

83 May 16

# STATE REGISTER

STATE OF MINNESOTA

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**Printing Schedule for Agencies**

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
<b>SCHEDULE FOR VOLUME 7</b>			
49	Monday May 23	Friday May 27	Monday June 6
50	Friday May 27	Monday June 6	Monday June 13
51	Monday June 6	Monday June 13	Monday June 20
52	Monday June 13	Monday June 20	Monday June 27

\*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.

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

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

#### The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

#### The **ADOPTED RULES** section contains:

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

**ALL ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* 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
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## EXECUTIVE ORDERS

### Executive Order No. 83-22

#### Providing for the Establishment of a Governor's Task Force on High-Level Radioactive Waste

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the United States Department of Energy is responsible for siting and developing national high-level radioactive waste repositories in the United States; and

WHEREAS, Minnesota has an opportunity to review and comment on Department of Energy's activities related to any proposed siting activities impacting Minnesota;

NOW, THEREFORE, I order:

## EXECUTIVE ORDERS

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1. The Minnesota Environmental Quality Board to serve as the lead agency in the executive branch for the purpose of coordinating and preparing state responses to studies, proposed rules, findings or other actions taken by the federal government in its pursuit of a national high level radioactive waste repository. The Chairman, or his designee is responsible for monitoring federal activities in waste management and informing appropriate state agencies of the need for state involvement and review.

2. State agencies to provide technical assistance as requested to adequately review reports, standards, guidelines and proposals submitted by the U.S. Department of Energy.

3. The establishment of the Governor's Task Force on High-Level Radioactive Waste Management pursuant to *Minnesota Statutes*, Section 15.0593 and other applicable state statutes.

4. The Task Force shall be composed of no more than twelve (12) members appointed by the Governor and shall consist of:

- a. The Chairman of the Minnesota Environmental Quality Board.
- b. Two (2) members of the House of Representatives.
- c. Two (2) members of the Senate.
- d. The Executive Director of the Pollution Control Agency.
- e. The Commissioner of Health.
- f. The Executive Director of the Minnesota Geological Survey.
- g. The Commissioner of Energy, Planning and Development.
- h. The Commissioner of the Department of Natural Resources.
- i. Two (2) citizens knowledgeable in geo-engineering and radiological activities.

At least one Task Force member shall be from the northern half of the state. The Governor shall select the Chairman of the Task Force from among its members.

5. The terms of the members of the Task Force shall expire upon completion of its charge as determined by the Chair, but not be more than 3 years from the date of this Order. Per diem shall not be paid to members. Expenses shall be reimbursed according to the rules of the Department of Employees.

6. The Task Force shall be responsible for advising the Environmental Quality Board, the Governor, and the Legislature on all policy issues related to the management of high-level radioactive waste including, but not limited to, geologic disposal.

Pursuant to Minnesota Statutes 1980, Section 4.035, this Order shall be effective fifteen (15) days after filing with the Secretary of State and publication in the *State Register* and shall remain in effect until it is rescinded by proper authority or it expires in accordance with *Minnesota Statutes*, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 26th day of April, 1983.



**Executive Order No. 83-23****Providing for the Use of the Mechanic Arts Building by the Minnesota Historical Society**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, it is important to utilize vacant space in public buildings for productive purposes; and

WHEREAS, it is important to preserve and exhibit historical collections and provide the public with services in using those collections and in the programs that relate to them; and

WHEREAS, the Mechanic Arts High School building has been vacant for several years and not utilized under Minnesota Statutes 16.02, Subdivision 10(a);

NOW, THEREFORE, I order:

1. That the Minnesota Historical Society be authorized to use the Mechanic Arts High School building on an interim basis until construction begins on a new state history center.
2. That the state will maintain and provide custodial, security, and climate control services for the Mechanic Arts High School building during this interim period.
3. That the Minnesota Historical Society may utilize the vacant school building without payment of any rental or lease cost to the State of Minnesota.
4. That the interim use of the Mechanic Arts High School building will occur without any remodeling or improvements being made to the structure with the exception of necessary repairs, and accessibility needs.

This Order shall be effective at 2:01 p.m., June 1, 1983, and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 26th day of April, 1983.

**Executive Order No. 83-24****Ratifying the Seaway Port Authority of Duluth as Agent for a Public Hearing Required by Section 103(k) of the Internal Revenue Code with Respect to the Issuance by the Seaway Port Authority of Duluth of its \$500,000 Industrial Development Revenue Note of 1983 (Service Printers Company Project) and Approving the Issuance of the Note in Accordance with the Terms of the Resolution Adopted by the Seaway Port Authority of Duluth**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

## EXECUTIVE ORDERS

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WHEREAS, Section 103(k) of the Internal Revenue Code of 1954, as amended, (the "Code") requires that all industrial revenue bonds issued after December 31, 1982, satisfy certain public approval requirements prior to their issuance; and

WHEREAS, the Port Authority conducted a public hearing with respect to the issuance of its \$500,000 Industrial Development Revenue Note of 1983 (Service Printers Company Project) (the "Note"), the proceeds of which are to be used to assist in financing the acquisition and construction of an addition to an existing printing facility in the City of Duluth; and

WHEREAS, bond counsel to the Seaway Port Authority of Duluth (the "Port Authority") has advised the Port Authority that to insure compliance with the public hearing requirement implemented by Section 103(k) of the Code, the State of Minnesota should, prior to the issuance of the Note, (a) ratify the Port Authority as its authorized hearing agency for the public hearing held March 31, 1983, with respect to the Note to be issued by the Port Authority and (b) approve the issuance by the Port Authority of the Note; and

WHEREAS, the action taken by the State of Minnesota pursuant to this Order is consistent with the laws of the State of Minnesota and within the authority vested in the Governor of the State of Minnesota, and best serves the interests of the State of Minnesota, and the City of Duluth.

NOW, THEREFORE, I order:

1. The Port Authority is hereby ratified as the hearing agent of the State of Minnesota with respect only to the public hearing heretofore conducted by the Port Authority on March 31, 1983, with respect to the Note and said public hearing is hereby ratified and shall be deemed to have been taken for the State of Minnesota for the purposes of conducting the public hearing required under Section 103(k) of the Code.

2. Issuance of the Note by the Port Authority upon the terms and conditions set forth in Port Authority Resolution No. 22-83 entitled "FINAL NOTE RESOLUTION—\$500,000 INDUSTRIAL DEVELOPMENT REVENUE NOTE OF 1983 (SERVICE PRINTERS COMPANY PROJECT)", which was adopted by the Port Authority on Thursday, March 31, 1983, is hereby approved by the State of Minnesota for the purpose only of satisfying the public approval requirements of Section 103(k) of the Code and for no other purpose.

3. This Order and the approval herein granted shall not be construed as imposing any liability upon the Governor or the State of Minnesota, whether or not this Order satisfied the public approval requirements of Section 103(k) of the Code.

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after its publication in the *State Register* and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 26th day of April, 1983.



