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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 6, NUMBER 40

April 5, 1982

Pages 1665-1704



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			
41	Monday March 29	Monday April 5	Monday April 12
42	Monday April 5	Monday April 12	Monday April 19
43	Monday April 12	Monday April 19	Monday April 26
44	Monday April 19	Monday April 26	Monday May 3

*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.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.00 per copy.

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

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

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NOTICE

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

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

The PROPOSED RULES section contains:

- 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
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

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

MCAR AMENDMENTS AND ADDITIONS

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Part 2 Energy, Planning and Development Department

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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.

Department of Energy, Planning and Development Energy Division

Proposed Rules of the Department of Energy, Planning and Development Governing Certification and Registration of Solar Collectors to Qualify Renewable Energy Source Expenditures for the Minnesota Individual Income Tax Residential Energy Credit (6 MCAR §§ 2.1501-2.1512)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Energy, Planning and Development proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (Supp. 1981).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department 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 proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. § 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 to John R. Dunlop, Manager, Renewable Resource Programs, Energy Division, Department of Energy, Planning and Development, 980 American Center Building, 160 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

Authority for the adoption of these rules is contained in Minn. Stat. § 290.06, subd. 14 (Supp. 1981). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the rules and of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Mr. Dunlop upon request.

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 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 adopted, should submit a written statement of such request to Mr. Dunlop.

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

PROPOSED RULES

The rules proposed for adoption relate to certification and registration of solar collectors. Only those expenditures for solar collectors which may be deemed "renewable energy source expenditures" qualify those expenditures for the residential energy credit under the Minnesota individual income tax laws. Minn. Stat. § 290.06, subd. 14. The rules establish the criteria for certification of solar collectors which are characterized in several ways, i.e., standard, innovative, similar, kits, custom built, and home built.

Included in the proposed rules is a system for rating collectors as to performance. These ratings must be disclosed to purchasers and may be used to compare collectors' expected performance similar to the use of EPA mileage ratings for comparison, not performance guarantee. It also should be noted that the rules would require that home built collectors, collectors custom built by contractors, and low volume sales collectors need only be registered, not tested and certified.

Copies of this notice and the proposed rules are available and may be obtained by contacting Mr. Dunlop at the address given above.

Kent Eklund, Commissioner

Rules as Proposed (all new material)

6 MCAR § 2.1501 Purpose and authority. Certain renewable energy source expenditures qualify for income tax credit treatment by the Minnesota Department of Revenue. After December 31, 1980, expenditures for a solar collector qualify for the individual income tax residential energy credit only if the Minnesota Department of Energy, Planning and Development has certified the solar collector, pursuant to Minn. Stat. § 290.06, subd. 14. The purpose of 6 MCAR §§ 2.1501-2.1512 is to establish the criteria for certification of solar collectors and the procedures for obtaining certification.

6 MCAR § 2.1502 Definitions. For purposes of 6 MCAR §§ 2.1501-2.1512, the following definitions apply.

A. Absorber. "Absorber" means the part of the solar collector that receives the incident solar radiation and transforms it into thermal energy. It usually is a solid surface through which energy is transmitted to the transfer fluid; however, the transfer fluid itself could be the absorber in certain configurations.

B. Ambient air. "Ambient air" means the outdoor air in the vicinity of the solar collector being tested.

C. Approved. "Approved" means accepted, in writing, by the department.

D. Certification. "Certification" means the act of attesting officially to something as being true and as meeting a standard.

E. Collector. "Collector" means a solar collector.

F. Collector enclosure. "Collector enclosure" means the structural frame that supports the components of the collector and protects internal components from the environment.

G. Concentrating collector. "Concentrating collector" means a solar collector that uses reflectors, lenses, or other optical elements to concentrate the radiant energy passing through the aperture onto an absorber that has a surface area smaller than the aperture.

H. Concentrator. "Concentrator" means the part of the concentrating collector that directs the incident solar radiation onto the absorber.

I. Corrosion. "Corrosion" means the deterioration of a substance or its properties caused by a chemical or electrochemical reaction with its environment.

J. Cover plate. "Cover plate" means the material or materials covering the aperture and most directly exposed to the solar radiation. These materials generally are used to reduce the heat loss from the absorber to the surroundings and to protect the absorber.

K. Craze. "Craze" means the formation of minute surface cracks in a major component or subassembly.

L. Credit. "Credit" means the residential energy credit authorized by Minn. Stat. § 290.06, subd. 14.

M. Custom-built solar collector. "Custom-built solar collector" means a site-dependent collector fabricated from components that do not constitute a solar collector kit.

N. Deformation. "Deformation" means a change in shape or form of any material in the collector from the conditions that existed before testing.

O. Delamination. "Delamination" means separation into constituent layers.

P. Department. "Department" means the Minnesota Department of Energy, Planning and Development.

Q. Domestic hot water. "Domestic hot water" means heated tap water, as distinguished from water heated by a hydronic hot water space heating system.

R. Express warranty. "Express warranty" means an affirmation of fact or promise made in connection with the sale or installation of a solar collector or component to a customer that relates to the nature of the material or workmanship and affirms or promises that the material or workmanship is defect free or will meet a specified level of performance over a specified period of time. "Express warranty" also means an undertaking in connection with the sale or installation of a solar system or component to refund, repair, replace, or take other remedial action with respect to the solar system or component. To be an express warranty, the affirmation, promise, or undertaking must become part of the basis of the bargain resulting in the purchase or installation of a solar collector by a customer.

S. Gross collector area. "Gross collector area" means the maximum projected area of the complete collector module, including integral mounting means.

T. Home-built solar collector. "Home-built solar collector" means a collector built by the owner according to purchased plans or the owner's own design from supplies or components that do not constitute a solar collector kit.

U. Inch-pound units. "Inch-pound units" means measurement units that have traditionally been used in the United States, including but not limited to foot, gallon, pound-mass, hour, ampere, degree Fahrenheit and British thermal unit (Btu).

V. Innovative collector. "Innovative collector" means a solar collector that, because of its design, cannot be evaluated fairly and adequately by the test methods described in 6 MCAR § 2.1507.

W. Instantaneous efficiency. "Instantaneous efficiency" of a solar collector means the amount of energy removed by the transfer fluid over a given measuring period divided by the total solar radiation incident onto the gross collector area during the measuring period.

X. Integrity of construction. "Integrity of construction" means the physical and mechanical properties of a solar collector that collectively are responsible for the overall thermal performance and physical structure of the solar collector.

Y. International System of Units. "International System of Units" means the measurement system defined in the 'Standard for Metric Practice,' issued by the American Society for Testing and Materials as ASTM E380-81 (Philadelphia, 1981). It is commonly referred to as the "metric system," though it does not include many metric terms in use before 1960.

Z. Irradiance. "Irradiance" means the rate of solar radiation received by a unit surface area.

AA. Irradiation. "Irradiation" means incident energy per unit area on a surface over a specified time.

BB. Material category. "Material category" means a class of materials of the same generic type; for instance, glass, fiberglass, and plexiglass are materials in the category of collector glazings.

CC. Manufactured solar collector. "Manufactured solar collector" means a solar collector made of components that have been fitted together at an assembly plant. None of the components needs to have been fabricated by the assembly plant for the collector to be classified a manufactured collector.

DD. Model. "Model" means a solar collector distinguishable by a specified size, set of materials, construction, and performance. A change in any of these basic characteristics constitutes a new model.

EE. Nonpublic data. "Nonpublic data" means "trade secret information" as that term is defined in Minn. Stat. § 15.1673, subd. 1, clause (b), that is, government data, including a formula, pattern, compilation, program, device, method, technique, or process:

1. That was supplied by the affected individual or organization;
2. That is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy; and
3. That derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

FF. Outgassing. "Outgassing" means the generation of vapors from materials during exposure to elevated temperature or reduced pressure.

GG. Performance rating. "Performance rating" means the rating values based on thermal output characteristics of solar collectors as determined by tests specified in 6 MCAR § 2.1507.

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PROPOSED RULES

HH. Reference collector. "Reference collector" means a solar collector currently certified by the department to which a second collector is being compared for the purposes of certification under the similar collector rules found in 6 MCAR § 2.1506 B. and 6 MCAR § 2.1508 B.

II. Reflector or reflective surface. "Reflector" or "reflective surface" means a surface intended primarily to reflect radiant energy.

JJ. Registered. "Registered" means recorded as an eligible expenditure for Minnesota income tax credit.

KK. Revoke certification. "Revoke certification" means to withdraw certification from a solar collector. When certification is revoked, the collector is no longer eligible for the credit. A new application is required to certify a collector for which certification has been revoked.

LL. Service hot water. "Service hot water" means heated tap water in nonresidential applications.

MM. Severe corrosion. "Severe corrosion" means corrosion that impairs the function of a collector or that exhibits evidence that it will progress to the point where it will impair the function of the collector.

NN. Severe deformation. "Severe deformation" means deformation that impairs the function of a collector or that exhibits evidence that it will progress to the point where it will impair the function of the collector.

OO. Similar solar collector. "Similar solar collector" means a collector that is substantially identical to a certified reference collector manufactured by the same firm. The criteria to be used to determine eligibility as a similar collector are found in 6 MCAR § 2.1508 B.

PP. Site-dependent collector. "Site-dependent collector" means a collector intended to be assembled only at the site of application because parts of the building, such as rafters or insulation, are part of the collector or because the size of the collector makes delivery impractical.

QQ. Solar collector. "Solar collector" means a device designed to absorb incident solar radiation, to convert it to thermal energy, and to transfer the thermal energy to a fluid in contact with it. For purposes of 6 MCAR §§ 2.1501-2.1512, solar collector refers to one specific model of solar collector.

RR. Solar collection kit. "Solar collector kit" means a collection of substantially all major components required to assemble a solar collector which is sold as a unit for the purpose of making a solar collector.

SS. Solar system. "Solar system" means an assembly of solar collectors installed or intended to be installed at a single site, all of which perform a uniform function.

TT. Solar energy. "Solar energy" means the photon energy originating from the sun's radiation primarily encountered in the wavelength region from 0.3 to 2.7 micrometers.

UU. Standard. "Standard" means a document that specifies the performance, durability, or safety requirements for a product.

VV. Standard solar collector. "Standard solar collector" means a solar collector that can be fairly and adequately evaluated under the test sequence identified in 6 MCAR § 2.1507.

WW. State business day. "State business day" means a week day, Monday through Friday, except a holiday listed in Minn. Stat. § 645.44, subd. 5.

XX. Suspend certification. "Suspend certification" means to temporarily withdraw certification of a solar collector. A collector purchased while its certification is suspended is not eligible for the credit. Certification may be reinstated by complying with 6 MCAR §§ 2.1501-2.1512.

YY. Time constant. "Time constant" means the time required for the fluid leaving a solar collector to attain 63.2 percent of its steady state value following a step change in irradiation or inlet fluid temperature.

ZZ. Transfer fluid. "Transfer fluid" means the medium such as air, water, or other fluid that passes through or in contact with the solar collector and carries the thermal energy away from the collector.

