

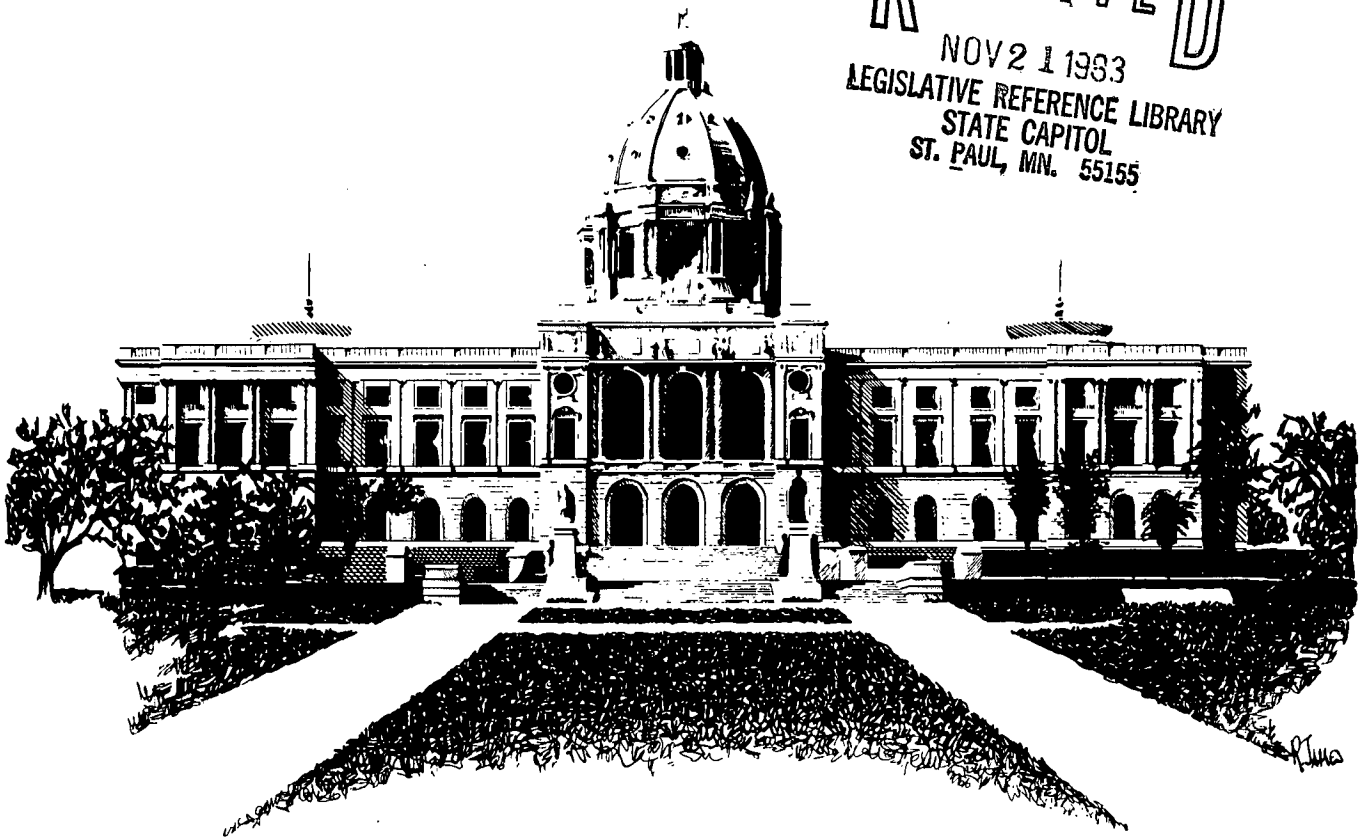
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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 8, NUMBER 21

November 21, 1983

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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 8			
22	Monday Nov 14	Friday Nov 18	Monday Nov 28
23	Friday Nov 18	Monday Nov 28	Monday Dec 5
24	Monday Nov 28	Monday Dec 5	Monday Dec 12
25	Monday Dec 5	Monday Dec 12	Monday Dec 19

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

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

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

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

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CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Inclusive listing for Issues 14-21..... 1224

EXECUTIVE ORDERS

Executive Order No. 83-40 Assigning Responsibilities to State Agencies for Emergency Response to Hazardous Materials Incidents 1225
Executive Order No. 83-41 Establishing the Governor's Committee on Energy Policy Coordination..... 1226
Executive Order No. 83-42 Providing Clean Water to the Residents of Todd County, Minnesota 1228

ADOPTED RULES

Administration Department

Adopted Rule of the State Board of Electricity Governing Experience Requirements for License Applicants and License Definitions 1228

Economic Security Department

Adopted Temporary Rule Governing the Definition of Economically Disadvantaged 1229

Energy and Economic Development Department

Adopted Amendments to the State Building Code..... 1229

OFFICIAL NOTICES

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies 1236

Minnesota Pollution Control Agency

Notice of Change of Public Meeting Regarding a Revision to 6 MCAR § 4.0041 and to Minnesota's State Implementation Plan 1236

Public Safety Department

Office of Public Information

Notice of Availability of Motorcycle Safety Campaign 1237

Public Welfare Department

Income Maintenance Bureau

Notice of Informational Hearing for Interagency Board for Quality Assurance 1237

Teachers Retirement Association

Notice of Meeting 1237

Errata 1238

STATE CONTRACTS

Economic Security Department

Request for Proposals for Energy Conservation/Education Curriculum and Program 1238

Energy and Economic Development Department

Request for Proposals for the Performance of a Steam Trap Research and Survey Project in One Hundred (100) State Owned Buildings..... 1239

Finance Department

Minnesota Tax Study Commission

Request for Proposals to Assist in Research, Analysis, and Preparation of the Tax Commission's Final Report 1239

Metropolitan Council of the Twin Cities Area

Request for Proposals (RFP): Economic Analyses on Large-Scale Composting/Co-Composting 1240

Transportation Department

Request for Proposals from Consulting Engineers—Registered Civil and Structural—Bridge Plans 1240

SUPREME COURT

Decisions Filed Thursday, November 10, 1983

C8-82-770 State of Minnesota, Respondent, v. Ngoc Van Vu, Appellant 1241
C0-83-14 In Re the Marriage of: Norma Jean McMahon, petitioner, Appellant; v. Vincent L. McMahon, respondent 1241
C2-82-814 Torgerson-Forstrom H.I. of Willmar, Inc., et al., Appellants, v. Olmsted Federal Savings and Loan Association, etc., et al., Respondents 1241
C2-82-845 State of Minnesota, Respondent, v. Antti J. Haavisto, Appellant 1241
C2-82-1560 Mervin P. Kirchner, Respondent, v. County of Anoka and Home Insurance Company, Relators, and Iowa National Mutual Insurance Company, Respondent, and State Treasurer, as Custodian of the Special Compensation Fund, Relator..... 1241
C2-82-168 State of Minnesota, Respondent, v. Kenneth H. Barbo, Appellant 1241
CX-83-358 David James, Relator, v. Commissioner of Economic Security, Respondent 1241
C1-83-751 State of Minnesota, Appellant, v. Warren James Simon, Respondent 1241

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 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:

Table with 2 columns: Issue/Range and Cumulative/Inclusive status. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issue 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the MCAR 1982 Reprint.

