

84 Mar. 19

# STATE REGISTER

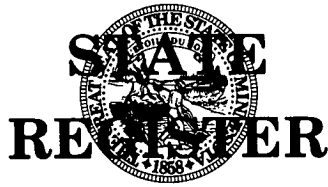
STATE OF MINNESOTA



**VOLUME 8, NUMBER 38**

**March 19, 1984**

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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 8</b>			
39	Monday Mar 12	Monday Mar 19	Monday Mar 26
40	Monday Mar 19	Monday Mar 26	Monday Apr 2
41	Monday Mar 26	Monday Apr 2	Monday Apr 9
42	Monday Apr 2	Monday Apr 9	Monday Apr 16

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

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

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

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

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

The PROPOSED RULES section contains:

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

The ADOPTED RULES section contains:

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

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register 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 Issue number. 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.

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# MINNESOTA RULES

## Office of the Revisor of Statutes State Register and Public Documents Division

### Announcement of New Minnesota Rules Format

Beginning with the March 19 issue of the *State Register*, proposed rules published in the *State Register* will be drafted in a new format and will use a new numbering system. This format and numbering system change was made by the Revisor of

Statutes as part of the Revisor's recompilation of state administrative rules. This recompilation has been published and is known as *Minnesota Rules*.

The MCAR format will still appear when agencies publish changes to proposed rules that were published in the MCAR format. The changes will follow the MCAR format so that readers can easily compare the proposed and adopted rules. Also, rules that began at the proposal stage in the MCAR format before the changeover will still appear in the MCAR format in the *State Register*. After the rules have been adopted, the revisor will recompile them in the new format for inclusion in *Minnesota Rules*.

Copies of the *Minnesota Rules Drafting Manual*, which explains the new format, can be purchased from the State Register and Public Documents Division of the Department of Administration. The cost is \$11.00 plus 6% sales tax (Minnesota residents only) and \$1.50 handling charge (handling charge applicable to mail orders only). Prepayment is required.

Concordance tables for converting MCAR numbers into MR numbers and vice versa is also available. It is included in Volume 6 of the new set of *Minnesota Rules*, 1983. The cost of Volume 6 of *Minnesota Rules* is \$17.00 plus sales tax and handling charge (\$1.50 for mail orders), and is available from the State Register and Public Documents. For questions about specific MCAR-MR conversions, call Barbara Moehrle, Revisor's Office, at 297-2958.

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**EXECUTIVE ORDERS****Executive Order No. 84-5****Providing for the Establishment of the Governor's Task Force on the Minnesota Convention Center**

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 attraction of national conventions, trade shows, and other similar programs can have a beneficial impact upon Minnesota's economy; and

WHEREAS, the existence of a world class convention center in this state may be an economic development initiative of statewide significance; and

WHEREAS, such a facility does not now exist in Minnesota;

NOW, THEREFORE, I order:

1. The formation of the Governor's Task Force on the Minnesota Convention Center to assess the need for a world class convention center in this state. The Task Force shall consist of nine members appointed by the Governor. The chair shall be named by the Governor.

2. If the Council determines that such a convention center is needed and would be an economic benefit to the state, the Council shall solicit proposals from cities in Minnesota that would be willing to serve as the "host city" for a world convention center. The "host city" proposal shall include the location and description of one or more sites and shall indicate the date that the site would be available to begin construction.

3. All proposals must include evidence of official action by the city's governing body with regard to the following three items:

a. the city's firm commitment to furnish free and unencumbered a site of adequate size for the convention center;

b. the city's ability and commitment to support the convention center by assuming operating losses;

## EXECUTIVE ORDERS

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- c. the city's willingness, if any, to assume a portion of the debt service cost;
- d. the city's proposal for management and operation of the convention center at an appropriate time after completion of construction.

4. From the proposals submitted by the cities, the Council shall select a preferred "host city" by September 11, 1984.

5. The Council shall select a preferred site within the preferred "host city" by December 18, 1984.

6. The Council shall prepare a final report and recommendations to be submitted to the Governor and the Minnesota Legislature no later than February 5, 1985. This report shall include a market analysis and shall describe the type of facilities needed to be competitive in the relevant market. The report shall estimate the economic and other impacts of the proposal facility and shall include a proposal for the ownership, operations, and promotion of the facility. The report shall include preliminary design and cost estimates and a recommended financing mechanism.

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 rescinded by proper authority or it expires in accordance with Minnesota Statutes 1982, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 1st day of March, 1984.



# 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.

## Energy and Economic Development Authority

### Proposed Rules Governing Pilot Community Development Corporation Projects

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

Notice is hereby given that the Minnesota Energy and Economic Development Authority proposes to adopt the above-entitled rules without a public hearing. The Minnesota Energy and Economic Development Authority has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the 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 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 Minnesota Statutes sections 14.13 to 14.20 (1982). 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:

Minnesota Energy and Economic Development Authority  
Attention: Edward J. Meyer, Jr.  
980 American Center Building  
St. Paul, Minnesota 55101  
612/297-3547

Authority for adoption of these rules is contained in Minnesota STATUTES 116J.65, subd. 5 and *Minn. Laws* of 1983, ch. 289, section 1 subd. 3. 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 the Minnesota Energy and Economic Development Authority, attention: Edward J. Meyer, Jr., 480 Cedar Street, 1st Floor Hanover Building, St. Paul, Minnesota 55101.

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

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

## PROPOSED RULES

this material to the Attorney General or who wish to receive a copy of the final rules should submit a written statement of such request to Mr. Meyer.

You are hereby advised, pursuant to *Minn. Laws* of 1983, ch. 188, Small Business Considerations in Rulemaking, that the proposed rule amendments will have a beneficial impact on some small businesses in Minnesota.

Since Community Development Corporations as a generic group are small businesses and since the intent of these amendments is to make application easier and quicker, this will benefit small businesses seeking CDC designation and program funds.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting the Minnesota Energy and Economic Development Authority.

Mark B. Dayton  
Chairman, Minnesota Energy and  
Economic Development Authority

### Rules as Proposed.

#### 4350.0200 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 2. Assistant Commissioner. "~~Assistant~~ Commissioner" means the ~~assistant~~ commissioner of the ~~Business Community Development Division~~ of the Minnesota Department of Energy, ~~Planning~~ and Economic Development, or his designated representative.

Subp. 2a. Authority. "Authority" means the Minnesota Energy and Economic Development Authority.

Subparts 3 to 6. [Unchanged.]

#### 4350.0400 AVAILABILITY OF PROGRAM FUNDS.

Program funds shall be available only to eligible community development corporations designated as such by the ~~assistant commissioner, with the approval of the State Executive Council~~ authority.

#### 4350.0600 PROJECT GRANTS.

Subpart 1. Program funds. Program funds shall be made available to eligible community development corporations in the form of project grants, on approval by the ~~commissioner~~ authority of an application therefor, ~~with the concurrence of the State Executive Council~~. All applications shall be in a form prescribed by the ~~assistant~~ commissioner. Project grants shall be made only with respect to projects that will be carried on within the designated community of the applicant community development corporation, except where the applicant demonstrates that a project carried on outside the designated community will have a significant impact within the designated community.

Subparts 2 to 6. [Unchanged.]

## Department of Energy and Economic Development

### Proposed Rules Governing Tax Credit Certification for "Qualified Small Businesses" and "Small Business Assistance Offices" under *Laws of Minnesota 1983, Chapter 342*

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

Notice is hereby given that the Minnesota Department of Energy and Economic Development proposes to adopt the above-entitled rules without a public hearing. The Minnesota Department of Energy and Economic Development has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the 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 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 Minnesota Statutes sections 14.13 to 14.20 (1982). 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:

Charles A. Schaffer  
Director  
Program of Business Information  
Minnesota Department of Energy and Economic Development  
980 American Center Building  
150 East Kellogg  
St. Paul, MN 55101  
612/296-0617

Authority for adoption of these rules is contained in Minnesota Statutes 14.06. 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 the Minnesota Department of Energy and Economic Development, attention: Charles A. Schaffer, Director, Program of Business Information, 980 American Center Building, 150 East Kellogg, St. Paul, MN 55101.

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

You are hereby advised, pursuant to *Minn. Laws* of 1983, ch. 188, Small Business Considerations in Rulemaking, that the proposed rule amendments will have a beneficial impact on some small businesses in Minnesota. The tax credits are intended to stimulate the growth and success of small businesses through encouragement of transfer of technology to small businesses, equity investment in small business and contributions to small business assistance offices.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting the Minnesota Department of Energy and Economic Development.

Mark B. Dayton  
Commissioner, Minnesota Department  
of Energy and Economic Development

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

#### **4351.0100 DEFINITIONS.**

**Subpart 1. Scope.** For purposes of this chapter, the following terms have the meaning given them.

**Subp. 2. Business entity.** For purposes of certification as a qualified small business, "business entity" means a business conducted in any organizational form for profit.

**Subp. 3. Employee.** For purposes of certification as a qualified small business, "employee" means any person who is permanently on the payroll of a business entity at the time the business entity seeks certification as a qualified small business.

**Subp. 4. Subsidiary or affiliate.** For purposes of certification as a qualified small business, a business entity is a "subsidiary" of a transferor or investor if the business entity is a corporation and the transferor or investor owns more than 50 percent of the value of the outstanding stock of the entity corporation, or the entity is not a corporation and the transferor or investor owns more than 50 percent of the value of the capital interest or the profit interest in the entity.

For purposes of certification as a qualified small business, a business entity is an "affiliate" of a transferor or investor if:

A. the business entity is a corporation and the transferor or investor owns more than 20 percent of the value of the outstanding stock of the entity corporation;

B. the business entity is not a corporation and the transferor or investor owns more than 20 percent of the capital stock interest or the profit interest in the entity; or

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

## PROPOSED RULES

C. other facts and circumstances indicate that the transferor or investor possesses effective control of the entity as evidenced by:

- (1) contractual arrangements that provide for allocation of the entity's output to the transferor or investor or that require the purchase of inputs from the transferor or investor;
- (2) a high percentage of the ownership by transferor or investor, but less than 50 percent, and fragmentation of the ownership of the other interests among various other individuals or entities;
- (3) a majority of the membership of the entity's board of directors or other governing body is held by employees, directors, or owners of the transferor or investor; or
- (4) other relevant factors.

A business entity is a subsidiary or affiliate of a transferor or investor if the entity and the transferor or investor are both subsidiaries or affiliates, or some combination thereof, of a common third party.

A separately incorporated franchise is not a subsidiary or affiliate.

**Subp. 5. Commercial domicile.** For purposes of certification as a qualified small business, "commercial domicile" means the state where the business entity maintains the principal office from which it manages and directs its business.

**Subp. 6. Commissioner.** For purposes of certification as a qualified small business and for purposes of certification as a small business assistance office, "commissioner" means the commissioner of energy and economic development or his or her designee.

**Subp. 7. Audited financial statements.** For purposes of certification as a small business assistance office, "audited financial statements" means financial statements on which a state licensed public accountant has delivered an opinion according to generally accepted auditing standards that the financial statements soundly and fairly present the business's financial data.

**Subp. 8. Full-time professional employee or the equivalent.** For purposes of certification as a small business assistance office, "full-time professional employee or the equivalent" means:

A. an individual who is on the payroll of a nonprofit corporation, who performs services directly related to the primary purpose of a nonprofit corporation, and who works at least 2,080 hours per year; or

B. a combination of professional employees who are on the payroll of the nonprofit corporation, who perform services directly related to the purpose of the nonprofit corporation, and who individually work fewer than 2,080 hours per year but who aggregately work at least 2,080 hours per year.

**Subp. 9. Financing.** For purposes of certification as a small business assistance office, "financing" means the making of market rate loans. Financing does not mean assisting with the securing of grants or contracts from public or private sources.

### 4351.0200 PURPOSE.

The purpose of this chapter is to provide notice of the procedures and criteria used by the commissioner of energy and economic development to certify a nonprofit corporation as a small business assistance office and to certify a business entity organized for profit as a qualified small business under Minnesota Statutes, section 290.069, subdivision 1, clauses (a) and (f).

### 4351.0300 COMPUTATION OF GROSS ANNUAL RECEIPTS.

For the purpose of certification as a qualified small business, gross annual receipts is determined by using the following computations (the forms and lines referenced relate to 1983 federal tax forms, or their equivalent forms and lines in the future):

A. For businesses filing a federal corporation income tax return, use the total income increased by the cost of goods sold and/or operations (IRS form 1120, the sum total of lines 11 and 2).

B. For businesses filing a federal income tax return for a chapter S corporation, use the sum of the total income, cost of goods sold and/or operations, and the long and short term net capital gain or losses. (IRS form 1120S, use line 9 and increase it by the amount on line 2. Increase this total by the amount on IRS schedule D, form 1120S, by the amounts on lines 1, 2, and 9.)

C. For businesses filing federal sole proprietorship or partnership interest returns, use the gross receipts or sales less returns or allowances plus other income (IRS form 1040 schedule C, use the total amounts on lines 1c and 4b.)

If form 1040 schedule D is filed, use the net short and long term capital gain or loss excluding any gain made on the sale of your home. (IRS form 1040 schedule D, line 6 less line 2 plus line 17 less line 10.)

If form 1040 schedule E is filed, use any rental income and any other business income (IRS form 1040 schedule E, lines 3, 27, 31, and 33.)

D. If an IRS form 1065 is filed, use the gross receipts or sales less returns or allowances (line 1c), plus ordinary income from



other partnerships (line 4, only if positive amount), plus interest and dividends (line 5), plus gross rents (line 6a), plus income from royalties (line 7), plus any other income or loss (line 10).

#### **4351.0400 CERTIFICATION AS SMALL BUSINESS ASSISTANCE OFFICE.**

**Subpart 1. Application.** For a nonprofit corporation to be eligible for a contribution tax credit under Minnesota Statutes, section 290.069, subdivision 3, it must submit to the commissioner an application form provided by the commissioner along with a copy of the articles of incorporation; a copy of the designation by the Internal Revenue Service that the corporation is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code of 1954, as amended through January 15, 1984; the most recent audited financial statement; and a recent payroll abstract or the equivalent.

The application form must contain the corporate name, principal place of business of the corporation, and an affirmation made by an officer of the corporation affirming the following:

A. that the primary purpose of the corporation is to aid in the formation of new businesses which create jobs by training or providing other direct assistance to entrepreneurs, managers, inventors, and other individuals in the development, financing, and operation of qualified small businesses;

B. that the corporation provides audited financial statements to all contributors seeking the tax credit and to the commissioner of energy and economic development within 90 days following the close of the corporation's fiscal year;

C. that the corporation employs at least two full-time professional employees or the equivalent; and

D. that the corporation is not engaged in providing financing or is not primarily engaged in arranging financing for businesses.

**Subp. 2. Period of certification.** The initial certification is for the calendar year beginning January 1, 1984. Application for certification for calendar year 1984 must be received by the commissioner not later than November 15, 1984.

**Subp. 3. Annual applications.** A separate new application must be made for certification for each calendar year beginning January 1, 1985. Applications for certification for calendar years after 1984 must be received by the commissioner not later than November 15 of the calendar year for which the tax credit is sought.

**Subp. 4. Decision to certify.** Within 30 days of receipt of the application and information required in subpart 1, the commissioner shall determine whether to certify a nonprofit corporation as a small business assistance office. The commissioner shall certify the corporation for a calendar year if it has satisfied the conditions of Minnesota Statutes, section 290.069, subdivision 1, paragraph (a), clauses (1) to (4). If the commissioner denies certification, he or she shall provide the applicant with a statement of the reason for the denial.

#### **4351.0500 CERTIFICATION AS QUALIFIED SMALL BUSINESS.**

**Subpart 1. Application.** For a business entity organized for profit to be eligible for a technology transfer credit or an equity investment credit under Minnesota Statutes, section 290.069, subdivision 2 or 4, it must submit to the commissioner an application form provided by the commissioner along with a copy of the most recent individual or corporate federal income tax return, a list of the entity's shareholders and their voting interest, a copy of the articles of incorporation and its amendments or partnership agreement if the business entity is a partnership, or a certificate of limited partnership when the business entity is a limited partnership, a recent payroll abstract or the equivalent, and any other information requested by the commissioner as reasonably needed to certify the business entity as a qualified small business.