6 MCAR § 2.1503 Applicability of rules.

A. Generally. All solar collectors must be certified or registered according to 6 MCAR §§ 2.1501-2.1512 to be eligible for the credit. If certification is required for a collector but the collector has not been certified, neither the collector nor other solar system components are eligible for the credit. The collector certification requirements apply no matter who installs the system, whether homeowner, contractor, solar installer, or dealer.

B. Exceptions.

1. Home-built solar collectors are exempt from certification.

2. Custom-built solar collectors are exempt from the test requirements but must be registered by the department to be eligible for the credit.

3. Solar collector kits or manufactured solar collectors of a single model used in systems with sales in Minnesota of 20 or fewer solar systems in any consecutive 12-month period are exempt from the certification test requirements, but solar systems using these collectors must be registered by the department to be eligible for the credit. The department shall deny registration of more than 20 solar systems in any consecutive 12-month period unless the collectors used in the system have been certified under the provisions of 6 MCAR §§ 2.1501-2.1512.

4. A manufacturer of a solar collector required to be certified which has had the collector tested or contracted to be tested before the effective date of 6 MCAR §§ 2.1501-2.1512 may use the results of that test in its application for certification instead of the test procedures outlined in 6 MCAR § 2.1507. The tests must have been performed at a department-approved laboratory in accordance with ASHRAE Standard 93-77, 'Methods of Testing to Determine the Thermal Performance of Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1978); ASHRAE Standard 95-82, 'Method of Testing to Determine Thermal Performance of Solar Domestic Water Heating Systems,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1982); or ASHRAE Standard 96-80, 'Method of Testing the Thermal Performance of Unglazed Flat Plate Liquid Type Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1980).

5. Solar collectors that have been certified by the California Energy Commission, the State of Florida, the Solar Rating and Certification Corporation, the Solar Energy Industry Association, or the American Refrigeration Institute before the expiration of the grace period specified in 6., or by a national organization that meets the criteria in 6 MCAR §§ 2.1501-2.1512, are eligible for automatic certification by the department. However, the manufacturer must file an application with the department in order to receive Minnesota solar collector certification.

6. A blanket exception is granted for a period of six months following the effective date of 6 MCAR §§ 2.1501-2.1512 to provide for timely and orderly testing, rating, and certification of solar collectors. All expenditures for solar collectors after the expiration of the grace period must be in accordance with 6 MCAR §§ 2.1501-2.1512 to be eligible for the credit.

6 MCAR § 2.1504 Application fees. Fees for processing an application are:

- A. \$300 for an application for certification of a standard or innovative collector based on new or previous testing;
- B. \$100 for an application to certify a similar collector;
- C. \$50 for an application based on previous certification by the Solar Rating and Certification Corporation, Solar Energy Industry Association, American Refrigeration Institute, California Energy Commission, or the State of Florida as authorized by 6 MCAR § 2.1503 B.5.;
- D. \$50 for an application to certify a collector manufactured under license to a previous recipient of certification on the collector;
- E. \$50 for a resubmitted application after the 180-day time limit; and
- F. \$10 for an application for registration of a solar system using a custom-built collector or registration of a solar system using a solar collector kit or a manufactured solar collector with sales in Minnesota of 20 or fewer solar systems in any consecutive 12-month period.

Checks in payment of fees must be made payable to "Treasurer, State of Minnesota."

6 MCAR § 2.1505 Units of measure. The International System of Units is the preferred measurement system for purposes of certification.

The information in the certification label must be in the International System of Units specified in Exhibit 6 MCAR § 2.1512-1. Values in inch-pound units, if included, must be placed in parentheses following the value in the International System of Units. Note that the measurements in 6 MCAR § 2.1507 and succeeding rules are given in the International System of Units followed by the measurements in inch-pound units in parentheses, as illustrated by 6 MCAR § 2.1507 C.3.b.

Inch-pound units may be used in the application for certification until further notice. If inch-pound units are used, however, the applicant is encouraged to include the values in the International System of Units in parentheses following the values in

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PROPOSED RULES

inch-pound units to facilitate the use of the information in the application after the transition to the International System of Units has been completed. Contact the department for assistance with measurement units.

6 MCAR § 2.1506 Certification procedure.

A. Standard solar collector. The provision of 1.-8. govern certification procedures for standard solar collectors.

1. The manufacturer shall request the department to select a solar collector from the manufacturer's stock.

2. Within two weeks of the request, or at a mutually agreeable time, a representative of the department shall randomly select one solar collector sample from an existing stock of at least five units at the manufacturer's plant or at a distribution point.

3. The manufacturer shall have the designated sample tested in accordance with the test procedures contained in 6 MCAR § 2.1507 at a department-approved laboratory of the manufacturer's choice and at the manufacturer's expense.

4. If the sample completes the prescribed series of performance and durability tests and passes the inspection, the manufacturer may submit an application for certification. The application must be signed and dated by an authorized agent of the company and two witnesses. The manufacturer may designate information submitted to the department as nonpublic data by requesting that designation plainly and legibly on the application. Test results required for certification shall be considered public only if certification is granted. The application must contain the following:

a. It must contain product label information in the format provided by Exhibit 6 MCAR § 2.1512-1.

b. It must contain the product warranty.

c. It must contain a test report including: thermal performance curve; incident angle modifier; collector time constant; conditions used to establish performance such as flow rate and fluid; exposure or stagnation test results; and results from final inspection after disassembly.

d. It must describe the following products or materials by type and commercial designations: cover plates; absorber plate; absorber coatings; reflectors or lenses; collector enclosure; insulation; caulking, sealants, and gaskets; thermal and mechanical bonds, including the bonding used for reflecting materials that are not the same material as the reflector backing; trim, retaining strips, mounting brackets, or other hardware; connecting hoses; control system sensors; and reflector mounting frame. Upon request by the department, the applicant shall furnish information relating to the reflector mounting frame's thermal or flame spread properties, electrical corrosion resistance, ultraviolet radiation, pollutants, or optical characteristics, as specified by the supplier. The application must also contain a component-by-component declaration of combustibility, including the rating, the rating method, and the test standard used.

e. It must contain collector drawings of sufficient detail to accurately represent: aperture cover plate dimension and mounting detail; absorber plate dimensions including thickness, location, and spacing of fluid flow paths, cross-section dimensions and shape of flow channels, tube wall thickness, and plate-to-tube heat transfer provisions; collector enclosure dimensions, provisions for attaching absorber and plate, and size and location of holes; collector assembly detail specifying fasteners and other attachment methods indicating overall dimensions; and for concentrator type, a cross-sectional view, dimensions, and mounting detail.

f. It must contain working fluid or flow rate recommendations or restrictions. If a heat transfer fluid other than water is to be used, fluid properties of specific heat, density, viscosity, thermal conductivity, and toxicity must be provided.

g. It must contain installation, operation, and maintenance considerations.

h. It must contain the following statement of commitment by the manufacturer:

"As the manufacturer (importer) of the solar collector described in this application, I (we) affirm that all of the information contained herein is correct. Furthermore, if certification for this collector is granted, I (we) agree to: represent a collector as certified only when it is manufactured of the same materials and specifications as the collector that was originally certified; permanently affix the certification label to all production units of the certified collector sold in Minnesota; notify the department of changes in collector materials or construction; provide copies of the department's solar collector certificate to the consumer upon request; permit the department to select, at any time, a certified collector offered for sale or on display for a retest of the collector to verify its compliance to the original specifications and performance; notify the department of licenses awarded to manufacture this collector and other model or brand names under which this collector is marketed; and honor the warranty expressed in the application for certification for the full term of the warranty."

5. The department shall evaluate the application and notify the manufacturer in writing of the approval or rejection of the application within 40 state business days after receiving the application.

a. If certification is granted, the department shall calculate the thermal performance rating and provide a signed Solar Collector Certificate as provided in Exhibit 6 MCAR § 2.1512-1 and photo-ready copies of the certification symbol.

b. If certification is denied, the department shall specify the reasons for rejection and identify the necessary corrective action. If all identified corrections are made and the manufacturer has resubmitted the application to the department within 180 days after the date of the rejection notice, the department shall approve the application and certify the collector without additional fees. After that time a resubmittal fee must accompany the application. If the manufacturer has resubmitted the application and the department has made a final decision to deny certification, the manufacturer may initiate the appeal process of 6 MCAR § 2.1511.

6. The manufacturer shall permanently affix the certification symbol and the required label information, in a form approved by the department, to all production units of the certified model and not to any other piece of the solar system.

a. The manufacturer may produce labels from the certification symbol and label design provided by the department; design its own label that includes the certification symbol and required label information; or include the certification symbol and required label information in the manufacturer's nameplate.

b. The manufacturer shall submit a sample of the proposed label or nameplate and written request for approval to the department before using the label or nameplate. The department shall grant approval if all the required label information is presented clearly and legibly, the certification symbol is accurately presented, and the label or nameplate material will reasonably withstand exposure to the climate.

c. The department shall send the manufacturer written approval or rejection of the sample and, if appropriate, the reasons for rejection within 15 state business days after receiving the sample and written request.

d. The certification symbol may be used in advertising, catalogs, or sales promotion material. The symbol must clearly refer only to certified collectors.

7. The manufacturer shall promptly notify the department of licenses awarded to manufacture this collector and other model or brand names under which the solar collector is marketed.

8. The department shall maintain a list of all certified collectors and provide the product label information to consumers.

B. Similar solar collector. A collector that is substantially identical to a certified or reference collector manufactured by the same firm is eligible for certification based upon the test results from the reference collector. The following procedure must be used:

1. The manufacturer shall provide to the department the following material:

- a. A copy of the application for certification of the reference collector;
- b. An application in accordance with A.4. for certification of the similar collector;
- c. A statement completely describing all physical differences between the reference and similar collectors;
- d. A statement projecting any changes in performance, reliability, or durability that are expected because of the change in physical properties;
- e. The data, assumptions, and procedures used to develop the projections in d.; and
- f. The appropriate application fees.

The manufacturer may designate new information submitted to the department as nonpublic data by requesting the designation plainly and legibly at the time the information is supplied.

2. The department shall evaluate the application for certification of the similar model and supporting documentation and notify the manufacturer in writing of the approval or rejection of the application within 40 state business days after receiving the application.

a. If certification is granted, the department shall calculate the thermal performance rating and provide a signed collector certificate and photo-ready copies of the certification symbol.

b. If certification is denied, the department shall specify the reasons for rejection. The manufacturer may develop additional supporting arguments and request a review by the department. The department shall send written notification of its final decision to the manufacturer within 20 state business days after receiving the request for review. If certification has been denied, the collector may be tested and a new application, with appropriate fees, may be filed with the department. The department's final decision is subject to the appeal process under 6 MCAR § 2.1511.

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3. The manufacturer of a collector certified under B. shall follow the labeling, other model number, and brand name requirements of the procedures for a standard solar collector required by A.6. and A.7.

C. Innovative solar collector. The provisions of 1. and 2. govern certification procedures for innovative solar collectors.

1. The manufacturer shall describe the collector and explain why it cannot be fairly and adequately evaluated by the standard solar collector procedure contained in A. The manufacturer shall propose a procedure to the department for testing and evaluating the innovative collector. The detail of both the description and the procedure should be sufficient to allow the department to fairly assess the validity of the proposed evaluation criteria. The manufacturer may designate information submitted to the department as nonpublic data by requesting the designation plainly and legibly at the time the information is supplied.