MCAR AMENDMENTS AND ADDITIONS

TITLE 2 ADMINISTRATION

Part 1 Administration

2 MCAR § 1.16007-1.16008 (adopted) 1229
2 MCAR § 1.16001-1.16006 (repealed) 1229

Part 11 Electricity Board

4 MCAR § 11.033-11.038 (adopted) 1228

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR §§ 1.0129-1.0130, 1.0132-1.0133, 1.0135 (proposed) 670
3 MCAR § 1.0172 [Temp] (adopted) 1078
3 MCAR § 1.1160 (proposed) 1185
3 MCAR §§ 1.4060 [Temp]-1.4070 [Temp] (proposed) 665

TITLE 4 COMMERCE

Part 1 Commerce Department

S Div 2117-2118, 2021, 2034 (adopted) 1009
4 MCAR §§ 1.0001 [Temp]-1.0022 [Temp], 1.00225 [Temp], 1.0023 [Temp], 1.0031 [Temp] (adopted) 1006
4 MCAR §§ 1.9081 [Temp]-1.9089 [Temp], 1.90891 [Temp]-1.90892 [Temp] (adopted) 1006
4 MCAR §§ 1.9260-1.9269 [Temp] (proposed) 1102

Racing Commission

4 MCAR §§ 15.001-15.050 (proposed) 1162

Part 2 Energy & Economic Development Department

4 MCAR §§ 2.501-2.508 (repealed) 1011

Part 3 Public Utilities Commission

4 MCAR §§ 3.0450-3.0463 [Temp] (adopted) 1095

Part 4 Cable Communications Board

4 MCAR §§ 4.240-4.243 (proposed) 1069

Part 11 Electricity Board

4 MCAR § 11.033-11.038 (adopted) 1228

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR §§ 1.0120-1.0122, 1.01222-1.01224, 1.0125, 1.01226, 1.01228-1.01229, 1.01232-1.01234, 1.0124, 1.0126-1.0127 (adopted) 596
5 MCAR § 1.0807 [Temp] (adopted) 692

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

6 MCAR § 1.0057 (proposed) 677
6 MCAR §§ 1.5600-1.5603 (proposed) 995

Part 2 Energy and Economic Development

2 MCAR § 1.16007-1.16008 (adopted) 1229
2 MCAR § 1.16001-1.16006 (repealed) 1229
6 MCAR §§ 2.2300-2.2314 (proposed) 1106
6 MCAR §§ 2.2500-2.2509 (proposed) 673
6 MCAR §§ 2.2502, 2.2503 (withdrawn) 994

Part 4 Pollution Control Agency

APC 2 (6 MCAR § 4.002) (proposed)	682
6 MCAR § 4.0041 (proposed)	678
6 MCAR § 4.8034 (adopted)	694
6 MCAR §§ 4.9100-4.9104, 4.9128-4.9137, 4.9200-4.9222, 4.9250-4.9259, 4.9280-4.9322, 4.9380-4.9422, 4.9480- 4.9481, 4.9559-4.9560 (proposed)	732
6 MCAR §§ 4.9701-4.9706 (proposed)	1071

Part 8 Waste Management Board

6 MCAR §§ 8.403-8.404, 8.408 (proposed)	1004
---	------

TITLE 8 LABOR**Part 1 Labor and Industry Department**

8 MCAR §§ 1.7200-1.7209 (adopted)	622
8 MCAR §§ 1.8003-1.8004, 1.8006-1.8007 (proposed)	742
8 MCAR §§ 1.9001 [Temp]-1.9023 [Temp] (proposed)	562

Part 4 Economic Security Department

8 MCAR § 4.0101 [Temp] (adopted)	1093
8 MCAR § 4.0102 [Temp] (adopted)	1229

TITLE 11 PUBLIC SAFETY**Part 1 Public Safety Department**

11 MCAR §§ 1.8025, 1.8058, 1.8084 (proposed)	730
--	-----

Part 2 Corrections Department

11 MCAR §§ 2.001-2.012 (adopted)	601
11 MCAR §§ 2.601-2.622 (proposed)	981

TITLE 12 SOCIAL SERVICE**Part 2 Public Welfare Department**

12 MCAR §§ 2.0300-2.0304 [Temp] (proposed)	1154
12 MCAR §§ 2.04422 [Temp], 2.05501 [Temp]-[2.05509 Temp] (adopted)	698
12 MCAR §§ 2.05301-2.05315 [Temp] (proposed)	1134
12 MCAR §§ 2.05401 [Temp]-2.05501 [Temp] (adopted)	959
12 MCAR § 2.207 (adopted)	1079
12 MCAR § 2.264 [Temp] (adopted)	602

Part 3 Housing Finance Agency

12 MCAR § 3.038 (proposed)	621
12 MCAR §§ 3.170-3.174 (adopted)	646

TITLE 13 TAXATION**Part 1 Revenue Department**

13 MCAR §§ 1.0010-1.0014 (withdrawn)	596
13 MCAR § 1.6016 (repealed)	1079

EXECUTIVE ORDERS**Executive Order No. 83-40****Assigning Responsibilities to State Agencies for Emergency Response to Hazardous Materials Incidents**

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, Hazardous Material Incidents may occur in any part of the State; and

WHEREAS, many State Agencies have roles in protecting citizens of Minnesota from these incidents; and

WHEREAS, the Legislature has approved establishment of a State Hazardous Materials Emergency Response Program;

NOW, THEREFORE, I order:

1. The designation of the Department of Public Safety, Commissioner of Public Safety, and the Division of Emergency Services as the lead agency for development and coordination of the State Hazardous Material Emergency Response Program which shall include:

a. Identification of appropriate personnel to serve as members of the State Hazardous Materials Emergency Response Team.

b. Development of an on-going training program for personnel on the Hazardous Materials Emergency Response Team.

c. Equipage of the Hazardous Material Emergency Response Team.

d. Consultation with industry involved in generation storage and movement of hazardous materials regarding appropriate emergency actions.

EXECUTIVE ORDERS

e. Development of Emergency Response Procedures for the Hazardous Materials Emergency Response Team.

f. Coordination of response actions taken by the Hazardous Materials Emergency Response Team.

2. The following State Agencies and Divisions shall participate and assist in the development of plans, procedures and training, as well as provide staff to the Hazardous Materials Emergency Response Team:

Department of Agriculture
Department of Education
Department of Health
Department of Military Affairs
Department of Natural Resources
Department of Transportation
Pollution Control Agency
State Fire Marshal Division
State Highway Patrol Division

3. State Agencies assigned emergency responsibilities under Executive Order 83-17 shall develop any necessary plans and procedures as requested by the Department of Public Safety, Division of Emergency Services.

