1)

Streams

Buhl Creek

T.58,R.19,S.20,29

Buhl

Red River of the North Basin

Roseau River Watershed (No. 14)

Streams

Unnamed Ditch

T.163,R.37,S.19,20,21,22,23

Warroad

T.163,R.38,S.19,20,21,22,23,
24,30

T.163,R.39,S.25,31,32,
33,34,35,36

Minnesota River Basin

Big Stone Lake Watershed (No. 20)

Streams

Old Whetstone River Channel

T.121,R.46,S.16,17,21

Ortonville

Big Stone Canning Co.

Chippewa River Watershed (No. 23)

Streams

Mud Creek

T.121,R.37,S.31

DeGraff/Murdock

T.121,R.38,S.18,19,20,28,29
33,34,35,36

T.121,R.39,S.11,12,13

Judicial Ditch No. 5

T.120,R.38,S.4,5,6,9,10,11

Murdock

T.120,R.39,S.1,4,9,10,11,12

Unnamed Creek

T.120,R.38,S.1,2

Murdock

T.121,R.38,S.35

Unnamed Ditch

T.121,R.38,S.19,29,30

DeGraff

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PROPOSED RULES

Yellow Medicine River Watershed (No. 24)

Streams

County Ditch No. 4

T.110,R.44,S.5

Arco

T.111,R.44,S.31,33

Judicial Ditch No. 29

T.111,R.44,S.21,28,33

Arco

Cottonwood River Watershed (No. 26)

Streams

Altermatts Creek

T.108,R.33,S.17,19,20,30

(County Ditch No. 39)

T.108,R.34,S.24,25,35,36

Comfrey

*Minneopa Creek

T.108,R.28,S.26,27,32,33,34

Lake Crystal

Minnesota River—Hawk Creek Watershed (No. 28)

Streams

*Beaver Creek, East Fork

T.115,R.34,35,S.1,2,3,4,5,6,

13,14,23,24,25,26

(County Ditch No. 63)

T.115,R.35,S.1,12

Olivia

Olivia Canning Co.

T.116,R.34,S.16,20,21,28,29,

30,32,33,34,35

Lower Minnesota River Watershed (No. 29)

Streams

County Ditch No. 22

T.111,R.23,S.4,9,10

Montgomery

T.112,R.23,S.33

Green Giant Co.

Unnamed Creek

T.114,R.26,S.2,3,4,8,9,17

Green Isle

Unnamed Ditch

T.114,R.26,S.19

Green Isle

T.114,R.27,S.11,12,13,14,24

Unnamed Ditch

T.27,R.24,S.28,33

Burnsville

Freeway Sanitary Landfill

Unnamed Stream

T.115,R.21,S.8,9

Savage

Lower Mississippi River Basin Cannon River Watershed (No. 34)

Streams

Unnamed Dry Run

T.107,R.20,S.6

Owatonna

T.107,R.21,S.1

Owatonna Canning Co.

Unnamed Dry Run

T.107,R.20,S.6

Owatonna

T.107,R.21,S.1

Owatonna Canning Co.

Zumbro River Watershed (No. 35)

Streams	
<u>Unnamed Creek</u>	<u>T.107,R.15,S.17,20,29</u>
<u>Byron</u>	
<u>Unnamed Stream</u>	<u>T.107,R.17,S.27,34</u>
<u>Dodge Center</u>	
<u>Owatonna Canning Co.</u>	

Root River Watershed (No. 36)

Streams	
<u>Unnamed Creek</u>	<u>T.101,R.9,S.20</u>
<u>Canton</u>	
<u>Unnamed Creek</u>	<u>T.108,R.11,S.16,17,20,21,22,</u>
<u>Plainview</u>	<u>27,34</u>

* See 6 MCAR § 4.8024 E.

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.

Minnesota Energy Agency Alternative Energy Development Division

Adopted Temporary Rules for the Administration of the District Heating Bonding Act

The rules proposed and published at *State Register*, Volume 6, Number 5, pages 136-138, August 3, 1981, are now adopted with the following modifications.

Temporary Rules as Adopted

6 MCAR § 2.004 (Temporary) Definitions.

G. Design loan. "Design loan" means a loan made for the purpose of funding all activities required to be completed during the final design phase in order to finance and construct a district heating system, including, economic feasibility analysis, obtaining heat source commitments and customer contracts, structuring financing and related project management tasks.

6 MCAR § 2.006 (Temporary) Application contents and procedures. Applications for design loans under the act and 6 MCAR §§ 2.001-2.006 (Temporary) shall be submitted to the director. Ten complete copies shall be submitted. Applications will be accepted beginning on the date the rules become effective and continuing until either these rules expire or the temporary rules are replaced by permanent rules, whichever occurs first. The application shall contain the following:

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ADOPTED RULES

B. A comprehensive business plan for the project that includes no less than the following:

1. A preliminary engineering design of the project which includes all of the following:

c. An analysis of the heat source design which defines the proposed roles of the following heat sources in the development and the future operation of the system: base load heating plant; peaking plants; large boiler plants in existing buildings; mobile boilers; future heat sources such as ~~refuse derived fuel~~ solid waste, solar, and industrial waste heat; and accumulators.

H. Energy savings. An estimate of the type and amount of fuel saved per year from the full operation of the district heating system compared to the type and amount of fuel to be used by the system.