2. The department shall evaluate the proposed procedure and notify the manufacturer of its decision on the proposal within 40 state business days after receiving the proposal.

a. If the proposal is accepted, the manufacturer shall follow the process outlined in the proposal. The appropriate fees must be included in the formal application for certification.

b. If the proposal is rejected, the department shall specify the reasons for its decision. The manufacturer may revise the criteria or procedure or both and resubmit the proposal to the department. If the department makes a final decision to reject the proposal, or if it denies certification in a final decision under the terms of the accepted evaluation procedures, the manufacturer may appeal.

D. Collector manufactured by licensee. A certified collector that is also manufactured and sold under license is eligible for certification by the department to the licensee without additional testing. The following procedure must be used:

1. The licensee shall provide the department with the following material:

- a. A copy of the application submitted by the original manufacturer for original certification of the collector;
- b. An application in accordance with A.4. for certification of the collector; and
- c. Appropriate application fees.

The licensee may designate new information submitted to the department as nonpublic data by requesting the designation plainly and legibly at the time the information is supplied.

2. The licensee shall request the licensor to send to the department a written authorization to certify the licensed collector and a declaration that the collector is identical in all respects to the originally certified collector.

3. The department shall review the application and letter of authorization and notify the licensee in writing of the approval or rejection of the application within 40 state business days after receiving the application.

a. If certification is granted, the department shall provide a signed collector certificate and photo-ready copies of the certification symbol.

b. If certification is denied, the department shall specify the reasons for rejection. The licensee may request a review by the department and offer additional material in support of the application. The department shall send the manufacturer written notification of its final decision within 20 state business days after receiving the request for review. The department's final decision is subject to the appeal process of 6 MCAR § 2.1511.

4. The manufacturer of a licensed collector certified by the department shall follow the labeling, other model number, and brand name requirements of the procedures for a standard solar collector required by A.6. and A.7.

E. Custom-built solar collectors.

1. The contractor of a custom-built solar collector shall apply to the department for tax credit registration for the solar system the contractor intends to build. Though custom-built solar collectors are not required to be tested, the contractor must supply sufficient information about the collector to allow the department to register it as a unique collector. The application must include the following information:

- a. Name, firm, and address of the contractor;
- b. Name and address of the customer;
- c. Gross collector area;
- d. Collector dimensions;
- e. Cover plate material;
- f. Absorber plate material;

- g. Insulation;
- h. Framing material;
- i. Sealants;
- j. Heat transfer fluid;
- k. Mounting surface type;
- l. Orientation;
- m. Slope angle from horizontal;
- n. Product warranty;
- o. Owner's manual or instructions, if any; and
- p. Thermal performance estimates, if any.

2. If the necessary information has been provided, the department shall assign a registration number and send a solar system registration document to the customer, with a copy to the contractor, within ten state business days after receiving the application.

F. Solar collector kit or manufactured solar collector. A solar system using a model of a solar collector kit or a manufactured solar collector is eligible for registration for the tax credit if 20 or fewer solar systems using the collector have been registered by the department during a consecutive 12-month period. If 20 solar systems have been registered during a 12-month period, additional solar systems are eligible for registration only if the department has approved a grace period in accordance with 2.a.

1. Sale of 20 solar systems or fewer.

a. If 20 or fewer solar systems using a model of a solar collector kit or manufactured solar collector have been registered during a consecutive 12-month period, the manufacturer or dealer of the solar collector kit or manufactured solar collector must apply to the department for registration in order for the solar system to be eligible for the credit. The application must include the following information: product label information required by Exhibit 6 MCAR § 2.1512-1 excluding information on the thermal performance efficiency and performance rating; name and address of purchaser; description of the major components in the kit or manufactured solar collector, including glazing material, absorber material and surface, insulation, enclosure, and sealants; and working fluid and flow rate recommendations or restrictions.

b. If the manufacturer has complied with the requirements in a., the department shall assign a registration number and send a solar system registration document to the customer, with a copy to the dealer or manufacturer, within ten state working days after receiving the application.

2. Sale of more than 20 solar systems in Minnesota.

a. The manufacturer of a solar collector kit or manufactured solar collector may apply to the department for a six-month grace period in order to complete testing and certification requirements. The application must include evidence that a collector sample has been selected by the department and submitted to an accredited laboratory for Minnesota certification testing.

b. The department shall review the application. If the criteria have been met, the department shall approve the grace period. All systems using the model of solar collector kit or manufactured solar collector sold during the grace period are eligible for tax credit registration by the department.

C. The manufacturer shall follow the steps for certification as a standard solar collector.

6 MCAR § 2.1507 Test methods and minimum standards for certifying solar collectors.

A. Purpose. Rule 6 MCAR § 2.1507 specifies the test methods to be followed and the standards to be met in determining the thermal performance and the durability of solar collectors used for space heating and cooling and water heating. Only collector models meeting the standards are eligible for the certification label.

B. Scope.

1. Rule 6 MCAR § 2.1507 applies to liquid and air collectors. It provides a means for evaluating the maintainability and structural integrity of solar collectors and data for determining a thermal performance rating for solar collectors.

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2. The procedures in C.8.-C.10. cannot be followed for devices meeting the following description:

- a. The device is intended for solar domestic water heating systems;
- b. Its collectors cannot be appropriately tested under the requirements of ASHRAE Standard 93-77, 'Methods of Testing to Determine the Thermal Performance of Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1978); and
- c. Its collection function cannot be separated from the system function.

For these devices, the procedures in C.8.-C.10. must be replaced by the procedures contained in ASHRAE Standard 95-82, 'Method of Testing to Determine Thermal Performance of Solar Domestic Water Heating Systems,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1982), and SRCC Standard 200-82, 'Test Methods and Minimum Standards for Certifying Solar Water Heating Systems,' issued by the Solar Rating and Certification Corporation (Washington D.C., March 1982).

C. Test methods for solar collectors.

1. Solar collector testing shall be performed in the following sequence:

- a. Receiving inspection;
- b. Static pressure test;
- c. Thirty-day exposure test;
- d. Thermal shock/water spray test;
- e. Thermal shock/cold fill test;
- f. Static pressure test;
- g. Collector time constant determination test;
- h. Thermal performance test;
- i. Incident angle modifier test; and
- j. Disassembly and final inspection.

2. Upon receiving a collector for tests, the test laboratory shall inspect and document the condition of the collector.

3. The laboratory shall conduct a static pressure test before exposure testing.

a. The test method must be specific to the type of collector. Collectors are categorized as follows: street pressure solar collectors (collectors which, by virtue of their installation in a municipal water system, will be directly subjected to variations in street water pressure and hot water tank pressure); low pressure service hot water collectors (collectors which, by virtue of their installation, will not have a direct fluid interchange with an auxiliary heater or street pressure, but use an appropriate heat exchanger); or alternate fluid solar collectors (collectors which, by virtue of design, are not intended to have a direct fluid connection to a solar water heating system). Alternate fluid solar collectors may or may not be designed to accept street pressure.

b. The test pressure must be 1100 kPa gauge (160 psig) for street pressure collectors. This test pressure is two times the allowable street pressure, 550 kPa gauge (80 psig), in a dwelling as set out in Section 1213.9 of the 'Standard Plumbing Code,' issued by the Southern Building Code Congress International (Birmingham, Alabama, 1976) and exceeds the required pressure-temperature valve relief setting on hot water tanks, which is 1030 kPa gauge (150 psig).

c. Collectors specified for positive operating pressure less than street pressure 550 kPa gauge (80 psig) must be pressure-tested at one and one-half times the manufacturer's rated operating gauge pressure, but at a minimum of 170 kPa gauge (25 psig).

d. Collectors specified for operating pressures greater than 550 kPa gauge (80 psig) must be pressure tested at 1.5 times the manufacturer's rated operating gauge pressure or 1100 kPa gauge (160 psig), whichever is greater.

e. Collectors specified for operation at atmospheric pressure or below must be pressure tested at the discretion of the test director, but at no greater than 170 kPa gauge (25 psig).

f. Determination of test pressure must be based on documentation supplied by the manufacturer in the application for certification as specified in 6 MCAR § 2.1506 A.4.

g. For liquid collectors, either hydrostatic or pneumatic pressure sources may be used. The test laboratory shall follow the following test procedures: a pressure gauge must be attached to read pressure at the exit port of the collector, the collector completely filled with unheated fluid, and the exit port closed off. Hydraulic pressure must be applied via the inlet port

until the gauge indicates the test pressure. After stable test pressure has been reached, the exit port must be closed and the pressure monitored for 15 minutes.

h. Pneumatic pressure sources must be used for air collectors. The following test procedures must be followed: a pressure tap of pipe or tubing must be sealed into the exit port of the test specimen and connected to a manometer which can be read directly to 2.5 Pa (0.01 inch water column) or to a pressure gauge of equivalent accuracy. An air volume meter accurate to within 150 mL (± 0.5 cubic feet) must be placed in the air supply system between the supply source and the collector. Pressure of 125 Pa gauge (0.5 inch water column) must be applied via the inlet port and the pressure monitored for one hour. The volume of air added or removed in order to maintain the required pressure must be documented.

4. The test laboratory shall conduct an exposure test to verify integrity of construction after at least 30 days of exposure to adverse conditions. The following methods must be followed:

a. Liquid collectors must be filled completely with clean liquid, following which the liquid must be allowed to gravity-drain for 15 minutes with the collector mounted at a 45 degree tilt angle. The collector inlet and outlet must be loosely sealed.

b. Exposure conditions must consist of 30 days of cumulative exposure to a minimum daily incident solar radiation flux of $17 \text{ MJ/m}^2 \cdot \text{day}$ ($1500 \text{ Btu/ft}^2 \cdot \text{day}$) as measured in the plane of the collector aperture. The exposure conditions must include at least one consecutive four-hour period with a minimum instantaneous flux of 950 W/m^2 ($300 \text{ Btu/ft}^2 \cdot \text{hr}$). The average baseline ambient temperature must be 27 degrees Celsius (80 degrees Fahrenheit) or higher during the four-hour period.

c. Data recorded and reported during exposure testing must include integrated daily solar radiation data. A regularly scheduled weekly visual inspection must also be made, and a record of changes in the physical appearance of the collector must be kept.

5. The laboratory shall conduct a thermal shock/water spray test. During a five minute period on three different days of the exposure test, the collector must be subjected to heavy spray from above or in front of the collector. Spray testing must be conducted after at least one hour of direct sun at a minimum intensity of 850 W/m^2 ($270 \text{ Btu/ft}^2 \cdot \text{hr}$) and within two hours of solar noon. These three spray tests must be conducted during the last 10 days of the exposure test.

Water delivery must be at a rate not less than 20 mL/s per square meter of collector ($1.8 \text{ gallons/ft}^2 \cdot \text{hr}$) (2.9 inches of rainfall per hour), with the spray pattern designed to wet the surface that would be wet during a normal rain shower. Temperature of the water must be between 19 and 29 degrees Celsius (65 and 85 degrees Fahrenheit) during the spray test. The procedure of NBSIR 1305A, test 7.3, in 'Provisional Flat Plate Solar Collector Testing Procedures' by D. Waksman et al., first revision, issued by the National Bureau of Standards (Washington D.C., June 1978) must be used.