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

IN TESTIMONY WHEREOF, I hereunto set my hand this 19th day of October, 1983.



Executive Order No. 83-41

Establishing the Governor's Committee on Energy Policy Coordination

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, Minnesota's economy is damaged by the inefficient use of energy which results in a massive dollar drain, and which causes unemployment and weakens the State's economy; and

WHEREAS, Minnesota has a variety of indigenous resources which, if cost-effectively developed into beneficial forms of alternative energy, could promote employment and reduce the energy dollar drain; and

EXECUTIVE ORDERS

WHEREAS, it is in Minnesota's interests to develop State policies and programs which promote energy efficiency, and to influence federal energy regulatory policies; and

WHEREAS, the responsibility for the development and implementation of energy policy in Minnesota and intervention before federal energy regulatory bodies is shared among at least ten State departments; and

WHEREAS, it is difficult to effectively coordinate energy programs or policies among State departments, or to coordinate intervention activities through the Energy Issues Intervention Office, without guidance from the commissioners of the departments responsible for various energy-related activities;

NOW, THEREFORE, I order:

1. The Minnesota Energy Policy Coordination Committee is hereby created.
2. The Committee shall coordinate the development and implementation of energy policies and programs within State government which require inter-agency cooperation.
3. The Committee shall consist of the following members: the Commissioner of Administration, the Commissioner of Energy and Economic Development, the Deputy Commissioner of Energy, the Commissioner of Finance, the Director of the State Planning Agency, the Executive Director of the Minnesota Housing Finance Agency, the Commissioner of Agriculture, the Commissioner of Natural Resources, the Director of the Pollution Control Agency, the Chair of the Public Utilities Commission, and the Director of the Department of Public Service.
4. The Energy Policy Coordination Committee shall be chaired by the Commissioner of Energy and Economic Development.
5. The Energy Policy Coordination Committee shall meet no less than once each quarter, and may meet more frequently, at the call of the Chair.
6. The Committee shall advise the Governor on matters related to the development and coordination of energy policies and programs among the various state departments represented on the Committee. The Committee is to act as a clearing house for information, and to facilitate delivery of energy programs and services. The Committee shall also advise the Director of the Department of Public Service on activities with respect to the policies of the Energy Issues Intervention Office.

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

IN TESTIMONY WHEREOF, I hereunto set my hand this 28th day of October, 1983.



EXECUTIVE ORDERS

Executive Order No. 83-42

Providing Clean Drinking Water to the Residents of Todd County, Minnesota

I, MARLENE JOHNSON, LIEUTENANT GOVERNOR, acting in the place of Governor Rudy Perpich, who is absent from the State, and in accordance with the authority vested in me by the Constitution and Laws of the State of Minnesota, do hereby issue this Executive Order:

WHEREAS, the Minnesota Pollution Control Agency (MPCA), has determined that two municipal and several private wells in the City of Long Prairie have been contaminated with the chemical Tetrachloroethylene; and,

WHEREAS, the officials of the Minnesota Pollution Control Agency have requested assistance from the National Guard in providing clean drinking water to the affected residents of Todd County;

NOW, THEREFORE, I order:

1. The Adjutant General of Minnesota to order to active duty on and after November 4, 1983, in the service of the State, such elements of the military forces of the State and equipment as are necessary to provide drinking water to the residents of Todd County. These forces shall be utilized for a period of time as necessary.

2. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in Minnesota Statutes Sections 192.49, subdivision 1; 192.51; and 192.52.

IN TESTIMONY WHEREOF, I hereunto set my hand this 4th day of November, 1983.



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 Administration Board of Electricity

Adopted Rule of the State Board of Electricity Governing Experience Requirements for License Applicants and License Definitions

The rule proposed and published at *State Register*, Volume 8, Number 5, pages 137-144, August 1, 1983 (8 S.R. 137) is adopted as proposed.

Department of Economic Security

Adopted Temporary Rule Governing the Definition of Economically Disadvantaged

Temporary Rule as Adopted

The proposed temporary rule published at *State Register*, Volume 8, Number 9, page 324, August 29, 1983 (8 S.R. 324) is adopted with the following modifications:

Notice is hereby given that the State of Minnesota has adopted the above-entitled temporary rule pursuant to Minnesota Statutes section 268.021.

Authority for the adoption of this temporary rule is contained in Laws 1983, Chapter 312, Article 6, Section 2.

As required by the Minnesota Administrative Procedure Act, this temporary rule is in effect for 180 days upon approval by the Attorney General.

The Attorney General approved the legality of this temporary rule on September 28, 1983.

Barbara Beerhalter, Commissioner

Department of Energy, ~~Planning~~ and Economic Development

Energy Division

Adopted Amendments to the State Building Code

Rules as Adopted

2 MCAR § 1.16007 Authority; purpose; definitions; effective date.

A. Authority; scope. Rules 2 MCAR §§ 1.16007-1.16008 are adopted pursuant to Minnesota Statutes, section 116J.19, subdivision 8 and constitute amendments to the State Building Code. In cases of conflict with the State Building Code, 2 MCAR §§ 1.16007-1.16008 govern in all cases not affecting safety and health requirements.

Additionally, 2 MCAR §§ 1.16007-1.16008 are intended to serve as standards for conducting maxi-audits of existing buildings owned by the state, the University of Minnesota, cities, counties, and school districts as specified in Minnesota Statutes, section 116J.20.

B. Definitions. As used in 2 MCAR §§ 1.16007-1.16008, "State Building Code" means 2 MCAR §§ 1.10101-1.18901 and rules SBC 7101-8505, and "this code" or "the code" means the Model Energy Code incorporated by reference in 2 MCAR § 1.16008 A.

C. Effective date. The effective date of 2 MCAR §§ 1.16007-1.16008 and the repeal of 2 MCAR §§ 1.16001-1.16006 is January 1, 1984.

2 MCAR § 1.16008 Adoption of the Model Energy Code with amendments.

A. Incorporation by reference. The Model Energy Code, 1983 Edition, as published by the Council of American Building Officials (Falls Church, Virginia), is incorporated by reference and made a part of the State Building Code, subject to the amendments in B. ~~PP~~ NN.

B. Amendment to 101.3. On page 1 of the code, 101.3 is amended to read:

101.3 Scope.

This code sets forth minimum requirements for the design and evaluation of new buildings, additions, and remodeled elements of buildings and standards for certain existing public buildings by regulating their exterior envelopes and the selection

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

of their HVAC, service water heating, electrical distribution, and illuminating systems and equipment for effective use of energy. Buildings which must comply with this code are the same as those which must comply with the State Building Code.

Buildings must be designed to comply with the requirements of chapter 4, 5, or 6 of this code.

C. Amendment to 101.3.2. On page 2 of the code, 101.3.2 is amended by adding a paragraph to read:

101.3.2.4 Remodeled elements of buildings. The requirements of 2 MCAR § 1.10111 apply in determining how remodeled elements of buildings are required to comply with this code.

D. Amendment to 105.1. On page 3 of the code, 105.1 is amended to read:

105.1 General.

Construction of work for which a permit is required is subject to inspection by the building official. Inspections shall be as required by 2 MCAR § 1.10111.