Board of Teaching

Adopted Rules Governing Procedures for the Revocation or Suspension of Minnesota Teaching Licenses, Letters of Approval for a Teacher to Teach Subjects or Fields for which Current Valid Minnesota Licensure Is Not Held, the Licensure of Teachers of Adult Basic/Continuing Education, Continuing Education/Relicensure

The rules proposed and published at *State Register*, Volume 5, Number 46, pp. 1847-1856 are now adopted with the following modifications:

Modifications as Adopted

5 MCAR § 3.087 B. Nothing in this rule shall prohibit a local school board from hiring teachers who hold valid Minnesota classroom teaching licenses and who are not licensed as teachers of adult basic/continuing education to serve as teachers of adult basic/continuing education under the direction of the superintendent of schools. Except, in the case of high school diploma programs for adults, staffing criteria established by the State Board of Education ~~rules for granting high school credits~~, as set forth in Edu 46 B. or successor rule, shall be applied.

5 MCAR § 3.005 D. Pursuant to procedures specified in this rule, a valid continuing license shall be renewed for a subsequent period of five years when an applicant presents evidence of having been granted 120 renewal units during the five-year period immediately preceding the date on which the required renewal is to be made effective.

5 MCAR § 3.005 F.7. The duties of the local committee are as follows:

a. Set procedures for its own operation:

(1) Establish written guidelines which:

(a) Set time, place, and ~~procedure~~ procedures for local committee meetings.

(b) Set procedures for local committee operations~~;~~.

(c) Determine renewal units to be allocated for each category enumerated in provision E.1. in accordance with the maximum renewal unit allocations stipulated in this rule.

(2) Make the guidelines available to persons interested in or affected by decisions of the local committee, together with a list of the current local committee membership.

(3) Hold a hearing annually to allow the teachers in the district to review proposed or revised guidelines established by the local committee. It is recommended that this hearing be held in the fall.

(a) A working draft of local guidelines and proposed revisions shall be made available prior to the local hearing.

(b) The local committee shall schedule the hearing at a time and place which is convenient for those interested in or affected by the guidelines to be able to attend.

(c) Adequate and proper notice shall be given to all such persons within the district~~;~~.

(d) All local committee members ~~shall~~ should be present at the hearing.

(e) The hearing shall continue until all persons who wish to speak have had an opportunity to do so.

(f) Although input received at the hearing is not binding, the local committee is encouraged to modify its guidelines, insofar as modifications are consistent with this rule, if the information received during the hearing indicates that changes are necessary or desirable.

5 MCAR § 3.005 F.10. Renewal units shall be granted by the committee of the district where the applicant was employed at the time that the experience was completed.

a. Persons who have not been employed by a school district for a period of time will be granted renewal units in either of the following ways:

- (1) By the local committee of the district where the applicant was last employed, or
- (2) By the local committee of the district where the applicant currently resides, if accepted by the local committee.

5 MCAR § 3.005 F.12.d. The joint local ~~committees~~ committee shall be treated as any local committee and shall comply with all provisions of this rule.

5 MCAR § 3.005 F.13.b. Licensed personnel in one or more nonpublic schools may join with an appropriate public school district in the establishment of a local committee, provided that seventy percent of the licensed personnel from each nonpublic school and seventy percent of the licensed personnel employed by the public school district agree to such a committee. The superintendent of the district shall submit to the director of licensing, verification of the membership of the committee and verification of the nonpublic schools whose personnel ~~has~~ have joined in the establishment of the committee.

5 MCAR § 3.005 H.1. When an applicant has not been granted the requested number of renewal units by a local continuing education/relicensure committee, an appeal may be made to the local committee. An ~~application~~ applicant must appeal to the local committee within twenty working days after notification of the decision of the local committee. Failure to file a written request with the local committee for an appeal within twenty working days constitutes a waiver of the individual's right to appeal.

Department of Natural Resources

Commissioner's Order No. 2108

Regulations Relating to the Taking of Whitefish, Tullibees and Herring by Netting for Private Use; Superseding Commissioner's Order No. 2079

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of whitefish, tullibees and herring by netting for private use:

Section I. Subject to the conditions and restrictions hereinafter prescribed, the waters hereinafter listed in each of the six schedules shall be open during the season designated in such schedule, to the taking of the species of fish designated for such waters by netting. The names of bodies of water refer to lakes unless otherwise specified. The abbreviations "S", "T", and "R", refer to sections, townships and ranges, respectively, within the designated counties.

SCHEDULE I. All bodies of water listed under this schedule shall be open from October 30 to November 29, 1981, inclusive, provided that no net or any part thereof shall be set in any water deeper than six feet, measured from the lake bottom to the top surface of the water or ice.

County	Lake	Whitefish & Tullibees	Herring
AITKIN, CROW WING and MILLE LACS:			
	Mille Lacs		x
CROW WING, AITKIN and MILLE LACS:			
	Mille Lacs (See Aitkin, Crow Wing and Mille Lacs Counties)		
MILLE LACS, AITKIN and CROW WING:			
	Mille Lacs (See Aitkin, Crow Wing and Mille Lacs Counties)		

SCHEDULE II. All bodies of water listed under this schedule shall be open from November 6 to December 13, 1981, inclusive, provided that no net or any part thereof shall be set in any water deeper than six feet, measured from the lake bottom to the top surface of the water or ice.