6. The laboratory shall conduct a thermal shock/cold fill test for liquid collectors. At one time during the test sequence the unfilled collector must be exposed to full sun, not less than 950 W/m^2 ($300 \text{ Btu/ft}^2 \cdot \text{hr}$), for one hour. While the collector is still so exposed, liquid must be circulated through the collector for five minutes at a flow rate of approximately 17 mL/s per square meter of collector ($1.5 \text{ gallons/hr} \cdot \text{ft}^2$). The temperature of the entering liquid must be between 19 and 29 degrees Celsius (65 and 85 degrees Fahrenheit) during this test. The procedure of NBSIR 1305A, test 7.4 must be used.

Solar collectors may be certified without the thermal shock/cold fill if their designs are such that cold refill of a hot collector is not allowed. The manufacturer shall state this limitation in writing and the limitation must be included in the test report.

7. The laboratory shall conduct a static pressure test following the provisions of 3. after exposure and before thermal performance testing.

8. The laboratory shall conduct a time constant test to determine the time required for the outlet fluid temperature to attain 63.2 percent of its steady state value following a step change in the input. This figure is used to determine the time period over which temperature and irradiance data are integrated to obtain the computed efficiency values for the thermal performance test. The test method must conform to ASHRAE Standard 93-77, 'Methods of Testing to Determine the Thermal Performance of Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating and Air Conditioning Engineers (New York, 1978).

9. The laboratory shall conduct a thermal performance test on those collectors that have met the criteria of D.1.-5. and for which the collector time constant has been determined. The thermal performance test determines "instantaneous"

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efficiency of the solar collector over a wide range of operating temperatures. Efficiency is defined as the ratio of collected energy to the total available energy falling upon the entire collector area. Collected energy is determined by the product of fluid mass flow, specific heat, and integrated temperature gain across the collector. Available energy is determined by the integrated solar irradiance. Typically, four data points of at least five minutes duration are taken at each of four different inlet fluid temperatures. For unglazed collectors, the inlet fluid temperatures include test temperatures below and above ambient air temperature. Glazed collectors are normally tested over a range of inlet fluid temperatures from near ambient to approximately 70 degrees Celsius (126 degrees Fahrenheit) above ambient temperature.

The test method used for glazed collectors must conform to ASHRAE Standard 93-77, 'Methods of Testing to Determine the Thermal Performance of Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1978). The test method used for unglazed collectors must conform to ASHRAE Standard 96-80, 'Method of Testing the Thermal Performance of Unglazed Flat Plate Liquid Type Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1980). Any deviations from either standard must be delineated in the test report. Normal incidence data must be taken as specified by ASHRAE Standard 93-77 or 96-80. Test data must be taken within plus or minus five degrees Celsius (nine degrees Fahrenheit) of the maximum temperature differential for which a rating is desired.

10. A collector incident angle modifier determination must be made. The thermal performance curve for a collector is determined when the irradiance incident on the collector is within 30 degrees of normal to the aperture of the collector. To predict collector performance over a wide range of conditions, the test laboratory shall conduct tests to determine the collector incident angle modifier. This is used to modify the efficiency curve (determined within 30 degrees of normal incidence) to account for changes in performance as a function of the sun's incidence angle. The test method used must conform to ASHRAE Standard 93-77, 'Methods of Testing to Determine the Thermal Performance of Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (New York, 1978) or ASHRAE Standard 96-80, 'Methods of Testing to Determine the Thermal Performance of Unglazed Flat Plate Liquid Type Solar Collectors,' issued by the Standards Committee of the American Society of Heating, Refrigerating and Air Conditioning Engineers (New York, 1980).

Biaxial incident angle modifiers are required on collectors which are nonsymmetrical in their response to irradiance as solar altitude and azimuth change. These types of collectors have optical characteristics that depend on direction in the aperture plane, so that the incident angle modifier depends on both the solar azimuth in the aperture plane and the angle of incidence. Examples of this type of collector include tubular collectors and collectors employing trough structures, mirrors, or lenses such that the geometries are characterized by biaxial symmetry.

In the case of anisotropic collectors, data must be taken in each of the two perpendicular planes that characterize the collector geometry.

In all cases, the test laboratory shall take enough incident angle modifier data to describe adequately the relationship between the incidence angle and the incident angle modifier.

11. Disassembly and final inspection. The test laboratory shall disassemble the collector and shall visually inspect the major components and subassemblies and shall report their condition. All abnormalities must be reported and accompanied by a photograph. The test laboratory shall use the guide in Exhibit 6 MCAR § 2.1507 C.11.-1 to identify conditions to be reported.

Exhibit 6 MCAR § 2.1507 C.11.-1 Guide for Collector Inspection

Major Components or Subassemblies	Conditions to be Reported
a. Collector case and enclosure fasteners	Cracking, warping, corrosion
b. Mounting means (mounting brackets, flanges, etc.)	Loss of mounting integrity
c. Seals, gaskets	Cracking, loss of elasticity or adhesion
d. Covers and reflectors	Cracking, crazing, buckling, delamination, warping
e. Absorber:	
Coating	Crazing, cracking, blistering
Inlet and outlet tubes	Deformation, corrosion, leakage
Flow tubes	Deformation, corrosion, leakage, loss of bonding
Headers	Deformation, corrosion, leakage
Absorber Mountings	Loss of mounting integrity
f. Insulation	Water retention, swelling, outgassing

D. Collector standards. The following criteria represent the requirements for durability in collector design and construction in order to qualify for certification.

1. All glass cover plates must be of a nonshattering or tempered type.
2. The collector must be designed to prevent condensate buildup. The use of desiccants to control condensation is permitted. The test report should note any unusual condensate buildup.
3. Pressure test results criteria must be as follows:
 - a. Liquid collectors after testing must be considered passable if: a loss of pressure does not occur; there is no evidence of fluid leakage; and there is no evidence of fluid path deterioration such as by swelling or stretching.
 - b. Air collectors after testing must be considered passable if there is no evidence of fluid path deterioration such as swelling or stretching.
4. Thermal shock/water spray test results must show that the collector structure and performance are not degraded by moisture penetration. There must be no cracking, crazing, warping, or buckling of the cover plate.
5. The test laboratory shall terminate the test if it is apparent without collector assembly that the unit no longer meets the quality requirements of 6.
6. The department may deny certification if the tests show disassembly and final inspection conditions that, in its judgment, may lead to an abnormally short collector life. The conditions are:
 - a. Severe deformation of the absorber;
 - b. Severe deformation of the fluid flow passages;
 - c. Loss of bonding between fluid flow passages and absorber plate;
 - d. Leakage from fluid flow passages or connections;
 - e. Loss of mounting integrity;
 - f. Severe corrosion or other deterioration caused by chemical action;
 - g. Crazing, cracking, blistering, or flaking of the absorber coating or delamination of reflective surfaces;
 - h. Retention of water in the insulation;
 - i. Swelling, severe outgassing, or other detrimental changes in collector insulation that adversely affect collector performance;
 - j. Cracking, loss of elasticity, or loss of adhesion of gaskets and sealants;
 - k. Leakage or damage to hoses used inside the collector enclosure or leakage from mechanical connections;
 - l. Cracking, crazing, permanent warping, or buckling of the cover plate; and
 - m. Cracking or warping of the collector enclosure materials.

6 MCAR § 2.1508 Evaluation criteria, ratings, and warranties.

A. Standard solar collector. The department shall certify a standard solar collector if:

1. The collector sample has successfully completed the specified testing;
2. The collector has passed the evaluation of the disassembly and final inspection;
3. The application for certification is complete;
4. The warranty meets the minimum requirements; and
5. The appropriate application fee is included.

B. Similar solar collector.

1. A collector is eligible for certification as a similar collector only if all materials and construction techniques are identical to the reference collector except that:

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- a. The collector size has been increased;
- b. The cover plates are in the same material category but of a different material;
- c. The cover plates are of the same material but of minor differences in thickness; or
- d. There are other changes in material or techniques that the manufacturer deems to be insignificant.

2. If the application is based on either 1.b. or 1.c., the thermal performance of a similar collector must be calculated from the test results of the reference collector and the difference in transmissivity between the two cover plates.

3. The department shall grant certification if:

- a. The application for certification is complete and all required supporting documents have been provided;
- b. The performance and durability of the collector can be accurately and reliably described by the information submitted on and with the application for certification;
- c. The warranty meets the minimum requirements; and
- d. The appropriate application fee is included.

C. Innovative solar collector. The manufacturer shall propose an evaluation procedure that will fairly and adequately test and evaluate the innovative solar collector and that will result in reliable information about the performance and durability of the collector. The procedure must include:

1. Testing of a random sample of a production collector for reliability, durability, and thermal performance by an independent laboratory;
2. An application form that adequately describes the collector, its operation, and performance;
3. A procedure for performance rating the collector; and
4. The procedure from the rules for certifying standard collectors specifying the requirements for the manufacturer's commitment, 6 MCAR § 2.1506 A.4.h.; the department's decision, 6 MCAR § 2.1506 A.5.; labeling, 6 MCAR § 2.1506 A.6.; and marketing, 6 MCAR § 2.1506 A.7.

D. Collector manufactured by licensee. A collector manufactured and sold by a licensee of a firm that has previously received certification for the collector must be certified upon:

1. Verification by the licensor that the collector manufactured under its license is identical in materials and construction to the collector already certified;
2. Written authorization from the licensor for the department to certify the collector being manufactured under its license; and
3. Payment of appropriate fees.

E. Rating. The thermal performance of the collector must be rated by using 'Standard RM-1: Methodology for Determining the Thermal Performance of Solar Collectors,' as adopted by the Solar Rating and Certification Corporation (Washington D.C., 1981). Rating values must be provided in at least two adjacent categories specified by "Performance Rating" in the Solar Collector Label Information in Exhibit 6 MCAR § 2.1512.-1.

F. Warranty. The intent of the warranty is to encourage the use of solar energy and promote the development of a viable solar industry by providing purchasers with effective, well-designed, carefully manufactured solar collectors and by providing warranty protection for certified solar collectors in accordance with the standards, terms, and conditions specified in the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 United States Code, Sections 2301-2312 (1976), and the regulations promulgated thereunder as found in 16 Code of Federal Regulations, Subchapter G (1981).

1. The manufacturer shall give a full warranty against defects in materials, manufacture, or design of a solar collector for a period equal to at least one year, which begins on the date of sale. In addition, the manufacturer shall provide a limited warranty on the collector for at least 20 percent of the claimed collector design life, beginning one year after the date of sale.

2. The full warranty and any additional express warranties must be in writing and must clearly and conspicuously disclose the following information in readily understood language:

- a. The identity of persons to whom the warranty is extended;
- b. A clear description and identification of products, parts, characteristics, components, or properties covered by the warranty;
- c. A statement of what the warrantor will do in the event of a defect, malfunction, or failure, as provided in 3.;

- d. When the warranty term begins and how long it lasts;
- e. A step-by-step procedure that the customer should follow to obtain performance of warranty obligations, including a list of the class of persons authorized to perform warranty obligations;
- f. If applicable, information concerning the availability of an informal dispute settlement mechanism that the consumer is required to use;
- g. If applicable, any exclusion or limitation on incidental or consequential damages, and the statement: "Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you"; and
- h. The statement: "This warranty gives you specific legal rights, and you may also have other legal rights that vary from state to state."