E. Amendment to section 201. On page 4 of the code, section 201 is amended by adding a new definition to read:

BUILDING. "Building" means a new building at the time of application for a building permit, an addition or remodeled element of a building, a moved building, and an existing building heated by oil, gas, or electric units which is owned by the state, the University of Minnesota, a city, a county, or a school district.

F. Amendment to section 201. On page 5 of the code, section 201 is amended by adding a new definition to read:

COMMERCIAL PARKING FACILITY. Any enclosed parking facility except one in which is appurtenant to or a part of a residential building, whether the individual dwelling units are rented or owned by the occupants, and which is used primarily by the occupants and their guests.

G. Amendment to section 201. On page 6 of the code, section 201 the definition of "Heated Space" is amended to read:

HEATED SPACE. Space within a building which is provided with a positive heat supply to maintain air temperature of 50 degrees Fahrenheit (10 degrees Celsius) or higher. ~~This definition is not to be construed to require the insulation of floor assemblies above basements or crawl spaces in Type R buildings.~~

H. Amendment to section 201. On page 7 of the code, section 201 the definition of "Nondepletable Energy Sources" is amended to read:

RENEWABLE ENERGY SOURCES. Sources of energy which are replaced within a matter of days, months, or years (but no more than 50 years) by new or additional supplies of the energy source. Renewable energy sources include forestry products and forest harvest residues, agricultural wastes, solar radiation, including natural daylighting, phenomena resulting from solar radiation and celestial movements, including wind, waves, tides, and lake or pond thermal differences, and nocturnal thermal exchanges.

All references to "Nondepletable Energy Sources" in this code mean "Renewable Energy Sources."

I. Amendment to section 201. On page 10 of the code, section 201 is amended by adding a new definition to read:

VAPOR BARRIER. A material ~~resistant~~ to retard air and water vapor passage with a maximum perm rating of 0.1 grain per hour per ft² per inch Hg pressure differential.

J. Amendment to 302.1. On page 12 of the code, footnote 1 to 302.1 is amended to read:

¹ The outdoor design temperature shall be selected from the columns of 99 percent values for winter and one percent values for summer from tables in Standard RS-1. Degree days heating shall be selected from Standard RS-22. Adjustments may be made to reflect local climates which differ from the tabulated temperatures or local weather experience as determined by the building official.

~~K. Amendment to 303.1. On page 13 of the code, 303.1 is amended to read:~~

~~303.1 Ventilation~~

~~Ventilation air must conform to Standard RS-3.~~

~~EXCEPTION: If outdoor air quantities other than those specified in Standard RS-3 are used or required because of special occupancy or process requirements, source control of air contamination, health and safety, or other standards, the required outdoor air quantities shall be used as the basis for calculating the heating and cooling design loads.~~

~~L. K. Amendment to 502.2.1.4. On page 19 of the code, 502.2.1.4 is amended to read:~~

~~502.2.1.4 Slab-on-grade floors. For slab-on-grade floors, the thermal resistance of the insulation around the perimeter of the floor must be not less than the value given in Table No. 5-1. The insulation must extend downward from the top of the slab to the design frost line or downward to the bottom of the slab then horizontally beneath the slab for an equivalent distance, and must be an approved type.~~

~~M.~~ L. Amendment to 502.2.1. On page 19 of the code, 502.2.1 is amended by adding a paragraph to read:

502.2.1.6 Foundation walls. If floors are not insulated as required in Section 502, basement or crawl space walls must be insulated. Either the thermal resistance (R) of the insulation on the entire wall must be not less than R-5, or the thermal resistance (R) of the insulation on the wall must be not less than R-10 down to the design frost line.

~~Note: Foundation walls insulated as required in this section should be designed to prevent damage due to frost action.~~

~~N.~~ M. Amendment to 502.2.1. On page 19 of the code, 502.2.1 is amended by adding a paragraph to read:

502.2.1.7 Vapor barriers. The design of buildings for energy conservation may not create conditions of accelerated deterioration from moisture condensation. A vapor barrier must be installed between the interior surface and the winter design condition dew point location within each building envelope surface. The vapor barrier must be continuous with all joints overlapped and made over framing members or blocking. The vapor barrier must be continuous and uninterrupted by framing at dropped ceiling areas of bath and kitchen soffits. Rips and punctures in the vapor barrier must be patched with vapor barrier materials and sealed.

~~EXCEPTION~~ EXCEPTIONS: The vapor barrier at the rim joist need not be continuous. The vapor barrier need not be sealed around electrical junction boxes.

Note: An air-vapor barrier may create conditions of low natural infiltration. Installation of a heat recovery ventilation system ~~should~~ or an efficient ventilation system must be considered to avoid excessive humidity and other air contaminants.

~~O.~~ N. Amendment to 502.3.1.4. On page 19 of the code, 502.3.1.4 is amended to read:

502.3.1.4 Slab-on-grade floors. For slab-on-grade floors, the thermal resistance of the insulation around the perimeter of the floor may not be less than the value given in Table No. 5-2. The insulation must extend downward from the top of the slab to the design frost line or downward to the bottom of the slab then horizontally beneath the slab for an equivalent distance, and must be of an approved type.

~~P.~~ O. Amendment to Table No. 5-1. On page 20 of the code, Table No. 5-1 is amended to read:

TABLE NO. 5-1

Element	Mode	Type A-1	Type A-2
		Buildings	Buildings
		U_0	U_0^1
Walls	Heating or cooling	0.11	
Roof/ceiling	Heating or cooling	0.026	
Floors over unheated spaces	Heating or cooling	0.05	
Heated slab on grade	Heating	R Value ¹	R Value ¹
Unheated slab on grade	Heating	R Value ¹	R Value ¹

¹ Values shall be determined by using the graphs (Figure Nos. 1, 2, 3, and 6) contained in Chapter 7 (based on Standard RS-9) using heating degree days as specified in Section 302.

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

~~Q~~ P. Amendment to 503.1. On page 24 of the code, 503.1 is amended by adding a paragraph to read:

503.1.1 Heated parking garages. An enclosed structure or portion of an enclosed structure constructed after January 1, 1978, and used primarily as a commercial parking facility for three or more motor vehicles may not be heated. Incidental heating resulting from building exhaust air passing through a parking facility is not prohibited if substantially all useful heat has previously been removed from the air.

~~R~~ Q. Amendment to 503.2. On page 24 of the code, 503.2 is amended by adding a paragraph to read:

503.2.3 System design heating and cooling capacity. The rated capacity of the heating and cooling system at design conditions may not be greater than 115 percent for heating, 100 percent for cooling at design output load calculated in accordance with 503.2, whenever appropriate equipment is available.

EXCEPTIONS: 1. Equipment designed for standby purposes.

2. Cooling capacity of heat pumps.

3. Systems designed for pick-up after automatic temperature set-back when a registered professional engineer shows that the extra system design heating and cooling capacity is needed for pick-up.