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ADOPTED RULES

County	Lake	Whitefish & Tullibees	Herring
AITKIN:			
	Round, S.9,10,15,16,T.48,R.24	x	
	Big Sandy, T.49,R.23,24; T.50,R.23,24	x	
BECKER:			
	Little Bemidji, T.142,R.39,S.23,24,25,26	x	
	Buffalo, T.140,R.40,41; T.141,R.40	x	
	Cotton, T.139,140,R.40	x	
	Curfman, T.138,R.41	x	
	Detroit, T.138,139,R.41	x	
	Big Elbow, T.142,R.38,39	x	
	Big Floyd, T.139,R.41	x	
	Long, T.138,139,R.41	x	
	Many Point, T.141,R.38; T.142,R.38,39	x	
	Maud, T.138,R.42	x	
	Melissa, T.138,R.41	x	
	Net (Burnett), S.17,18,19,20,T.142,R.40	x	
	Pike, T.142,R.38	x	
	Round, T.141,R.38,39	x	
	Sally, T.138,R.41	x	
	Strawberry, T.141,142,R.40	x	x
BECKER and CLEARWATER:			
	Moore, S.5,T.142,R.38; S.32,T.143,R.38	x	
BECKER and MAHNOMEN:			
	Tulaby, T.142,143,R.39	x	
	White Earth, T.142,143,R.40	x	
BECKER and OTTER TAIL:			
	Graham, T.137,138,R.40	x	
	Murphy, S.6,T.137,R.39; S.31,T.138,R.39	x	
BELTRAMI:			
	Beltrami, T.148,R.32,33	x	
	Big, T.146,147,R.31	x	
	Blackduck, T.149,R.31	x	
	Big Buzzle, T.148,R.35	x	x
	Carr, T.146,R.33	x	
	Deer, T.148,R.34	x	
	Gilstead, T.148,149,R.30	x	
	Grant, T.146,147,R.34	x	x
	Kitchie, T.146,147,R.30	x	
	Marquette, T.146,R.30	x	
	Movil, T.147,148,R.33	x	
	Rabideau, T.148,R.30	x	
	Big Turtle, T.148,R.33	x	
	Little Turtle, T.148,R.33	x	
	Turtle River Lake, T.147,148,R.32	x	
BELTRAMI and CLEARWATER:			
	Clearwater, T.149,R.35,36	x	
BELTRAMI and HUBBARD:			
	Plantaganette, T.145,R.33,34; T.146,R.33	x	
CARLTON:			
	Big Hanging Horn, T.46,R.19	x	
CASS:			
	Baby, T.140,141,R.29	x	
	Big Bass, T.140,R.26,S.27,28,34	x	x
	Blackwater, T.140,R.29,S.25,26,34,35,36	x	
	Boy, T.142,R.27,28	x	
	Crooked, T.144,R.31	x	

ADOPTED RULES

County	Lake	Whitefish & Tullibees	Herring
	Upper Gull, T.135,R.29	x	
	Hattie, T.138,139,R.29	x	
	Howard, T.141,R.31	x	x
	Inguadona, T.140,141,R.27	x	
	Kerr, T.140,R.29		x
	Leavitt, T.139,R.25,26	x	
	Mann, T.140,141,R.29	x	
	Margaret (Kilpatrick), T.135,R.29	x	
	Pillager, T.133,134,R.30	x	x
	Pine Mountain, T.138,R.30; T.139,R.30,31	x	
	Big Portage, T.139,R.30	x	x
	Portage, T.141,R.31		x
	Pug Hole Lake, S.2,3,10,T.140,R.26	x	x
	Lower Sucker, (Big Sucker), T.144,R.30; T.145,R.29,30	x	
	Swift, T.142,R.27	x	
	Big Thunder, T.140,R.26	x	
	Lower Trelipe, T.141,R.27	x	
	Upper Trelipe, T.140,R.26,27; R.141,R.27	x	x
	Wabedo, T.140,R.28	x	
	Washburn, T.139,140,R.26	x	
	Wilson Bay, T.134,R.29,30	x	
	Woman, T.140,R.28,29; T.141,R.28,29	x	
CASS and CROW WING:			
	Gull, T.134,R.29,30; T.135,R.29	x	
	Roosevelt, T.138,139,R.26	x	
	Roy, T.135,R.29	x	
CASS and HUBBARD:			
	Steamboat, T.144,R.31,32	x	
CASS and ITASCA:			
	Willow, T.54,R.27;T.142,R.25; T.143,R.25		x
	Little Winnibigoshish, T.145,R.26,27; T.146,R.26,27, except those portions within one-fourth mile of river channels.		x
CLEARWATER and BECKER:			
	Moore (See Becker and Clearwater Counties)		
CLEARWATER and BELTRAMI:			
	Clearwater (See Beltrami and Clearwater Counties)		
CROW WING:			
	Bass, T.137,R.28	x	
	Black Bear, T.46,R.29,30; T.47,R.29,30	x	x
	Clear, T.137,R.28		x
	Eagle, T.45,R.29	x	x
	Fox, East, T.138,R.27	x	
	Fox, West, T.138,R.27	x	
	Kimble, T.137,R.28	x	x
	Long, T.136,137,R.28	x	
	Lower South Long, T.44,R.29,30	x	
	Mitchell, T.138,R.27	x	
	Nisswa, T.135,R.29	x	
	Pelican, T.135,R.27,28; T.136,R.27,28	x	x
	Round, T.134,R.28,29; T.135,R.28,29	x	