3. The manufacturer, as a warrantor, has the following duties:

- a. In the case of a defect, malfunction, or failure of the solar collector to conform with the express warranty, the warrantor shall repair or replace the solar collector within a reasonable time and without charge.
- b. If the solar collector contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions, the warrantor shall permit the customer to choose a refund or a replacement of the solar system or component as appropriate. A replacement must include reinstallation without charge.
- c. The warrantor need not perform the duties specified in a. and b. if the warrantor can show that the defect, malfunction, or failure was caused by unreasonable use, or that the defect, malfunction, or failure resulted from improper or faulty installation of the solar system.
- d. The warrantor may not require a customer to return a warranty registration card as a prerequisite of warranty coverage and performance. The warrantor may not impose any other duty as a condition of obtaining a remedy unless the warrantor can demonstrate that the other duty is reasonable.
- e. The warrantor may not limit the duration of any implied warranty on the solar system.
- f. The warrantor shall extend the warranty obligations during the term of the express warranty to any person to whom the solar system, or the building on which the solar system is installed, is transferred.

G. The department shall approve all laboratories accredited by the Solar Rating and Certification Corporation for solar collector certification testing. The department shall maintain a list of approved laboratories.

6 MCAR § 2.1509 Verification retest. To verify that a certified solar collector being marketed has the same physical and performance characteristics as the sample that was tested during the initial certification procedures, the department may require that the collector be reevaluated or retested or both. The following procedure must be used.

A. Sampling and testing. The department shall select a sample of the certified collector from the manufacturer's existing stock and examine the materials and design or require that it be tested according to the procedures contained in 6 MCAR § 2.1506 A.1.-A.3. The manufacturer shall pay all fees and charges and submit the results of the retest to the department.

1. If the sample is constructed of the same materials and design as the originally certified collector and passes the retest, if performed, no change shall be made in the certification status and the department shall reimburse the manufacturer for testing and shipping charges actually incurred for the collector retest.

2. If the sample is constructed of different materials or design than the originally certified collector or fails the retest, the department shall suspend certification for the collector and shall notify the manufacturer of the suspension in writing. The collector shall pass the verification retest only if the retest thermal performance ratings are no less than 90 percent of the ratings in any of the categories completed for the certified collector.

B. Challenging results. The manufacturer may challenge the results of the retest and evaluation by requesting, within 20 state business days after the date of the suspension notification, the department to select an additional sample for testing from the manufacturer's stock in accordance with the procedures contained in 6 MCAR § 2.1506 A.1.-A.3. and by submitting the results of the retest to the department.

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

1. If the second sample passes the retest and evaluation, the department shall promptly reinstate certification.
2. If the second sample fails the retest or evaluation, the department shall formally revoke certification. The results from either test may be used, however, in a subsequent application for certification as a new collector model.

6 MCAR § 2.1510 Terminating certification. Certification may be terminated in the following ways.

A. Voluntary termination. The manufacturer of a certified product may voluntarily terminate certification by giving written notice to the department. The notice must state the effective termination date and reason for termination.

B. Revocation or suspension certification. The department may revoke or suspend certification of a solar collector in the event of:

1. Material misrepresentation in the application for certification;
2. Misrepresentation that a collector certification applies to other collector models that have not been certified;
3. Failure to notify the department of changes in materials or designs used in a certified collector;
4. A sample of the collector failing the verification retest; or
5. Failure to comply with a condition of certification or labeling.

If certification is suspended, the department shall notify the manufacturer in writing, including the reasons for suspension and the necessary corrective action. If certification is revoked, a new application is required to recertify the collector.

C. Notification of suspension, termination, or revocation of certification. The department shall notify appropriate state and local agencies and states cooperating with the Solar Rating and Certification Corporation certification program of collectors for which certification has been revoked, suspended, or terminated.

6 MCAR § 2.1511 Appeal process. An applicant aggrieved by a final decision may file a written request for review with the department. The request must be filed within 20 state business days after the date of the final decision. The department shall appoint an advisory review board made up of two representatives from the solar collector industry and one representative each from the Consumer Service Division of the Department of Commerce, a solar energy technical training institute, and a technical college or university to reconsider the evidence on file. The department shall affirm, modify, or reverse the initial decision based upon the recommendation of the advisory review board and shall inform the applicant of the board's recommendation and the department's action.

6 MCAR § 2.1512 Solar Collector Certificate. The solar collector certificate issued under 6 MCAR §§ 2.1501-2.1511 must be in the form in Exhibit 6 MCAR § 2.1512-1.

Exhibit 6 MCAR § 2.1512-1 Solar Collector Certificate

The solar collector identified and described in the Solar Collector Label Information below is certified by the Minnesota Department of Energy, Planning and Development as having met the testing, disclosure, and warranty requirements of the State of Minnesota for solar collector certification.

This certificate entitles the manufacturer or its agent to:

1. Publicize this collector as certified by the State of Minnesota and eligible for the Minnesota residential energy tax credit;
2. Affix the certification label to each production unit of this collector; and
3. Use the certification symbol and label information in advertising, catalogs, or sales promotion materials, provided the symbol clearly refers only to certified collectors.

In the application for collector certification the manufacturer agreed to comply with the rules for collector certification. Certification for this solar collector may be revoked or suspended in the event of:

1. Material misrepresentation in the application for certification;
2. Misrepresentation that a collector certification applies to other collector models which have not been certified;
3. Failure to notify the department of changes in materials or designs used in a certified collector;
4. A sample of the collector failing in the verification retest; or
5. Failure to comply with a condition of certification or labeling.

Solar Collector Label Information

Manufactured by: Name _____
Address _____

Model # _____ Serial # _____

Gross Collector Area _____ m²(ft²) Cover Plate _____

Collector Dimensions

length _____ m (ft)

width _____ m (ft)

Collector Weight _____ kg (lbs)

Fluid Types _____

Fluid Capacity _____ L (Gal)

Max. Flow Rate _____ Liquid mL/s (Gpm)

Air L/s (SCEM)

Max. Operating Pressure _____ kPa gauge (Psi)

Max. Operating Temperature _____ °C (°F)

Thermal Performance Efficiency (ASHRAE 93-77 or 96-80)

Slope _____ W/m².°C (Btu/hr.ft².°F)

Y Intercept _____

Incident Angle Modifier, Axis 1 _____

Incident Angle Modifier, Axis 2 _____

(Not required on all models)

Design Life _____ years

Full Warranty _____ years

Other Express Warranties _____ years

Performance Rating at irradiation of 17 MJ/m².day

(1500 Btu/ft².day)

Delta t

Rating

(Energy supplied per panel per day)

+ 5 °C (+ 9 °F) _____ MJ (thousand Btu)

+20 °C (+36 °F) _____ MJ (thousand Btu)

+50 °C (+90 °F) _____ MJ (thousand Btu)

Use Restrictions: _____

Minnesota Tax Credit Approval: The label shall contain the statement, "This collector is certified by the State of Minnesota for the Minnesota Residential Energy Credit."

As the duly authorized representative of the State of Minnesota, I hereby grant certification for the solar collector described in this document.

Signature _____

Name _____

Commissioner, Department of Energy, Planning and Development

Date _____

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.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota
County of St. Louis

Tax Court
Regular Division

In the Matter of the Proceedings
to Enforce Payment of the Tax on
Mineral Interests Assessed Pursuant
to Minn. Stat. 273.13, Subdivision 2a,
and Remaining Delinquent on the
first Monday in January, 1977, 1978,
and 1979, for the County of St. Louis,
State of Minnesota.

Court File Nos. 141137,
142627½, 14338

County of St. Louis,

FINDINGS OF FACT
CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT

Petitioner,

and

Minnesota Chippewa Tribe,
Intervenor,

v.

The Federal Land Bank of Saint Paul,
Defendant.

The above entitled matters came on for hearing before the Minnesota Tax Court, Judge Earl B. Gustafson presiding, on September 1, 1981. Testimony was concluded September 10th and the case was submitted on post-trial briefs on January 19, 1982.

Philip J. Olfelt, Assistant Attorney General, C. Paul Faraci, Deputy Attorney General, and Michael Dean, Assistant St. Louis County Attorney, appeared for Petitioner, County of St. Louis; John W. Windhorst, Jr. and William J. Hempel of Dorsey, Windhorst, Hannaford, Whitney & Halladay, appeared for Defendant, Federal Land Bank of St. Paul. Kent P. Tupper of Tupper, Smith and Mattson, appeared for Intervenor, Minnesota Chippewa Tribe.

The Court, having heard the testimony and considered the evidence, briefs and arguments of counsel and upon all of the files, records and proceedings herein, now makes the following:

Findings of Fact

1. The overriding issue in this case is whether Defendant, The Federal Land Bank of Saint Paul, is subject to the tax on severed mineral interests imposed under Minn. Stat. 273.13, Subd. 2(a), with respect to taxes payable in 1976 and subsequent years.

2. The Bank is a federally chartered, privately owned, financial institution authorized to make long-term real estate mortgage loans to farmers, ranchers, growers and rural residents located in the Seventh Farm Credit District (comprising the states of Michigan, Minnesota, North Dakota and Wisconsin).

3. The Bank has claimed exemption from taxation under 12 U.S.C. § 2055 and has also claimed Minn. Stat. § 273.13, subd. 2(a) is unconstitutional on a number of grounds. This Court in its Orders dated July 23, 1980 and October 31, 1980 ruled against the Bank on all of these issues with one exception.

4. In our Order of October 31, 1980, we reserved any ruling on the Bank's contention that, if it owned mineral rights that had no value, the tax on severed minerals would be invalid as unconstitutional. In ordering any evidentiary hearing this Court neither accepted nor rejected the Bank's argument.

5. The pertinent portion of the Court's memorandum accompanying our Order of October 31, 1980 reads as follows:

The Bank has submitted affidavits by two experts in mineral valuation that conclude that some of the Bank's mineral interests have no value. Assuming this to be true, the Bank argues the tax is unconstitutional. How this would necessarily make

the severed mineral tax unconstitutional as a violation of due process or the uniformity and equal protection clauses is not articulated in the memoranda filed by the Bank. It merely maintains that there is a "clear indication in *Contos* that the Supreme Court would invalidate the special tax on severed mineral interests (under the equal protection, uniformity, and due process clauses) if it were established as a matter of fact that some severed mineral interests have no value."

This specific argument was not developed in the original cross-motions for summary judgment and is founded on the assumption that this Court will make a factual finding contrary to the Court in *Contos*, namely, that some mineral interests have no value. We feel the Bank is entitled to develop this argument fully and Petitioner be given an opportunity to respond fully and will therefore hold an evidentiary hearing limited to this issue where there now appears to be a disputed question of fact.

6. The tax being contested subjects severed minerals, not otherwise taxed, to a tax of 25 cents per acre per year or a minimum tax of \$2.00 per interest per year. Minn. Stat. §§ 272.04, subd. 1; 273.13, subd. 2(a).