~~S~~ R. Amendment to Table No. 5-4. On page 26 of the code, Table No. 5-4 is amended to read:

TABLE NO. 5-4—MINIMUM COP FOR HEAT PUMPS, HEATING MODE¹

SOURCE AND OUTDOOR TEMPERATURE (F)	MINIMUM COP
Air Source - 47DB/43WB	2.7
Air Source - 17DB/15WB	1.8
Water Source - 60 Entering	3.0

~~T~~ S. Amendment to Table No. 5-5. On page 28 of the code, Table No. 5-5 is amended to read:

TABLE NO. 5-5
HVAC SYSTEM HEATING EQUIPMENT—
GAS- AND OIL-FIRED
MINIMUM STEADY STATE COMBUSTION EFFICIENCY

Types of equipment	FURNACES OF CAPACITIES OF 225,000 BTU/H AND LESS BOILERS OF CAPACITIES OF 300,000 BTU/H AND LESS		ALL OTHER COMMERCIAL/ INDUSTRIAL FURNACES AND BOILERS	
	Percent ¹		Percent ²	
Forced-air furnaces and low-pressure steam or hot-water boilers	74		80	
Gravity central furnaces	69		—	
All other vented heating equipment	69		—	

~~U~~ T. Amendment to Table No. 5-6. On page 28 of the code, Table No. 5-6 is amended to read:

¹ When tested at the standard rating specified in Table 5-10A.

¹ Combustion efficiency for furnaces of capacities of 225,000 Btu/h and less and boilers of capacities of 300,000 Btu/h and less shall be tested in accordance with the applicable U.S. Department of Energy furnace test procedures.

² Combustion efficiency of commercial/industrial furnaces and boilers is defined as 100 percent minus stack losses in percent of heat input. Stack losses are:

Loss due to sensible heat in dry flue gas.

Loss due to incomplete combustion.

Loss due to sensible and latent heat in moisture formed by combustion of hydrogen in the fuel.

TABLER NO. 5-6—MINIMUM EER AND COP FOR ELECTRICALLY DRIVEN HVAC-SYSTEM EQUIPMENT—COOLING^{1 2}

STANDARD RATING CAPACITY	Air-cooled		Evaporator or Water cooled	
	EER	COP	EER	COP
Under 65,000 Btu/h (19,050 watts)	7.8	2.28	8.8	2.58
65,000 Btu/h (19,050 watts) and over	8.2 ³	2.40 ³	9.2	2.69

✓ U. Amendment to Table No. 5-7. On page 29 of the code, Table No. 5-7 is amended to read:

TABLE NO. 5-7—MINIMUM EER AND COP FOR ELECTRICALLY DRIVEN HVAC-SYSTEM COMPONENTS¹

COMPONENT	TYPE OF COMPRESSOR	CONDENSING MEANS					
		AIR		WATER		EVAPORATIVE	
		EER	COP	EER	COP	EER	COP
Self-contained water chillers	Centrifugal	8.00	2.34	13.80	4.04		
	Positive displacement	8.40	2.46	12.00	3.51		
Condenserless water chillers	Positive displacement	9.90	2.9	12.00	3.51		
Compressor and condenser units 65,000 Btu/h (19,050 watts) and over ²	Positive displacement	9.50	2.78	12.50	3.66	12.50	3.66
Water Source Hydronic Heat Pump	Size	under 19 kW (65,000 Btu/h)		19 kW (65,000 Btu/h) and over			
		EER	COP	EER	COP		
	Centrifugal	9.0	2.64	9.4	2.75		

¹ When tested at the standard rating conditions specified in Table No. 5-10B.

² The Department of Energy has established required test procedures for single-phase air-cooled residential central air conditioners under 19 kW (65,000 Btu/h) in capacity, which have been incorporated into ARI Standard 210-79. EER and COP values in Table No. 5-6 are based on Test A of the DOE Test Procedures.

³ Applies when return-air fans are not included under the manufacturer's model No. When return-air fans are included, the required minimum values are 2.34 (8.0).

¹ When tested at the standard rating conditions specified in Table No. 5-10C.

² Ratings in accordance with Standard RS-14 as applicable. COP based on condensing unit standard rating capacity and energy input to the unit, all at sea level.

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ADOPTED RULES

~~W.~~ V. Amendment to 503.10.2. On page 33 of the code, 503.10.2 is amended to read:

503.10.2. For low-pressure supply and return air ducts located outside of the conditioned space, all transverse joints must be sealed using mastic, tape, or mastic plus tape. For fibrous glass ductwork, pressure-sensitive tape may be used.

~~X.~~ W. Amendment to 504.5.2. On page 38 of the code, 504.5.2 is amended to read:

504.5.2 Pool covers. Heated outdoor swimming pools must be equipped with pool covers.

~~Y.~~ X. Deletion of 504.5.3. On page 38 of the code, 504.5.3 is deleted.

~~Z.~~ Y. Amendment to 504.7. On page 38 of the code, 504.7 is amended by deleting the exception.

~~AA.~~ Z. Deletion of 504.8.2.2. On page 39 of the code, 504.8.2.2 is deleted.

~~BB.~~ AA. Amendment of 505.2. On page 39 of the code, 505.2 is amended to read:

505.2 Electric energy determination.

In any multi-tenant residential building, provisions shall be made to separately determine the electric energy consumed by each tenant. Electrical service to individual dwelling units in buildings containing two or more units shall be separately metered, with individual metering readily accessible to the individual occupants.

EXCEPTION: Motels, hotels, college dormitories, other transient facilities, and buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities.

~~CC.~~ BB. Amendment to 602.2. On page 44 of the code, 602.2 is amended to read:

602.2 Criteria—Heating and Cooling.

For type A-1 buildings, criteria for ceiling, wall, and floor sections listed in Table No. 6-11 may be used in lieu of the criteria specified in sections 602.2.1, 602.2.2, and 602.2.3. Appropriate U_0 values may be determined by using Appendix Table No. 6-1, 6-2, or 6-3 and Chart 6-A or 6-B.

~~DD.~~ CC. Amendment to 602.2.4. On page 44 of the code, 602.2.4 is amended to read:

602.2.4 Slab-on-grade floors. For slab-on-grade floors, thermal resistance (R) of the insulation around the perimeter of the floor must be at least the value given in Table No. 5-1 or 5-2 as appropriate for the building type.

The insulation shall extend downward from the top of the slab to the design frost line or downward to the bottom of the slab then horizontally beneath the slab for an equivalent distance.

~~EE.~~ DD. Amendment to 602.2. On page 45 of the code, 602.2 is amended by adding a paragraph to read:

602.2.6 Foundation walls. If floors of Group R buildings are not insulated as required in Section 602.2, basement or crawl space walls must be insulated as required in Section 502.2.1.7.