The application must contain at a minimum the name and address of the business, the taxable year of the business, and an affirmation by an officer of the business affirming:

A. that the business entity is organized for profit;

B. that the business entity has 20 or fewer employees and less than \$1,000,000 in gross annual receipts;

C. that the business entity is not a subsidiary or an affiliate of a business which employs more than 20 employees or has total gross receipts for the previous year of more than \$1,000,000, computed by aggregating all of the employees and gross receipts of the business entities affiliated with the business;

D. that the business entity has its commercial domicile in Minnesota;

E. that the business entity does not derive more than 20 percent of its gross receipts from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities; and

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

# PROPOSED RULES

F. that the business entity is not engaged in a trade or business, the primary purpose of which is described in section 103(b)(6)(0) of the Internal Revenue Code of 1954, as amended through January 15, 1983.

**Subp. 2. Period of certification.** The initial certification is for the calendar year beginning January 1, 1984. Application for certification for calendar year 1984 must be received by the commissioner not later than November 15, 1984.

**Subp. 3. Annual applications.** A separate new application must be made for certification for each calendar year beginning January 1, 1985. Applications for certification for calendar years after 1984 must be received by the commissioner not later than November 15 of the calendar year for which the tax credit is sought.

**Subp. 4. Decision to certify.** Within 30 days of the receipt of the application and information required in subpart 1, the commissioner shall determine whether to certify a business entity organized for profit as a qualified small business. The commissioner shall certify the business entity if it has satisfied the conditions of Minnesota Statutes, section 290.069, subdivision 1, paragraph (f), clauses (1) to (5). If the commissioner denies certification, he or she shall provide the applicant with a written reason for the denial.

## 4351.0600 FALSE INFORMATION.

The commissioner shall deny or withdraw certification to a corporation or business entity that the commissioner determines has knowingly provided false, incomplete, or inaccurate information in the application or other documents required in part 4351.0400 or 4351.0500.

## 4351.0700 APPLICATION FORM FOR CERTIFICATION OF SMALL BUSINESS ASSISTANCE OFFICE.

APPLICATION FOR CERTIFICATION OF  
SMALL BUSINESS ASSISTANCE OFFICE  
Pursuant to Minnesota Statutes,  
section 290.069, subdivision 1

Department of Energy and Economic Development

Date of application: \_\_\_\_\_

Name of business: \_\_\_\_\_

Address of business: \_\_\_\_\_

I \_\_\_\_\_ affirm that I am the \_\_\_\_\_ of the above named organization and affirm:

1. that the above named corporation is a nonprofit corporation under Minnesota Statutes, chapter 317 and is an exempt organization under section 501(c)(3) of the Internal Revenue Code, as amended through January 15, 1984;

2. that the above named corporation has as its primary purpose aiding in the formation of new businesses which create jobs in the state by training or providing other direct assistance to entrepreneurs, managers, inventors, and other individuals in the development, financing, and operation of qualified small businesses;

3. that the above named corporation will provide audited financial statements to all contributors and to the commissioner of energy and economic development within 90 days following the close of the corporation's fiscal year;

4. that the above named corporation employs at least two full-time professional employees or the equivalent; and

5. that the above named corporation is not engaged in providing financing or is not primarily engaged in arranging financing for businesses.

Notary Seal

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**4351.0800 APPLICATION FORM FOR CERTIFICATION AS A QUALIFIED SMALL BUSINESS.**

**APPLICATION FOR CERTIFICATION  
AS A QUALIFIED SMALL BUSINESS**

Pursuant to Minnesota Statutes,  
section 290.069, subdivision 1

Department of Energy and Economic Development

Date of application: \_\_\_\_\_

Name of business: \_\_\_\_\_

Address of business: \_\_\_\_\_

Primary purpose of business: \_\_\_\_\_

I \_\_\_\_\_ affirm that I am the \_\_\_\_\_ of the above named business entity and affirm:

1. that the above named business entity is organized for profit;
2. that the above named business entity has 20 or fewer employees and less than \$1,000,000 in gross annual receipts;
3. that the above named business entity is not a subsidiary or affiliate of a business with more than 20 employees or with total gross receipts for the previous year of more than \$1,000,000, as computed by aggregating all the employees and all the gross receipts of the business entities affiliated with the business;
4. that the above named business entity has its commercial domicile in this state;
5. that the above named business entity does not derive more than 20 percent of its gross receipts from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities; and
6. that the above named business entity is not engaged in a trade or business, the primary purpose of which is described in section 103(b)(6)(0) of the Internal Revenue Code of 1954, as amended through January 15, 1984.

Notary Seal

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Energy and Economic Development Authority**

**Proposed Rules Governing the Minnesota Energy and Economic Development  
Authority and Repealing Parts 8300.0200 and 8300.0700**

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

Notice is hereby given that the Minnesota Energy and Economic Development Authority proposes to adopt the above-entitled rules without a public hearing. The Minnesota Energy and Economic Development Authority has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the 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 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 Minnesota Statutes sections 14.13 to 14.20 (1982). 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.

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

## PROPOSED RULES

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

Minnesota Energy and Economic Development Authority  
Attention: Edward J. Meyer, Jr.  
980 American Center Building  
St. Paul, Minnesota 55101  
612/297-3547

Authority for adoption of these rules is contained in Minnesota Statutes 116J.91, subd. 4 (1982). 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 the Minnesota Energy and Economic Development Authority, attention: Edward J. Meyer, Jr., 480 Cedar Street, 1st Floor Hanover Building, St. Paul, Minnesota 55101.

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

You are hereby advised, pursuant to Minn. Laws of 1983, ch. 188, Small Business Considerations in Rulemaking, that the proposed rule amendments will have a beneficial impact on some small businesses in Minnesota. Minn. Laws 1983 ch. 289 reorganized the Small Business Finance Agency into the Minnesota Energy and Economic Development Authority. The Authority manages several loan programs and is able to help qualified small businesses through loan guarantees or outright loans. These amendments bring the rules into compliance with that statute and reflect the broader range of assistance the Authority is able to provide.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting the Minnesota Energy and Economic Development Authority.

Mark B. Dayton  
Chairman, Minnesota Energy and  
Economic Development Authority

### Rules as Proposed

#### 8300.0100 DEFINITIONS.

Subpart 1. Statutory definitions. The terms defined in Minnesota Statutes ~~1980, section 362.50~~ 116J.88 have the same meanings when used in ~~these rules~~ chapter 8300 as ascribed to them in the act.

Subp. 2. Act. "Act" means Laws of Minnesota 1980, chapter 547, as now in effect and as amended from time to time.

Subp. 2a. Applicant. "Applicant" means a person, partnership, firm, corporation, or association that applies to the authority for financial assistance.

Subp. 2b. Authority. "Authority" means the energy and economic development authority, formerly known as the small business finance agency.

Subp. 3. Commissioner. "Commissioner" means the commissioner of energy and economic development or his or her designee.

Subp. 4. ~~Executive director.~~ "~~Executive director~~" means the executive director of the agency designated by the ~~commissioner~~ Financial Assistance. "Financial assistance" means loans, loan guarantees or insurance, and any other use of funds permitted by the act.

Subp. 5. Members. "Members" means the commissioner and those persons appointed to the agency pursuant to Minnesota Statutes 1980, section 362.51, subdivision 8 authority under Minnesota Statutes, section 116J.89.

#### 8300.0300 REGULAR MEETINGS.

Regular meetings of the agency authority shall be held on the ~~third~~ fourth Wednesday of each month at 3:00 p.m. at the offices of the agency authority in St. Paul, Minnesota, unless another place of meeting is designated by resolution. ~~In the event such~~ If this date shall fall falls on a legal holiday, the regular meeting shall be held on the next succeeding business day.

#### 8300.0400 SPECIAL MEETINGS.

Special meetings of the agency authority may be called upon reasonable notice to all members by the chairperson or by a majority of the existing members of the agency authority, for the purpose of transacting any business designated in the notice,

and shall be held at the business offices of the agency authority in St. Paul, Minnesota, unless another place of meeting is designated by resolution. At ~~any such a special meeting~~, no business ~~shall~~ may be considered other than as designated in the notice; ~~provided, however, that if unless~~ all of the members of the agency authority are present at ~~such the~~ special meeting; ~~this limitation shall not apply.~~

#### 8300.0500 PUBLIC APPEARANCES AT MEETINGS OF MEMBERS.

The following procedures shall govern public appearances at meetings of the members:

A. With respect to regular meetings, the ~~executive director~~ commissioner shall complete the agenda for meetings of the members not less than five nor more than seven days prior to the date of ~~any such the~~ meeting.

B. With respect to regular meetings, any person who desires to appear and address the members shall make a written request to the ~~executive director, with a copy to the chairperson~~ commissioner, at least ten days prior to the date of the meeting, setting forth the nature of the matter about which ~~such the~~ person wishes to appear.

C. With respect to regular or special meetings, any person who desires to appear and address the members with respect to any matter enumerated on the agenda shall make a written request to the ~~executive director, with a copy to the chairperson~~ commissioner, at least 24 hours before the meeting.

D. Any member may at any time request that a person be permitted to appear and address the members at any regular or special meeting. All ~~such~~ requests ~~shall~~ must be placed on the agenda for review by the members at the meeting. A majority vote of the members present ~~shall be~~ is required ~~in order~~ to grant ~~any such a~~ request to address the members.

#### 8300.0600 MISREPRESENTATION OF APPLICATION INFORMATION.

~~The agency may forthwith reject any application, whether or not previously approved, may revoke any preliminary or final resolution prior to sale of the bonds approved thereby, or may refuse to close any loan in the event that any information provided to the agency by the owner contains a material misrepresentation or omission. Each applicant shall have an affirmative duty and obligation to update and correct all information provided to the agency.~~

Subpart 1. Affirmative duty. An applicant or financial institution has an affirmative duty and obligation to update and correct all information provided to the authority.

Supb. 2. Authority's action. If information provided to the authority by either the applicant or the financial institution contains a material misrepresentation or omission, the authority may:

1. reject an application whether or not previously approved;
2. refuse to provide financial assistance;
3. make financial assistance provided by it immediately due and payable; or
4. revoke any preliminary or final resolution prior to the provision of financial assistance or prior to the sale of the bonds approved by it.

#### POLLUTION CONTROL ~~LOANS~~ FINANCIAL ASSISTANCE

#### 8300.1000 UNIFORM POLLUTION CONTROL ~~LOAN~~ FINANCIAL ASSISTANCE APPLICATION FORMS.

The ~~executive director~~ commissioner shall prepare uniform ~~loan~~ financial assistance application forms for ~~use by the public~~ each program of the authority setting forth the information necessary for the determination of probable eligibility for a pollution control ~~loan guaranteed or to be guaranteed as a full faith and credit obligation of the United States, by the United States Small Business Administration, or by another agency or instrumentality of the United States to which the same or similar power may be granted financial assistance.~~ All forms ~~shall~~ must be submitted to the members for their review at a regular or special meeting and ~~shall~~ become effective only upon the approving vote of the members.

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### 8300.1100 ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE APPLICATIONS.

In determining whether to accept applications for pollution control ~~loans~~ financial assistance, the members shall examine the following facts:

- A. the probable eligibility of the pollution control ~~loan~~ financial assistance for a federal guarantee;
- B. the nature of the pollution control facilities to be financed with the ~~loan~~ financial assistance;
- C. the location of the proposed facilities;
- D. the availability of bonding authority under the act; and
- E. the extent to which the ~~loan~~ financial assistance will assist and encourage the establishment, maintenance, and growth of small business in Minnesota and reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of small business.

### 8300.1200 AUTHORIZATION OF ~~LOANS~~ POLLUTION CONTROL FINANCIAL ASSISTANCE.

No pollution control ~~loan~~ financial assistance may be ~~made~~ authorized until the members of the agency authority have received and reviewed the recommendation of the ~~executive director~~ commissioner relating to the ~~loan~~ financial assistance, and until the members have adopted a resolution approving the ~~loan~~, which resolution shall include, at a minimum:

~~A. a determination that the loan has been approved for a federal guarantee, as a full faith and credit obligation of the United States, by the United States Small Business Administration, or by another agency or instrumentality of the United States to which the same or similar power may be granted; and~~

~~B. financial assistance. If the authority intends to fund the financial assistance by issuing bonds or bond anticipation notes, the resolution must include a statement that the obligation of the agency authority to make such loans provide financial assistance is contingent on the ability of the agency authority to sell its bonds or bond anticipation notes, on terms which the members of the agency authority, in their sole discretion, deem acceptable. The resolution may include other conditions and provisions as the authority in its sole discretion deems advisable for prudent financial management of authority financial assistance.~~

### BUSINESS ~~LOANS~~ FINANCIAL ASSISTANCE

### 8300.1500 OVERVIEW OF PROCEDURE FOR APPROVAL OF BUSINESS ~~LOANS~~ FINANCIAL ASSISTANCE.

**Subpart 1. Owner's duty.** To be eligible for a business ~~loan~~ financial assistance, an owner shall make an application for a ~~business loan pursuant to~~ business financial assistance under parts 8300.1600 to 8300.1900 on approved application forms of the agency authority.

**Subp. 2. Executive director's Commissioner's duty.** The ~~executive director~~ commissioner shall process the application in accordance with the procedures and limitations set out in parts 8300.1600 to 8300.1900. The criteria the ~~executive director~~ commissioner shall use in approving an application for processing are set out in parts 8300.1600 to 8300.1900.

**Subp. 3. Agency's duties.** Upon the determination by the ~~executive director~~ commissioner that the business ~~loan~~ financial assistance requested meets the eligibility requirements of parts 8300.1600 to 8300.1900, the agency authority shall ~~determine pursuant to~~ under parts 8300.2100 and 8300.2200 if the agency authority intends to fund the requested business ~~loan~~ financial assistance subject to final authorization by the agency authority.

**Subp. 4. Resolution to approve loan financial assistance.** Upon the determination by the agency authority that the ~~loan~~ financial assistance requested ~~pursuant to~~ in an application which has been accepted for processing can and should be funded, the agency authority shall adopt a resolution approving ~~such loan, which~~ the financial assistance. If the authority intends to fund the financial assistance by issuing bonds, the resolution ~~shall~~ must include a provision that the obligation of the agency authority to ~~make the loan~~ provide the financial assistance is contingent on the ability of the agency authority to sell its bonds on terms which the agency authority, in its sole discretion, deems acceptable. In addition, ~~any such~~ a resolution may contain ~~such~~ other provisions and conditions as the agency authority, in its sole discretion, deems advisable.

### 8300.1600 APPLICATION PROCEDURES.

**Subpart 1. Submission of application.** The owner shall submit to the agency authority copies of the completed application upon the forms provided by the agency authority.

**Subp. 2. Incomplete applications.** Application ~~shall be~~ is deemed to have been made ~~upon receipt by the agency of~~ when the authority receives a completed application with all required documentation and exhibits, together with the required fee specified

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in the application forms. ~~In the event that~~ If an incomplete application is received, the ~~executive director~~ commissioner shall notify the applicant specifying the deficiencies. The applicant ~~shall have~~ has 60 days from the date of the ~~executive director's~~ commissioner's notification to complete ~~such~~ the application. If the application is not completed within 60 days, the application ~~shall be~~ is deemed to be rejected and the applicant ~~must~~ shall reapply to be further considered. ~~In the event the executive director~~ If the commissioner is able to determine from the information submitted on an incomplete application that the applicant is not an owner or the proceeds of the requested business ~~loan~~ financial assistance are intended to finance expenditures not permitted under the act, the ~~executive director~~ commissioner shall reject the application and so notify the applicant.

**Subp. 3. Review by executive director commissioner.** Upon receiving a completed application, the ~~executive director~~ commissioner shall review the application and shall make a determination as to whether the applicant is an owner as defined in the act or the proceeds of the requested business ~~loan~~ financial assistance are intended to finance expenditures permitted under the act.