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ADOPTED RULES

County	Lake	Whitefish & Tullibees	Herring
	Serpent, T.46,R.28,29		x
	Star, T.137,R.28	x	
CROW WING and CASS:			
	Gull (See Cass and Crow Wing Counties)		
	Roosevelt (See Cass and Crow Wing Counties)		
	Roy (See Cass and Crow Wing Counties)		
HUBBARD:			
	Benedict, T.142,R.32	x	x
	Channel between Potato and Eagle Lakes, S.22,T.141,R.35	x	
	Channel Between Fifth and Sixth Crow Wing Lakes, S.20,T.140,R.33	x	
	Channel between Sixth and Seventh Crow Wing Lakes, S.145,22,T.140 R.33	x	
	Channel between Seventh and Eighth Crow Wing Lakes, S.12,13,14,T.140,R.33	x	
	Ninth Crow Wing, T.140,141,R.32	x	
	Eleventh Crow Wing, T.141,R.32	x	x
	Fish Hook, T.140,R.34,35	x	
	Gilmore, T.141,R.34	x	
	Hay Creek, only that portion in S.9,16,17,18,T.141,R.35	x	
	Island, T.141,R.35	x	
	Kabekona, T.142,R.32; T.143,R.32,33	x	
	Oak (Mud), S.27,T.143,R.32	x	
	Steel, T.140,141,R.32	x	
	Tripp, T.139,R.32	x	x
HUBBARD and BELTRAMI:			
	Plantaganette (See Beltrami and Hubbard Counties)		
HUBBARD and CASS:			
	Steamboat (See Cass and Hubbard Counties)		
ITASCA:			
	Ball Club, T.144,R.25,26; T.145,R.26	x	
	Big Balsam, S.4,5,6,8,9,T.58,R.24; S.31,32,T.59,R.24	x	
	Bass, north basin and Snyder Bay to the Narrows, T.56,R.26	x	
	Bass, Little, T.55,56,R.26	x	
	Bello, T.60,R.26,27	x	
	Bowstring, T.146,R.25,26; T.147,R.25,26	x	
	Crooked, T.57,R.23,24; T.58,R.24	x	
	Cut-Foot-Sioux, T.146,147,R.27	x	
	Deer, S.14,15,22,23,24,25,26,27,28,34,T.62,R.24	x	
	Deer, T.56,R.26,27; T.57,R.26,27	x	
	Fawn, T.57,R.26	x	
	Graves, T.58,R.26	x	
	Third Hanson, S.18,13,T.57,R.24,25	x	x
	Hartley, T.59,R.23	x	x
	Island, T.150,R.28	x	
	Jessie, T.147,148,R.25	x	
	Jessie, Little, T.147,R.25		x
	Johnson, T.59,60,R.26	x	x
	Leighton, S.3,T.54,R.27; S.34,35,T.55,R.27	x	
	Loon, S.21,22,T.55,R.26	x	x
	Moose (Lower Crooked), S.7,18,T.57,R.23; S.12,13,T.57,R.24		x
	Pickrel, T.62,R.24	x	
	Pokegama, T.54,R.25,26; T.55,R.25,26	x	x
	Round, T.148,R.27,28	x	x
	Rush Island, T.148,R.26	x	
	Big Sand, T.147,148,R.26	x	
	Big Spring, T.148,R.25	x	
	Sugar (Siseebakwet), T.54,R.26	x	x
	Swan, T.55,R.22,23; T.56,R.22,23	x	x

ADOPTED RULES

County	Lake	Whitefish & Tullibees	Herring
	Little Too Much, T.148,R.25; T.59,R.27	x	
	Trout, T.55,56,R.24	x	x
	Turtle, Big, T.59,R.26,27; T.60,R.26,27	x	x
	Turtle, Little, T.59,R.27; T.148,R.25	x	
	Twin Lakes, T.56,R.23,24	x	
ITASCA and CASS:			
	Willow (See Cass and Itasca Counties)		
	Little Winnibigoshish (See Cass and Itasca Counties)		
KANDIYOHI:			
	Green, T.120,R.33,34,T.121,R.33,34	x	
LAKE:			
	Farm, S.3,4,T.62,R.11; S.33,34,T.65,R.11	x	
	Moose, T.64,R.9, except the narrows between Moose and Newfound Lakes	x	
	Newfound, T.64,R.9, except the narrows between Newfound and Sucker Lakes and Moose and Newfound Lakes	x	
	Ojibway (Upper Twin, Twin) Lakes, S.7,18,T.63,R.9; S.11,12,13,14,T.63,R.10		x
MAHNOMEN:			
	McCrary, S.25,26,T.143,R.40	x	
	Snyder (Snider), T.143,R.39,40	x	
MAHNOMEN and BECKER:			
	Tulaby (See Becker and Mahnomen Counties)		
	White Earth (See Becker and Mahnomen Counties)		
MEEKER and STEARNS:			
	Koronis, T.121,122,R.32	x	
OTTERTAIL and BECKER:			
	Graham (See Becker and Otter Tail Counties)		
	Murphy (See Becker and Otter Tail Counties)		
ST. LOUIS:			
	Bear Island, T.61,R.13		x
	Ely, T.57,58,R.17		x
	Leander, T.60,R.19		x
	Prairie, T.50,R.20	x	
	St. Mary's, T.57,R.17	x	x
	Shagawa, T.63,R.12	x	x
	Side, T.60,R.21	x	
STEARNS:			
	Sylvia, S.1,2,T.126,R.33	x	x
STEARNS and MEEKER:			
	Koronis (See Meeker and Stearns Counties)		
STEARNS and TODD:			
	Big Birch, T.126,R.32; T.127,R.32,33	x	
	Big Sauk, T.126,127,R.34	x	
TODD and STEARNS:			
	Big Birch (See Stearns and Todd Counties above)		
	Big Sauk (See Stearns and Todd Counties above)		

SCHEDULE III. All bodies of water listed under this schedule shall be open from October 16 to December 13, 1981, inclusive, provided that no net or any part thereof shall be set in any water deeper than six feet, measured from the lake bottom to the top surface of the water or ice.