~~FF.~~ EE. Amendment to 602.2. On page 45 of the code, 602.2 is amended by adding a paragraph to read:

602.2.7 Vapor barriers. A vapor barrier must be installed in all Group R buildings as required in Section 502.2.1.7.

~~GG.~~ FF. Addition of Table No. 6-11. On page 50 of the code, insert Table 6-11 to read as follows:

TABLE NO. 6-11
Minimum R Values for Ceiling, Wall, and Floor Sections of
Type A-1 Buildings

Ceilings (1)	Walls (2)	Floors (3)	Windows (4) <u>See</u> <u>Note 4</u>	Sliding Glass Doors (5) <u>See</u> <u>Note 5</u>	Doors <u>See</u> <u>Note 6</u>
38	20	20	2.00	1.45	

Notes to Table 6-11:

(1) Ceilings which meet one of the following criteria satisfy this requirement:

A. R-38 throughout the entire ceiling.

B. If a portion of the ceiling is less than R-38, the insulation in the remainder of the ceiling must be increased to yield an overall average thermal resistance of not less than R-38 using the following equation.

$$R_r = (A_0 - A_1) / (A_0/38 - A_1/R_1)$$

where:

R_r = R value of the insulation in the remainder of the ceiling.

A_0 = total area of the ceiling, ft².

A_1 = area of the ceiling with less than R-38.

R_1 = R value of the ceiling which is less than R-38.

C. Where the roof at the perimeter of the ceiling prevents installation of insulation to full depth, the insulation in the remainder of the ceiling must be increased to reduce the overall ceiling heat loss to no more than if R-38 had been installed throughout the entire ceiling.

(2) For the insulated cavity of opaque wall and rim joists, but not foundation walls.

(3) For the insulated cavity of floors of heated spaces over unheated spaces.

(4) Maximum glass area may not exceed 12 percent of the gross area of exterior walls ~~when the average R value of all glass is not less than the value listed~~ not including foundation walls. All windows shall be double glazed or have storm windows.

(5) Maximum glass area may not exceed ten percent of the gross area of exterior walls, not including foundation walls, when a sliding glass door is installed with a minimum R value as listed, and. ~~All other glass is not less than the R value listed under windows shall be double glazed or have storm windows.~~

(6) A 1¼ inch metal faced door system with an insulated core ~~and durable weatherstripping~~ providing a an R value equal to or greater than ~~three~~ 3.0 or a conventional door and storm door. All primary doors must have durable weatherstripping.

~~HH.~~ GG. Amendment to 604.1.2.3. On page 49 of the code, 604.1.2.3 is amended to read:

604.1.2.3 Swimming pools.

Pool heaters must be equipped with an ON-OFF switch mounted for easy access to allow shutting off the operation of the heater without adjusting the thermostat setting and to allow restarting without relighting the pilot light.

Active solar heating systems should be used to supply a portion of the pool heating requirements when conditions permit their cost-effective installation.

Heated outdoor swimming pools must be equipped with a pool cover.

~~H.~~ HH. Amendment to 604.3. On page 49 of the code, 604.3 is amended by deleting the exception.

~~J.~~ Amendment to 701.1 ~~On page 54 of the code, 701.1, Code Standard No. RS-3, is amended to read:~~

~~RS-3 ASHRAE Standard 62-1981 Ventilation for Acceptable Indoor Air Quality.~~

~~KK.~~ II. Amendment to 701.1. On page 54 of the code, 701.1, Code Standard No. RS-4, is amended to read:

~~RS-4 ASHRAE Standard 55-1981 Thermal Environment Conditions for Human Occupancy.~~

~~LL.~~ JJ. Amendment to 701.1. On page 54 of the code, 701.1, Code Standard No. RS-8, is amended to read:

~~RS-8 IES Lighting Handbook, 1981 Application Volume and 1981 Reference Volume, Illuminating Engineering Society.~~

~~MM.~~ KK. Amendment to 701.1. On page 55 of the code, 701.1 is amended by adding a Code Standard No. RS-22 to read:

~~RS-22 Monthly Normals of Temperature, Precipitation, and Heating and Cooling Degree Days 1951-80 Minnesota. National Oceanic and Atmospheric Administration September, 1982.~~

~~NN.~~ LL. Amendment to list of accredited authoritative agencies. On page 56 of the code, the references to ASHRAE and NWMA are amended to read:

ASHRAE refers to the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., 1791 Tellie Circle N.E., Atlanta, GA 30329.

NWMA refers to the National Woodwork Manufacturers Association, Inc., 205 W. Touhy Ave., Park Ridge, IL 60068.

~~OO.~~ MM. Amendment to Figure No. 1. On page 57 of the code, Figure No. 1 is amended by deleting the line marked A1 and by amending the title to read:

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ADOPTED RULES

“U₀ WALLS—TYPE A₂ BUILDINGS—HEATING”

~~PP. NN.~~ Amendment to Figure No. 2. On page 58 of the code, Figure No. 2 is amended by amending the title to read:

“ROOF/CEILINGS TYPE A₂ BUILDINGS”

Repealer. Rules 2 MCAR §§ 1.16001, 1.16002, 1.16003, 1.16004, 1.16005, and 1.16006 are repealed.

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.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is December 13, 1983.

Department of Economic Security Advisory Council has 2 vacancies open immediately for public members. The council aids the commissioner in formulating policies and discussing problems relating to the administration of the Minnesota employment services law. Members are appointed by the commissioner of the Department of Economic Security for terms which will end on the first Monday of January, 1988. Monthly meetings are held; members receive \$35 per diem plus expenses. Minorities and women are encouraged to apply. For specific information contact James L. Haynes, 720 American Center Building, 150 E. Kellogg Blvd., St. Paul 55101; (612) 297-2809.

Advisory Task Force on the Woman Offender in Corrections has 15 vacancies open for members to reflect a statewide geographical representation. The task force consults with the Commissioner of Corrections regarding choice of model programs to receive funding. Review and make recommendations to the commissioner on matters affecting women offenders. Identify problem areas and make recommendations for problem resolution. Assist the commissioner when and where possible in seeking improved programming for women offenders. Members are appointed by the Commissioner of Corrections. Members receive expenses, in the same manner and amount as state employees. Meetings are held the 1st Wednesday of each month at the Dept. of Corrections. For specific information contact the Dept. of Corrections, 430 Metro Square Bldg., St. Paul 55101; (612) 296-3525.

Advisory Council on Battered Women has 11 vacancies (6 delegates and 5 alternates) open immediately. The council advises the Commissioner of Corrections on funding for emergency shelters and programs for battered women. Members are appointed by the Commissioner of Corrections and include persons knowledgeable in the fields of health, law enforcement, social services and the law. Monthly meetings, Metro Square Bldg., St. Paul. Delegate members are compensated for travel expenses. For specific information contact the Advisory Council on Battered Women, Dept. of Corrections, 430 Metro Square Bldg., St. Paul 55101; (612) 296-6463.