**Executive Order No. 83-25****Providing for the Assignment of Duties to State Agencies under the Land and Water Conservation Fund Act of 1965 (P.L. 94-422); Repealing Executive Order No. 79-14**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the proper administration of the federal Land and Water Conservation Fund Act of 1965 (P.L. 88-578) required the assignment of specific duties to various state agencies;

NOW, THEREFORE, I order:

1. The Department of Natural Resources be designated to be the state agency to act for me, in applying for, receiving and accepting federal funds granted to the State of Minnesota from the federal "Land and Water Conservation Fund Act of 1965", Public Law 94-422, and to disburse such funds to carry out the purposes for which the funds are received in accordance with Minnesota Statutes 1982, Section 86.71, with the exception of the authority and responsibility for the administration of the portion of the monies made available to be distributed to local units of government as stated in Section 86.71, Subdivision 4.

2. The powers in Minnesota Statutes 1982, Section 86.71, Subdivision 4, for the administration of the portion of the monies made available to be distributed to local units of government are hereby designated to the Department of Energy, Planning, and Development in accordance with Laws 1969, Chapter 1139, Section 48, Subdivision 7(g), and include the following responsibilities:

a. The signing of all project proposals, project agreements, billings, final progress reports, and correspondence pertinent to local units of government provided the Department of Natural Resources is furnished a copy of all approved project agreements and amendments.

b. The maintenance of project records including fiscal records for local units of government projects.

c. The responsibility of performing final and compliance inspections and auditing local units of government records on all projects.

d. The establishment of rules, regulations, and procedures pertinent to administering the fund to local units of government subject to the approval of the State Liaison Officer.

3. Notwithstanding the powers granted to the Department of Energy, Planning, and Development in paragraph 2, the Assistant Commissioner for the Department of Natural Resources shall be a State Liaison Officer for all federal LAWCON funds received and shall have the following authority:

a. Responsibility for the overall fund and assign the local unit of government portion to the Department of Energy, Planning, and Development.

b. Assignment to the Department of Energy, Planning, and Development of blocks of project numbers to utilize on their projects.

c. Total responsibility for the state's comprehensive outdoor recreation plan. Establishment of guidelines outlining the general policy and priorities on which the fund will operate and review assignment of project priorities for compliance.

d. Responsibility for all requests for federal contingency funds.

This Order repeals Executive Order 79-14.

## EXECUTIVE ORDERS

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Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after its publication in the *State Register* and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 26th day of April, 1983.



### Executive Order No. 83-26

#### Providing for the Establishment of the Governor's Minnesota Judicial Merit Advisory Commission; Amending Executive Order No. 83-2

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, Executive Order No. 83-2 was issued on January 10, 1983, providing for the establishment of the Governor's Minnesota Judicial Merit Advisory Commission; and

WHEREAS, it is necessary to amend Executive Order No. 83-2;

NOW, THEREFORE, I order:

Section I amended as follows:

#### I. Establishment of the Minnesota Judicial Merit Advisory Commission

There is hereby created a Governor's Minnesota Judicial Merit Advisory Commission to seek out, evaluate, and recommend to the Governor outstanding persons who are learned in the law to fill vacancies which may occur on the courts of Minnesota.

This Commission shall be composed of twelve members, including the following:

- a. One member appointed by the Governor from each of ten judicial districts;
- b. A chairman, appointed by the Governor; and
- c. One at-large member, appointed by the Governor.

The chairman shall be responsible for calling such meetings of the commission as are necessary to carry out its functions.

Pursuant to Minnesota Statutes 1980, Section 4.035, this Order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until January 2, 1984 or rescinded by proper authority or it expires in accordance with Minnesota Statutes 1980, Section 4.035.

IN TESTIMONY WHEREOF, I hereunto set my hand this twenty-sixth day of April, 1983.



# PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, 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 §§ 14.13-14.20 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. § 14.29, 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 Health Environmental Health Division

### Proposed Rules Governing Registration of Engineers and Construction of Monitoring Wells

#### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Commissioner of Health 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 Minnesota Statutes, Sections 14.21 to 14.28.

Persons interested in these rules shall have until 30 days after publication in the *State Register* 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 agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mr. Ronald D. Thompson, Unit Leader  
Ground Water Quality Control Unit  
Minnesota Department of Health  
Division of Environmental Health  
717 Delaware Street S.E.  
Minneapolis, Minnesota 55440  
612/623-5556

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 156A.03. Additionally, a statement of need and reasonableness that describes the need for and reasonableness 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. Thompson 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

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## PROPOSED RULES

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this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Thompson.

The proposed rules follow this notice. Copies of this notice and the proposed rules are available and may be obtained by contacting Mr. Thompson.

Sister Mary Madonna Ashton  
Commissioner of Health

### Rules as Proposed

#### 7 MCAR § 1.210 Definitions and policies.

A.-B. [Unchanged.]

C. The following terms apply to the water well construction code, 7 MCAR §§ 1.217-1.230.

1.-7. [Unchanged.]

8. “Confining bed” means a layer or body of soil, sediment, or rock with low vertical permeability relative to the aquifers or beds above or below it.

8.-13. [Renumber as 9.-14.]

15. “Monitoring well” means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of extracting groundwater for physical, chemical, or biological testing. “Monitoring well” includes “groundwater quality sampling well” as that phrase is used in Minnesota Statutes, section 156A.03, subdivision 3.

14.-37. [Renumber as 16.-39.]

D. [Unchanged.]

### Rules as Proposed (all new material)

#### 7 MCAR § 1.212 Registration of engineers who drill monitoring wells.

A. Original registration. A professional engineer who is registered with the Board of Architecture, Engineering, Land Surveying, and Landscape Architecture as a civil or geological engineer, and who seeks to drill monitoring wells, shall register annually on a form provided by the commissioner. The completed form must be returned to the commissioner, along with the \$50 registration fee. The registrant shall register each calendar year, and the registration expires on December 31.

B. Renewal. Each registrant shall submit an application for registration renewal on a form provided by the commissioner no later than December 31 of the year preceding the year for which the application is made. The registration renewal application must be accompanied by a fee of \$50. A penalty fee of \$10 must be paid in addition to the \$50 renewal fee if the renewal is submitted after the December 31 deadline.

C. Drilling monitoring wells. An engineer may not drill monitoring wells unless he is currently registered with the commissioner.

#### 7 MCAR § 1.216 Monitoring wells.

A. Use of well. A monitoring well may not be used as a source of water for human consumption, or for any industrial or agricultural use, or for any public or private water supply. A monitoring well may not be used for any purpose other than groundwater quality testing and monitoring.

B. Installation of well. A monitoring well may only be installed by a water well contractor licensed under 7 MCAR § 1.211 or a professional engineer who is registered under 7 MCAR § 1.212.

C. Applicability of code. Unless otherwise provided in this rule, all provisions of the water well construction code, 7 MCAR §§ 1.210-1.224, apply to the construction and abandonment of a monitoring well.

D. Special provisions and exceptions to code.

1. A monitoring well may not interconnect aquifers which are separated by a confining bed. If a confining bed is penetrated below the aquifer to be monitored, the drillhole through the confining bed must be filled with neat cement grout from the bottom of the drillhole to the top of the confining bed.

2. A monitoring well may be constructed into the first aquifer nearest to the ground surface without prior approval by the Department of Health.

Before a monitoring well which is constructed for the purpose of investigating potential, existing, or future groundwater contamination may be drilled into any aquifer which is below the first aquifer nearest to the ground surface, plans,

specifications, and construction features of the proposed installation must be submitted to and approved by the administrative authority.

3. Only a monitoring well which is constructed for the purpose of investigating potential, existing, or future groundwater is exempt from the provisions in 7 MCAR § 1.217 C. relating to isolation distances from sources of contamination.