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ADOPTED RULES

County	Lake	Whitefish & Tullibees	Herring
CASS and HUBBARD:			
	Leech, Including Kabekona Bay and all other bays, T.141,R.29,31; T.142,R.28,29,30,31,32; T.143,R.28,29,30,31; T.144,R.28,29,30	x	
COOK:			
	Caribou, T.65,R.1E	x	
	Deer, S.4,5,T.64,R.1E; S.32,33,T.65,R.1E	x	
	Flour, T.64,R.1E,1W	x	x
	East Pike, T.65,R.2E,3E	x	x
	Pike, T.61,R.2W	x	
	Poplar, T.64,R.1W	x	
	Winchell, T.64,R.2W,3W		x
HUBBARD and CASS:			
	Leech, including Kabekona Bay and all other bays (See Cass and Hubbard Counties)		
KOOCHICHING and ST. LOUIS:			
	Kabetogama, T.69,R.19,20,21,22; T.70,R.21,22	x	
	Rainy, T.69,R.18,19; T.70,R.18,19,20,21,22; T.71,R.20,21,22,23,24	x	
LAKE:			
	Basswood, T.64,65,R.9,10,11	x	x
	Isabella, T.61,R.8; T.62,R.7,8	x	
	Silver Island, T.60,R.6; T.61,R.6,7	x	
LAKE and ST. LOUIS:			
	Fall, T.63,R.11,12,T.64,R.11	x	x
	White Iron, T.62,R.11,12; T.63,R.11	x	
LAKE OF THE WOODS and ROSEAU:			
	Lake of the Woods	x	
ROSEAU and LAKE OF THE WOODS:			
	Lake of the Woods (See Lake of the Woods and Roseau Counties)		
ST. LOUIS:			
	Crane, T.67,R.16,17	x	
	Namakan, T.68,R.17,18; T.69,R.17,18,19, except the narrows between Namakan and Sand Point Lakes	x	
	Sand Point, T.67,R.16,17; T.68,R.16,17; T.69,R.17, except the narrows between Sand Point and Namakan Lakes and Sand Point and Little Vermilion Lakes	x	
ST. LOUIS and KOOCHICHING:			
	Kabetogama (See Koochiching and St. Louis Counties)		
	Rainy (See Koochiching and St. Louis Counties)		
ST. LOUIS and LAKE:			
	Fall (See Lake and St. Louis Counties)		
	White Iron (See Lake and St. Louis Counties)		

SCHEDULE IV. All bodies of water under this schedule shall be open from November 13 to December 13, 1981, inclusive, provided that no net or any part thereof shall be set in any water deeper than six feet, measured from the lake bottom to the top surface of the water or ice.

County	Lake	Whitefish & Tullibees
DOUGLAS:		
	Burgans, T.127,128,R.37	x
	Carlos, T.128,129,R.37	x
	Ida, T.129,130,R.38	x
	Latoka, T.128,R.38	x
	LeHomme Dieu, T.128,129,R.37	x
	Victoria, T.128,R.37	x
DOUGLAS and TODD:		
	Osakis, T.128,R.35,36; T.129,R.35	x

ADOPTED RULES

County Lake

Whitefish & Tullibees Herring

TODD and DOUGLAS:

Osakis (See Douglas and Todd Counties above)

SCHEDULE V. All bodies of water listed under this schedule shall be open from November 6 to December 13, 1981, inclusive, and it shall be permissible to set portions of nets into water deeper than six feet, provided that one end of the net is set in water no deeper than six feet, measured from the lake bed to the top surface of the water or ice.

County Lake

Whitefish & Tullibees Herring

BECKER:

Acorn, T.138,R.40

x

Ice Cracking, T.141,R.38,39

x

BELTRAMI:

Sandy, T.149,R.35

x

x

BELTRAMI and CASS:

Cass, T.145,R.30,31; T.146,R.30,31

x

CASS:

Jack, T.141,142,R.30

x

CASS and BELTRAMI:

Cass (See Beltrami and Cass Counties)

HUBBARD:

Long, T.139,140,R.34

x

x

ITASCA:

Maple, T.60,R.27

x

Big Too Much, T.148,R.25

x

x

Big Wabana, T.57,R.25

x

SCHEDULE VI. All bodies of water listed under this schedule shall be open from October 16 to December 6, 1981, inclusive, and it shall be permissible to set portions of nets into water deeper than six feet, provided that one end of the net is set in water no deeper than six feet, measured from the lake bed to the top surface of the water or ice.

County Lake

Whitefish & Tullibees Herring

BELTRAMI:

Upper Red, Only that portion outside the Red Lake Indian Reservation,

T.153,R.31,32,33,34; T.154,R.30,31,32,33,34; T.155,R.30,31,32

x

CASS and ITASCA:

Winnibigoshish, T.145,R.27,28,29; T.146,R.27,28,29; T.147,R.27,28

x

ITASCA and CASS:

Winnibigoshish (See Cass and Itasca Counties above)

SCHEDULE VII. All bodies of water listed under this schedule shall be open from November 20 to December 13, 1981, inclusive, provided that no net or any part thereof shall be set in any water deeper than six feet, measured from the lake bottom to the top surface of the water or ice.