### 8300.1700 CAPITAL EXPENDITURES ELIGIBLE FOR FUNDING FINANCIAL ASSISTANCE.

Costs eligible for funding are the ~~capital~~ expenditures set forth in the act, including but not limited to the following:

- A. land and/or building acquisition costs;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. equipment and/or machinery;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. ~~initial~~ trustee's fee;
- I. ~~initial fee~~ fees of guarantor or insurer, if applicable, fees or insurance contracts, letters of credit, municipal bond insurance, and surety bonds;
- J. ~~Small Business Administration processing and administration fee, if applicable;~~
- K. Minnesota Small Business Finance Agency authority fee and administrative costs and expenses;
- L. certain contingency costs;
- M. interest costs during construction; ~~and~~
- N. legal fees, including those of ~~agency's~~ authority's bond counsel; and
- O. short-term costs of conducting an eligible small business.

### 8300.1800 NOTIFICATION OF APPROVAL OR DISAPPROVAL OF APPLICATION.

After approving or disapproving an application, the ~~executive director~~ commissioner shall notify the applicant of the determination and the treatment of the application as follows:

A. If the ~~executive director~~ commissioner determines that the applicant is an owner as defined in the act and that the costs specified in the application are eligible for funding, the application ~~shall~~ is then be deemed accepted for processing and treated in accordance with the agency authority review provisions established in parts 8300.2100 and 8300.2200.

B. If the ~~executive director~~ commissioner determines that the applicant is not an owner as defined in the act, the application ~~shall~~ must be rejected and not further considered.

C. If the ~~executive director~~ commissioner determines that any of the costs described in the application are not eligible for funding financial assistance, the ~~executive director~~ commissioner shall note the deficiencies in the application and shall so notify the owner. The owner ~~shall have~~ has 30 days from the date of the ~~executive director's~~ commissioner's notification to amend the application. ~~In the event~~ if the application is amended in a timely fashion to include only eligible costs, it ~~shall~~ must

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be treated in accordance with the agency authority review provisions established in parts 8300.2100 and 8300.2200. If the application is not properly amended within 30 days, the application ~~shall be~~ is deemed rejected and not further considered.

### 8300.1900 REVIEW OF REJECTED APPLICATION.

~~In the event that~~ If an application is rejected for processing pursuant to under part 8300.1800, item B or C, the applicant may, within 30 days after date of the notification by the ~~executive director~~ commissioner, request the ~~executive director~~ commissioner to submit the ~~determination~~ rejected application to the agency authority for review at the next regularly scheduled meeting of the agency authority for which the agenda has not been established. If the agency authority approves the application, the application ~~shall~~ must be treated in accordance with parts 8300.2100 and 8300.2200.

### 8300.2000 UNIFORM BUSINESS ~~LOAN~~ FINANCIAL ASSISTANCE APPLICATION FORMS.

The ~~executive director~~ commissioner shall prepare uniform loan financial assistance application forms for use by the public setting forth the information necessary for the determination of eligibility for a business loan pursuant to financial assistance under the act and ~~these rules~~ this chapter.

### 8300.2100 EVALUATION PROCEDURE.

Applications approved for processing by the ~~executive director~~ shall commissioner must be presented to the agency authority for approval or disapproval. If the agency authority disapproves the application, the ~~executive director~~ commissioner shall so notify the applicant. If the agency authority approves the business loan for funding financial assistance it shall ~~forthwith~~ pass a ~~preliminary~~ resolution giving ~~preliminary~~ approval to the project to be financed ~~from the loan proceeds~~ and stating the name of the owner, a brief description of the project, ~~and~~ the amount of the loan financial assistance, and other provisions as the authority in its sole discretion deems advisable for prudent financial management of authority financial assistance. The authority shall first pass a preliminary resolution if the authority intends to fund the financial assistance by issuing bonds. ~~Such a~~ The preliminary resolution ~~shall~~ must not obligate the agency authority to issue bonds or to fund ~~any loan~~ financial assistance, but ~~shall~~ must only constitute an expression of current intention of the agency authority to issue ~~such~~ bonds or to fund ~~such a loan~~ the financial assistance. The preliminary resolution may contain a time limit with respect to the issuance of the bonds, may be revoked or amended by the agency authority at any time prior to the final resolution of the agency authority without liability to the agency authority, and may impose any conditions or requirements which the agency authority deems desirable. The ~~executive director~~ commissioner shall ~~forthwith~~ notify the applicant of the agency's authority's approval and furnish to the applicant a copy of the preliminary resolution.

### 8300.200 FACTORS TO CONSIDER IN EVALUATION PROCEDURE.

The agency authority shall review and consider approval of an application for a business loan financial assistance, on the basis of effectuating the purposes of the act, ~~including determinations~~ regarding the following:

- A. that the applicant is an owner as defined in the act;
- B. that the small business reasonably can be expected to maintain a sound financial condition and to retire the principal and pay the interest on the loan financial assistance made or guaranteed in accordance with the terms of the loan financial assistance agreement;
- C. that the project is economically feasible with a reasonable expectation that the life of its economic feasibility will exceed the maturity of the loan or duration of financial assistance, as appropriate;
- D. that the project will create or maintain a sufficient number and type of jobs to justify agency authority participation in its financing;
- E. that the ~~project~~ project's feasibility is sufficient to allow the agency authority to sell the bonds if any required for its financing;
- F. that the project and its development are economically advantageous to the state, that the provision to meet increased demand upon public facilities as a result of the project is reasonably assured, and that energy sources to support the successful operation of the project are adequate;
- G. that if the project shall have the effect of a transfer of employment from one area of this state to another the agency authority determines that the project is economically advantageous to the state or that the project is necessary to the continued operation of the business enterprise within the state; and
- H. that the project will assist in fulfilling the purposes of the act.

Repealer. Parts 8300.0200 and 8300.0700 are repealed.



## **Environmental Quality Board**

### **Proposed Adoption of Rules Governing Operating Procedures for Conduct of Business of the Environmental Quality Board**

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

Notice is hereby given that the Minnesota Environmental Quality Board proposes to adopt the above-entitled rules without a public hearing. The Board has determined that the proposed adoption of the rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982/Supp. 1983).

Minnesota Statute section 116C.04, subd. 5 (1982) establishes the authority for the Environmental Quality Board to adopt rules governing its own administration and procedures. A statement of need and reasonableness that describes the need for and reasonableness of the proposed rules has been prepared and is available for inspection by the public during regular business hours or a copy may be provided upon request to the address below.

Persons interested shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

Unless seven (7) or more persons submit written requests for a public hearing on the proposed rules within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the Board will proceed according to the provisions of Minnesota Statutes 14.13-14.20 (1982/Supp. 1983). While not required, it would be helpful to the Board if persons requesting a public hearing identify the particular provisions objected to, the suggested modifications to the proposed rules, and the reasons or data relied on to support the suggested modifications.

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

A copy of the proposed rules follows this notice. Additional copies may be obtained at the address below.

Persons who wish to submit comments or a written request for a public hearing, or who wish to receive a copy of the final rule or to be informed when the rule is submitted to the Attorney General, should submit comments or requests to:

Shirley M. Dougherty  
Environmental Quality Board  
Room 110, Capitol Square Building  
St. Paul, MN 55101  
(612) 296-2723

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

##### **4405.0100 DEFINITIONS.**

**Subpart 1. Scope.** For the purpose of this chapter, the following terms have the meanings given them.

**Subp. 2. Agency.** "Agency" means a member agency of the board as defined in Minnesota Statutes, section 116C.03, subdivision 2.

**Subp. 3. Board.** "Board" means the Minnesota Environmental Quality Board.

**Subp. 4. Chairperson.** "Chairperson" means the person designated in Minnesota Statutes, section 116C.03, subdivision 3a to chair board meetings and perform duties as designated in Minnesota Statutes, chapters 116C and 116D, or as directed by the board or by rules adopted by the board.

**Subp. 5. Contested case.** "Contested case" means a proceeding as defined in Minnesota Statutes, section 14.02, subdivision 3 and conducted in accordance with Minnesota Statutes, sections 14.57 to 14.62 and parts 1400.5200 to 1400.8500.

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**Subp. 6. EQB Monitor.** "EQB Monitor" means the publication of the board which contains notices required under Minnesota Statutes, chapters 116C and 116D or under rules adopted by the board and of other relevant information.

**Subp. 7. Hearing.** "Hearing" means a fact-finding proceeding held under Minnesota Statutes, chapters 116C and 116D and rules adopted under these chapters or any other fact-finding proceeding authorized by the board which is not conducted under Minnesota Statutes, chapter 14.

**Subp. 8. Hearing examiner.** "Hearing examiner" means the person or persons assigned by the chief hearing examiner under Minnesota Statutes, section 14.50.

**Subp. 9. Interested persons.** "Interested persons" means those persons who have expressed interest in receiving notice of all board meetings or those persons who have expressed interest in a specific project or action of the board.

**Subp. 10. Party.** "Party" means any person whose legal rights, duties, or privileges may be determined in a contested case or board hearing and any person who has intervened in a contested case or hearing.

**Subp. 11. Person.** "Person" means a natural person, state, municipality, or other governmental unit or political subdivision or other agency or instrumentality, a public or private corporation, partnership, firm, association, or other organization, receiver, trustee, assignee, agent, or other legal representative of the foregoing, and any other entity.

**Subp. 12. Presiding officer.** "Presiding officer" means the person who chairs the board meeting in the absence of both the chairperson and vice chairperson.

**Subp. 13. Quorum.** "Quorum" means a majority of the permanent members of the board as established under Minnesota Statutes, section 116C.03, subdivision 2, excluding vacancies.

**Subp. 14. Regular meeting.** "Regular meeting" means the board meeting regularly scheduled for the third Thursday of each month.

**Subp. 15. Service; serve.** "Service" or "serve" means personal service or, unless otherwise provided by law, service by first class United States mail, postage prepaid, and addressed to the party at the last known address. Service by mail is complete upon the placing of the item to be served in the mail. Agencies of the state of Minnesota may also serve by depositing the item with central mailing section, Department of Administration.

**Subp. 16. Southern Minnesota Rivers Basin Council.** "Southern Minnesota Rivers Basin Council" means the council as defined in Minnesota Statutes, section 116C.82, subdivision 2.

**Subp. 17. Special meeting.** "Special meeting" means meetings of the board other than the regular meetings.

**Subp. 18. Subcommittee.** "Subcommittee" means a group of board members, less than a quorum, authorized by the board to accomplish a specific objective.

**Subp. 19. Task force.** "Task force" means a group of individuals authorized by the board to accomplish a specific objective.

**Subp. 20. Technical representative.** "Technical representative" means a designated representative of an agency member of the board.

**Subp. 21. Vice chairperson.** "Vice chairperson" means the person elected by the board to serve as chairperson in the absence of the chairperson.

### 4405.0200 STATUTORY AUTHORITY.

Chapter 4405 is adopted under authority granted in Minnesota Statutes, sections 14.06, and 116C.04, subdivision 5.

### 4405.0300 DUTY OF CANDOR.

**Subpart 1. Duty.** In all formal or informal negotiations, communications, proceedings, and other dealings between any person and any member, employee, or agent of the board, it is the duty of each person and each member, employee, or agent of the board to act in good faith and with complete truthfulness, accuracy, disclosure, and candor.

**Subp. 2. Violation.** The board may deny, suspend, or revoke a permit, certificate, or approval issued by the board if the person seeking or holding the permit, certificate, or approval makes a material misstatement, act, or omission with respect to the permit, certificate, or approval that results in a breach of the duty of candor.

**Subp. 3. Imposition of sanctions.** In a case of an alleged violation of the duty of candor in which the board seeks to deny, suspend, or revoke a permit, certificate, or approval issued or granted by the board, a contested case hearing must be held to determine whether a violation of the duty of candor has occurred.

### 4405.0400 EX PARTE COMMUNICATION.

No party to a matter for which a hearing, a contested case, or rulemaking proceeding under Minnesota Statutes, chapter 14 has been ordered by the board may communicate with a board member concerning the matter except in writing, or orally as part

of a presentation at a board meeting. Copies of any written communication must be sent to all parties to the matter and to all board members.

#### **4405.0500 BOARD OFFICERS AND DUTIES.**

**Subpart 1. Chairperson.** The chairperson shall preside at board meetings and perform other duties as assigned under law, rule, or as directed by the board.

**Subp. 2. Vice chairperson.** At its first meeting in February of each year, the board shall elect a member to serve as vice chairperson. In the absence or disability of the chairperson, the vice chairperson shall preside at board meetings and perform the other duties of the chairperson.

**Subp. 3. Presiding officer.** At a board meeting, if both the chairperson and vice chairperson are absent or are abstaining from discussing or voting on a matter, the board shall elect a presiding officer who shall serve only for that meeting or until either the chairperson or vice chairperson is available to chair the meeting.

#### **4405.0600 BOARD MEETING PROCEDURES.**

**Subpart 1. Decisions at open meetings.** All regular and special board meetings, and board-authorized subcommittee and task force meetings, must be open to the public. All board decisions must be made at open meetings.

**Subp. 2. Posting of meeting notices.** All notices of regular and special board meetings and meetings of board subcommittees and task forces must be posted in a conspicuous place in the board offices.

**Subp. 3. Notice of regular meetings.** The chairperson shall designate the time and place of each regular meeting. At least ten calendar days prior to a regular meeting, written notice of the time, place, and matters to be considered must be posted and served on all board members, technical representatives, interested persons, and each party to a matter being considered at the meeting. Notice of the meeting must be published in the EQB Monitor prior to the meeting. The chairperson may direct that any regular meeting be rescheduled. Written notice of a rescheduled regular meeting shall be given in the manner described in subpart 4.

**Subp. 4. Notice of special meetings.** The chairperson, vice chairperson, or a majority of the board members may call a special meeting when deemed necessary or desirable. At least three calendar days prior to a special meeting, written notice of the time, place, and matters to be considered must be posted and served on board members, technical representatives, interested persons, and each party to a matter being considered at the meeting.

**Subp. 5. Agenda preparation.** The chairperson shall prepare a proposed agenda of business to be conducted for all meetings of the board. The agenda must include the time and place of the meeting and a list of all matters to be considered. Items may be placed on the agenda by notifying the chairperson of the matter at least 14 calendar days prior to a regular meeting. The chairperson shall determine whether or not a matter should be placed on the agenda and shall advise the board of all matters not placed on the agenda. A copy of an agenda constitutes written notice of board meetings when served as required in subparts 3 and 4.

**Subp. 6. Filing of written material.** Written material related to a matter to be decided by the board at a regular meeting must be served on all parties and 14 copies delivered to the board offices at least seven calendar days before a regular meeting. Written material related to a matter to be decided at a special meeting must be personally served on all parties, board members, and at the board offices at least two calendar days before the special meeting. The chairperson may grant an extension of time or allow the submission of fewer copies due to time constraints or economic hardship.

**Subp. 7. Quorum.** A quorum must be present for transaction of board business.

**Subp. 8. Parliamentary procedure.** Except as specifically provided under statute or these parts, the most current revision of Roberts Rules of Order Revised governs any question of parliamentary procedure that arises at a board meeting.

**Subp. 9. Adoption of agenda.** The first order of business at the meeting must be adoption of the agenda, which may be amended or modified by the board prior to taking up other business. No matter may be voted upon at a regular or special board meeting unless it has been placed on the agenda as required under subparts 4 and 5. Discussion or informational items for which no decision will be made at the meeting may be added to the agenda at the meeting.

**Subp. 10. Public forum.** The chairperson may include a portion of time on each regular meeting agenda for persons to present

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statements on matters which are within the board's jurisdiction but are not on the agenda. The chairperson shall determine the limits of time and the relevancy of the statement to the board's jurisdiction.

**Subp. 11. Argument and presentations.** A person who wishes to present a statement on a matter that is on the agenda for the meeting shall be allowed to present statements to the board at the meeting; provided, however, that all written supporting materials must be filed as required under subpart 6. If the board determines that a person affected by an oral or written statement has not had adequate opportunity to respond, the board shall allow additional time to respond.

The chairperson shall determine the limits of time and the relevancy of discussion or debate on any matter before the board.

**Subp. 12. Voting.** An affirmative vote of a majority of all members of the board is necessary to take action, including the adoption, amendment, or repeal of rules and orders. All members present, including the chairperson, shall vote or abstain on every matter presented for board action.

When computing a majority of all members of the board, absences or abstentions must be included and vacancies must be excluded.