4. A monitoring well must be constructed using materials meeting the standards prescribed in 7 MCAR §§ 1.220 A. and 1.224. In addition, a monitoring well may be constructed using schedule 5 stainless steel pipe which meets the standards of ASTM A 312-81a (American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103).

5. A person constructing a monitoring well need not meet the yield test requirement imposed in 7 MCAR § 1.220 L. However, the person constructing the well shall submit the results of any yield tests which may be performed along with the well log.

6. For monitoring wells where the use of chlorine disinfectants will interfere with the intended water quality analyses, alternate disinfection methods or materials may be used if they are approved by the commissioner.

7. A monitoring well is exempt from the venting requirement in 7 MCAR § 1.222 G.

8. The inside casing diameter for a monitoring well must be at least 1½ inches, except that a driven well point may be equipped with a casing at least 1¼ inch in diameter.

E. Protective measures.

1. Every monitoring well must be closed by use of an overlapping, locked metal cap or a wrench-tightened, threaded metal cap. The metal cap must be equivalent to the casing in strength and weight.

2. A monitoring well must be protected from damage by whichever of the methods in a.-c. is most appropriate for the existing and anticipated site conditions.

a. Protection may be by the placement of three posts of at least four-inch diameter, around the well at equal distances from each other and two feet from the casing. The posts must extend four feet above the ground surface and must be installed to a depth of four feet into solid ground or to a depth of two feet if each post is surrounded with six inches of concrete to a depth of two feet. The posts may be made of any of the following materials:

i. schedule 40 steel pipe, if capped with an overlapping, threaded, or welded steel or iron cap, or filled with concrete;

ii. reinforced concrete; or

iii. preservative treated wood.

b. Protection may be by surrounding the casing with a concrete slab which has horizontal dimensions of four feet by four feet, which rises 12 inches vertically above grade at the outer edge, and whose surface is sloped away from the well casing.

c. If a monitoring well is to be protected by means other than those prescribed in a. and b., the licensee or engineer shall first obtain written approval for the other means from the administrative authority. The alternate method must assure a degree of protection at least equal to that provided by the methods in a. or b.

3. A monitoring well need not be protected according to the procedures in 2. if the well is routinely inspected at least weekly and if the well is located in an area where it is not likely to be damaged by vandals or by impact from heavy equipment, cars, snowmobiles, or similar vehicles.

4. In addition to the measures prescribed in 2., a monitoring well which is cased with plastic must be protected within a watertight schedule 40 steel casing which is embedded in cement or concrete to a depth of two feet. The steel casing must be covered with an overlapping, locking steel cap. The inner casing must be capped or protected with an overlapping, threaded cap.

5. If a monitoring well is damaged, the damage must be corrected within 72 hours of its discovery. If a monitoring well is damaged irreparably, it must be properly sealed and abandoned in accordance with 7 MCAR § 1.218 C. within seven days of discovery of the damage.

Repealer. Rules 7 MCAR §§ 1.217 C.4., and 1.218 D. are repealed.

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## PROPOSED RULES

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### Minnesota Housing Finance Agency

#### Proposed Rules Relating to Home Improvement Loan Applications (12 MCAR § 3.051 Eligible Applications)

##### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposed to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments 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 agency will proceed according to the provisions of Minn. Stat. § 14.13 *et. seq.* If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Monte Aaker, Research Coordinator  
Research Division  
Minnesota Housing Finance Agency  
Suite 200  
333 Sibley Street  
St. Paul, Minnesota 55101  
Telephone: 612/296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subs. 4 and 11 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Monte Aaker 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 a designee of 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 these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

March 25, 1983

James J. Solem  
Executive Director

##### Rule as Proposed

12 MCAR § 3.051 Eligible applications.

A.-C. [Unchanged.]

D. The structure to be improved must be at least ~~15 years~~ 90 days old; ~~or in need of repair to correct damage resulting from a natural disaster, or in need of repair to correct defects or deficiencies which are hazardous to health or safety, or to directly improve energy efficiency.~~

E.-J. [Unchanged.]

## Department of Human Rights

### Proposed Temporary Rules Governing Certificates of Compliance and Public Contracts

#### Request for Public Comment

Notice is hereby given that the Department of Human Rights has proposed the following temporary rules for the purpose of implementing the provisions of Laws of 1981, Ch. 326, Sec. 1, the certificate of compliance program.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register*. All submissions must be in writing and addressed to:

James Robinson, Supervisor  
Compliance Unit  
Department of Human Rights  
5th Floor, Bremer Tower  
St. Paul, Minnesota 55101

The temporary rules may be revised on the basis of data and views received. Any written material received will become part of the record and will be submitted to the Attorney General.

May 2, 1983

Irene Gomez-Bethke  
Commissioner of Human Rights

#### Temporary Rules as Proposed (all new material)

12 MCAR § 1.051 [Temporary] Certificates of compliance for public state contracts; definitions.

A. Scope. For the purposes of 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary], in addition to the terms defined in Minnesota Statutes, section 363.01, and HumRts 1 to 18, the following terms have the meanings given them.

B. Affirmative action policy. "Affirmative action policy" means a managerial objective to eliminate all barriers to employment opportunity that are not based on specific job requirements. It refers also to the identification of those barriers in the use of action-oriented programs to advance employment opportunities for women, minorities, and qualified handicapped individuals.

C. Affirmative action program. "Affirmative action program" means a coherent set of goal-oriented management policies and procedures having as their purpose the implementation of a contractor's affirmative action policy including the contractor's self-analysis of its work force and entire employment practices and policies, availability and utilization analyses, and the establishment of goals and timetables for the correction of any underutilization of women, minorities, and qualified handicapped individuals identified in the self-analysis.

D. Availability. "Availability" means the percentage of minorities and women along those persons who may reasonably be considered eligible currently or may reasonably be considered during the term of the affirmative action program.

E. Civilian labor force. "Civilian labor force" means persons 16 years old and older who were either:

1. at work during the reference week, or
2. with a job but not at work during the reference week.

"At work" means that the person did any work as a paid employee, or in his own business or profession, or on his own farm; or who worked 15 or more hours as an unpaid worker on a family farm or in family business, during the reference week.

"With a job but not at work" means any person who did not work during the reference week but who had a job or business from which he was temporarily absent due to illness, bad weather, industrial dispute, vacation, or personal reasons.

Members of the armed forces are not included in the civilian labor force.

F. Construction work. "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings or highways, or other changes or improvements to real property, including highways and

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facilities providing utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

G. Contract. "Contract" means any agreement or modification of an agreement between any contracting agency and any business or firm for furnishing supplies or services or for using real or personal property, including lease arrangements. The term "services," as used in this definition includes, but is not limited to, the following services: utility, construction, transportation, research, insurance, and fund depository.

H. Contractor. "Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

I. Deficiency. "Deficiency" means an underutilization of women, minorities, or qualified handicapped employees or a failure to take corrective action to eliminate barriers to equal employment opportunity identified in the contractor's self-analysis.

J. Good faith effort. "Good faith effort" means reasonable efforts undertaken by a contractor to accomplish the goals and implement the corrections identified in the self-analysis.

K. Handicapped individual. "Handicapped individual" means any person who has a physical or mental impairment which substantially limits one or more of the person's major life activities.

Handicapped individual does not include an alcohol or drug abuser whose current use of alcohol or drugs renders that individual a hazard to himself or others.