County Lake

Whitefish & Tullibees Herring

OTTER TAIL:

Crystal, T.136,R.42

x

Fish, T.137,R.42

x

Franklin, T.136,137,R.42

x

Jewett, T.134,R.43

x

Leaf, Middle, T.134,R.38

x

Leaf, West, T.134,R.38

x

Lida, R.135,136,R.42

x

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

County	Lake	Whitefish & Tullibees	Herring
	Lizzie, T.136,137,R.42	x	
	Big Pelican, T.137,R.42,43	x	
	Pine, Big, T.136,137,R.38	x	
	Pine, Little, T.136,R.39; T.137,R.38,39	x	
	Stalker, T.132,R.41	x	
	Star, T.135,R.40,41; T.136,R.41	x	
	Wimer, T.137,R.40	x	

SCHEDULE VIII. All bodies of water listed under this schedule shall be open from November 20 to December 13, 1981, inclusive, and it shall be permissible to set portions of nets into water deeper than six feet, provided that one end of the net is set in water no deeper than six feet, measured from the lake bed to the top surface of the water or ice.

County	Lake	Whitefish & Tullibees	Herring
OTTERTAIL:			
	East Leaf, T.134,R.37,38	x	
	Long, T.134,R.42,43	x	

SCHEDULE IX All bodies of water listed under this schedule shall be open at the specific times listed for each lake to the taking of the species of fish designated by netting, provided that no net or any part thereof used shall be set in any water deeper than six feet, measured from the lake bottom to the top surface of the water or ice.

County	Lake	Whitefish & Tullibees	Herring
BECKER:			
	Straight, T.140,R.36,S.6,7,17,18,20—Dates Open from December 4, 1981 to January 31, 1982.	x	
CASS:			
	Ten Mile, T.140,R.30,31; T.141,R.30,31—Dates Open from November 6, 1981 to January 31,1981	x	x
DOUGLAS:			
	Rachael, T.127,R.39—Dates Open from December 4,1981 to December 31, 1981.		x
ITASCA:			
	Oxhide, S.11,13,T.56,R.23—Dates Open from December 11, 1981 to January 31, 1982.	x	
	Reilly, (O'Reilly), T.56,R.24,S.5,6—Dates Open from December 11, 1981 to January 31, 1982		x
ST. LOUIS:			
	Vermilion, T.61,R.16; T.62,R.14,15,16,17; T.63,R.15,16,17,18—All except Pike Bay, south and west of a north-south line at narrowest portion between Echo Point and Punchers Point, S.19,30,T.52,R.15—Dates Open from October 23, 1981 to November 12, 1981.	x	

Sec. 2. Fish taken hereunder shall be taken only in the manner authorized by law. No such fish shall be sold or bought.

Sec. 3. No net used in the taking of fish hereunder shall be set after sunset nor raised before sunrise. All nets used in the taking of fish hereunder shall be set by the licensee and shall be lifted by the licensee at least once each 24 hours. No person shall use more than one net or any net exceeding 100 feet in length or three feet in width. The size of the mesh of whitefish or tullibee nets shall not be less than 3½ inches, extension measure, and of herring nets not less than 1¾ inches, extension measure.

No net shall be set within 50 feet of another net. Each gill net shall have a metal tag bearing the name and address of the licensee attached on one end of the float line near the first float. Such tag shall be of a minimum size of 2½ inches by ¾ inch and shall be provided by the owner or operator of such net. One end of the net shall have a pole, stake, or buoy projecting at least two feet above the surface of the water or ice.

Sec. 4. All waters except those herein described are closed to such taking of fish. Any species of fish that are not permitted to be taken under this regulation must be returned to the water immediately, except that any rough fish caught in such a net may be retained and no carp shall be returned to the water.

Sec. 5. If, upon investigation, the director of fish and wildlife finds that the taking of fish in any waters hereunder results or may result in injury to game fish populations, he may declare such waters closed to such taking of fish by posting notice thereof at not less than three places which he may deem suitable therefor on the shore of such waters or at entrances thereto, and

thereupon this order shall forthwith be suspended and become inoperative as to such waters, and the taking of fish in such waters as authorized by this order shall be unlawful.

Sec. 6. No person shall have in possession any fishing equipment except the nets prescribed herein while performing any of the operations authorized by this order.

Dated at Saint Paul, Minnesota, this 28th day of September, 1981.

Joseph N. Alexander, Commissioner
Department of Natural Resources

SUPREME COURT**Decisions Filed Friday, October 2, 1981****Compiled by John McCarthy, Clerk**

52096/Sp. State of Minnesota v. Stephen P. Callahan, Appellant. Hennepin County.

Prosecutor acted unprofessionally in unjustifiably attempting to elicit evidence of defendant's postarrest, post-Miranda silence, but error was harmless beyond a reasonable doubt because trial court sustained the objection and directed the jury to ignore the question and evidence of defendant's guilt was strong.

Affirmed. Sheran, C. J.

49134/Sp., 51933 State of Minnesota v. David Patrick Zeimet, Appellant. Hennepin County.

New trial is granted because prosecutor improperly failed to disclose exculpatory information to defendant before trial.

Reversed and remanded for new trial. Yetka, J.

52095/Sp. State of Minnesota v. Rigoberto R. Almengor, Appellant. Hennepin County.

Evidence was sufficient to support defendant's conviction of second-degree murder, and trial court did not abuse its discretion in admitting, on the issue of self-defense, evidence of a remarkably similar prior murder in which defendant participated.

Affirmed. Yetka, J.

49914/Sp., 50557 In the Matter of the Welfare of C.L.L., C.W.L., Jr., and C.C.L. Hennepin County.