Unless otherwise provided by law or rule, whenever a motion for final adoption of a decision, resolution, or other action fails to receive the vote required and no contrary motion for final adoption has received the required vote, no action may be taken and the matter must be placed on the agenda of the next regular meeting or a special meeting without need for a determination to reopen, rehear, or otherwise reconsider the matter.

**Subp. 13. Record of meetings.** The board shall keep full and accurate minutes of all meetings, including a record of all votes of individual members.

**Subp. 14. Notice of decisions.** Following each regular or special meeting, a copy of all decisions or resolutions adopted by the board must be served on all parties to an action. Notice of board decisions must be published in the EQB Monitor.

### **4405.0700 SOUTHERN MINNESOTA RIVERS BASIN COUNCIL.**

**Subpart 1. Recommendations.** Recommendations from the council must be submitted to the board. Minority recommendations on an issue may also be submitted. Recommendations must be submitted as required under part 4405.0600, subpart 6.

**Subp. 2. Meetings.** All meetings of the council are open to the public. Notice of time, place, and matters to be considered must be posted as established in part 4405.0600, subpart 2.

### **4405.0800 BOARD SUBCOMMITTEES; TASK FORCES.**

**Subpart 1. Establishment.** The board may establish citizen or interdepartmental task forces or subcommittees to aid in performing its duties. The board shall specify the charge, duration, size, membership, meeting notice requirements, and other procedures to be followed for each group. The board may specify a chairperson for each task force or subcommittee.

**Subp. 2. Purpose.** Task forces and subcommittees shall advise the board on matters for which the board has charged them responsible.

**Subp. 3. Recommendations.** Recommendations from task forces and subcommittees must be submitted to the board. Minority recommendations on an issue may also be submitted. Recommendations must be submitted as required under part 4405.0600, subpart 6.

**Subp. 4. Meetings.** All meetings of subcommittees and task forces are open to the public. Notice of the time, place, and matters to be considered must be posted as established in part 4405.0600, subpart 2 and as specified in subpart 1.

### **4405.0900 EXCEPTIONS AND PROPOSED FINDINGS.**

**Subpart 1. Exceptions to report of hearing examiner.** If a hearing examiner acting under contested case procedures in Minnesota Statutes, chapter 14 has submitted a report, and a party wishes to file exceptions to the report, a copy of the exceptions must be served on all parties and 14 copies of the exceptions must be filed with the chairperson within 14 calendar days after the availability of the report. The chairperson may grant an extension of time for filing exceptions, and may allow fewer copies to be submitted due to time constraints or economic hardship.

**Subp. 2. Proposed findings in other than contested cases.** If the board has conducted a hearing, parties to the proceeding may submit proposed findings and conclusions for the board's consideration. A copy of the proposed findings must be served on all parties and 14 copies must be filed within ten working days of the close of the record of the proceeding. The period for submitting proposed findings and conclusions and the number of copies required may be changed as set forth in subpart 1.

### **4405.1000 PARTIES.**

**Subpart 1. Contested cases.** In proceedings conducted under Minnesota Statutes, chapter 14, parties have the rights and obligations specified in applicable rules established by the Office of Administrative Hearings.

**Subp. 2. Hearings.** In hearings not conducted under Minnesota Statutes, chapter 14, the chairperson shall identify as a party any person with direct responsibility for proposing or undertaking an action or study, or for obtaining approval of an action, plan, or a proposal. Other persons not named as parties may intervene to the extent provided in part 4405.1100.

**Subp. 3. Rights and obligations.** Rights and obligations of parties in proceedings not under chapter 14 include all rights of the public at large and:

- A. the right to make motions pertinent to the matter under consideration;
- B. the right to notice other than published notice of board decisions;
- C. the right to present argument to the board;
- D. the right to submit proposed findings and conclusions; and
- E. the obligation to serve other parties with copies of documents or other writings filed with the board as required under part 4405.0600, subpart 6.

#### **4405.1100 INTERVENTION.**

**Subpart 1. Contested cases.** In proceedings conducted under Minnesota Statutes, chapter 14, persons desiring to intervene shall intervene in accordance with applicable rules established by the Office of Administrative Hearings.

**Subp. 2. Hearings.** In other hearings, persons desiring to intervene shall intervene by submitting a timely petition to intervene to the board and to all parties showing both the persons' interest in the matter, and the likelihood that this interest will not be adequately represented by existing parties. The chairperson shall determine the timeliness of the petition for each hearing based on circumstances at the time of filing. The chairperson of the board may grant permission to intervene. Intervenors have the rights and obligations accorded parties in matters before the board as established in this part. Intervention is not required before a person may submit evidence, make statements, or ask questions regarding matters before the board.

#### **4405.1200 FINAL DECISIONS AND ORDERS.**

**Subpart 1. Decision.** The board shall make all final decisions and orders in those matters for which a hearing, contested case, or rulemaking proceeding conducted under Minnesota Statutes, chapter 14 has been held. When required by law, the board's decision or order must be based solely on the record from the hearing. Nothing in this rule precludes argument concerning the application of law to matters of record.

**Subp. 2. Findings and conclusions.** The decision or order must be accompanied by a concise statement of the findings and conclusions upon each contested issue of fact necessary to the decision. If the proposed statements of findings and conclusions submitted to the board are not adopted, the board shall direct its staff to prepare additional findings and conclusions. Rejection of the proposed findings and conclusions is considered an interim decision. A final decision on the matter must be made after the board has adopted a statement of findings and conclusions. When the board or its staff has prepared proposed findings and conclusions, a copy must be served on all parties at least ten calendar days before the meeting at which the board intends to make its decision or order.

**Subp. 3. Remand.** The board may remand a matter to the hearing examiner for further proceedings if the board determines that the record is inadequate.

#### **4405.1300 RECONSIDERATION AND REHEARING.**

**Subpart 1. Board right to reconsider and rehear.** Under the procedures in this part, the board may reconsider or rehear a final decision. The right to reconsider or rehear under this part may be exercised unless it is lost by appeal or the granting of a writ or certiorari.

**Subp. 2. Reconsideration.** A board member or a party to a matter may request the board to reconsider a final decision by notifying the chairperson in writing within ten calendar days after the board meeting at which the final decision on a matter was made. The chairperson shall place the request for reconsideration on the agenda for the board meeting next following the meeting at which the decision was made. Absent a motion to reconsider by a board member at the board meeting next following the meeting at which the decision was made, the request for reconsideration is deemed to be denied.

**Subp. 3. Obtaining a rehearing.** At any time within ten calendar days after the board's final decision on a matter for which the board held a hearing or a contested case, a board member or a party to the matter may request a rehearing by filing with the

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## **PROPOSED RULES**

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chairperson in writing both a request for reconsideration and a petition for rehearing. The chairperson shall place the request for reconsideration and rehearing on the agenda for the board meeting next following the meeting at which the decision was made. The petition must contain the name, address, and telephone number of the petitioner; the board designation for the matter; and the reasons for the petition.

A petition for rehearing submitted after a final decision on the matter has been reached by the board may not be acted upon unless the board has first decided to reconsider its decision. Absent a motion by a board member to reconsider at the board meeting next following the board meeting at which the decision was made, the request for reconsideration and the petition for rehearing is deemed to be denied. The board shall grant or deny a petition for rehearing as part of the record of the decision. This petition must be granted upon a showing that there are irregularities in the hearing which affected the outcome of a hearing, errors of law, or that there is newly discovered material evidence of such importance it would have likely altered the outcome of the hearing. A rehearing petition must also be granted upon a showing of good cause for failure to have answered or appeared at the hearing.

A rehearing must be noticed and conducted in the same manner as the original hearing or contested case on a matter; provided that, in a contested case, the hearing examiner may permit service of the notice less than 30 days prior to the rehearing of a contested case.

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

### **Proposed Rules Governing Standards for the Protection of the Quality and Purity of the Waters of the State; and Proposed Rules Governing Classification of Waters of the State**

#### **Notice of Hearing**

Notice is hereby given that on Monday, April 23, 1984, a public hearing on proposed amendments to 6 MCAR §§ 4.8014 and 4.8024 and the proposed repeal of 6 MCAR §§ 4.8015 and 4.8025 (commonly known as WPC 14, 15, 24, and 25 and to be codified in Minnesota Rules as Chapter 7050) will commence at 9:30 a.m. in the Board Room of the Minnesota Pollution Control Agency at 1935 W. County Road B-2, Roseville, Minnesota. The hearing will continue on additional days, if necessary, at times and places determined during the hearing. Also, the hearing will continue at the following times and locations:

1. Tuesday, April 24, 1984, 1:00 p.m. and 7:00 p.m.  
Friedel Building  
1200 South Broadway  
Rochester, Minnesota
2. Monday, April 30, 1984, 7:00 p.m.  
Building IL  
Room 219  
Southwest State College  
Marshall, Minnesota
3. Tuesday, May 1, 1984, 7:00 p.m.  
Department of Transportation  
1000 W. Highway 10  
Detroit Lakes, Minnesota  
(Use lower level entrance.)
4. Wednesday, May 2, 1984, 2:00 p.m. and 7:00 p.m.  
St. Louis County Courthouse  
Duluth, Minnesota

The hearing will be conducted by Hearing Examiner Allan Klein, Office of Administrative Hearings, 400 Summit Bank Building, 310 S. 4th Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7609.

WPC 14 and 15 establish standards and classifications for the intrastate and interstate waters of the state, respectively. WPC 24 and 25 classify the intrastate and interstate waters. Under the proposed amendments, the distinction between intrastate and

interstate waters will be eliminated. Standards and classifications for all waters will be included in WPC 14; all waters will be classified in WPC 24; WPC 15 and 25 will be repealed.

Aside from a clarifying change in the chromium water quality standard and the repeal of certain temperature standards in WPC 15, no other water quality standards are being proposed for change. Other standards, such as those for fecal coliform and dissolved oxygen, are not a subject of this hearing.

Under the proposed amendments a number of water classifications will be changed and updated. The list of trout streams and trout lakes, for example, will be updated. Some waters currently classified as 2C waters (rough fisheries) will be upgraded to 2B waters (gamefish). Seven new limited resource value water segments (Class 7 waters) are being proposed. Please take notice, however, that while WPC 24 is being revised in its entirety and WPC 25 is being repealed, most of the change in these rules is simply editorial and renumbering, and very few waters are being considered for reclassification. Specifically, the classification of the Mississippi River and Minnesota River in the Twin Cities metropolitan area is not being proposed for reclassification and is not a subject of this hearing.

The Agency is proposing to amend the secondary treatment standards to change the 5-day biochemical oxygen demand (BOD<sub>5</sub>) standard from total BOD<sub>5</sub> to carbonaceous BOD<sub>5</sub> and to widen slightly the acceptable pH range. Other secondary treatment standards are not proposed for modification.

The proposed amendments also revise the Agency's provisions regarding nondegradation of waters. The proposed amendments specify certain waters that are designated outstanding resource value waters and provide for prohibition or strict control of new and expanded discharges to these waters. The proposed rule identifies certain outstanding resource value waters, including wild and scenic rivers, waters within the Boundary Waters Canoe Area Wilderness and Voyageurs National Park, Lake Superior, and others, and a procedure is proposed to establish additional outstanding resource value waters.

The Agency has determined, pursuant to Minn. Stat. § 14.11, subd. 1 (1982), that the changes being proposed to WPC 14, 15, 24, and 25 in this rulemaking hearing will not require local governmental bodies to incur additional expenses to comply with the amended rules, and, in fact, savings may be realized by some municipalities. However, in the future, if local governmental bodies propose discharges to outstanding resource value waters, expenses may result from these proposed amendments, but these expenses are uncertain and unknown at this time.

A free copy of the proposed amendments is available by contacting David Maschwitz, Division of Water Quality, Monitoring and Analysis, Minnesota Pollution Control Agency, Roseville, Minnesota 55113, telephone (612) 296-7238.

The Agency's authority to promulgate these rules is found in Minn. Stat. §§ 115.03 and 115.44 (1982).

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

At the hearing the Agency will introduce its statement of need and reasonableness and its exhibits. The statement of need and reasonableness and the exhibits will constitute the Agency's affirmative presentation in support of the proposed amendments. All interested or affected persons will then have an opportunity to participate by asking questions about the statement of need and reasonableness and by presenting oral and written comments about the proposed amendments. Comments are most helpful if the comments identify with particularity each provision of the proposed amendments that is supported or objected to and if the comments suggest specific alternative language to what is proposed and provide the reasons and data that support the proposed modifications.

Written comments may be submitted to the hearing examiner at any time up to five working days after the hearing ends, or for a longer period not to exceed twenty days after the hearing ends if ordered by the hearing examiner. Copies of the comments should also be submitted to the Agency.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency.

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If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

This proceeding is governed by Minn. Stat. §§ 14.04-14.20 and 14.50 (1982) and by the rules of the Office of Administrative Hearings 9 MCAR §§ 2.101-2.113. Any person who has any questions about the procedure to be followed may contact the Hearing Examiner.

Please be advised that the items proposed for amendment are subject to change as a result of the rule hearing process. The Agency urges those who are interested to any extent in the proposed amendments, including those who support the amendments as proposed and do not want to see changes made, to participate in the hearing and make their view known.

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

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

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

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

March 5, 1984

Sandra S. Gardebring  
Executive Director

### Rules as Proposed

#### 7050.0110 SCOPE.

The following classification, criteria, and standards of water and effluent quality and purity as hereby adopted and established shall apply to all intrastate waters of the state, notwithstanding any other intrastate water quality or effluent regulations of general or specific application, except that any more stringent water quality or effluent standards or prohibitions in the other applicable regulations are preserved. Parts 7050.0130 to 7050.0220 apply to all waters of the state and include general provisions applicable to the maintenance of water quality; definitions of water use classes; standards for dischargers of sewage, industrial, and other wastes; and standards of quality and purity for specific water use classes. Other water quality rules of general or specific application that include any more stringent water quality or effluent standards or prohibitions are preserved.

#### 7050.0130 DEFINITIONS.

The term terms "waters of the state," for the purposes of this chapter shall be construed to mean intrastate waters as herein below defined, and the terms "sewage," "industrial wastes," and "other wastes," as well as any other terms for which definitions are given in the Water Pollution Control statutes, as used herein have the meanings ascribed to them in Minnesota Statutes, sections 115.01 and 115.41, with the exception that disposal systems or treatment works operated under permit of the agency shall not be construed to be "waters of the state" as the terms is used herein.

"Interstate waters" are defined as all rivers, lakes, and other waters that flow across or form part of state boundaries. All of the remaining designated waters of the state which do not meet the definition of interstate waters given above are to be construed herein as constituting "intrastate waters."

Other terms and abbreviations used herein which are not specifically defined in applicable federal or state law shall be construed in conformance with the context, and in relation to the applicable section of the statutes pertaining to the matter at hand, and current professional usage.

#### 7050.0140 USES OF ~~INTRASTATE~~ WATERS OF THE STATE.

The classifications are listed separately in accordance with the need for ~~intrastate~~ water quality protection, considerations of best use in the interest of the public, and other considerations, as indicated in Minnesota Statutes, section 115.44. The classifications should not be construed to be an order of priority, nor considered to be exclusive or prohibitory of other beneficial uses.



**7050.0150 ~~DESIGNATION~~ DETERMINATION OF COMPLIANCE.**

In making tests or analyses of the intrastate waters of the state, sewage, industrial wastes, or other wastes to determine compliance with the standards, samples shall be collected in such manner and place, and of such type, number, and frequency as may be considered necessary by the agency from the viewpoint of adequately reflecting the condition of the intrastate waters, the composition of the effluents, and the effects of the pollutants upon the specified uses. Reasonable allowance will be made for dilution of the effluents, which are in compliance with part 7050.0210, subpart 6, following discharge into waters of the state. The agency by allowing dilution may consider the effect on all uses of the intrastate waters of the state into which the effluents are discharged. The extent of dilution allowed regarding any specific discharge shall not violate the applicable water quality standards. The samples shall be preserved and analyzed in accordance with procedures given in the 1971 edition of Standard Methods for the Examination of Water and Waste Water, by the American Public Health Association, American Water Works Association, and the Water Pollution Control Federation, and any revision or amendments thereto. The agency may accept or may develop other methods, procedures, guidelines, or criteria for measuring, analyzing, and collecting samples.