7. Under Minn. Stat. § 272.04 mineral interests assessed and taxed separately from the surface rights "may be sold for taxes in the same manner and with the same effect as other interests in real estate are sold for taxes."

8. There is no statutory provision that the owner of a severed mineral interest is personally liable for the payment of the tax.

9. The Bank owns mineral interests in approximately 484,000 acres in 85 out of Minnesota's 87 counties as a result of mineral reservations it made in deeds of conveyance.

10. The Bank has historically acquired property when borrowers defaulted on their mortgage loans.

11. After acquiring real property through foreclosures, or deeds given in lieu of foreclosure, the Bank would sell the properties reserving 100 percent or 50 percent of the mineral interests, some for a period of years and some in perpetuity.

12. These mineral interests were retained by the Bank, according to its Director of Mineral Operations, "with the hope of ultimately recovering all or a part of these losses (on defaulted loans) through eventual mineral development."

13. The present policy of the Bank is never to sell its severed mineral interests except in situations where refusal would work undue hardship or release would be to the Bank's advantage, and then only for valuable consideration.

14. Since 1973 the Bank has received a low of \$100 for 632 acres in Clay County (\$.15 per acre), to a high of \$100 for two acres in Kandiyohi County (\$50 per acre) for selling or releasing mineral rights.

15. Since March 1975 the Bank has had a policy of never selling severed mineral interests for less than \$1.25 per acre.

16. The Director of Minerals for the Bank, with respect to the entire four-state area, received 19 written requests for releases (conveyances) of mineral rights during 1980 and 29 written requests during the first eight months of 1981. He also received some oral requests. Only one request was granted.

17. Every mineral interest has some value as a property right regardless of its location, although the value of an interest in one part of the state may vary from that in another.

18. The attached Memorandum is made a party hereof.

Conclusions of Law

1. The finding of this Court that every mineral interest has some value brings this case within the holding of *Contos v. Herbst*, 278 N.W. 2d 732 (Minn. 1979).

2. The mineral interests involved in this proceeding are fully subject to tax under Minn. Stat. 273.13, Subd. 2(a).

3. The Defendant, Federal Land Bank of St. Paul, shall pay taxes due and payable together with interest and penalties or the property will forfeit to the State of Minnesota for non-payment according to law.

4. Petitioner, County of St. Louis, is awarded its costs and disbursements incurred herein.

LET JUDGMENT BE ENTERED ACCORDINGLY. A 15 DAY STAY IS HEREBY ORDERED.

Dated: This 19th day of March, 1982.

By the Court
Earl B. Gustafson, Judge
Minnesota Tax Court

Memorandum

This decision deals with two limited issues. First, are any of the Federal Land Bank's mineral interests without value? Second, if some mineral interests have no value does it follow that the tax on severed minerals imposed by Minn. Stat. § 273.13, subd. 2(a) is unconstitutional?

TAX COURT

After considering all the evidence adduced at the hearing held in September 1981 and allowing the Bank full opportunity to present all arguments, I have reached the conclusion that all mineral interests have some value and, further, that the Bank would have suffered no injury if some of its mineral rights were conclusively without value because payment of the tax is optional.

The evidence presented by the Federal Land Bank tended to prove that mineral interests severed from the surface ownership vary greatly in value depending upon the type of minerals that geologists reasonably anticipate are beneath the surface and the cost of extracting these minerals. If the cost of extraction exceeds the present or anticipated market price that can be obtained, the mineral rights, according to the Bank, have only minimal or speculative value. In some situations the minerals are beneath such a deep overburden that no mining could be anticipated within the foreseeable future. In other areas of the state, no minerals of any *present* commercial value have been found.

None of the evidence offered by the Bank has convinced this Court that mineral rights have no value. We do not read into the finding of the District Court in *Contos* (affirmed by the Supreme Court) that every mineral interest must have some measurable present market value and that speculative and minimal values are excluded from taxation. All mineral interests have some speculative and uncertain values until ore is actually extracted and sold. Even then, future changes in technology and markets may turn an "exhausted and worthless" mine into valuable property, once again.

Aside from the expert geologic evidence presented at trial, there remains the undisputed fact that the Bank itself treats these mineral rights as having value,—speculative and uncertain, perhaps—but, nevertheless having value. It severed and retained these mineral rights with the expressed hope of earning money, "through eventual mineral development."

As the Montana Supreme Court concluded in *Northern Pacific Ry. Co. v. Mjelde*, 48 Mont. 287, 304, 137 P. 386, 391 (Mont. 1913).

It will not do to say that, because neither of these reservations produces revenue, it is not of any value. *From the very act of making the reservation, the presumption arises that each interest has some appreciable value, or the reservation would not have been made.* Taxation is the rule, exemption is the exception. . . . (Emphasis added.)

Similarly, in *Union Pacific R. Co. v. Hanna*, 73 Colo. 162, 171, 214 P. 550, 554 (Colo. 1923), the Colorado Supreme Court ruled:

The mere fact that the plaintiff reserved these [severed mineral] rights, when conveying the lands to purchasers and continues to hold them, with the right, at anytime, to begin to exercise them, is some evidence that the reservations are valuable.

Because of the "potential income and asset value of the Bank's mineral interests," the express policy of the Bank since 1976 precludes the release (sale) of any of its mineral rights except when refusal would work an undue hardship or when it would be to the Bank's advantage.

A detailed review of the evidence leads to but one conclusion. All mineral rights have some value. This value, in the opinion of one owner, may not justify the continued payment of an annual tax of 25 cents per acre. That is a choice that each owner must make. Forcing this choice does not make the tax unconstitutional.

In *Texaco, Inc. v. Short*, 454 U.S. ____, 70 L. Ed. 2d 738, 102 S. Ct. 781, decided January 12, 1982, the United States Supreme Court upheld an Indiana version of a severed minerals statute that goes farther than Minnesota's statute. The Indiana statute provides for automatic lapse and reversion to the surface owner of the severed mineral interests if there is no mining or exploratory use for 20 years. Writing for the majority, Justice Stevens said that, just as a state may create and protect a property interest, it may also condition permanent retention of that property on the performance of reasonable conditions. (Four Justices dissented.)

The question of the Bank's standing to raise this constitutional challenge should not be ignored. This could be considered the threshold issue and will be discussed to finally lay to rest this and any further litigation. The Bank, as discussed above, maintains that if it can prove some of its mineral interests have no value, then, it has been denied due process by being forced to pay taxes on worthless property. This is incorrect. The tax is not enforceable as a personal judgment and need not be paid. If the bank wishes to retain these mineral rights, of course, it must pay the annual 25 cents acreage tax. However, if the mineral rights have no value, the bank may decline to pay the acreage tax and these mineral rights (which hypothetically have no value) will revert to the State of Minnesota as tax delinquent real property.

It is difficult to see how the bank can, on the one hand, argue that certain of its mineral rights have no value and yet argue that it has suffered an injury which requires constitutional protection. If the mineral rights have no value, there is no injury to the bank in merely refusing to pay the tax. The mineral rights that will then be forfeited are valueless and the Bank has obviously suffered no loss.

There is a well-established line of authority that no litigant can question the constitutionality of a statute unless he can first

show that the statute has caused him or is about to cause him, some injury. The leading United States Supreme Court decision enunciating this rule is *Massachusetts v. Mellon*, 262 U.S. 447, 43 S. Ct. 597 (1923) and this has been followed in Minnesota. *State ex rel. Clinton Falls Nursery Co. v. County of Steele*, 181 Minn. 427, 232 N.W. 737 (1930); *State ex rel. Smith v. Haveland*, 223 Minn. 89, 25 N.W. 2d 474 (1946); *Lee v. Delmont*, 228 Minn. 101, 36 N.W. 2d 530 (1949); *State v. Meyer*, 228 Minn. 286, 37 N.W. 2d 3 (1949); *Beatty v. Winona Housing and Redevelopment Authority*, 277 Minn. 76, 151 N.W. 2d 584 (1967).

In *St. Paul Chamber of Commerce v. Marzitelli*, 258 N.W. 2d 585 (Minn. 1977) the Court said:

When a constitutionality of a statute is challenged, the litigant bringing the challenge must, in order to invoke the jurisdiction of the court, be able to show that the statute is, or is about to be, applied to his disadvantage. 258 N.W. 2d 585, 588.

For the several reasons stated the Bank should pay the contested tax or the property should be forfeited.

E.B.G.

SUPREME COURT

Decisions Filed Friday, March 26, 1982

Compiled by John McCarthy, Clerk

51559 In re the Marriage of: Marlin L. Erlandson, petitioner, v. Rose Helen Erlandson, Appellant. Hennepin County.

The trial court did not err in the type and amount of spousal maintenance awarded.

Affirmed. Amdahl, C. J. Dissenting, Otis, J., and Wahl, J. Took no part, Kelley, J.

81-264, 81-343 Jerry Galle, *et al.*, Appellants, v. 81-264 Excalibur Insurance Co. Ramsey County. Robert Standfield, v. 81-343 Excalibur Insurance Co., Appellant. Washington County.

Back injuries sustained by appellants Galle and Schroedl as a result of strain in lifting cargo inside a stationary truck do not arise out of the maintenance or use of the truck as a motor vehicle within the meaning of Minn. Stat. § 65B.43, subd. 3 (1980). Accordingly no-fault benefits were properly denied them.

Injuries sustained by a cable breaking, when the rear door of a truck was being entered by appellant Standfield to retrieve a dolly, result from the use of the truck as a motor vehicle within the meaning of Minn. Stat. 65B.43, subd. 3 (1980). Accordingly he was entitled to the no-fault benefits prescribed by that statute.

Affirmed. Otis, J. Dissenting in part, Wahl, Todd, and Scott, JJ. Took no part, Kelley, J.

81-693 Lanesboro State Bank, Appellant, v. Robert G. Hennessey, *et al.* Winona County.

Statutory cancellation of a contract for deed proceedings are subject to the automatic stay provisions of the federal bankruptcy act. An attempt to perfect the cancellation without service of notice on the trustee and without securing a lifting of the stay provision is ineffective.

Todd, J. Took no part, Kelley, J.

81-1141 State of Minnesota, by its Attorney General, Warren Spannaus, *et al.*, v. Maple Hill Estates, Inc., etc., *et al.*, Appellants. Hennepin County.

Summary judgment is proper only when there are no genuine issues of material fact.

The trial court erred by entering summary judgment for the Minnesota Pollution Control Agency and the State of Minnesota. Reversed and remanded. Todd, J.

81-104 August A. Marynik v. Burlington Northern Inc., Appellant. Hennepin County.

The trial court properly applied the United States Supreme Court's decision in *Norfolk & Western Railway v. Liepelt*, 444 U. S. 490 (1980), by refusing to permit appellant to introduce payroll records showing total deductions from respondent's salary.

The trial court's failure to instruct the jury that a damage award would not be subject to taxation was harmless error.

The jury's award of \$80,000 damages was not excessive, the result of passion and prejudice and/or errors committed at trial.

SUPREME COURT

The trial court's instruction concerning climatic conditions was correct.

Affirmed. Scott, J.