"Life activities" includes communication, ambulation, self-care, socialization, education, vocational training, employment, transportation, or adapting to housing. For the purpose of this item, primary attention must be given to those life activities that affect employability.

The phrase "substantially limits" refers to the degree that the impairment affects employability. A handicapped individual who is likely to experience difficulty in securing, retaining, or advancing in employment would be considered substantially limited.

L. Immediate labor area. "Immediate labor area" means that geographic area from which employees and applicants may reasonably commute to the contractor's establishment. The immediate labor area may include one or more contiguous cities, counties, or Standard Metropolitan Statistical Areas or parts thereof, in which the establishment is located.

M. Minorities and women with requisite skills. "Minorities and women with requisite skills" means minorities and women who have demonstrated that they possess the skills for the job in question (for instance, through performance on another job), those who have completed training or educational programs designed to provide skills for the job in question, and those who could reasonably be expected to acquire the skills within a relatively short time after placement.

N. Minorities. "Minorities" includes:

1. Blacks (all persons having origins of any of the Black African racial groups not of Hispanic origin);
2. Hispanics (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);
3. Asian and Pacific Islanders (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); and
4. American Indians or Alaskan Natives (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

O. Modification. "Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

P. Prime contractor. "Prime contractor" means any firm or business holding a contract.

Q. Promotable or transferable. "Promotable or transferable" means, within the context of developing data for availability, those employees who are currently employed in a job group or groups which serve or could serve as a source from which selections are or could be made for another job group.

R. Qualified handicapped individual. "Qualified handicapped individual" means a handicapped individual who is capable of performing a particular job with reasonable accommodation to his or her handicap.

S. Relevant recruitment area. "Relevant recruitment area" means the geographic area from which the contractor may reasonably recruit its employees. It includes at least the area from which the contractor recruits, and may include geographic areas not contiguous with the immediate labor area.

T. Subcontract. "Subcontract" means any agreement or arrangement between a contractor and any firm or business in which the parties do not stand in the relationship of an employer and an employee:

1. for furnishing supplies or services or for using real or personal property, including lease arrangements, which, in whole or in part, are necessary to the performance of any one or more contracts; or

2. under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

U. Subcontractor. "Subcontractor" means any person holding a subcontract.

V. Utilization analysis. "Utilization analysis" means a comparison of the availability of minorities and women in the immediate labor area to their presence in a contractor's work force.

W. Work force analysis. "Work force analysis" means a listing of job titles, not job groups, as they appear in applicable collective bargaining agreements or payroll records ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervision.

#### 12 MCAR § 1.052 [Temporary] General provisions.

A. Purpose of rules. The purpose of 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary] is to increase employment opportunities for women, minorities, and handicapped individuals by requiring contractors and subcontractors to adopt and implement affirmative action programs approved by the commissioner.

B. Contents of affirmative action programs. The department incorporates by reference into this rule Code of Federal Regulations, title 41, sections 60-2.10—60-2.30, as amended through July 1, 1982, relating to required contents of affirmative action programs of nonconstruction contractors; Code of Federal Regulations, title 41, sections 60-4.1—60-4.6, as amended through July 1, 1982, relating to affirmative action programs of construction contractors; and Code of Federal Regulations, title 41, sections 60-741.6—60-741.7, as amended through July 1, 1982, relating to affirmative action policies, practices, procedures for practices, and procedures for handicapped persons. The department will enforce these same provisions as if they were rules of the department.

C. Persons regulated. Rules 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary] apply to contractors and subcontractors:

1. who are doing business or desire to do business with the state; and
2. who employ more than 20 full-time employees 12 months before, or any time during performance on a state contract; and
3. where the contract amount exceeds \$50,000 or is reasonably expected to exceed \$50,000 in any one year.

#### 12 MCAR § 1.053 [Temporary] Criteria for approval and implementation of affirmative action programs.

A. Nonconstruction contractors; women and minorities. Nonconstruction contractors' affirmative action programs for women and minorities must contain the following in order to be approved:

1. an equal opportunity policy statement in compliance with Code of Federal Regulations, title 41, section 60-2.20, as amended through July 1, 1982;
2. an assignment of responsibility for the program to an executive or top-management official in compliance with Code of Federal Regulations, title 41, section 60-2.22, as amended through July 1, 1982;
3. procedures for disseminating policy internally and externally in compliance with Code of Federal Regulations, title 41, section 60-2.21, as amended through July 1, 1982;
4. a work force analysis, including availability and utilization analyses in compliance with Code of Federal Regulations, title 41, section 60-2.11, as amended through July 1, 1982;
5. goals and objectives established by organizational units and job groups including timetables for completion in compliance with Code of Federal Regulations, title 41, section 60-2.12, as amended through July 1, 1982;
6. an identification of problem areas or deficiencies by organizational units and job groups in compliance with Code of Federal Regulations, title 41, section 60-2.23, as amended through July 1, 1982;
7. corrective action measures to eliminate problems and attain goals and objectives in compliance with Code of Federal Regulations, title 41, section 60-2.24, as amended through July 1, 1982;

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8. a system for monitoring compliance with the equal employment opportunity policies and with the affirmative action programs in compliance with Code of Federal Regulations, title 41, section 60-2.24, as amended through July 1, 1982; and

9. an affirmative action program for handicapped individuals in accordance with C.

B. Construction contractors; women and minorities. Construction contractors' affirmative action programs for women and minorities must:

1. comply with requirements for affirmative action to insure equal employment opportunity as specified in Code of Federal Regulations, title 41, section 60-4.2(d), as amended through July 1, 1982;

2. comply with standard federal equal employment opportunity construction contract specifications as required by Code of Federal Regulations, title 41, section 60-4.3, as amended through July 1, 1982; and

3. have an affirmative action program for handicapped individuals in accordance with C.

C. All contractors; handicapped individuals. Affirmative action programs for handicapped individuals must contain affirmative action policies, practices, and procedures to employ and advance in employment qualified handicapped individuals as established in Code of Federal Regulations, title 41, sections 60-741.4 to 60-741.9, as amended through July 1, 1982. The availability and utilization analyses and the establishment of goals and timetables do not apply to handicapped applicants and employees.

D. Contents; implementation of affirmative action programs. The contents and implementation of affirmative action programs must comply with the affirmative action program requirements of the Code of Federal Regulations, title 41, sections 60-2.1—60-2.32, as amended through July 1, 1982. The procedures for using certificates of compliance and evaluating good faith efforts of contractors and subcontractors are governed by 12 MCAR §§ 1.054 [Temporary] and 1.055 [Temporary].

### 12 MCAR § 1.054 [Temporary] Procedures for issuing certificates of compliance.

A. Information required. All businesses or firms desiring a certificate of compliance must submit to the department one of the following:

1. affirmative action programs in compliance with 12 MCAR § 1.053 [Temporary]; or

2. letters or documentation establishing compliance with a federal or local agency contract compliance ruling together with an affirmative action program for handicapped individuals.

B. Certificates issued. Except as provided in C., certificates of compliance shall be issued within 30 days after the department has received the information required in A.

C. Insufficient information. A business or firm whose submission does not meet the requirements of A. shall be notified within 15 days that its submission must be revised. The notification shall state specifically how the submission fails to meet the requirements of A. Certificates of compliance shall be issued 15 days after the department has received a revised submission which complies with A.