Minnesota Pollution Control Agency

Notice of Change of Public Meeting Regarding a Revision to 6 MCAR § 4.0041 and to Minnesota's State Implementation Plan

In the October 17, 1983, *State Register*, notice was given that, on or shortly after November 22, 1983, the Minnesota Pollution Control Agency would consider adoption of proposed amendments to Minn. Rule APC 41 (8 S.R. 678). Notice is hereby given that the public meeting is changed to December 6, 1983, starting at 9:00 a.m. in the Boardroom of the Minnesota Pollution Control Agency, located at 1935 West County Road B-2, Roseville, Minnesota, 55113. An agenda for the meeting will be available by November 22, 1983, and may be obtained from Jeanine Willenbring at the address noted above or at 612/296-7351.

Sandra S. Gardebring, Executive Director

Minnesota Dept. of Public Safety Office of Public Information

Notice of Availability of a Motorcycle Safety Campaign

The Minnesota Department of Public Safety is seeking an agency to contract for the development of a motorcycle safety campaign to promote the safety and security of motorcycle riders and the general public. The contractor must be capable of selecting and meeting with focus groups consisting of (1) motorcycle operators, and (2) other vehicle drivers to determine critical areas of concern of each group pertaining to motorcycles and safety problems. An extensive public information campaign will include effective use of billboard messages, radio and television public service announcements and other commonly used literature to provide solutions to the problem areas expressed by the motorcycle and other vehicle driver focus groups. The contractor must be able to accurately evaluate public attitudes and problems at the beginning and end of the contract period to determine community penetration and the impact of the campaign. This is a six-month contract (1-1-84 through 6-30-84).

Estimated cost of the contract is \$75,000.

Final date for requesting a Request for Proposal from the Office of Public Information is December 12, 1983.

Department of Public Welfare Income Maintenance Bureau Interagency Board for Quality Assurance

Notice of Informational Hearing

Notice is hereby given that the Interagency Board for Quality Assurance will hold an informational hearing on Tuesday, December 13, 1983, at 9:00 a.m. in Room 15, State Capitol, St. Paul, Minnesota. The hearing is designed to afford interested persons an opportunity to be heard regarding the following Interagency Board Legislated tasks with particular emphasis on incentives and methods which encourage Quality of Life and Quality of Care for Nursing home residents:

- Develop effective systems to ensure Quality of Care in each nursing home.
- Assist the Commissioner of Health in ensuring that inspections and reinspections of nursing homes are conducted with a frequency and in a manner calculated to most effectively and approximately fulfill its Quality Assurance responsibilities and achieve the greatest benefits to nursing home residents.
- Develop and recommend methods of enforcing Quality of Care standards.
- Develop and recommend mechanism beyond the inspection process to protect resident care, safety and rights.

Persons or groups wishing to make a verbal presentation should contact Pamela Parker, (612) 297-3209. Participants should provide the Board with at least one copy of their testimony.

Written comments are also welcomed. They may be sent to:

Interagency Board for Quality Assurance
2nd Floor, Space Center
444 Lafayette Rd.
St. Paul, MN 55101

Written comments should be received by December 14, 1983.

Teachers Retirement Association

Notice of Meeting

Notice is hereby given that the Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, December 9, 1983, at 9 a.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

OFFICIAL NOTICES

Errata

At 8 *State Register* 734 (October 24, 1983) the Minnesota Pollution Control Agency published proposed amendments to the rules governing generators of and the identification, transportation and management of hazardous waste. Please make the following corrections.

S.R. 737, line 1, F.F. "Minnesota" not "Minneuta"

S.R. 750, line 1 of 4.9128 C.13. "to be beneficially" not "to beneficiably"

S.R. 752, line 1 of 4.9130 D. "Empty" not "Emply"

S.R. 763, line 3 of 4.9134 D.3. "4.9130 C." not "4.9310 C."

S.R. 766, line 9, P059. "4, 7-Methano-1H-indene, 1, 4, 5, 6, 7, 8, 8-heptachloro-3a, 4, 7, 7a-tetrahydro-" not "4, 7-Methano-1H-indene, 1, 4, 5, 6, 7, 8, 8-hep-tachloro-3a, 4, 7, 7a-tetrahydro"

S.R. 795, line 2 of 4.9211 C.7. "being" not "baing"

S.R. 801, line 3 of 4.9216 A.2. "4.9415 C." not "4.9415 C.)"

At *State Register* 813, (October 24, 1983) The Minnesota Pollution Control Agency published proposed amendments to the rules governing hazardous waste treatment, storage and disposal facilities. Please make the following corrections.

S.R. 885, line 1 of 4.9317 B.2.a. "geologic" not "geologica"

S.R. 905, line 17 of Exhibit 4.9322-1.:

$$\begin{aligned} & \text{" } \frac{X_m - \bar{X}_B}{\sqrt{\frac{S_m^2}{n_m} + \frac{S_B^2}{n_B}}} \text{ " } \quad \text{not} \quad \text{" } t^* = \frac{X_m - \bar{X}_B}{\sqrt{\frac{S_m^2}{n_m} + \frac{S_B^2}{n_B}}} \text{ " } \\ t^* = & \sqrt{\frac{S_m^2}{n_m} + \frac{S_B^2}{n_B}} \end{aligned}$$

S.R. 915, line 1 of 4.9392 A. "facilities" not "facilties"

S.R. 917, line 1 of 4.9394 C.7. "4.9382 E. not "4.9381 E."

S.R. 947, line 1 of 4.9416 G.2. "solely" not "soley"

S.R. 957, line 1 of 4.9481 B.2. "disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock" not "disturbance of the waste or livestock"

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 Economic Security

Request for Proposals for Energy Conservation/Education Curriculum and Program

Notice is hereby given that the Department of Economic Security, through its Weatherization Program, requests proposals from qualified bidders to develop an energy conservation education program for low-income persons served by the Minnesota Weatherization Program. The successful bidder will train weatherization program home energy auditors who will, in turn, train

low-income energy users in energy-saving techniques. These training services and the method for submitting proposals are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries should be directed to:

Donald Foley, Training Coordinator
Weatherization Program
690 American Center Building
St. Paul, MN 55101
612/296-4658

The Department anticipates the activities necessary to accomplish this training will not exceed a total cost of \$25,000. Deadline for submission of completed proposals is the close of the working day, December 16, 1983.

Department of Energy and Economic Development Energy Division

Request for Proposals for the Performance of a Steam Trap Research and Survey Project in One Hundred (100) State Owned Buildings

Notice is hereby given that the Minnesota Department of Energy and Economic Development, Energy Division, is requesting proposals from contractors/consultants to perform a steam trap research and survey of one hundred (100) state-owned buildings. The request for Proposals will include the research project outline and the location of buildings to be surveyed.

Request for Proposal application is available upon request. Inquiries and requests should be directed to:

Joseph M. Ball 612/297-2336
or Jackie Lind, Manager 612/296-7502
Education and Technical Programs
DEED, Energy Division
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Proposals must be received by the Department of Energy and Economic Development, Energy Division, no later than December 21, 1983 at 3:00 p.m.