**7050.0170 NATURAL ~~INTRASTATE~~ WATER QUALITY.**

The intrastate waters of the state may, in a state of nature, have some characteristics or properties approaching or exceeding the limits specified in the water quality standards. The standards shall be construed as limiting the addition of pollutants of human activity to those of natural origin, where such be present, so that in total the specified limiting concentrations will not be exceeded in the intrastate waters by reason of such controllable additions. Where the background level of the natural origin is reasonably definable and normally is higher than the specified standard the natural level may be used as the standard for controlling the addition of pollutants of human activity which are comparable in nature and significance with those of natural origin. The natural background level may be used instead of the specified water quality standard as a maximum limit of the addition of pollutants, in those instances where the natural level is lower than the specified standard and reasonable justification exists for preserving the quality to that found in a state of nature.

In the adoption of standards for individual intrastate waters of the state, the agency will be guided by the standards set forth herein but may make reasonable modifications of the same on the basis of evidence brought forth at a public hearing if it is shown to be desirable and in the public interest to do so in order to encourage the best use of the intrastate waters of the state or the lands bordering such intrastate waters.

**7050.0180 NONDEGRADATION POLICY.**

~~Waters which are of quality better than the established standards shall be maintained at high quality unless a determination is made by the agency that a change is justifiable as a result of necessary economic or social development and will not preclude appropriate beneficial present and future uses of the waters. Any project or development which would constitute a source of pollution to waters of the state shall be required to provide the best practicable control technology currently available not later than July 1, 1977, and the best available technology economically achievable not later than July 1, 1983, and any other applicable treatment standards as defined by and in accordance with the requirements of the Federal Water Pollution Control Act, United States Code, title 33, sections 1251 et. seq., as amended, in order to maintain high water quality and keep water pollution at a minimum. In implementing this policy, the administrator of the United States Environmental Protection Agency will be provided with such information as he requires to discharge his responsibilities under the Federal Water Pollution Control Act, as amended.~~

Subpart 1. Policy. The agency recognizes that the maintenance of existing high quality in some waters of outstanding resource value to the state is essential to their function as exceptional recreational, cultural, aesthetic, or scientific resources. To preserve the value of these special waters, the agency will prohibit or stringently control new or expanded discharges to outstanding resource value waters.

Subp. 2. Definitions. For the purpose of this part, the following terms have the meanings given them:

A. "Outstanding resource value waters" are waters within the Boundary Waters Canoe Area Wilderness, Voyageur's National Park, and Department of Natural Resources designated scientific and natural areas, wild, scenic, and recreational river segments, Lake Superior, the Mississippi River from Lake Itasca to the southerly boundary of Morrison County, and other waters of the state with high water quality, wilderness characteristics, unique scientific or ecological significance, exceptional recreational value, or other special qualities which warrant stringent protection from pollution.

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B. "New discharge" means a discharge that was not in existence on the effective date of these amendments to chapter 7050.

C. "Expanded discharge" means a discharge that changes in volume, quality, location, or any other manner after the effective date of these amendments except that a change that results in reduced loading of pollutants is not considered an expanded discharge.

Subp. 3. Prohibited discharges. No person may cause or allow a new or expanded discharge of any sewage, industrial waste, or other waste to waters within the Boundary Waters Canoe Area Wilderness, Voyageur's National Park, or Department of Natural Resources designated scientific and natural areas, or to federal or state wild river segments.

Subp. 4. DNR designated scientific and natural areas. Department of Natural Resources designated scientific and natural areas include but are not limited to:

A. Boot Lake, Anoka County;

B. Kettle River in sections 15, 22, 23, T 41 N, R 20, Pine County;

C. Pennington Bog, Beltrami County;

D. Purvis Lake-Ober Foundation, St. Louis County;

E. Waters within the borders of Itasca Wilderness Sanctuary, Clearwater County;

F. Iron Spring Bog, Clearwater County;

G. Wolsfeld Woods, Hennepin County;

H. Green Water Lake, Becker County.

Subp. 5. State designated wild river segments. State designated wild river segments include but are not limited to:

A. Kettle River from dam at Sandstone to its confluence with the St. Croix River;

B. Rum River from Ogechie Lake spillway to the northernmost confluence with Lake Onamia.

Subp. 6. Restricted discharges. No person may cause or allow a new or expanded discharge of any sewage, industrial waste, or other waste to Lake Superior, the Mississippi River from Lake Itasca to the southerly boundary of Morrison County, and federal or state designated scenic or recreational river segments unless there is no prudent and feasible alternative to the discharge. If a new or expanded discharge to these waters is permitted, the agency shall restrict the discharge as to duration, volume, and loading to the extent necessary to maintain future water quality within the range of natural background quality. Waters with a federal or state scenic or recreational designation include but are not limited to:

A. St. Croix River, entire length;

B. Cannon River from northern city limits of Faribault to its confluence with the Mississippi River;

C. North Fork of the Crow River from Lake Koronis outlet to the Meeker-Wright county line;

D. Kettle River from north Pine County line to dam at Sandstone;

E. Minnesota River from Lac qui Parle dam to Redwood County state aid highway 11;

F. Mississippi River from county state aid highway 7 bridge in St. Cloud to northwestern city limits of Anoka;

G. Rum River from state highway 27 bridge in Onamia to Madison and Rice Streets in Anoka.

Subp. 7. Unlisted outstanding resource value waters. The agency shall prohibit or stringently control new or expanded discharges to outstanding resource value waters not specified in subparts 3 to 6 to the extent that this stringent protection is necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the water an outstanding resource value water.

Subp. 8. Public hearing. The agency shall provide an opportunity for a hearing before identifying and establishing additional outstanding resource value waters, before determining the existence or lack of prudent and feasible alternatives under subpart 6, and before prohibiting or restricting new or expanded discharges to outstanding resource value waters under subparts 3, 6, and 7.

Subp. 9. Impact from upstream discharges. The agency shall require new or expanded discharges to waters that flow into outstanding resource value waters be controlled so as to assure no deterioration in the quality of the downstream outstanding resource value water.

Subp. 10. Thermal discharges. If a thermal discharge causes potential water quality impairment, the agency shall implement the nondegradation policy consistent with section 316 of the Clean Water Act.

#### 7050.0190 VARIANCE FROM STANDARDS.

in any case where, upon application of the responsible person or persons, the agency finds that by reason of exceptional circumstances the strict enforcement of any provision of these standards would cause undue hardship, that disposal of the sewage, industrial waste, or other waste is necessary for the public health, safety, or welfare; and that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances; the agency in its discretion may grant a variance therefrom upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of these classifications and standards and the intent of the applicable state and federal laws. The United States Environmental Protection Agency will be advised of any permits which may be issued under this clause together with information as to the need therefor.

#### 7050.0200 WATER USE CLASSIFICATIONS FOR INTRASTATE WATERS OF THE STATE.

Based on considerations of best usage in the interest of the public and in conformance with the requirements of the applicable statutes, the ~~intrastate~~ waters of the state shall be grouped into one or more of the following classes:

1. Domestic consumption ~~shall include~~ includes all ~~intrastate~~ waters of the state which are or may be used as a source of supply for drinking, culinary or food processing use or other domestic purposes, and for which quality control is or may be necessary to protect the public health, safety, or welfare.

2. Fisheries and recreation ~~shall include~~ includes all ~~intrastate~~ waters of the state which are or may be used for fishing, fish culture, bathing, or any other recreational purposes, and for which quality control is or may be necessary to protect aquatic or terrestrial life, or the public health, safety, or welfare.

3. Industrial consumption ~~shall include~~ includes all ~~intrastate~~ waters of the state which are or may be used as a source of supply for industrial process or cooling water, or any other industrial or commercial purposes, and for which quality control is or may be necessary to protect the public health, safety, or welfare.

4. Agriculture and wildlife ~~shall include~~ includes all ~~intrastate~~ waters of the state which are or may be used for any agriculture purposes, including stock watering and irrigation, or by waterfowl or other wildlife, and for which quality control is or may be necessary to protect terrestrial life or the public health, safety, or welfare.

5. Aesthetic enjoyment and navigation ~~and waste disposal shall include~~ includes all ~~intrastate~~ waters of the state which are or may be used for any form of water transportation or navigation, ~~disposal of sewage, industrial waste, or other waste effluents,~~ or fire prevention, and for which quality control is or may be necessary to protect the public health, safety, or welfare.

6. Other uses ~~shall include~~ includes all ~~intrastate~~ waters of the state which are or may serve the above listed uses or any other beneficial uses not listed herein, including without limitation any such uses in this or any other state, province, or nation of any ~~intrastate~~ waters flowing through or originating in this state, and for which quality control is or may be necessary for the above declared purposes, or to conform with the requirements of the legally constituted state or national agencies having jurisdiction over such ~~intrastate~~ waters, or any other considerations the agency may deem proper.

7. Limited resource value waters ~~shall include~~ includes surface waters of the state which are of limited value as a water resource and where water quantities are intermittent or less than one cubic foot per second at the once in ten year, seven-day low flow as defined in part 7050.0210, subpart 7. These waters shall be protected so as to allow secondary body contact use, to preserve the groundwater for use as a potable water supply, and to protect aesthetic qualities of the water. It is the intent of the agency that very few waters be classified as limited resource value waters. In conjunction with those factors listed in Minnesota Statutes, section 115.44, subdivisions 2 and 3, the agency, in cooperation and agreement with the Department of Natural Resources with respect to determination of fisheries values and potential, shall determine the extent to which the waters of the state demonstrate the conditions set forth below:

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- a. the existing fishery and potential fishery are severely limited by natural conditions as exhibited by poor water quality characteristics, lack of habitat, or lack of water; or
- b. the quality of the resource has been significantly altered by human activity and the effect is essentially irreversible; and
- c. there are limited recreational opportunities (such as fishing, swimming, wading, or boating) in and on the water resource.

Conditions "a" and "c" or "b" and "c" must be established by the agency water assessment procedure before the waters can be classified as limited resource value waters.

## 7050.0210 GENERAL STANDARDS ~~APPLICABLE TO INTRASTATE~~ FOR DISCHARGERS TO WATERS OF THE STATE.

**Subpart 1. Untreated sewage.** No untreated sewage shall be discharged into any intrastate waters of the state. Effective disinfection of any discharges, including combined flows of sewage and storm water, will be required where necessary to protect the specified uses of the intrastate waters of the state.

**Subp. 2. Nuisance conditions prohibited.** No sewage, industrial waste, or other wastes shall be discharged into any intrastate waters of the state so as to cause any nuisance conditions, such as the presence of significant amounts of floating solids, scum, oil slicks, excessive suspended solids, material discoloration, obnoxious odors, gas ebullition, deleterious sludge deposits, undesirable slimes or fungus growths, or other offensive or harmful effects.

**Subp. 3. Inadequate treatment of existing discharges.** Existing discharges of inadequately treated sewage, industrial waste, or other wastes shall be abated, treated, or controlled so as to comply with the applicable standards. Separation of sanitary sewage from natural runoff may be required where necessary to ensure continuous effective treatment of sewage.

**Subp. 4. Highest levels of water quality.** The highest levels of water quality, including, but not limited to, dissolved oxygen, which are attainable in the intrastate waters of the state by continuous operation at their maximum capability of all primary and secondary units of treatment works or their equivalent discharging effluents into the intrastate waters of the state shall be maintained in order to enhance conditions for the specified uses.

**Subp. 5. Mixing zones.** Means for expediting mixing and dispersion of sewage, industrial waste, or other waste effluents in the receiving intrastate waters are to be provided so far as practicable when deemed necessary by the agency to maintain the quality of the receiving intrastate waters in accordance with applicable standards. Mixing zones must be established by the agency on an individual basis, with primary consideration being given to the following guidelines:

- A. mixing zones in rivers shall permit an acceptable passageway for the movement of fish;
- B. the total mixing zone or zones at any transect of the stream should contain no more than 25 percent of the cross sectional area and/or volume of flow of the stream, and should not extend over more than 50 percent of the width;
- C. mixing zone characteristics shall not be lethal to aquatic organisms;
- D. for contaminants other than heat, the 96-hour median tolerance limit for indigenous fish and fish food organisms should not be exceeded at any point in the mixing zone;
- E. mixing zones should be as small as possible, and not intersect spawning or nursery areas, migratory routes, water intakes, nor mouths of rivers; and
- F. overlapping of mixing zones should be minimized and measures taken to prevent adverse synergistic effects.

This ~~provision shall also apply~~ subpart applies in cases where a Class 7 water is tributary to a Class 2 water.

**Subp. 6. Minimum secondary treatment.** It is herein established that the agency shall require secondary treatment as a minimum for all municipal sewage and biodegradable industrial or other wastes to meet the adopted water quality standards. A comparable high degree of treatment or its equivalent also shall be required of all nonbiodegradable industrial or other wastes unless the discharger can demonstrate to the agency that a lesser degree of treatment or control will provide for water quality enhancement commensurate with present and proposed future water uses and a variance is granted under the provisions of the variance clause. Secondary treatment facilities are defined as works which will provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, including effluents conforming to the following:

Substance or Characteristic	Limiting Concentration or Range*
5-Day Carbonaceous Biochemical Oxygen Demand*	25 milligrams per liter
Fecal coliform Group organisms . . .	200 organisms per 100 milliliters
Total suspended solids*	30 milligrams per liter

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Oil	Essentially free of visible oil
Phosphorus**	1 milligram per liter
Turbidity	25
pH range	<del>6.5 - 8.5</del> <u>6.0 - 9.0</u>
Unspecified toxic or corrosive substances	None at levels acutely toxic to humans or other animals or plant life, or directly damaging to real property.

\*The arithmetic mean for concentrations of five-day carbonaceous biochemical oxygen demand and total suspended solids shall not exceed the stated values in a period of 30 consecutive days any calendar month and 45 milligrams per liter in a period of seven consecutive days any calendar week.

\*\* Where the discharge of effluent is directly to or affects a lake or reservoir, removal of nutrients from all wastes shall be provided to the fullest practicable extent wherever sources of nutrients are considered to be acutally or potentially detrimental to preservation or enhancement of the designated water uses.

\*\*Disinfection of wastewater effluents to reduce the levels of fecal coliform organisms to the stated value is required from March 1 through October 31 (Class 2 waters) and May 1 through October 31 (Class 7 waters) except that where the effluent is discharged 25 miles or less upstream of a water intake supplying a potable water system, the reduction to the stated value is required year around. The stated value is not to be exceeded in any calendar month as determined by the logarithmic mean of a minimum of five samples, nor shall more than ten percent of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters. The application of the fecal coliform group organism standards shall be limited to sewage or other effluents containing admixtures of sewage and shall not apply to industrial wastes except where the presence of sewage, fecal coliform organisms, or viable pathogenic organisms in such wastes is known or reasonably certain. Analysis of samples for fecal coliform group organisms by either the multiple tube fermentation or the membrane filter techniques is acceptable.

**Subp. 6a. Other requirements preserved.** The requirements of this ~~rule~~ chapter and specifically the requirement of secondary treatment as stated above ~~shall be~~ are in addition to any requirement imposed on a discharge by the Clean Water Act, United States Code, title 33, sections 1251 et seq., and its implementing regulations. In the case of a conflict between the requirements of parts 7050.0100 to 7050.0220 and the requirements of the Clean Water Act or its implementing regulations, the more stringent requirement ~~shall be controlling controls~~.

**Subp. 7. Minimum stream flows flow.** Dischargers of sewage, industrial waste, or other waste effluents shall be controlled so that the water quality standards will be maintained at all stream flows which are equal to or exceeded by 90 percent of the seven consecutive daily average flows of record (the lowest weekly flow with a once in ten-year recurrence interval) for the critical month(s). The period of record for determining the specific flow for the stated recurrence interval, where records are available, shall include at least the most recent ten years of record, including flow records obtained after establishment of flow regulation devices, if any. Such calculations shall not be applied to lakes and their embayments which have no comparable flow recurrence interval. Where stream flow records are not available, the flow may be estimated on the basis of available information on the watershed characteristics, precipitation, run-off, and other relevant data.

Allowance shall not be made in the design of treatment works for low stream flow augmentation unless such flow augmentation of minimum flow is dependable and controlled under applicable laws or regulations.