D. Duration of certificates. Certificates of compliance are effective for two years and shall expire on either June 30 or December 31, whichever date comes first, after the second year has elapsed.

E. Certificate required. By July 1, 1983, all contractors who are currently performing contracts described in 12 MCAR § 1.052 C. [Temporary] must comply with A.

### 12 MCAR § 1.055 [Temporary] Determination of compliance status.

A. Review of status. A contractor's compliance status shall be reviewed and determined by reviewing its employment practices and their effects.

B. General criteria for review. A contractor's compliance status shall not be determined solely by whether or not it reaches its goals or meets its timetables. A contractor's compliance status shall be determined by reviewing the contents of its program, the extent of its adherence to the program, and its good faith efforts to make the program work toward realization of goals within the timetables set for completion.

C. Determination of good faith efforts. A contractor's good faith efforts shall be determined by whether the contractor takes decisive action where its self-analysis uncovers any of the following:

1. underutilization of women or minorities in any job group;

2. minority or female employees who move laterally or vertically at a lesser rate than nonminority or male employees;

3. a selection process which eliminates minorities or women at a higher rate than nonminority or male employees;

4. preemployment inquiries and application forms that do not satisfy state law requirements;

5. descriptions of jobs that do not accurately reflect the functions involved;
6. selection procedures that are not valid predictors of job performance;
7. disproportionately high rejection of women or minorities by hiring supervisors;
8. women, minorities, and handicapped individuals who are not participating in company-sponsored activities;
9. segregation at some facilities;
10. disparities by minority group status or sex in terms of length of service and type of job held;
11. managers, supervisors, or employees who lack interest in company equal employment opportunity policies;
12. underrepresentation of women or minorities in training or career improvement programs;
13. techniques for evaluating effectiveness of equal employment opportunity programs have not been established;
14. labor unions and subcontractors who are not aware of their responsibilities;
15. omission of the equal employment opportunity clause with purchase orders; and
16. inadequate display of equal employment opportunity posters.

D. Other factors involving good faith. Good faith efforts shall also be determined by:

1. whether a contractor submits timely compliance review reports as required by 12 MCAR § 1.056 [Temporary];
2. whether a contractor permits an on-site compliance review to be conducted;
3. whether a contractor makes available records or other information as required by 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary]; or
4. whether a contractor implements conciliation agreements.

E. Other factors which may involve good faith. Good faith efforts may also be determined by:

1. the results of an investigation of a charge of discrimination;
2. an analysis of an affirmative action program; or
3. the results of an on-site review of the contractor's compliance with its affirmative action program.

F. Notification of deficiencies. If the department determines that a contractor has failed to exercise good faith efforts, the department shall notify the contractor by first-class mail identifying the nature of the deficiency and stating specifically the corrective action measures necessary for eliminating the deficiency. The contractor shall have 15 days to reply to the notice of deficiency. If necessary, the department may enter into a conciliation agreement with a contractor to correct deficiencies.

G. Lack of good faith efforts. A certificate of compliance shall not be reissued to a contractor that fails to exercise good faith efforts.

**12 MCAR § 1.056 [Temporary] Submission of compliance reports.**

A. Construction contractors; monthly reports. Each construction contractor shall submit a monthly utilization report. The report shall state for each state project during the month in question:

1. total hours of employment on the project;
2. total hours of employment of women;
3. total hours of employment of minorities;
4. total hours of training;
5. total hours of training provided to women; and
6. total hours of training provided to minorities.

B. Construction contractors; semiannual reports. Construction contractors shall also submit semiannual compliance reports of their affirmative action programs for nonconstruction personnel. These compliance reports shall contain the same information, be submitted at the same time, and contain the same documents as required for nonconstruction contractors in C.

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C. Nonconstruction contractors; semiannual reports. Nonconstruction contractors shall submit semiannual compliance reports. The report shall include the following data, by job group, race, sex, and disability: total employment applicants, total applicants interviewed, total applicants tested, total applicants hired, total employees promoted, total employees demoted, total employees transferred, total employees laid off, total employees recalled from layoff, total employees terminated, total employees receiving company-sponsored training, and total employed by company.

D. Minimizing duplication of reports. The department shall attempt, to the fullest extent possible, to minimize the burden of duplication of reports and efforts of federal and local contract compliance agencies by:

1. utilizing forms and standards similar to those used by federal equal employment opportunity programs;
2. accepting forms and reports prepared for federal or local agencies where the information contained in them is sufficient for 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary]; and
3. minimizing duplication of programs and procedures.

### 12 MCAR § 1.057 [Temporary] Procedures for compliance review.

The department incorporates by reference into this rule the requirements of Code of Federal Regulations, title 41, section 60-60, subparts B and C, as amended through July 1, 1982. The department will enforce these provisions as if they were rules of the department.

### 12 MCAR § 1.058 [Temporary] Duties of contracting agencies.

A. Cooperation with commissioner. Each agency shall cooperate with the commissioner in the performance of his or her responsibilities under Minnesota Statutes, section 363.073. Cooperation includes the responsibility to ensure that contractors are cognizant of their obligations under Minnesota Statutes, section 363.073 and the rules relating to that statute.

B. Information provided to contractors. Each agency shall include in each contract the contractor's obligation and requirements to comply with Minnesota Statutes, section 363.073, and provide documentation describing the law and rules pertaining to the law and the specific criteria by which an affirmative action plan will be approved or rejected.

C. Information provided to department. Each contracting agency shall provide any information which comes to its attention that indicates the contractor is not in compliance with Minnesota Statutes, section 363.073.

D. Contract clause required. Each contract must contain an affirmative action clause which should state the intention of the agency to carry out its responsibility for requiring affirmative action by its contractors and specific language outlining consequences for failure to implement the contractor's affirmative action plan or make a good faith effort to do so.

E. Submission of bidders list. The contracting agency shall submit to the department a list of prospective bidders prior to the opening of a contractor's bid to ensure compliance with Minnesota Statutes, section 363.073.

F. Contractor's list from department. The department shall furnish each agency with a list of currently certified contractors every 60 days to ensure compliance with Minnesota Statutes, section 363.073.

G. Agency's duty to provide information to commissioner. Each contracting agency shall provide the commissioner or his designee with any information or assistance the commissioner deems necessary to seek compliance with Minnesota Statutes, section 363.073 and rules adopted pursuant to it.

H. Copy of statute and rules to be furnished. Each contracting agency shall provide each bidder with a copy of Minnesota Statutes, section 363.073 and the rules adopted pursuant to it.

I. Bid specifications, modifications, and subcontracts; incorporation of statutory and rule requirements. Each contracting agency shall include the following paragraph in all bid specifications and modifications:

"It is hereby agreed between the parties that Minnesota Statutes, section 363.073 is incorporated into any contract between these parties based upon this specification or any modification of it. The bidder acknowledges receipt of a copy of Minnesota Statutes, section 363.073 and 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary]."

This paragraph must also be included in all subcontracts, and the contractor shall provide a copy of Minnesota Statutes, section 363.073 and 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary] to each subcontract bidder.

**Temporary repealer.** During the period that 12 MCAR §§ 1.051 [Temporary] to 1.058 [Temporary] are effective, the following rules are suspended: HumRts 6, 7, 12, 14, 15, 52, and 53.

# ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

## Department of Agriculture Marketing and International Trade Division

### Adopted Rules Governing Agricultural Research and Promotion Councils and the Administration of Promotional Orders (3 MCAR §§ 1.0700-1.0706)

The rules proposed and published at *State Register*, Volume 7, Number 26, pages 976-984, December 27, 1982 (7 S.R. 976) are adopted with the following modifications:

#### Rules as Adopted

#### 3 MCAR § 1.0702 Organization of a council.

##### C. Powers and duties of the council.

4. The council shall take the actions listed in a.-d.

b. The council shall consult with banks where funds are deposited regarding check signing procedures. No more than four authorized signatures of council members, the chief administrative officer, or council employees may be provided to the bank, two of which must appear on all checks except refund checks. The council may authorize any one signature for Refund checks require only one signature, which may be any one of the four authorized.

#### 3 MCAR § 1.0705 General polling procedures.

A. Qualified voters. Participating producers who may vote in any election or referendum must meet all the conditions in 1. and at least one of the conditions in 2. All qualified voters or designated voters must sign the producer affidavit at the time they vote.

1. The conditions in a.-e. apply to all qualified voters.

c. A voter must be a Minnesota resident or a permanent resident alien, as defined in Minnesota Statutes, section 500.221, who resides in Minnesota.

B. Balloting at polling places. The procedures in 1. and 2. must be followed whenever the commissioner determines that an election will be held at established polling places or a council determines that a referendum will be conducted at established polling places.

1. Election and referendum judges may will be selected by the commissioner based on criteria established by in consultation with the council, except that. Judges must not indicate their opinions about the election or referendum on the day of the election or referendum. Each polling place must have at least one judge. The judges are to do the following:

e. have each qualified or designated voter write the qualified voter's name, organization, title, and county of business, when appropriate, on a producer affidavit to be provided by the commissioner and have each qualified or designated voter sign the producer affidavit. The written authorization of the designated voter must be attached to the producer affidavit;

f. initial the back of the ballot and give it to each qualified or designated voter provided the qualified or designated voter has signed the producer affidavit;

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

## ADOPTED RULES

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- g. provide each qualified or designated voter with the voter instruction sheet provided by the commissioner;
  - h. collect a signed producer affidavit at the time a qualified or designated voter places a ballot in the ballot box;
  - j. complete the certification of election judges form, provided by the commissioner, after the polls have closed; and
  - k. ~~record each qualified voter's name, organization, title, and county of business, when appropriate, on a summary of voters form provided by the commissioner, using the signed producer affidavits, and~~
- ↳ return all the voting materials listed in 2. to the commissioner.

2. The election and referendum judges shall return the following voting materials to the commissioner by first class mail: completed ballots, signed producer affidavits, ~~completed summary of voters forms~~, judges' oath forms, certification of election form, and any expense vouchers. The election judges handbook must be retained by the chief judge for 30 days after the election or referendum and then destroyed. Any unused ballots, or producer affidavits, or summary of voters forms must also be destroyed.

### 3 MCAR § 1.0706 Administration of promotional orders.

C. Payment of check-off fees. The procedures in 1.-5. must be used by the council in collecting the check-off fees from first purchasers or first handlers.

5. The council or chief executive officer must deposit check-off fees collected in a federally insured depository institution. No more than the maximum amount insured under federal law may be deposited in any single account. Any deposited amount in excess of the maximum amount insured under federal law must be secured by the federally insured depository institution. Deposits may be used for either checking or investment, but not for purposes inconsistent with Minnesota Statutes, sections 17.51 to 17.69, or 3 MCAR §§ 1.0700-1.0706.

D. Refund of check-off fee. The procedures in 1.-7. must be followed in refunding check-off fees.

6. Refunds will be made by the commissioner and the council within 30 days of the date of the commissioner's receipt of the refund application form except when the check-off fee has not yet been received by the council. In those instances, the council shall write the first purchaser or first handler and request remittance of the check-off fee. The 30-day period begins on the date the council receives the check-off fee from the first purchaser or the first handler. When the council has received the check-off fee, the council shall determine the amount of refund and send the refund check to the commissioner. Immediately upon receipt, the commissioner shall mail the refund check to the producer.

## Department of Energy, Planning and Development Energy Division

### Adoption of Amendments to Rules Governing the Petroleum Supply Shortage Conservation and Allocation Plan

Proposed amendments to rules 6 MCAR §§ 2.3109 and 2.3120 were printed in the January 24, 1983 issue of the *State Register* (Cite 7 S.R. 1085). These amendments have been adopted by the Department of Energy, Planning and Development and approved by the Attorney General without change.

April 26, 1983

Michael J. Murphy  
Assistant Commissioner  
Energy Division  
Department of Energy, Planning  
and Development

## Department of Natural Resources

### Commissioner's Order No. 2145 Closing Mille Lacs Lake to Night Fishing

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby place the following restrictions upon the taking of fish in Mille Lacs Lake.

Section 1. Mille Lacs Lake in Aitkin, Crow Wing and Mille Lacs counties is hereby closed to the taking of fish between the hours of 10:00 p.m. and 6:00 a.m. daily.

Sec. 2. Between the hours of 10:00 p.m. and 6:00 a.m. daily, no person shall be upon the waters of Mille Lacs Lake in Aitkin, Crow Wing and Mille Lacs counties while having in possession or under control, or having with him in any water craft, any equipment whereby fish may be taken.

Sec. 3. This order shall become effective at 12:01 a.m. on Saturday, May 21, 1983, and shall expire at 12:01 a.m. on Sunday, June 12, 1983.

STEVEN G. THORNE, DEPUTY COMMISSIONER  
DEPARTMENT OF NATURAL RESOURCES

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**SUPREME COURT****Decisions Filed Friday, May 6, 1983****Compiled by Wayne Tschimperle, Clerk**

**C7-82-789 State of Minnesota vs. Richard S. White, Appellant. Lake County.**

Sheriff did not violate defendant's Fourth Amendment rights in going onto defendant's open fields without a warrant, and subsequent affidavit by sheriff's deputy contained sufficient information to justify issuance of warrant to search defendant's residence, related structures and curtilage.

Stipulation contained sufficient facts to support trial court's determination that defendant had the requisite intent to sell or distribute the large quantity of marijuana defendant possessed.

Affirmed. Yetka, J.

**C1-82-397 Horace A. Lamb vs. William E. Jordan, Appellant. Cook County.**

The jury's verdict that the defendant is indebted to plaintiff on a promissory note is not justified by the evidence and a new trial is required.

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

**C4-82-1348 State of Minnesota vs. Cornelius LeRoy Richardson, Appellant. Ramsey County.**

Trial court did not err in refusing to submit lesser offenses, and any error in responding to questions by jury without notifying counsel and allowing counsel to be present was harmless.

One of defendant's convictions is vacated pursuant to Minn. Stat. § 609.04 (1982).

One conviction affirmed; one conviction vacated. Simonett, J.

**C7-81-832 The City of Maplewood, etc., petitioner, vs. John J. Kavanagh, et al., Appellants, County of Ramsey. Ramsey County.**

A condemnor may not dismiss an eminent domain proceeding after rendition of the jury's verdict but before entry of judgment.

Reversed. Kelley, J.

**C3-82-787 Dorothy Matson vs. Charles D. Matson, Appellant. Washington County.**

Absent a petition seeking modification of support obligations imposed by a foreign decree and judgment, an order in a URESA proceeding in a Minnesota court does not modify those obligations.