81-283/Sp. Louis E. Smith v. Armour and Company, Relator. Workers' Compensation Court of Appeals.

An employee entitled to compensation for permanent total disability resulting from injuries sustained prior to August 1, 1974, is not entitled to receive compensation for permanent partial disability concurrently. Such employee may be awarded benefits for a permanent partial disability ascertainable and payable before the date of permanent total disability.

Affirmed in part, reversed in part. Wahl, J.

51059/369 (1980) James H. Alevizos, et al., Petitioners, Frank L. Ario, et al., petitioners, Appellants, v. Metropolitan Airports Commission. Hennepin County.

The evidence did not establish the landowners' right to inverse condemnation of an avigational easement as a matter of law, nor was the trial court's finding of no diminution in market value of the property due to airport noise clearly erroneous.

Evidence of comparable sales prices is admissible in inverse condemnation as well as condemnation cases.

The trial court properly applied the standard of *Alevizos v. Metropolitan Airports Commission*, 298 Minn. 471, 216 N.W.2d 651 (1974) (*Alevizos I*), for taking of an avigational easement.

Landowners are entitled to a jury trial of disputed fact issues at a mandamus trial for inverse condemnation. Here the landowners did not waive their right to a jury trial, having been misled by language in *Alevizos I* as to when a jury is to be impaneled.

Reversed and remanded for a new trial. Simonett, J.

81-298/Sp. Beryl J. Hoff v. Merle S. Kempton, Appellant, Travelers Insurance Company, Garnishee. Hennepin County.

The United States Supreme Court's decision in *Rush v. Savchuk*, 444 U.S. 320 (1980), applies retroactively to cases pending in Minnesota courts as of the date *Rush* was decided. Therefore, as in the instant case, where jurisdiction is established solely via the discredited attachment-of-insurance-policy method of quasi-in-rem jurisdiction, the court must dismiss the case under the teachings of *Rush* for lack of jurisdiction.

Reversed and remanded. Simonett, J. Took no part, Kelley, J.

Decision Filed Monday, March 22, 1982

81-1294/Sp. State of Minnesota v. Robert Wayne Block, Appellant. Hennepin County.

A 1981 amendment to the Postconviction Remedy Act, Act of June 1, 1981, ch. 366, § 1, 1981 Minn. Laws 2355-56 (to be codified at Minn. Stat. § 590.01, subd. 3 (1982), which provides for retrospective application of the Sentencing Guidelines under certain conditions, applies to petitioners who are already on parole and not just to those who are incarcerated.

Remanded. Amdahl, C. J.

STATE CONTRACTS

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

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

Department of Public Welfare/Willmar State Hospital

Notice of Request for Proposals for Services to be Performed on a Contractual Basis

Notice is hereby given that the Willmar State Hospital, Mental Health Division, Department of Public Welfare, is seeking the

following services for the period July 1, 1982, through June 30, 1983. These services are to be performed as requested by the Administration of the Willmar State Hospital:

1. Services of Psychiatrist, trained in General Psychiatry, to provide consultant to Adult Psychiatric Admission Unit, mental status examinations and assessments, treatment plan, recommendations and medication review. Estimated amount of the contract will not exceed \$23,500.00.
2. Services of Radiologists to interpret X-ray films; provide radiological supervision and X-ray consultation; provide specialized X-ray procedures. Estimated amount of the contract will not exceed \$11,440.00.
3. Services to perform diagnostic laboratory procedures necessary to conduct treatment programs at the Willmar State Hospital not available in our Laboratory. Estimated amount of the contract will not exceed \$26,500.00.
4. Services of Physicians to provide medical and surgical consultations, as needed to Patients/Residents of Willmar State Hospital at Willmar State Hospital. Estimated amount of the contract will not exceed \$14,000.00.
5. Services of Psychiatrist to provide consultation to Adolescent Treatment Unit, Psychiatric Rehabilitation Unit and Chemically Dependent Unit; special skills in adolescent and chronic mental illness psychiatry. Estimated amount of the contract will not exceed \$25,500.00.
6. Services of a full time Protestant Chaplain; to conduct services and other ministries to Mentally Ill, Mentally Retarded and Chemically Dependent Patients. Estimated amount of the contract will not exceed \$10,828.00.

Responses for the above services must be received by May 4, 1982.

Direct inquiries to:

Lester E. Johnson, Chief Executive Officer
Willmar State Hospital
Box 1128
Willmar, MN 56201
(612) 231-5100, Ext. 205

Department of Finance

Notice of Request for Proposals for Study of All Revenue Generating Areas within the State

The State of Minnesota, Department of Finance, is requesting proposals for study of all revenue generating areas within the state to assist the department in maximizing revenue on a statewide basis. Key areas to be reviewed include, but are not limited to:

- a. Revenues from the federal government.
- b. Revenues from commercial insurance carriers.
- c. Revenue from state controlled dollars.
- d. Revenue from state business.
- e. Revenue from state citizens.

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 the Project

The purpose of this project is to maximize revenue on a statewide basis. The project scope includes all revenue generating areas within the state. A variety of techniques will be used to analyze the potential for increasing revenue in each area and in the actual realization of these revenues. Examples of areas to be considered within the area of revenues from federal government include:

- a. Unclaimed state expended costs including both direct and indirect costs.
- b. The incremental portion of per diem rates where in the case of retrospective rate setting systems these cost methodologies would not have been used in the rate computation or settlement. In the case of prospective rate setting systems, these costs and methodologies have not historically been used in the development of the prospective rate.

STATE CONTRACTS

c. Increased service charges, if appropriate, to maximize third party reimbursement while remaining within gross revenue increased guidelines.

II. Objectives

The project goal is to assist the "state" in preparation of cost claims and/or modifications to methodologies for per diem rate setting and charge setting. The contractor will assist the state in obtaining required approvals and in claiming and recovering reimbursement for federal fiscal years 1979, 1980, 1981, 1982, and 1983.

Assist and train state financial personnel in the ongoing qualification and preparation of:

- a. Revenue claims to the proper source.
- b. New, revised or modified methodologies for revenue quantification from the appropriate sources.
- c. New, revised or modified systems and procedures for billing, claiming accounting and controlling state revenues.

III. Project Tasks

1. Review all methodologies, systems and procedures used by the state in obtaining revenue for each area of investigation. The contractor will present a written summary of this process and the amount of revenues which Minnesota receives for each area of investigation. These summaries would serve as mutually agreed "baselines" from which all incremental benefits would be measured.

2. Prepare written outlines including the areas which will be investigated and projected revenues for these areas. The purpose of these outlines will be to clearly define the areas in which the contractor will concentrate.

3. Preparation, development and documentation of the required methodologies, systems and procedures to increase the state's revenues in areas of investigation. Quantification, training, and assisting in the preparation of both retroactive and current year revenue billings and claims.

4. Documentation of state activities required to generate the retroactive and current year revenue, as well as those activities required to receive the revenue on a recurring basis.

5. Documentation of the benefits of these enhancements, summarized and projected through fiscal year 1985.

6. Undertake on behalf of, or in conjunction with the state, discussions and/or negotiations with any third parties to obtain the necessary approvals allowing the state to increase revenues in the manner proposed.

7. As a final step, a summary of all areas of study and the revised revenues resulting from all areas investigated.

IV. Department Contacts

Prospective responders who have any questions regarding this request for proposal may call or write:

Ted Spiess (612) 296-4846
Director, Controller Services
Department of Finance
309 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Please note: Other department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

V. Submission of Proposals

"All proposals must be sent to and received by:

Ted Spiess (612) 296-4846
Director, Controller Services
Department of Finance
309 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota—55155

NOT LATER THAN 4:30 p.m.—April 19, 1982

Late proposals will not be accepted. Four copies of the proposal must be submitted. Proposals are to be sealed in mailing envelopes or packages with the responders name and address clearly written on the outside. Each copy of the proposal must be signed by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

VI. Project Cost

The department estimated that the cost of this project should not exceed \$85,000. For a Phase I effort to generate at least three times the consultant's fee. The consultant's fee to be payable upon collection of the additional revenues by the state.

VII. Project Completion Date

The project will be completed by May 1, 1983 or within 12 months of the date of project authorization.

VIII. Proposal Contents

The following will be considered minimum contents of the proposal:

- a. A restatement of the objectives to show or demonstrate the responder's view of the nature of the project.
- b. Identify and describe the deliverables to be provided by the responder.
- c. Outline the responder's background and experience with particular emphasis on state government work. Also, summarize responder's experience with financial management work. Identify personnel to conduct the project and detail their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the state project director or manager.
- d. Responder will prepare a detailed cost and work plan which will identify the major tasks to be accomplished and be used as a scheduling and managing tool as well as the basis for invoicing.
- e. Identify the level of the department's participation in the project as well as any other services to be provided by the department.

IX. Evaluation

"All proposals received by the deadline will be evaluated by representatives of the Department of Finance. In some instances, an interview may be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited, to the following:

- a. expressed understanding of project objectives;
- b. project work plan;
- c. project cost detail; and
- d. qualification 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 April 30, 1982. 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.

**State Board of Education
Department of Education
Instruction Division****Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the
Preschool Screening Program**

Notice is hereby given that the State Department of Education is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing the Preschool Screening Program. The promulgation of these rules is authorized by Minnesota Statutes § 123.703, subd. 1, which permits the agency to adopt rules for this program.

The State Department of Education requests information and comments concerning the subject matter of these rules.

OFFICIAL NOTICES

Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Thomas Lombard
647 Capitol Square Building
550 Cedar St.
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 612/296-1432 and in person at the above address.

All statements of information and comment shall be accepted until May 1, 1982. Any written material received by the State Department of Education shall become part of the record in the event that the rules are promulgated.

March 30, 1982

State Board of Education Department of Education School Management Services Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Use of Liquefied Petroleum Gas (LPG) for School Buses

Notice is hereby given that the State Department of Education is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing the use of liquefied petroleum gas as an alternate fuel for school buses.

The promulgation of these rules is authorized by Minnesota Statutes § 169.45, which requires the State Board of Education to prescribe rules governing the minimum design standards for school buses.

The State Department of Education requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gerald Pavek
Pupil Transportation
Department of Education
550 Cedar Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone by contacting Gerald Pavek at (612) 296-2839, or in person at the above address.

All statements of information and comment shall be accepted until May 12, 1982. Any written materials received by the State Department of Education shall become part of the record in the event that the rules are promulgated.

March 26, 1982

Ronald J. Laliberte
Assistant Commissioner

Department of Energy, Planning and Development Energy Division

Notice Regarding Minnesota State Plan for U.S. Department of Energy, Phase II Institutional Buildings Grants Program

The revised Minnesota State Plan for the U.S. Department of Energy, Phase II Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions has been approved.

The Cycle IV application deadline is Friday, May 7, 1982 at 4:30 pm. Federal grants for fifty percent of project costs will be awarded on a competitive basis. The remaining fifty percent must be provided by local, non-federal matching funds. Schools

and hospitals are eligible to compete for approximately \$1.2 million in maxi-audit (technical assistance) and energy conservation measures grants. Some hardship grants of up to ninety percent federal funding will be available. Local governments and public care institutions are eligible for approximately \$40,000 in maxi-audit (technical assistance) grants.