**Subp. 8. ~~Specific standards interpreted as effluent standards in certain cases~~ Advanced wastewater treatment.** In any instance where it is evident that the minimal treatment specified in subpart 6 and dispersion are not effective in preventing pollution, or if at the applicable flows it is evident that the specified stream flow is inadequate to protect the specified water quality standards, the specific standards may be interpreted as effluent standards for control purposes. In addition, the following effluent standards may be applied without any allowance for dilution where stream flow or other factors are such as to prevent adequate dilution, or where it is otherwise necessary to protect the intrastate waters of the state for the state uses:

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## PROPOSED RULES

Item*	Limits**
5-day Carbonaceous Biochemical Oxygen Demand	5 milligrams per liter (arithmetic mean of all samples taken during any calendar month)

\*The concentrations specified in subpart 6 may be used in lieu thereof if the discharge of effluent is restricted to the spring flush or other high runoff periods when the stream flow rate above the discharge point is sufficiently greater than the effluent flow rate to insure that the applicable water quality standards are met during such discharge period. If treatment works are designed and constructed to meet the specified limits given above for a continuous discharge, at the discretion of the agency the operation of such works may allow for the effluent quality to vary between the limits specified above and in subpart 6, provided the water quality standards and all other requirements of the agency and the United States Environmental Protection Agency are being met. Such variability of operation must be based on adequate monitoring of the treatment works and the effluent and receiving waters as specified by the agency.

\*\* If a discharger is required by the director to implement a pretreatment program for the control of toxic pollutants from industrial contributors and the program has not yet been implemented, the discharger's effluent limitation for total suspended solids shall be ~~5 mg/l~~ five milligrams per liter until such time as the program has been implemented.

This section shall not apply to discharges to surface waters classified as limited resource value waters pursuant to parts 7050.0200, number 7 and ~~7050.0300 to 7050.0380~~ 7050.0400 to 7050.0480.

~~Subp. 9. Requirements for specific dischargers~~ Water quality based effluent limitations. Notwithstanding the provisions of subparts 8 and 16, the agency may require a specific discharger to meet effluent limitations which are necessary to maintain the water quality of the receiving water at the standards of quality and purity established by this part. Any effluent limitation determined to be necessary under this section shall only be required of a discharger after the discharger has been given notice of the specific effluent limitations and an opportunity for public hearing provided that compliance with the requirements of part 7070.1400 regarding notice of National Pollutant Discharge Elimination System and State Disposal system permits shall satisfy the notice and opportunity for hearing requirements of this subpart.

~~Subp. 10. Acceptance of equivalent controls~~ Alternative waste treatment. After providing an opportunity for public hearing the agency shall accept effective loss prevention and/or water conservation measures or process changes or other waste control measures or arrangements if it finds that such measures, changes, or arrangements are equivalent to the waste treatment measures required for compliance with applicable effluent and/or water quality standards or load allocations.

~~Subp. 11. Discharge permit required.~~ All sources of sewage, industrial waste, or other waste which do not at present have a valid operation and discharge permit, or an application for the same pending before the agency, shall apply for the same within 30 days of the adoption of this rule, or the agency may abate the source forthwith. The provisions of subpart 6 relating to effluent quality standards, and the other provisions of this rule, are applicable to existing sewage, industrial waste, or other waste disposal facilities and the effluent discharged therefrom. Nothing herein shall be construed to prevent the agency subsequently from modifying any existing permits so as to conform with federal requirements and the requirements of this chapter.

~~Subp. 12. Liquid substances.~~ Liquid substances which are not commonly considered to be sewage or industrial ~~wastes~~ waste but which could constitute a pollution hazard shall be stored in accordance with parts 7100.0010 to 7100.0090, and any revisions or amendments thereto. Other wastes as defined by law or other substances which could constitute a pollution hazard shall not be deposited in any manner such that the same may be likely to gain entry into any ~~intrastate~~ intrastate waters of the state in excess of or contrary to any of the standards herein adopted, or cause pollution as defined by law.

~~Subp. 13. Pollution prohibited.~~ No sewage, industrial waste, or other wastes shall be discharged into the ~~intrastate~~ intrastate waters of the state in such quantity or in such manner alone or in combination with other substances as to cause pollution thereof as defined by law. In any case where the ~~intrastate~~ intrastate waters of the state into which sewage, industrial ~~wastes~~ waste, or other waste effluents discharge are assigned different standards than the ~~interstate or intrastate~~ interstate or intrastate waters of the state into which such receiving ~~intrastate~~ intrastate waters flow, the standards applicable to the ~~intrastate~~ intrastate waters into which such sewage, industrial waste, or other wastes discharged shall be supplemented by the following:

The quality of any waters of the state receiving sewage, industrial waste, or other waste effluents shall be such that no violation of the standards of any ~~interstate or intrastate~~ interstate or intrastate waters of the state in any other class shall occur by reason of the discharge of such sewage, industrial waste, or other waste effluents.

~~Subp. 14. Resolution of questions~~ Undefined toxic substances. Questions concerning the permissible levels, or changes in the same, of a substance, or combination of substances, of undefined toxicity to fish or other biota shall be resolved in accordance with the latest methods recommended by the United States Environmental Protection Agency. The agency shall consider the recommendations of the Quality Criteria for Water, US EPA 1976, in making determinations under this ~~section~~ part. Toxic

substances shall not exceed one-tenth of the 96-hour median tolerance limit (TLM) as a water quality standard except that other application factors shall be used when justified on the basis of available scientific evidence.

Subp. 15. ~~Monthly reports~~ Dischargers must report to agency. All persons operating or responsible for sewage, industrial waste, or other waste disposal systems which are adjacent to or which discharge effluents to these waters or to tributaries which affect the same, shall submit regularly every month a report to the agency on the operation of the disposal system, the effluent flow, and the characteristics of the effluents and receiving waters. Sufficient data on measurements, observations, sampling, and analyses, and other pertinent information shall be furnished as may be required by the agency to adequately evaluate the condition of the disposal system, the effluent, and the waters receiving or affected by the effluent.

Subp. 16. Limited Resources value waters. Restrictions on discharges to limited resource value waters include the following:

A. For point source discharges to surface waters classified as limited resource value waters pursuant to parts 7050.0200, number 7 and ~~7050.0300 to 7050.0380~~ 7050.0400 to 7050.0480, the agency shall require treatment facilities which will provide effluents conforming to the following limitations:\*

5-Day <u>Carbonaceous</u> Biochemical Oxygen Demand	Limiting Concentration 15 milligrams per liter** <u>(arithmetic mean of all samples taken during any calendar month)</u>
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\*All effluent limitations specified in subpart 6 shall also be applicable to dischargers to Class 7 waters, provided that unspecified toxic or corrosive substances shall be limited to the extent necessary to protect the designated uses of the receiving water or affected downstream waters.

\*\*As measured by the arithmetic mean of all samples taken during any calendar month.

B. The agency shall allow treatment works to be constructed and/or operated to produce effluents to limited resource value waters at levels up to those stated in subpart 6 provided that it is demonstrated that the water quality standards for limited resource value waters will be maintained during all periods of discharge from the treatment facilities.

C. Notwithstanding the effluent limitations established by this section the quality of limited resource value waters shall not be such as to allow a violation of applicable water quality standards in waters of the state which are connected to or affected by water classified as limited resource value waters.

D. The classification of surface waters as limited resource value waters pursuant to parts 7050.0200, number 7 and ~~7050.0300 to 7050.0380~~ 7050.0400 to 7050.0480 shall not supersede, alter, or replace the classification and designation of such waters as public waters pursuant to applicable provisions and requirements of Minnesota Statutes, chapter 105.

Subp. 17. Compliance with terms and water quality standards permit conditions. No person who is in compliance with the terms and conditions of its permit issued pursuant to chapter 7070 shall be deemed in violation of any water quality standard in this rule for which a corresponding effluent limitation is established in the permit. However, exceedances of the water quality standards in a receiving water shall constitute grounds for modification of a permit(s) for any discharger(s) to the receiving water who is (are) causing or contributing to the exceedances. Chapter 7070 shall govern the modification of any such permit.

Subp. 18. ~~Ammonia~~ Water quality standard based ammonia effluent limitations. For the purpose of establishing limitations to meet the ammonia water quality standard, a statistic which estimates the central value (such as the meaning or median) for ambient pH and temperature of the receiving water for the critical months shall be used.

**7050.0220 SPECIFIC STANDARDS OF QUALITY AND PURITY FOR DESIGNATED CLASSES OF ~~INTRASTATE~~ WATERS OF THE STATE.**

The following standards shall prescribe the qualities or properties of the ~~intrastate~~ waters of the state which are necessary for the designated public use or benefit and which, if the limiting conditions given are exceeded, shall be considered indicative of a polluted condition which is actually or potentially deleterious, harmful, detrimental, or injurious with respect to such designated uses or established classes of the ~~intrastate~~ waters of the state.

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# PROPOSED RULES

## 1. Domestic consumption

Class A. The quality of this class of the ~~intrastate~~ waters of the state shall be such that without treatment of any kind the raw waters will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards-1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements thereto. This standard will ordinarily be restricted to underground waters with a high degree of natural protection. The basic requirements are given below:

Substance or Characteristic	Limit or Range
Total coliform organisms	1 most probable number per 100 milliliters
Turbidity value	5
Color value	15
Threshold odor number	3
Methylene blue active substance (MBAS)	0.5 milligram per liter
Arsenic (As)	0.01 milligram per liter
Chlorides (Cl)	250 milligrams per liter
Copper (Cu)	1 milligram per liter
Carbon chloroform extract	0.2 milligram per liter
Cyanides (CN)	0.01 milligram per liter
Fluorides (F)	1.5 milligrams per liter
Iron (Fe)	0.3 milligram per liter
Manganese (Mn)	0.05 milligram per liter
Nitrates (NO <sub>3</sub> )	45 milligrams per liter
Phenol	0.001 milligram per liter
Sulfates (SO <sub>4</sub> )	250 milligrams per liter
Total dissolved solids	500 milligrams per liter
Zinc (Zn)	5 milligrams per liter
Barium (Ba)	1 milligram per liter
Cadmium (Cd)	0.01 milligram per liter
Chromium (Hexavalent, Cr)	0.05 milligram per liter
Lead (Pb)	0.05 milligram per liter
Selenium (Se)	0.01 milligram per liter
Silver (Ag)	0.05 milligram per liter
Radioactive material	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

Class B. The quality of this class of the ~~intrastate~~ waters of the state shall be such that with approved disinfection, such as simple chlorination or its equivalent, the treated water will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards—1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements thereto. This standard will ordinarily be restricted to surface and underground waters with a moderately high degree of natural protection. The physical and chemical standards quoted above for Class A. ~~intrastate~~ waters shall also ~~supply~~ apply to these ~~intrastate~~ waters in the untreated state.

Class C. The quality of this class of the ~~intrastate~~ waters of the state shall be such that with treatment consisting of coagulation, sedimentation, filtration, storage, and chlorination, or other equivalent treatment processes, the treated water will meet in all respects both the mandatory and recommended requirements of the Public Health Service Drinking Water Standards—1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements thereto. This standard will ordinarily be restricted to surface waters, and groundwaters in aquifers not considered to afford adequate protection against contamination from surface or other sources of pollution. Such aquifers normally would include fractured and channeled limestone, unprotected impervious hard rock where ~~intrastate~~ water is obtained from mechanical fractures, joints, etc., with surface connections, and coarse gravels subjected to surface water infiltration. The physical and chemical standards quoted above for Class A ~~intrastate~~ waters shall also apply to these ~~intrastate~~ waters in the untreated state, except as listed below:

Substance of or Characteristic	Limit or Range
Turbidity value	25



## PROPOSED RULES

Class D. The quality of this class of the intrastate waters of the state shall be such that after treatment consisting of coagulation, sedimentation, filtration, storage, and chlorination, plus additional pre, post, or intermediate stages of treatment, or other equivalent treatment processes, the treated water will meet in all respects the recommended requirements of the Public Health Service Drinking Water Standards—1962 for drinking water as specified in Publication No. 956 published by the Public Health Service of the United States Department of Health, Education and Welfare, and any revisions, amendments, or supplements thereto. This standard will ordinarily be restricted to surface waters, and groundwaters in aquifers not considered to afford adequate protection against contamination from surface or other sources of pollution. Such aquifers normally would include fractured and channeled limestone, unprotected impervious hard rock where water is obtained from mechanical fractures, joints, etc., with surface connections, and coarse gravels subjected to surface water infiltration. The concentrations or ranges given below shall not be exceeded in the raw waters before treatment:

Substance or Characteristic	Limit or Range
Arsenic (As)	0.05 milligram per liter
Barium (Ba)	1 milligram per liter
Cadmium (Cd)	0.01 milligram per liter
Chromium (Hexavalent, Cr + =6)	0.05 milligram per liter
Cyanide (CN)	0.2 milligram per liter
Fluoride (F)	1.5 milligrams per liter
Lead (Pb)	0.05 milligram per liter
Selenium (Se)	0.01 milligram per liter
Silver (Ag)	0.05 milligram per liter
Radioactive material	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

In addition to the above listed standards, no sewage, industrial waste, or other wastes, treated or untreated, shall be discharged into or permitted by any person to gain access to any intrastate waters of the state classified for domestic consumption so as to cause any material undesirable increase in the taste, hardness, temperature, toxicity, corrosiveness, or nutrient content, or in any other manner to impair the natural quality or value of the intrastate waters for use as a source of drinking water.

### 2. Fisheries and recreation.

Class A. The quality of this class of the intrastate waters of the state shall be such as to permit the propagation and maintenance of warm or cold water sport or commercial fishes and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the intrastate waters are given below:

Substance or Characteristic	Limit or Range
Dissolved oxygen	Not less than 7 milligrams per liter at all times (instantaneous minimum concentration)***
Temperature	No material increase
Ammonia (N)*	0.016 milligram per liter (un-ionized as N)
Chlorides (Cl)	50 milligrams per liter
Chromium (Cr)	0.02 milligram per liter
Copper (Cu)	0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value
Cyanides (CN)	0.02 <del>milligrams</del> milligram per liter
Oil	0.5 milligram per liter
pH value	6.5-8.5
Phenols	0.01 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.

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# PROPOSED RULES

Turbidity value	10
Color value	30
Fecal coliform organisms	200 organisms per 100 milliliters as a logarithmic mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 400 organisms per 100 milliliters. (Applies only between March 1 and October 31.)
Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.
Total residual chlorine**	0.005 <del>milligrams</del> <u>milligram</u> per liter

\* The percent un-ionized ammonia can be calculated for any temperature and pH by using the following formula taken from Thurston, R. V., R. C. Russo, and K. Emerson, 1974. Aqueous ammonia equilibrium calculations. Technical Report Number 74-1, Fisheries Bioassay Laboratory, Montana State University, Bozeman, MT. 18 p.

$$f = \frac{1}{10^{(pk_a - pH)} + 1} \times 100$$

where:

f = the percent of total ammonia in the un-ionized state

$pk_a = 0.0901821 + \frac{2729.92}{T}$ , dissociation constant for ammonia

T = temperature in degrees Kelvin (273.16° Kelvin = 0° Celsius)

\*\* Applies to conditions of continuous exposure, where continuous exposure refers to chlorinated effluents which are discharged for more than a total of two hours in any 24 hour period.

\*\*\* This dissolved oxygen standard shall be construed to require compliance with the standard 50 percent of the days at which the flow of the receiving water is equal to the lowest weekly flow with a once in ten year recurrence interval (7Q10).

Class B. The quality of this class of the ~~intrastate~~ waters of the state shall be such as to permit the propagation and maintenance of cool or warm water sport or commercial fishes and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable. Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the ~~intrastate~~ waters are given below:

Substance or Characteristic	Limit or Range
Dissolved oxygen*	Not less than 5 milligrams per liter at all times (instantaneous minimum concentration)****
Temperature	5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature, except in no case shall it exceed the daily average temperature of 86°F.
Ammonia (N)**	0.04 milligram per liter (un-ionized as N)
Chromium (Cr)	0.05 milligram per liter
Copper (Cu)	0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value.
Cyanides (CN)	0.02 milligram per liter
Oil	0.5 milligram per liter
pH value	6.5-9.0
Phenols	0.01 milligram per liter and none that could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.
Turbidity value	25
Fecal coliform organisms	200 organisms per 100 milliliters as a logarithmic mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 2000 organisms per 100 milliliters. (Applies only between March 1 and October 31.)
Radioactive materials	Not to exceed the lowest concentration permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.
Total Residual Chlorine***	0.005 <del>milligrams</del> <u>milligram</u> per liter

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## PROPOSED RULES

\* This standard applies to all waters of the state except for the reach of the Mississippi River from the outlet of the metro wastewater treatment works in St. Paul (River Mile 835) to Lock and Dam No. 2 at Hastings (River Mile 815). For this reach of the Mississippi River the standard is not less than five milligrams per liter from April 1 through November 30, and not less than four milligrams per liter at other times.