Appellant parent in parental right termination case, who failed to raise constitutional issues in the trial court and failed to notify attorney general of his constitutional challenges to the statute in question, cannot for the first time raise these issues on appeal.

Trial court's findings are sufficient to justify termination and are supported by the evidence.

Affirmed. Scott, J. Took no part, Wahl, J.

51867 Superwood Corporation, Plaintiff, v. Siempelkamp Corporation and G. Siempelkamp & Company. Certified Questions for U.S. District Court.

Economic losses that arise out of commercial transactions, except those involving personal injury or damage to other property, are not recoverable under the tort theories of negligence or strict liability.

Scott, J. Concurring in part, and dissenting in part. Yetka, J. Took no part, Sheran, C. J.

51854/Sp. Joyce D. McBride, *et al.*, v. Charles Robert Bitner, Jr., Appellant. Hennepin County.

In this action against a nonresident defendant to recover for damages arising out of an automobile accident which occurred on June 18, 1974, it is held:

(1) Delivery of process by plaintiffs' attorney to the sheriff of the Minnesota county in which defendant lived at the time of the accident for personal service upon defendant was delivery to a "proper officer for such service" within the meaning of Minn. R. Civ. P. 3.01, but the record did not establish that plaintiffs were entitled to serve defendant by publication pursuant to Minn. R. Civ. P. 4.04 after the sheriff had been unable to make personal service.

(2) Plaintiff's attempt to commence their action by service of substituted process on the Commissioner of Public Safety pursuant to Minn. Stat. § 170.55 (1980) was jurisdictionally defective.

(3) Whether plaintiffs' delivery of process to the sheriff of Madison County, Missouri, for personal service on defendant on June 9, 1980, was delivery to the "proper officer" within the meaning of Minn. R. Civ. P. 3.01, so that subsequent personal

SUPREME COURT

service on defendant in St. Francois County, Missouri on July 8, 1980 had the effect of commencing the action prior to the expiration of the 6-year limitation period provided by Minn. Stat. § 543.05, subd. 1(5) (1980), is a question of fact which cannot be determined on the record before us.

Reversed and remanded. Amdahl, J. Took no part, Peterson, J.

51953/Sp. **State of Minnesota v. Willie Hardimon, Appellant. Hennepin County.**

Evidence was sufficient to prove intent to kill and premeditation.

Trial court properly concluded that facts did not support defendant's contention that his confessions were involuntary.

Trial court did not err in evidentiary rulings challenged by defendant on appeal.

Defendant is entitled to have preconviction and presentence jail time credited against his prison term.

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

81-49/Sp. **In Re Matter of Award of Attorney's Fees. Edward L. Lennertson, deceased, etc., Relator, v. Fairway Foods, Inc., et al. Workers' Compensation Court of Appeals.**

The so-called 25/20 formula authorized by Minn. Stat. § 176.081, subd. 1, permitting an award of maximum attorney fees of \$5,000 for legal services to a compensation claimant, does not limit the amount which may be awarded an attorney who files a petition pursuant to Minn. Stat. § 176.081, subd. 2 (1980) for fees in excess of that amount. The fees to be awarded upon such a petition are to be determined by the principles enumerated in Minn. Stat. § 176.081, subd. 5 (1980).

Reversed and remanded. Simonett, J.

50809 **In the Matter of the Application for the Discipline of Gerald A. Okerman, an Attorney at Law of the State of Minnesota. Supreme Court.**

Disbarred. Per Curiam.

STATE CONTRACTS

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

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

Water Planning Board

Notice of Request for Proposals for Preparation of a Slide Presentation Illustrating Water Management Problems and the Need for New Local Government Response

The "Special Study on Local Water Management" was approved by the Minnesota Water Planning Board in January 1981. The study was prepared pursuant to Laws of 1980, ch. 548. In this study, the board identified a range of water management problems which demonstrate the need for a stronger local governmental role in water management. The purpose of this Request for Proposals is to develop a slide presentation which illustrates water management problems encountered across the state and communicates the need for new participation by local governments in addressing these problems.

This Request for Proposals does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

I. Scope of Project. This project will produce a 20-30 minute single tray, color slide presentation with an audio component consisting of a narrative and background music. The slide show will examine selected water management problems from across the state and present observations of affected citizens concerning the obstacles encountered in addressing these problems. The slide show will also present the conclusions and recommendations of the Water Planning Board's "Special Study on Local Water Management."

II. Project Tasks. The project will involve:

1. Selection of 35 mm slides from existing sources (collected by Water Planning Board staff) which illustrate water management problems across the state.
2. Production of up to 75 additional 35 mm slides to supplement existing sources and to identify participating citizens including up to 15 frames with words superimposed on pictures and 2-8 multiple image frames with 2-4 images per frame. Duplications and color corrections as necessary.
3. Production of 10-40 illustrations with 5-10 titles and credits. Story boards in color for all art work and all type with first draft.
4. Taping of interviews with 8-12 individuals and editing excerpts for use in presentation narrative (editing in conjunction with Water Planning Board staff). Travel, with up to four overnight trips, in order to record interview sessions and take additional slides will be required.
5. Scripting treatment and development with third draft as final copy. (Water Planning Board staff will prepare draft narrative.)
6. Editing as required in conjunction with scripting and photography.
7. Narration of script at professional quality level as approved by the board.
8. Four to six needle drops with cleared music and sound effects as necessary.
9. Mixing three or more sound tracks as necessary.
10. Reproduction of two copies of the single-tray presentation with inaudible impulse advance and one copy audible advance impulse. Each copy of the unit will be delivered in suitable shipping containers which hold tray and tape. All rights are to be held by the board.