A Wisconsin court had statutory subject matter jurisdiction to enter a judgment for past due support and alimony payments.

Minnesota courts are not precluded by Minn. Stat. §§ 541.04 and 550.01 (1982) from enforcing a foreign judgment for past-due support and alimony payments because some of those obligations accrued more than 10 years prior to the entry of the foreign judgment.

Article IV, Section 1, the Full Faith and Credit Clause of the United States Constitution, and Minn. Stat. §§ 548.26-.33 (1982), the Uniform Enforcement of Foreign Judgments Act, prohibit Minnesota courts from reducing the amount of a Wisconsin judgment rendered for past-due support and alimony.

Affirmed in part, reversed in part and remanded. Kelley, J.

## SUPREME COURT

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C1-82-948 In the Matter of the Petition for Disciplinary Action Against Curtis E. Austin. Supreme Court.

Commingle and misappropriation of client funds over an extended period of time, together with other violations of the Rules of Professional Conduct, warrant disbarment in this case.

Disbarred. Per Curiam. Took no part, Coyne, J.

## STATE CONTRACTS

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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.

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### Department of Administration Department of Natural Resources Department of Transportation Contracts for Real Property Appraisers

The State of Minnesota is establishing a list of qualified real estate appraisers to do contract appraisals for the Departments of Administration, Natural Resources and Transportation for the period ending June 30, 1984. In developing the list of qualified appraisers, the state invites submittal of resumes from all persons meeting one or more of the following qualifications no later than May 30, 1983.

1. Appraisal Designations: The following designations are seen as evidence of substantial training in the field of Real Estate Appraising. Candidates, Associate members, and non-designated appraisers must show further evidence of experience and proficiency as noted in paragraph 2 below.

- a. Member of the American Institute (MIA)
- b. Senior Residential Appraiser (SRA), Senior Real Property Appraiser (SRPA), or Senior Real Estate Analyst (SREA)
- c. Accredited Rural Appraiser (ARA)
- d. American Society of Appraisers (ASA)
- e. Other designations with satisfactory evidence of a substantial coursework curriculum in Real Estate Appraising

2. Non-designated Appraisers:

A. Experience

Non-designated appraisers with at least two years experience in Real Estate Appraising. Resume should relate type of appraisal experience along with a listing of clientele.

B. Training

Non-designated appraisers should have successfully completed one or more of the following courses.

- a. AIREA—Course 1A-1, 1A-2 and 1A-3
- b. SRA—Course 101, Course 201
- c. American Society of Farm Managers and Rural Appraisers—Course B-1

C. Sample Appraisal

Any appraiser who has not submitted any appraisals to any Minnesota agencies within the past two years will be required to submit a sample appraisal done for a client. The sample appraisal is to be examined for compliance with generally recognized appraisal procedures.

3. Certification to a state list of qualified appraisers is not a guarantee of subsequent assignments. The State of Minnesota reserves the right to assign appraisers at the discretion of the assigning agency, dependent on the qualifications of the appraisers, geographic location, and fee requirements.

NOTE: Appraisers will be entitled to reject any assignments offered.

The Department of Natural Resources, Bureau of Land, has been designated as the coordinating agency for developing the certified list which will be used by all agencies. A list of the basic standards may be obtained upon written request to the address below.

All resumes and other material or requests should be directed to:

Department of Natural Resources  
Bureau of Land  
Acquisition and Exchange Section  
670 Space Center Building  
444 Lafayette Road  
St. Paul, MN 55101  
Telephone: (612) 296-7945

## **Department of Corrections Community Services Division**

### **Notice of Availability of Funds for Battered Women Programs**

Notice is hereby given that the Department of Corrections intends to engage the services of grantees to provide direct advocacy and education programs for battered women in the Black community from August 1, 1983 to June 30, 1984.

This project will be financed out of funds made available pending approval by the Minnesota Legislature. A total of \$27,300 will be available. Any nonprofit corporation serving the Black community is eligible to apply. Proposals are due no later than June 20, 1983.

Direct inquiries to:

Maggie Arzdorf-Schubbe, Director  
Program for Battered Women  
Minnesota Department of Corrections  
430 Metro Square Building  
7th and Robert Streets  
St. Paul, Minnesota 55101  
(612) 296-6463

## **Department of Corrections Minnesota Correctional Facility-Sauk Centre**

### **Notice of Request for Proposals for Licensed Psychological Services**

Notice is hereby given that the Minnesota Correctional Facility-Sauk Centre is requesting proposals for psychological services including duties such as evaluations, staff consultations and direct service. Approximately 60 days per year are required. A two-year (F.Y. 84-85) proposal is preferred. The contract amount will not exceed \$43,400.

### **Notice of Request for Proposals for Qualified Chemical Dependency Services**

Notice is hereby given that the Minnesota Correctional Facility-Sauk Centre is requesting proposals for qualified chemical dependency services including duties such as evaluations, counseling, training, and staff consultations. Approximately 17 hours per week are required. A two-year (F.Y. 84-85) proposal is preferred. The contract amount will not exceed \$23,800.

### **Notice of Request for Proposals for Protestant Chaplain**

Notice is hereby given that the Minnesota Correctional Facility-Sauk Centre is requesting proposals for (CPE) Protestant Chaplain to provide services including duties such as religious counseling and working with other religious staff to provide

## **STATE CONTRACTS**

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weekly worship services as well as a meaningful religious program for all students. Approximately 20 hours per week are required. A two-year (F.Y. 84-85) proposal is preferred. The contract amount will not exceed \$24,600.

Proposals for each of the above three contracts must be submitted by 8:00 a.m. May 27, 1983. For guidelines to proposals or additional information contact:

Dennis Rykken  
Corrections Juvenile Program Director  
MCF-Sauk Centre  
Box C  
Sauk Centre, Minnesota 56378  
Phone: (612) 352-2296

## **Minnesota Historical Society**

### **Notice of Availability of Contracts for Services for National Register of Historic Places Nominations**

The Minnesota Historical Society requires the services of qualified contractors/consultants to prepare nominations to the National Register of Historic Places for standing structures in 1) Meeker/McLeod, 2) Winona (excluding city), and 3) Otter Tail counties; the cities of 4) Winona, 5) Crookston, 6) Hibbing, and 7) sites in several counties in the Red River Valley. Each contract will be for from ten (10) to twelve (12) National Register nominations. Hibbing and Crookston will each be for one (1) historic district. Nominations should meet the specifications in the National Park Service publication, "How to Complete National Register Forms."

An estimated \$3,500 is available per contract. The contractors/consultants will be required to document a \$1,500 match from the participating county/city historical agencies. There are a total of seven (7) contracts. Qualified contractors/consultants may submit a proposal, including bid, for each contract. Contractors/consultants may submit proposals for more than one contract.

Each contract will run for a period of approximately four (4) months on a schedule determined by qualified contractors/consultants and the State Historic Preservation Office. Each contractor/consultant will be responsible for taking black and white photos and colored slides of sites.

Qualified contractors/consultants must have demonstrated experience in 1) Researching and documenting historic standing structures in Minnesota, 2) Minnesota history, architecture, or related field, 3) Having successfully completed nominations to the National Register of Historic Places within the last five (5) years, 4) Have a valid Minnesota driver's license and ability to travel.