For more information call (612) 297-2103 or write: IBGP / Energy Division of DEPD / 980 American Center Building / 150 East Kellogg Boulevard Saint Paul, Minnesota 55101.

Department of Energy, Planning & Development Energy Policy Development Council

Notice of Council Meeting

The next meeting of the council is scheduled for Monday, April 12, 1982 1:00 to 4:00 p.m. in Room 120 of the State Capitol. This meeting will review and discuss the council's questions on the Energy Policy and Conservation Biennial Report. Also presentations on alternative energies will be topics of this meeting. Contact Karla Sand, 296-5124, for further information.

Ethical Practices Board

Advisory Opinion #82 Re: Campaign Finance: Constituent Services

Issued to:

Senator Eric Petty
4858 Lyndale Avenue South
Minneapolis, MN 55409

Summary

82. After reapportionment, the principal campaign committee of a legislator must consider old and new district boundaries as well as the period of time in which services are provided when reporting expenses as campaign expenditures or noncampaign disbursements in the first election year for the office held.

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

Department of Human Rights

Notice of Intent to Solicit Outside Opinion of Proposed Rules Relating to Requirements for State Contractors

Notice is hereby given that the Minnesota Department of Human Rights intends to adopt rules to implement Minnesota Statutes § 363.073 as amended in 1981. This section of the Minnesota Human Rights Act requires state contractors and subcontractors to have affirmative action plans approved by the Commissioner of Human Rights before bidding on state contracts.

The promulgation of these rules is authorized by Minnesota Statutes chapters 363.05, subdivision 1 (8) and 363.075 which allows the commissioner to adopt suitable rules for effectuating the purpose of chapter 363. These proposed rules will apply to all businesses and firms which bid on contracts in excess of \$50,000 and which have more than 20 full time employees in Minnesota at any time during the previous 12 months. These proposed rules will establish the criteria to be used to review affirmative action plans, the standards used to review implementation of affirmative action plans and the procedure for submitting affirmative action plans for approval. These proposed rules will apply to the Department of Human Rights, the contracting agencies and state contractors.

All interested or affected persons or groups may submit information on the subject. Written or oral comments should be directed to:

OFFICIAL NOTICES

James Robinson
Compliance Unit
Minnesota Department of Human Rights
500 Bremer Tower
7th and Minnesota
St. Paul, Minnesota 55101
(612) 296-5683

All statements of information and comment must be received by May 7, 1982. Any written material received by this date will become part of the record of any rules hearing held on this subject.

March 29, 1982

Marilyn E. McClure
Commissioner

Metropolitan Council

Public Hearing on Proposed Water Resources Management Development Guide/208 Areawide Plan; Part 2, Surface Water Management

The Metropolitan Council will hold a public hearing on Thursday, April 29, 1982 from 4 to 5:30 p.m., reconvening at 7 p.m. in the Metropolitan Council Chambers, 300 Metro Square Bldg., 7th and Robert Sts., St. Paul, Minnesota 55101, for the purpose of receiving public comments on the proposed Water Resources Management Development Guide/208 Areawide Plan; Part 2, Surface Water Management. This document when adopted will supersede the Protection Open Space Development Guide chapter and the surface water drainage parts of the Water Resources Development Guide chapter and will fulfill federal requirements as the Metropolitan Area's water quality plan under Section 208 of Public Law 95-217. All interested persons are encouraged to attend the hearing and offer comments on the proposed surface water management material. Persons wishing to speak at the hearing are encouraged to register in advance by contacting the Council's public hearing coordinator at 291-6421. Those who register first will be scheduled to speak first. Written comments may be submitted until May 14, 1982. Copies of the hearing document are available for public inspection beginning Monday, March 29, 1982 at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul, Minnesota 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis, Minnesota 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth Street
St. Paul, Minnesota 55102

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, Minnesota 55434

Carver County Library—Burnsville Branch
314 Walnut Street
Chaska, Minnesota 55318

Dakota County Library—Burnsville Branch
1101 W. County Rd. 42
Burnsville, Minnesota 55337

Hennepin County Library—Southdale Branch
7001 York Avenue
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch
2180 N. Hamline Avenue
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch
235 S. Lewis Street
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch
7520—80th Street S.
Cottage Grove, Minnesota 55106

Copies of the amendments may be obtained free of charge from the council's Public Information Office at the above address, telephone 291-6464.

Chairman, Metropolitan Council

Department of Natural Resources

Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Ramsey County

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1980) will be held in the Civil Defense Room, Public Works Building, 3377 North Rice St., St. Paul, on April 28, 1982, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Dan Schacht, 3377 North Rice St., St. Paul, MN 55112, Department of Natural Resources representative Karen Loechler, 1200 Warner Road, St. Paul, MN 55106 and County Soil and Water Conservation District representative William Downing, 1834 Simpson Ave., St. Paul, MN 55113.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1980) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1980). Please take notice that waters listed in para. A.2. may sometimes also be considered for designation, in the alternative, as wetlands.

A. PUBLIC WATERS

1. Watercourses.

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range-to-Section</u>	<u>Township</u>	<u>Range</u>
None					

2. Preliminarily designated under section 105.37, subs. 14(a)-14(h).

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
62-27: Gilfillan Lake	17	30 (Vadnais Hts.)	22

B. WETLANDS

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
62-120: Unnamed	SE 19	30 (Vadnais Hts.)	22
*62-260: Unnamed	21	30 (Vadnais Hts.)	22
*62-261: Unnamed	20, 21	30 (Vadnais Hts.)	22
*62-262: Unnamed	22, 23	28 (St. Paul)	22

*petitioned to be added.

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425 (1980).

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation of public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available

OFFICIAL NOTICES

prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subs. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this notice and order may be directed to any member of the hearings unit or to

David B. Milles
DNR-Division of Waters
Third Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/297-2835

March 25, 1982

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Hennepin County

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1980) will be held in the City Council Chambers, Plymouth City Center, 3400 Plymouth Boulevard, Plymouth, Minnesota, on May 4, 1982, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative James Ault, Hennepin Department of Transportation, 320 Washington Avenue South, Hopkins, MN 55343, Department of Natural Resources representative Karen Loechler, 1200 Warner Road, St. Paul, MN 55106, and County Soil and Water Conservation District representative Sever Peterson, 15900 Flying Cloud Drive, Eden Prairie, MN 55343.

Each of the waters listed in this notice is the subject of a petition for hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1980) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1980). Please take notice that waters listed in para. A.2. may sometimes also be considered for designation, in the alternative, as wetlands.

A. PUBLIC WATERS

1. Watercourses.

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range-to-Section</u>	<u>Township</u>	<u>Range</u>
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None

2. Preliminarily designated under section 105.37, subs. 14(a)-14(h).

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
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None

B. WETLANDS

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
27-216: Unnamed	9	120 (Dayton)	22
27-217: Unnamed	9	120 (Dayton)	22
27-464: Unnamed	19	118 (Plymouth)	22
27-465: Unnamed	SE 19	118 (Plymouth)	22
27-466: Unnamed	19	118 (Plymouth)	22
27-540: Unnamed	SE 34	119 (Maple Grove)	22

27-556: Unnamed	1; 36	118; 119 (Plymouth, Maple Grove)	22
27-588: Unnamed	SW 2	118 (Plymouth)	22
27-598: Unnamed	5	118 (Plymouth)	22
27-608: Unnamed	NW 20	118 (Plymouth)	22
27-622: Unnamed	14	118 (Plymouth)	22
*27-1104: Unnamed	9	120 (Dayton)	22
*27-1105: Unnamed	9, 10	120 (Dayton)	22
*27-1106: Unnamed	SE 31	117 (Edina)	21

*Petitioned to be added

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425 (1980).

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

David B. Milles
DNR—Division of Waters
Third Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/297-2835

March 29, 1982

Joseph N. Alexander, Commissioner
Department of Natural Resources

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules Relating to Permits Issued by the Minnesota Pollution Control Agency

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is conducting a review of its rules relating to permits, including the procedures for issuing agency permits, and is considering the adoption of rules which would replace the following existing agency rules:

1. Minn. Rule MPCA 5, Permits.
2. Minn. Rule APC 3, Permits.
3. Minn. Rule APC 19, Indirect Source Permits.
4. Minn. Rule WPC 36, Regulations for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Program.
5. 6 MCAR § 4.9006, Hazardous Waste Facility Permit Program.

All interested or affected persons or groups may submit data or views on the proposed rules. Statements of information and comment may be made orally or in writing.

Comments and information concerning the proposed rules which will set forth generally applicable permitting procedures and concerning the rules applicable to NPDES permits should be directed to:

OFFICIAL NOTICES

Perry Beaton
Assistant Division Director
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-7354

Comments and information concerning the proposed rules applicable to hazardous waste facility permits should be directed to:

Richard Svanda
Assistant Division Director
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-2732

Comments and information concerning the proposed rules applicable to air emission facilities and control equipment and the rules relating to indirect source permits should be directed to:

Tim K. Scherkenbach
Assistant Division Director
Division of Air Quality
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-7340

All written material received by the agency will become part of the record of any proceeding commenced by the agency to promulgate the rules.

Department of Public Welfare Services for the Blind

Notice of Intent to Solicit Outside Opinions Concerning Rehabilitation Programs for Blind and Visually Handicapped Persons

Notice is hereby given that the Minnesota Department of Public Welfare is considering adoption of a proposal rule, 12 MCAR 2.176 Rehabilitation Services for Blind and Visually Handicapped Persons.

Authority for the rule is contained in Minnesota Statute § 248.07.

This rule, when developed, will govern the provision of direct rehabilitative services to blind and visually handicapped persons, including basic eligibility, the development of the formal rehabilitation plan, financial need eligibility, training, medical services, legal blindness, the provision of tools and equipment and program definitions. The Business Enterprise Program is governed by rule 12 MCAR § 2.079 and will not be covered by this action.

The purpose of this notice is to provide the opportunities for the widest possible input from all interested organizations and individuals on the proposed rule. All persons and individuals are requested to participate. Statements of information, suggestions or comments may be made orally or in writing.

After the comment period the rule will be drafted and made available for further reference before public hearing. Notice of public hearing will be made available to all interested persons and organizations.

Other information or comments may be addressed to:

Karl W. Nitardy
Administrative Deputy
State Services for the Blind and Visually Handicapped
1745 University Avenue
St. Paul, MN 55104

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-6086. All statements of information and comment must be received by June 7, 1982. Any written material received by the department shall become part of the hearing record.

Department of Transportation

Petition of Rice County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Rice County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project along CSAH 27 between CSAH 20 in the City of Cannon and T.H. 246.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minn. Statute, Chapters 161 and 152 (1978) as amended, so as to permit a design speed of 40 miles per hour instead of a required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 26th day of March, 1982.

Richard P. Braun
Commissioner of Transportation

Petition of Rice County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Rice County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project along CSAH 38 between CSAH 11 and a point 5.38 Miles West of CSAH 11.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minn. Statute, Chapters 161 and 152 (1978) as amended, so as to permit a design speed of 40 miles per hour instead of a required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 26th day of March, 1982.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

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.

Legislative Reference Library
Room 111 Capitol

Interoffice