III. Department Contact. Prospective responders who have any questions regarding this Request for Proposals may call or write John Wells, Minnesota Water Planning Board, 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota, 55101, (612) 297-2377. Please Note: Other Board personnel are not permitted to discuss the project with responders before the proposal submittal deadline.

IV. Submission of Proposals. All proposals must be sent to and received by John Wells at the above address no later than 4:30 p.m., November 4, 1981. Late proposals will not be accepted. There must be three copies of each proposal and they are to be sealed in a mailing envelope or package with the responder's name and address clearly written on the outside. Prices and terms of the proposal as stated must be valid for the length of the project.

V. Project Costs. The board has estimated that the cost of this project should not exceed \$5,000 for professional services and expenses.

VI. Project Completion Date. The project shall be completed by February 26, 1982.

VII. Proposal Contents. The following will be considered minimum contents of the proposal:

1. A statement and discussion of the project objectives to demonstrate the responder's view of the nature of the project.
2. Identification and description of the deliverables related to each project task to be provided by the responder.
3. A description of the responder's background and experience.
4. A detailed cost and work plan which identifies major tasks to be accomplished.
5. A description of the extent of the Water Planning Board's participation in the effort, as well as any other services to be provided by the Board.

The description of the background and experience of the responder shall include identification of personnel who will conduct the project and an explanation of their training and work experience. No changes in the primary personnel assigned to the project will be permitted without specific written approval of the state project manager.

The detailed cost and work plan will be considered a scheduling and managing tool, as well as a basis for invoicing.

VIII. Evaluation. All proposals received by the deadline will be evaluated by representatives of the Water Planning Board. If deemed necessary, an interview may be included in the evaluation process. Factors upon which proposals will be judged include, but are not limited to the following:

1. Expressed understanding of project objectives.
2. Project work plan.

STATE CONTRACTS

3. Project cost detail.
4. Qualifications of both company and personnel.

Experience of project personnel will be given greater weight than that of the firm. Evaluation and selection will be completed by November 13, 1981. Results will be sent immediately by mail to all responders.

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. 2462: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of October 1981

Notice is hereby given that pursuant to Minnesota Statutes, § 47.20, subd. 4a, (1980), the maximum lawful rate of interest for conventional home mortgages for the month of October, 1981, is nineteen and one-quarter (19.25) percentage points. Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as it amended Minn. Stat. § 47.20, the maximum lawful rate of interest for contracts for deed for the month of October, 1981, is nineteen and one-quarter (19.25) percentage points.

It is important to note that this maximum lawful interest rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

The maximum rate is based on the Federal National Mortgage Association September 29, 1981, auction results and an average yield for conventional mortgage commitments of 19.219%. Current rates regarding this monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

September 29, 1981

Michael J. Pint
Commissioner of Banks

Department of Energy, Planning, and Development

Notice of Merger

A streamlined new Department of Energy, Planning, and Development (DEPD) began operation on October 1, 1981. Action of the 1981 legislative session merges four agencies in the restructuring process—the State Planning Agency, the Crime Control Planning Board, the Department of Economic Development, and the Minnesota Energy Agency.

The merger was an effort by the legislature to trim the state budget dramatically in the closing days of the session. Following passage of the bill, Governor Quie appointed Kent Eklund, then commissioner of the Department of Economic Development, to head the new department and direct the merger. As commissioner, Eklund has announced the following staff appointments: Joseph Sizer, deputy commissioner; Robert Benner, assistant commissioner for the planning division; Wes Cochrane, assistant commissioner for the business and community development division; and Hank Todd, assistant commissioner for the tourism division.

According to the provisions of the reorganization legislation, the Minnesota Energy Agency will not formally join the new department until March 1982 when an assistant commissioner for energy will also be appointed.

Department of Labor and Industry Labor Standards Division

Notice of Prevailing Wage Rates for Highway and Heavy Construction

Minn. Stat. § 177.44 requires the Commissioner of Labor and Industry to certify, at least once a year, the prevailing wage rates for highway and heavy construction under contracts based on bids as provided for in Minn. Stat. § 161.32, Title 8, and Minnesota Code of Agency Rules § 1.8003 A. and § 1.8010 which require notice of those certifications to be published in the *State Register*.

On October 12, 1981, the commissioner certified wage rates for highway and heavy construction for each of the 87 counties in Minnesota.

A copy of the determined wage rates for Minnesota counties may be obtained by writing to the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties, the charge is \$25.00. Minnesota sales tax of 5% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Russell B. Swanson, Commissioner
Department of Labor and Industry

Minnesota State Retirement System

Regular Meeting, Board of Directors

The regular bi-monthly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, October 16, 1981, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Minnesota Water Resources Board

Notice of Hearing on the Petition to Change the Boundary Line of the Thirty Lakes Watershed District

A hearing on a petition for a change in the boundary line of the Thirty Lakes Watershed District will begin at 1:00 p.m. on Wednesday, October 14, 1981 at the Breezy Point City Hall (located one quarter mile north of the intersection of CSAH 11 and CSAH 4) in Breezy Point, Minnesota.

A complete notice of and order for hearing was published in the Country Echo, Pequot Lakes, Minnesota, on September 24 and October 1, 1981.

Copies of the complete notice are also available from the Minnesota Water Resources Board's office at 555 Wabasha Street, Room 206, St. Paul, Minnesota 55102 (612 296-2840).

STATE OF MINNESOTA

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Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

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