\*\* See ammonia footnote for Class 2A waters.

\*\*\* See chlorine footnote for Class 2A waters.

\*\*\*\* See dissolved oxygen footnote for Class 2A waters.

Class C. The quality of this class of the intrastate waters of the state shall be such as to permit the propagation and maintenance of rough fish or species commonly inhabiting waters of the vicinity under natural conditions, and be suitable for boating and other forms of aquatic recreation for which the intrastate waters may be usable. Limiting concentrations or ranges of substances or characteristics which should not be exceeded in the intrastate waters are given below:

Substance or Characteristic	Limit or Range
Dissolved oxygen*	Not less than 5 milligrams per liter at all times (instantaneous minimum concentration.)****
Temperature	5°F above natural in streams and 3°F above natural in lakes, based on monthly average of the maximum daily temperature except in no case shall it exceed the daily average temperature of 90°F.
Ammonia (N)**	0.04 milligram per liter (un-ionized as N)
Chromium (Cr)	0.05 milligram per liter
Copper (Cu)	0.01 milligram per liter or not greater than 1/10 the 96 hour TLM value.
Cyanides (CN)	0.02 milligram per liter
Oil	10 milligrams per liter, and none in such quantities as to (1) produce a visible color film on the surface, (2) impart an oil odor to water or an oil taste to fish and edible invertebrates, (3) coat the banks and bottom of the watercourse or taint any of the associated biota, or (4) become effective toxicants according to the criteria recommended.
pH value	6.5-9.0
Phenols	0.1 milligram per liter and none <u>that</u> could impart odor or taste to fish flesh or other freshwater edible products such as crayfish, clams, prawns and like creatures. Where it seems probable that a discharge may result in tainting of edible aquatic products, bioassays and taste panels will be required to determine whether tainting is likely or present.
Turbidity value	25
Fecal coliform organisms	200 organisms per 100 milliliters as a logarithmic mean measured in not less than five samples in any calendar month, nor shall more than 10% of all samples taken during any calendar month individually exceed 2000 organisms per 100 milliliters. (Applies only between March 1 and October 31.)
Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.
Total residual chlorine***	0.005 <del>milligrams</del> milligram per liter

\* This standard applies to all waters of the state except for the reach of the Mississippi River from the outlet of the metro wastewater treatment works in St. Paul (River Mile 835) to Lock and Dam No. 2 at Hastings (River Mile 815). For this reach of the Mississippi River the standard is not less than five milligrams per liter from April 1 through November 30, and not less than four milligrams per liter at other times.

\*\* See ammonia footnote for Class 2A waters.

\*\*\* See chlorine footnote for Class 2A waters.

\*\*\*\* See dissolved oxygen ~~standard~~ footnote for Class 2A waters.

For all classes of fisheries and recreation waters, the aquatic habitat, which includes the intrastate waters of the state and

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## PROPOSED RULES

stream bed, shall not be degraded in any material manner, there shall be no material increase in undesirable slime growths or aquatic plants, including algae, nor shall there be any significant increase in harmful pesticide or other residues in the waters, sediments, and aquatic flora and fauna; the normal fishery and lower aquatic biota upon which it is dependent and the use thereof shall not be seriously impaired or endangered, the species composition shall not be altered materially, and the propagation or migration of the fish and other biota normally present shall not be prevented or hindered by the discharge of any sewage, industrial waste, or other waste effluents to the intrastate waters of the state.

No sewage, industrial waste, or other wastes shall be discharged into any of the intrastate waters of this category so as to cause any material change in any other substances or characteristics which may impair the quality of the intrastate waters of the state or the aquatic biota of any of the above listed classes or in any manner render them unsuitable or objectionable for fishing, fish culture, or recreational uses. Additional selective limits or changes in the discharge bases may be imposed on the basis of local needs.

### 3. Industrial consumption.

Class A. The quality of this class of the intrastate waters of the state shall be such as to permit their use without chemical treatment, except softening for groundwater, for most industrial purposes, except food processing and related uses, for which a high quality of water is required. The quality shall be generally comparable to Class B waters for domestic consumption, except for the following:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	50 milligrams per liter
Hardness	50 milligrams per liter
pH value	6.5-8.5

Class B. The quality of this class of the intrastate waters of the state shall be such as to permit their use for general industrial purposes, except for food processing, with only a moderate degree of treatment. The quality shall be generally comparable to Class D intrastate waters of the state used for domestic consumption, except the following:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	100 milligrams per liter
Hardness	250 milligrams per liter
pH value	6.0-9.0

Class C. The quality of this class of the intrastate waters of the state shall be such as to permit their use for industrial cooling and materials transport without a high degree of treatment being necessary to avoid severe fouling, corrosion, scaling, or other unsatisfactory conditions. The following shall not be exceeded in the intrastate waters of the state:

Substance or Characteristic	Limit or Range
Chlorides (Cl)	250 milligrams per liter
Hardness	500 milligrams per liter
pH value	6.0-9.0

Additional selective limits may be imposed for any specific intrastate waters of the state as needed.

In addition to the above listed standards, no sewage, industrial waste, or other wastes, treated or untreated, shall be discharged into or permitted by any person to gain access to any intrastate waters of the state classified for industrial purposes so as to cause any material impairment of their use as a source of industrial water supply.

### 4. Agriculture and wildlife.

Class A. The quality of this class of the intrastate waters of the state shall be such as to permit their use for irrigation without significant damage or adverse effects upon any crops or vegetation usually grown in the waters or area, including truck garden crops. The following concentrations or limits shall be used as a guide in determining the suitability of the waters for such uses, together with the recommendations contained in Handbook 60 published by the Salinity Laboratory of the United States Department of Agriculture, and any revisions, amendments, or supplements thereto:

Substance or Characteristic	Limit or Range
Bicarbonates (HCO <sub>3</sub> )	5 milliequivalents per liter
Boron (B)	0.5 milligram per liter
pH value	6.0-8.5
Specific conductance	1,000 micromhos per centimeter
Total dissolved salts	700 milligrams per liter
Sodium (Na)	60% of total cations as milliequivalents per liter

Sulfates (SO <sub>4</sub> )	10 milligrams per liter, applicable to water used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels.
Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.

Class B. The quality of this class of the intrastate waters of the state shall be such as to permit their use by livestock and wildlife without inhibition or injurious effects. The limits or concentrations of substances or characteristics given below shall not be exceeded in the intrastate waters of the state:

Substance or Characteristic	Limit or Range
pH value	6.0-9.0
Total salinity	1,000 milligrams per liter
Radioactive materials	Not to exceed the lowest concentrations permitted to be discharged to an uncontrolled environment as prescribed by the appropriate authority having control over their use.
Unspecified toxic substances	None at levels harmful either directly or indirectly.

Additional selective limits may be imposed for any specific intrastate waters of the state as needed.

5. Aesthetic enjoyment and navigation and waste disposal. The quality of this class of the intrastate waters of the state shall be such as to be suitable for aesthetic enjoyment of scenery and to avoid any interference with navigation or damaging effects on property. The following limits or concentrations shall not be exceeded in the intrastate waters of the state:

Substance or Characteristic	Limit or Range
pH value	6.0-9.0
Hydrogen sulfide	0.02 <del>milligrams</del> milligram per liter

Additional selective limits may be imposed for any specific intrastate waters of the state as needed.

6. Other uses. The uses to be protected in this class may be under other jurisdictions and in other areas to which the intrastate waters of the state are tributary, and may include any or all of the uses listed in the foregoing categories, plus any other possible beneficial uses. The agency therefore reserves the right to impose any standards necessary for the protection of this class, consistent with legal limitations.

7. Limited resource value waters. The quality of this class of intrastate waters of the state shall be such as to protect aesthetic qualities, secondary body contact use, and groundwater for use as a potable water supply. The limits or concentrations of substances or characteristics given below shall not be exceeded in the intrastate waters:

Substance or Characteristic	Limit or Range
Fecal coliform organisms	1,000 organisms per 100 milliliters* (Applies only between May 1 and October 31.)
pH	6.0-9.0
Dissolved oxygen	At concentrations which will avoid odors or putrid conditions in the receiving water or at concentrations at not less than 1 mg/l (daily average) provided that measurable concentrations are present at all times.
Unspecified Substances	Unspecified substances shall not be allowed in such quantities or concentrations that will impair the specified uses.

\* The stated value is not to be exceeded in any calendar month as determined by the logarithmic mean of a minimum of ~~5~~ five samples, nor shall more than ~~10%~~ ten percent of all samples taken during any calendar month individually exceed 2,000 organisms per 100 milliliters.

**REPEALER.** Minnesota Rules, parts 7050.0100, 7050.0120, 7050.0160, 7050.0300, 7050.0310, 7050.0320, 7050.0330, 7050.0340, 7050.0350, 7050.0360, 7050.0370, and 7050.0380 are repealed.

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# PROPOSED RULES

## Rules as Proposed (all new material)

### 7050.0400 PURPOSE.

Parts 7050.0400 to 7050.0480 classify all surface waters within or bordering the state of Minnesota and thereby designate appropriate beneficial uses for these waters. The use classifications are defined in part 7050.0200.

### 7050.0410 LISTED WATERS.

Those waters of the state that are specifically listed in part 7050.0470 are, in addition to any classifications listed in part 7050.0470, also classified as 3C, 4A, 4B, 5, and 6 class waters.

### 7050.0420 TROUT WATERS.

Trout streams and trout lakes described in Department of Natural Resources Commissioner's orders 2089 (dated June 26, 1981) and 2086 (dated March 7, 1981) respectively are hereby classified as trout waters. Other lakes that are classified as trout waters are listed in part 7050.0470. All trout waters are classified 1B, 2A, 3B, 3C, 4A, 4B, 5, and 6.

### 7050.0430 UNLISTED WATERS.

All waters of the state that are not listed in part 7050.0470 are hereby classified as 2B, 3B, 4A, 4B, 5, and 6 class waters.

### 7050.0440 OTHER CLASSIFICATIONS SUPERSEDED.

Parts 7050.0400 to 7050.0480 supersede any other previous classifications and any classifications in other rules including parts 7056.0010 to 7056.0040 (formerly WPC 1).

### 7050.0450 MULTI-CLASSIFICATIONS.

If a water of the state is classified in more than one class, all the water quality standards for each of the classes apply. If the water quality standards for particular parameters for the various classes are different, the more restrictive of the standards apply.

### 7050.0460 WATERS SPECIFICALLY CLASSIFIED.

The waters of the state listed in part 7050.0470 are hereby classified as specified. The specific stretch of watercourse or the location of lakes is described by township, range, and section, abbreviated as T., R., S., respectively. Any community listed in part 7050.0470 is the community nearest the water classified, and is included solely to assist in identifying the water. An asterisk (\*) indicates the water is designated as an outstanding resource value water.

### 7050.0470 CLASSIFICATIONS FOR WATERS IN MAJOR SURFACE WATER DRAINAGE BASINS.

#### Subpart 1. Lake Superior Basin.

##### Streams

Amenda Creek	(T.59, R.5W)	2C
Barber Creek (East Swan River) (Chisholm Creek) Chisholm	(T.58, R.20, S.21, 22, 26, 27, 34, 35)	7
Boulder Creek	(T.53, 54, R.14)	2C
Brule River (excluding trout waters)	(T.62, 63, 64, R.1W, 1E, 2E, 3E)	1B, 2B, 3B
Buhl Creek Buhl	(T.58, R.19, S.20, 29)	7
Cranberry Creek	(T.58, R.13)	2C
Elbow Creek Eveleth	(T.57, R.17, S.6; T.57, R.18, S.1)	7
Horn Creek	(T.62, R.4W)	1B, 2B, 3B
Manganika Creek Virginia	(T.58, R.17, S.19; T.58, R.18, S.24)	7
Pigeon River	(South of Fowl Lake to Pigeon Bay of Lake Superior)	1B, 2B, 3A
Swan River, West	(T.55, R.20, 21)	2C
Temperance River (excluding trout waters)	(T.59, 60, 61, 62, R.4W)	1B, 2B, 3B

## PROPOSED RULES

Trappers Creek	(T.56, R.11)	2C
Unnamed Creek	(T.53, R.19, S.22, 23)	7
Meadowlands		
Unnamed Ditch	(T.57, R.17, S.6)	7
Eveleth		
Unnamed Ditch	(T.58, R.17, S.23, 24,	7
Gilbert	25, 36)	
*All other streams		1B, 2B, 3B
in the Boundary Waters		
Canoe Area Wilderness		
Lakes		
*Alder Lake	(T.64, R.1E)	1B, 2A, 3B
*Alton Lake	(T.62, 63, R.4, 5)	1B, 2A, 3B
Bearskin Lake, East	(T.64, R.1E, 1W)	1B, 2A, 3B
Bearskin Lake, West	(T.64, 65, R.1)	1B, 2A, 3B
Birch Lake	(T.65, R.1, 2)	1B, 2A, 3B
Black Lake	(T.45, R.15)	1B, 2B, 3B
*Brule Lake	(T.63, R.2, 3)	1B, 2A, 3B
Chester Lake	(T.64, R.3E)	1B, 2A, 3B
*Clearwater Lake	(T.65, R.1E)	1B, 2A, 3B
(Emby Lake)		
Colby Lake	(T.58, R.14)	1B, 2B, 3B
*Cone Lake, North	(T.63, 64, R.3)	1B, 2A, 3B
*Crystal Lake	(T.64, R.1E, 2E)	1B, 2A, 3B
*Daniels Lake	(T.65, R.1E, 1W)	1B, 2A, 3B
*Davis Lake	(T.64, R.3)	1B, 2A, 3B
Devilfish Lake	(T.64, R.3E)	1B, 2A, 3B
*Duncan Lake	(T.65, R.1)	1B, 2A, 3B
*Dunn Lake	(T.65, R.1, 2)	1B, 2A, 3B
Echo Lake	(T.59, R.6)	1B, 2A, 3B
Esther Lake	(T.63, 64, R.3E)	1B, 2A, 3B
*Fan Lake	(T.65, R.2E)	1B, 2B, 3A
Flour Lake	(T.64, R.1E, 1W)	1B, 2A, 3B
Fowl Lake, North	(T.64, 65, R.3E)	1B, 2B, 3A
Fowl Lake, South	(T.64, 65, R.3E)	1B, 2B, 3A
*Gaskin Lake	(T.64, R.2)	1B, 2A, 3B
Greenwood Lake	(T.64, R.2E)	1B, 2A, 3B
Hungry Jack Lake	(T.64, 65, R.1)	1B, 2A, 3B
Jap Lake	(T.64, R.1E)	1B, 2A, 3B
(Jerry Lake)		
Kemo Lake	(T.63, R.1)	1B, 2A, 3B
*Lily Lakes	(T.65, R.2E)	1B, 2B, 3A
McFarland Lake	(T.64, R.3E)	1B, 2A, 3B
*Misquah Lake	(T.64, R.1)	1B, 2A, 3B
*Moose Lake	(T.65, R.2E, 3E)	1B, 2A, 3A
*Morgan Lake	(T.64, R.1)	1B, 2A, 3B
Moss Lake	(T.65, R.1)	1B, 2A, 3B
*Mountain Lake	(T.65, R.1E, 2E)	1B, 2A, 3B
Musquash Lake	(T.63, R.1E)	1B, 2A, 3B
*Onega Lake	(T.64, R.2, 3)	1B, 2A, 3B
(Omega Lake)		