Qualified contractors/consultants should send proposal(s), resume, and completed National Register nomination form to Gloria A. Thompson, Contract Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, MN 55101, no later than June 6, 1983. Call the Contract Officer at 296-8378 for further details.

## **Pollution Control Agency Water Quality Division**

### **Notice of Availability of Contract for Spills Response and Cleanup**

The Minnesota Pollution Control Agency (MPCA) requires the services of contractors qualified in the various specialized areas of pollutant spill response and cleanup to protect the surface and groundwaters of the state.

The MPCA desires to contract with qualified parties for services during Fiscal Year 1984 (July 1, 1983 through June 30, 1984). The contract, in an amount up to \$20,000 will include responsive qualified parties. No actual work or payment is guaranteed pursuant to the contract, but services are anticipated to be needed as a result of pollutant spills in the state from sources either unknown or uncooperative.

Examples of contractual services required include:

1. Surface water spill recovery
2. Underground spill recovery
3. Soil borings

4. Tank pumping
5. Spill material transportation and disposal

Interested parties are requested to submit a brief description of their experience, specialized expertise and capabilities with respect to response time, either statewide or regionally. In addition, an itemized schedule of prices to be in effect under the contract is required.

Parties desiring consideration should submit their response by June 15, 1983, to:

Patrick G. Mader  
Supervisor, Industrial Unit  
Enforcement Section  
Division of Water Quality  
Minnesota Pollution Control Agency  
1935 West County Road B-2  
Roseville, Minnesota 55113  
Telephone 612/296-7755

The MPCA reserves the right to limit the number of parties to the contract and to reject any or all of the parties responding.

Dated April 28, 1983

Sandra S. Gardebring  
Executive Director

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**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.

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**Commerce Department  
Insurance Division****Notice of Meeting**

Minnesota Comprehensive Health Association  
Board of Directors  
Annual Meeting  
Tuesday June 21, 1983  
State Office Building  
Room 51  
St. Paul, MN

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may be obtained by telephone from the Life and Health Section, telephone (612) 296-2202.

**Kittson County  
Ninth Judicial District****Notice of Filing Fees for County Law Library**

Pursuant to Minnesota Statute 140.422 the Kittson County Law Library Board of Trustees announces the law library fees to be collected in the district, county, municipal, probate and conciliation courts of Kittson County.

# OFFICIAL NOTICES

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Civil Suits	
Plaintiff/Petitioner .....	\$5.00
Defendants/Respondents/Intervenors .....	\$5.00
(jointly or separately)	
Probate Courts	
Petitioner .....	\$5.00
Criminal Convictions	
Defendant .....	\$5.00
Conciliation Court	
Petitioner .....	\$5.00
Respondent .....	\$5.00

These fees shall be in effect from May 1, 1983, to June 30, 1983.

Dated: May 4, 1983

## Pollution Control Agency

### Notice of and Order for Hearing

**In the Matter of the Recommendation by the Director Regarding the Intrinsic Suitability of a Proposed Solid Waste Disposal Site in Ramsey County.**

It is hereby ordered and notice is hereby given that an information gathering hearing concerning the intrinsic suitability of a proposed solid waste disposal site in Ramsey County will be held by the Minnesota Pollution Control Agency (MPCA) pursuant to Minnesota Statutes, Section 473.803 (1982) on July 12, 1983, at the Carver Elementary School, 2680 Upper Afton Road, St. Paul, Minnesota 55119, commencing at 7:00 p.m.

The hearing will be held before Howard Kaibel, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, (612) 341-7608, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota.

The procedures to be followed at this hearing were published in the *State Register* on July 13, 1981 (6 S.R. 55). A copy of these procedures may also be obtained by contacting the MPCA at the address noted below.

Ramsey County has provided to the MPCA data relating to the intrinsic suitability of one site (Site 5) proposed for its solid waste disposal site inventory. The Director of the MPCA has made a preliminary recommendation that the site not be certified as intrinsically suitable for use as a sanitary landfill because ground water is not protected by an aquiclude. The site is described below.

Site 5. This site consists of approximately 320 acres. It is located in Section 19, T28N, R21W and Section 24, T28N, R22W. It is bordered on the east by the Woodbury corporate boundary, on the south by the Ramsey County border, on the west by Sterling Street, and on the north by Carver Avenue.

The Director's recommendations are based on the data submitted by Ramsey County and applied against criteria contained in Minn. Rule SW 6 and additional criteria adopted by the MPCA on June 23, 1981. The MPCA Staff has not independently verified the data submitted by Ramsey County. The Director's recommendations may be revised based on information submitted at the hearing.

A copy of the MPCA criteria for determining intrinsic suitability, the data submitted by Ramsey County, the procedures for this hearing and a report containing the basis for the Director's recommendation will be available for inspection at the following locations by June 1, 1983:

Minnesota Pollution Control Agency  
1935 W. County Road B-2  
Roseville, MN 55113  
Phone: (612) 296-7373

Ramsey County Library  
Maplewood Branch  
1460 Skillman Avenue East  
Maplewood, MN 55109  
Phone: (612) 777-8146

To the extent feasible, such documents may be copied.

Questions concerning the procedures to be followed at the hearing may be directed to Special Assistant Attorney General

Barbara Lindsey Sims at the MPCA address above, telephone: (612) 296-7770. Questions concerning the Director's recommendation may be directed to Dale Wikre at the MPCA address above, telephone: (612) 297-2735.

Dated: May 6, 1983

Sandra S. Gardebring  
Executive Director  
Minnesota Pollution Control Agency

## **Public Safety Department Fire Marshal Division**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules of the State Department of Public Safety Governing Liquefied Petroleum Gases and Flammable and Combustible Liquids**

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing:

- a) minimum safety standards for the storage and handling of liquefied petroleum gases, and the related N.F.P.A. standard number 58; and,
- b) minimum safety standards for the storage, handling and use of flammable and combustible liquids, and the related N.F.P.A. standard number 30.

The promulgation of these rules is authorized by Minnesota Statutes section 299F.19, which requires the agency to promulgate rules for the safekeeping, storage, handling, use, transportation, or other disposition of flammable liquids and gases.

The State Department of Public Safety 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:

Wes Werner  
State Fire Marshal  
1246 University Ave.  
St. Paul, MN 55104

Oral statements will be received during regular business hours over the telephone at 612-296-7641 and in person at the above address.

All statements of information and comment shall be accepted until June 6, 1983. Any written material received by the State Department of Public Safety shall become part of the record in the event that the rules are promulgated.

Paul J. Tschida  
Commissioner of Public Safety

## **University of Minnesota-Duluth**

### **Notice of Invitation to Exhibit at Local Government Computer Symposium and Vendor Fair**

The conference sponsors are seeking computer hardware, software and consulting companies to exhibit their products and services. The fair will be held on July 26, 27, and 28.

The event is targeted to township, city, county and regional government officials.

For details contact:

Government Training Service  
Barbara Peterson  
202 Minnesota Building  
46 East Fourth Street  
St. Paul, Minnesota 55101  
(612) 222-7409

STATE OF MINNESOTA

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

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**EACH ORDER MUST INCLUDE ADDITIONAL \$1.00 FOR POSTAGE AND HANDLING.**

Name \_\_\_\_\_

Attention of: \_\_\_\_\_

Street \_\_\_\_\_

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Telephone \_\_\_\_\_

**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.

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