Department of Finance Minnesota Tax Study Commission

Request for Proposals to Assist in Research, Analysis, and Preparation of the Tax Commission's Final Report

Notice is hereby given that the Minnesota Tax Study Commission is requesting proposals from individuals with expertise in state and local public finance economics to provide to the Commission technical papers regarding (a) Minnesota's changing economic and demographic structure as it relates to the overall Minnesota state/local revenue system and (b) an economic analysis of specific revenue devices employed in Minnesota, including alternative mechanisms of revenue generation. Upon completion, these technical papers will be used to prepare the Commission's Final Report, which is to be transmitted to the Minnesota Legislature in December 1984. An outline of topics to be addressed is included in the Request For Proposal (RFP) statement of work. The RFP may be requested and inquiries directed to:

Robert Ebel
Executive Director
Minnesota Tax Study Commission
Minnesota Department of Finance
309 Administration Building
St. Paul, Minnesota 55155
(612) 297-4397

A series of fixed fee contracts, not to exceed 25, will be written with individuals. The proposed contracts may commence on November 1, 1983 or anytime after that date and will run no later than December 31, 1984. Most contracts will be written with

STATE CONTRACTS

due dates in May or June through September, 1984. The Commission estimates that the cost of the total contract will be \$190,000, with individual papers ranging between \$1,000 and \$10,000. The deadline for completed proposals will be January 30, 1984; however, extensions beyond January 30 may be possible for certain research topics. Persons responding to this announcement will be automatically notified of any subsequent Commission requests for proposals, extensions of deadlines or changes in procedures noted above.

Metropolitan Council of the Twin Cities Area

Request for Proposals (RFP): Economic Analyses on Large-Scale Composting/Co-Composting

Notice is hereby given that the Metropolitan Council solicits a proposal for entering into a contract for the preparation of economic analyses for a feasibility report on large-scale composting/co-composting in the Metropolitan Area.

Six copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Metro Square Building, St. Paul, Minnesota 55101. Attention: Ms. Petrona Lee, Contract Manager.

The Council by this RFP does not promise to accept the lowest, or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal requirements, to investigate the qualifications and experience of any proposer, to reject any provision in any proposal, to obtain new proposals, or to proceed to do the work otherwise.

All proposals received on or before 4 p.m., November 21, 1983, will be considered by the Council. In the event that a proposal is accepted, the Council will notify the successful proposer in writing within 10 days following its consideration of the proposal.

The Metropolitan Council hereby notifies all bidders that businesses owned and controlled by minorities or women will be afforded maximum feasible opportunity to submit bids and/or proposals and will not be subjected to discrimination on the basis of race, color, sex, age, religion, ancestry, handicap, public assistance status, marital status, national origin or political affiliation.

Copies of the RFP can be obtained by contacting Ms. Petrona Lee (612) 291-6384.

Department of Transportation

Request for Proposals from Consulting Engineers—Registered Civil and Structural—Bridge Plans

Notice is hereby given that the Minnesota Department of Transportation (Mn/DOT) anticipates retaining Bridge Design Consultants to design and prepare construction plans for a limited number of bridges of average complexity during 1984.

Applicants must have an office in Minnesota staffed to handle the work. Recent experience in the production of bridge plans for the State Highway System, the County State Aid Highway System, or equivalent, is required.

Eligible design firms desiring to be considered as design contractors are asked to submit a brochure or resume giving qualifications and experience to K. V. Benthin, State Bridge Engineer, 610D Transportation Building, Mn/DOT, St. Paul, Minnesota 55155. Identify personnel to conduct the work and detail their training and experience. Brochures and resumes will be received until 4:30 P.M., December 12, 1983. Qualified applicants will be contacted, and may be requested to appear at the Mn/DOT Building in St. Paul for interviews.

Names of selected firms will be retained on file with Mn/DOT for consideration during 1984.

SUPREME COURT

Decisions Filed Thursday, November 10, 1983

Compiled by Wayne O. Tschimperle, Clerk

C8-82-770 State of Minnesota, Respondent, v. Ngoc Van Vu, Appellant.

Defendant Ngoc Van Vu was indicted on October 1, 1981, for first-degree murder for the death of Le Thi Bui. On February 16 and 17, the Hennepin County District Court held an omnibus hearing on defendant's motion to suppress certain statements he made to the police. Defendant's motion was denied. Defendant was convicted of first-degree murder after a jury trial and sentenced to life in prison. The issues raised in this appeal are whether the district court erred in denying defendant's motion to suppress and whether the circumstantial evidence of defendant's guilt was sufficient to support the verdict.

Affirmed. Yetka, J.

C0-83-14 In Re the Marriage of: Norma Jean McMahon, petitioner, Appellant, v. Vincent L. McMahon, Respondent.

1. When trial court reserves the granting of maintenance in an original decree of marriage dissolution, upon subsequent application for maintenance the court must base its decision on the facts and circumstances existing at the time of the application.

2. Where original decree awarded homestead property to wife, it was error to award ex-husband a lien on the homestead property for amounts of maintenance paid.

Reversed and remanded. Kelley, J.

C2-82-814 Torgerson-Forstrom H.I. of Willmar, Inc., et al., Appellants, v. Olmsted Federal Savings and Loan Association, etc., et al., Respondents.

It is not unreasonable for a mortgagee to condition consent to a sale of the mortgaged property, pursuant to the provisions of a due-on-sale clause, on a reasonable increase in the interest rate on the loan secured by the property.

Affirmed. Coyne, J.

C2-82-845 State of Minnesota, Respondent, v. Antti J. Haavisto, Appellant.

State met its burden of proving that defendant intentionally and unjustifiably killed the victim while in the heat of passion.

Affirmed. Kelley, J.

C2-82-1560 Mervin P. Kirchner, Respondent, v. County of Anoka and Home Insurance Company, Relators, and Iowa National Mutual Insurance Company, Respondent, and State Treasurer, as Custodian of the Special Compensation Fund, Relator.

1. Finding of new injury was not manifestly contrary to evidence.

2. Injury caused by fall on staircase while leaving work arose out of and in the course of employment.

3. Employee who suffers second injury resulting in total inability to work after first injury causes partial reduction in earning capacity and is entitled to concurrent award of temporary partial disability benefits and temporary total disability benefits.

Affirmed in part, reversed in part, and remanded with directions. Peterson, J.

C2-82-168 State of Minnesota, Respondent, v. Kenneth H. Barbo, Appellant.

Trial court did not err prejudicially in admitting tape recordings or in evidentiary rulings relating to impeachment of state's witness, and evidence was sufficient to sustain defendant's convictions of selling or distributing marijuana.

Affirmed. Coyne, J.

CX-83-358 David James, Relator, v. Commissioner of Economic Security, Respondent.

Reversed and Remanded. Yetka, J.

C1-83-751 State of Minnesota, Appellant, v. Warren James Simon, Respondent.

Prior misdemeanor DWI conviction based on a counseled guilty plea by a defendant can be used to convert a subsequent DWI offense by the defendant into a gross misdemeanor under Minn. Stat. § 169.121, subd. 3 (1982), even though the record of the prior proceeding does not specifically establish that defendant was advised of his other rights when he entered his plea.

Reversed and remanded for trial. Amdahl, C.J.

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