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# PROPOSED RULES

*Otto Lake, Lower	(T.64, R.2)	1B, 2A, 3B
*Partridge Lake	(T.65, R.1)	1B, 2A, 3B
*Pike Lake, West	(T.65, R.2E)	1B, 2A, 3B
*Pine Lake	(T.64, 65, R.1E, 2E, 3E)	1B, 2A, 3B
*Ram Lake	(T.63, R.1)	1B, 2A, 3B
*Rose Lake	(T.65, R.1)	1B, 2A, 3B
St. Mary's Lake	(T.57, R.17, S.9, 16, 17)	1C, 2B, 3B
*Sawbill Lake	(T.62, 63, R.4)	1B, 2B, 3B
Seven Beaver Lake	(T.58, R.11, 12)	2B, 3A
*South Lake	(T.65, R.1, 2)	1B, 2A, 3B
*State Lake	(T.63, 64, R.2)	1B, 2A, 3B
*Superior, Lake	(T.49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, R.14W-7E)	1B, 2A, 3A
*Swan Lake	(T.63, R.2)	1B, 2A, 3B
Trout Lake	(T.62, R.2E)	1B, 2A, 3B
*Trout Lake, Little	(T.63, R.1)	1B, 2A, 3B
Twin Lake, Upper (Bear Lake)	(T.56, R.8)	1b, 2A, 3B
*Vista Lake	(T.64, R.1)	1B, 2A, 3B
*Wanighigan Lake (Trap Lake)	(T.63, 64, R.2, 3)	1B, 2A, 3B
*Winchell Lake	(T.64, R.2, 3)	1B, 2A, 3B
*All other lakes in the Boundary Waters Canoe Area Wilderness		1B, 2B, 3B

## Subp. 2. Lake of the Woods Basin. Streams

Beaver Creek	(T.62, 63, R.20)	2C
Gardner Brook	(T.63, 64, R.23)	2C
Indian Sioux River, Little	(T.64, 65, R.15)	1B, 2B, 3B
Island River	(T.61, R.7, 8)	1B, 2B, 3B
Kawishiwi River	(Source to Fall Lake)	1B, 2B, 3B
Lone Creek	(T.66, R.5)	1B, 2C
Moose River	(T.68, R.18, 19)	1B, 2B, 3B
Moose River	(T.64, 65, 66, R.14)	1B, 2B, 3B
Portage Creek	(T.65, R.21)	2C
Portage River	(T.65, 66, R.14)	1B, 2B, 3B
Rainy River	(Outlet of Rainy Lake to Dam in International Falls)	1B, 2B, 3A
Rainy River	(Dam in International Falls to Railroad Bridge in Baudette)	1C, 2B, 3A
Rainy River	(Railroad Bridge in Baudette to Lake of the Woods)	2B, 3A
Snake River	(T.61, R.9)	1B, 2B, 3B
Stuart River	(T.65, 66, R.13)	1B, 2C
Zippel Creek, West Branch	(T.162, R.33, 34)	2C
*All other streams in the Boundary Waters Canoe Area Wilderness		1B, 2B, 3B
*Purvis Lake-Ober	(Waters within the Purvis Lake- Ober Foundation Scientific and Natural Area, St. Louis County, T.61, R.13)	2B, 3B



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**PROPOSED RULES**

\*All other streams in the  
Voyageurs National Park

2B, 3B

Lakes

*Adams Lake	T.64, R.6)	1B, 2A, 3B
*Agamok Lake	(T.65, R.5, 6)	1B, 2A, 3B
*Ahmakose Lake	(T.64, R.7)	1B, 2A, 3B
*Alpine Lake	(T.65, R.5)	1B, 2A, 3B
*Amoeber Lake	(T.65, R.6, 7)	1B, 2A, 3B
*Arkose Lake	(T.64, 65, R.7)	1B, 2A, 3B
*Ashdick Lake (Caribou Lake)	(T.66, R.6)	1B, 2A, 3B
*Basswood Lake	(T.64, 65, R.9, 10)	1B, 2A, 3B
*Bat Lake	(T.64, 65, R.5)	1B, 2A, 3B
*Beartrack Lake	(T.67, R.15)	1B, 2A, 3B
*Beaver Lake (Elbow Lake)	(T.63, 64, R.6, 7)	1B, 2A, 3B
*Bingshick Lake	(T.65, R.4, 5)	1B, 2A, 3B
Brant Lake (Everett Lake)	(T.65, R.4)	1B, 2A, 3B
Burntside Lake	(T.63, R.12, 13)	1B, 2A, 3B
*Camp Lake	(T.64, R.11)	1B, 2B, 3B
Caribou Lake	(T.60, R.22)	1B, 2A, 3B
*Cash Lake	(T.64, R.3)	1B, 2A, 3B
*Cherokee Lake	(T.63, 64, R.4)	1B, 2A, 3B
*Cherry Lake	(T.65, R.6)	1B, 2A, 3B
*Crab Lake	(T.63, R.13, 14)	1B, 2A, 3B
Crab Lake	(T.65, R.2, 3)	1B, 2A, 3B
Crane Lake	(T.67, 68, R.16, 17)	1B, 2A, 3A
*Crooked Lake	(T.64, R.5)	1B, 2A, 3B
*Crooked Lake	(T.66, R.11, 12)	1B, 2A, 3B
*Cruiser Lake (Trout Lake)	(T.69, 70, R.19)	1B, 2A, 3B
*Eddy Lake	(T.65, R.6)	1B, 2A, 3B
*Ester Lake (Gnig Lake)	(T.65, 66, R.6)	1B, 2A, 3B
*Eugene Lake	(T.67, R.15)	1B, 2A, 3B
*Explorer Lake (South Three Lake)	(T.64, R.7, 8)	1B, 2A, 3B
Fall Lake	(T.63, 64, R.11, 12)	1B, 2B, 3B
*Fat Lake	(T.67, R.15)	1B, 2A, 3B
*Fay Lake	(T.65, R.5)	1B, 2A, 3B
*Fern Lake	(T.64, R.5)	1B, 2A, 3B
*Fern Lake, West	(T.64, R.5)	1B, 2A, 3B
*Finger Lake	(T.67, R.14)	1B, 2A, 3B
*Fishdance Lake	(T.63, R.7)	1B, 2A, 3B
*Fraser Lake	(T.64, R.7)	1B, 2A, 3B
*French Lake	(T.64, 65, R.5)	1B, 2A, 3B
*Frost Lake	(T.64, R.4)	1B, 2A, 3B
*Gabimichigami Lake	(T.64, 65, R.5, 6)	1B, 2A, 3B
*Ge-Be-On-Equat Lake	(T.67, R.14)	1B, 2A, 3B

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# PROPOSED RULES

*Gijikiki Lake (Cedar Lake)	(T.65, 66, R.6)	1B, 2A, 3B
*Gillis Lake	(T.64, 65, R.5)	1B, 2A, 3B
*Gordon Lake	(T.64, R.4)	1B, 2A, 3B
*Gun Lake	(T.67, 68, R.15)	1B, 2A, 3B
Gunflint Lake	(T.65, R.2, 3, 4)	1B, 2A, 3B
Gunflint Lake, Little	(T.65, R.2)	1B, 2B, 3B
*Hanson Lake	(T.65, 66, R.6)	1B, 2A, 3B
*Holt Lake	(T.65, R.6)	1B, 2A, 3B
*Howard Lake	(T.65, R.5)	1B, 2A, 3B
*Hustler Lake	(T.66, 67, R.14)	1B, 2A, 3B
*Ima Lake (Slate Lake)	(T.64, R.7, 8)	1B, 2A, 3B
*Jasper Lake	(T.65, R.5)	1B, 2A, 3B
Johnson Lake	(T.67, 68, R.17, 18)	1B, 2A, 3B
*Kabetogama Lake	(T.69, 70, R.20, 21, 22)	1B, 2B, 3A
*Karl Lake	(T.64, R.3, 4)	1B, 2A, 3B
*Kek Lake, Little	(T.65, R.6, 7)	1B, 2A, 3B
*Kekekabic Lake	(T.64, 65, R.6, 7)	1B, 2A, 3B
*Knife Lake	(T.65, R.7, 8)	1B, 2A, 3B
*Lake of the Clouds Lake (Dutton Lake)	(T.65, R.6)	1B, 2A, 3B
Larson Lake	(T.61, R.24)	1B, 2A, 3B
*Long Island Lake	(T.64, R.3, 4)	1B, 2A, 3B
Loon Lake	(T.65, R.3)	1B, 2A, 3B
*Loon Lake	(T.66, 67, R.15)	1B, 2A, 3B
*Lunar Lake (Moon Lake)	(T.65, R.6)	1B, 2A, 3B
*Lynx Lake	(T.66, R.14, 15)	1B, 2A, 3B
Magnetic Lake	(T.65, R.3, 4)	1B, 2A, 3B
Makwa Lake (Bear Lake)	(T.64, R.6)	1B, 2A, 3B
*Marble Lake	(T.64, R.6)	1B, 2A, 3B
Mayhew Lake	(T.65, R.2)	1B, 2A, 3B
*Mesaba Lake	(T.63, R.5)	1B, 2A, 3B
*Missionary Lake (East Three Lake)	(T.64, R.7, 8)	1B, 2A, 3B
*Moose Lake	(T.64, R.9, 10)	1B, 2B, 3B
*Mora Lake	(T.64, R.5)	1B, 2A, 3B
*Mukooda Lake	(T.68, R.17)	1B, 2A, 3B
*Namakan Lake	(T.69, R.17, 18, 19)	1B, 2B, 3A
North Lake	(T.65, R.2)	1B, 2A, 3B
North Lake, Little	(T.65, R.2)	1B, 2B, 3B
*Ogishkemuncie Lake	(T.65, R.6)	1B, 2A, 3B
Ojibway Lake (Upper Twin)	(T.63, R.9, 10)	1B, 2A, 3B
*Owl Lake	(T.64, R.5)	1B, 2A, 3B
*Oyster Lake	(T.66, R.14)	1B, 2A, 3B
*Peter Lake	(T.64, 65, R.5)	1B, 2A, 3B
*Portage Lake	(T.65, R.8)	1B, 2A, 3B
*Powell Lake	(T.64, 65, R.5)	1B, 2A, 3B
*Rabbit Lake	(T.66, R.6)	1B, 2A, 3B
Rainy Lake	(T.70, 71, R.18, 19, 20, 21, 22, 23)	1B, 2B, 3A
*Raven Lake (Lynx Lake)	(T.64, R.6)	1B, 2A, 3B
*Red Rock Lake	(T.65, 66, R.5)	1B, 2A, 3B

## PROPOSED RULES

*Ruby Lake, Big	(T.66, R.14)	1B, 2A, 3B
*Saganaga Lake	(T.66, 67, R.4, 5)	1B, 2A, 3B
*Saganaga Lake, Little	(T.64, R.5, 6)	1B, 2A, 3B
*Sand Point Lake	(T.68, 69, R.16, 17)	1B, 2A, 3A
*Sea Gull Lake	(T.65, 66, R.4, 5)	1B, 2A, 3B
*Sema Lake (Coon Lake)	(T.65, R.7)	1B, 2A, 3B
*Snowbank Lake	(T.63, 64, R.8, 9)	1B, 2A, 3B
*Spoon Lake (Fames Lake)	(T.65, R.7)	1B, 2A, 3B
Spring Lake	(T.68, R.18)	1B, 2A, 3B
*Strup Lake	(T.64, R.7)	1B, 2A, 3B
*Sumpet Lake	(T.61, R.7)	1B, 2B, 3B
*Takumich Lake	(T.67, 68, R.14)	1B, 2A, 3B
*Tarry Lake	(T.64, R.5)	1B, 2A, 3B
*Thomas Lake	(T.63, 64, R.7)	1B, 2A, 3B
*Thumb Lake	(T.67, R.14)	1B, 2A, 3B
*Topaz Lake (Star Lake)	(T.65, R.6)	1B, 2A, 3B
*Town Lake	(T.63, 64, R.3, 4)	1B, 2A, 3B
*Trout Lake, Big	(T.63, 64, R.15, 16)	1B, 2A, 3B
*Trout Lake, Little (Pocket Lake)	(T.68, R.17)	1B, 2A, 3B
*Tucker Lake	(T.64, R.3)	1B, 2B, 3B
*Tuscarora Lake	(T.64, R.4, 5)	1B, 2A, 3B
*Vera Lake	(T.64, R.8)	1B, 2A, 3B
*Virgin Lake	(T.64, R.5)	1B, 2A, 3B
*Wine Lake	(T.63, R.5)	1B, 2A, 3B
*Wisini Lake	(T.64, R.7)	1B, 2A, 3B
Lake of the Woods	(T.161, 162, 163, 164, 165, 166, 167, 168, R.30, 31, 32, 33, 34, 35)	1B, 2B, 3A
Unnamed Swamp	(T.63, R.11, S.19;	7
Winton	T.63, R.12, S.24)	
*All other lakes in the Boundary Waters Canoe Area Wilderness		1B, 2B, 3B
*All other lakes in the Voyageurs National Park		2B, 3B
<b>Subp. 3. Red River of the North Basin.</b>		
Streams		
Badger Creek	(T.149, 150, 151, R.42, 43, 44)	2C
Barnums Creek (Burnham Creek)	(T.148, 149, 150, R.44, 45, 46, 47, 48)	2C
Boise de Sioux River	(Mud Lake outlet to Breckenridge)	2C
County Ditch No. 6A-2 Rothsay	(T.135, R.45, S.21, 28, 33)	7
County Ditch No. 32 Sabin	(T.138, R.48, S.13, 14, 15, 16, 17, 18)	7
County Ditch No. 65 New York Mills	(T.135, R.37, S.18; T.135, R.38, S.13)	7

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# PROPOSED RULES

Deerhorn Creek	(T.136, R.44, 45, 46)	2C
Doran Slough	(T.131, 132, R.46, 47)	2C
Eighteen Mile Creek	(T.127, R.46, 47)	2C
Five Mile Creek	(T.127, 128, R.45)	2C
Gentilly River	(T.149, 150, R.45)	2C
Hay Creek	(T.137, 138, R.44, 45, 46)	2C
Hay Creek	(T.161, 162, 163, R.37, 38, 39)	2C
Hill River	(T.148, 149, 150, R.39, 40, 41, 42)	2C
Hoover Creek (excluding trout waters)	(T.152, 153, 154, R.29, 30)	2C
Joe River	(T.162, 163, 164, R.49, 50)	2C
Joe River, Little	(T.163, R.47, 48)	2C
Judicial Ditch No. 13 Goodridge	(T.154, R.40, S.16, 17, 18)	7
Judicial Ditch No. 18 Goodridge	(T.154, R.40, S.18, 19, 27, 28, 29, 30; T.154, R.41, S.13, 14, 15, 16, 17, 18; T.154, R.42, S.7, 8, 13, 14, 15, 16; T.154, R.43, S.9, 10, 11, 12, 16)	7
Maple Creek	(T.147, 148, R.44, 45, 46)	2C
Marsh Creek	(T.144, 145, 146, R.41, 42, 43)	2C
Mustinka River	(T.127, 128, R.45, 46, 47)	2C
Mustinka River, West Branch	(T.125, 126, 127, 128, R.45, 46, 47)	2C
Otter Tail River	(Height of Land Lake to mouth)	1C, 2B, 3B
Rabbit River	(T.130, 131, R.45, 46, 47)	2C
Rabbit River, South Fork	(T.130, R.45, 46)	2C
Red Lake River	(Outlet of Lower Red Lake to mouth)	1C, 2B, 3B
Red River of the North	(Breckenridge to Canadian border)	1C, 2B, 3B
Roy Creek (Roy Lake Creek)	(T.144, 145, R.39)	2C
Spring Creek	(T.145, 146, R.45, 46, 47)	2C
Spring Creek	(T.142, R.41, 42)	2C
Stony Creek	(T.137, R.45, 46)	2C
Sucker Creek	(T.160, 161, R.39)	2C
Tamarack River (Source to Stephen)	(T.157, 158, R.45, 46, 47, 48)	1C, 2B, 3B
Twelve Mile Creek (excluding Class 7 segment)	(T.126, 127, R.45)	2C
Twelve Mile Creek (County Ditch No. 1) Donnelly	(T.126, R.43, S.16, 17, 18, 19, 21, 22, 25, 26, 27; T.126, R.44, S.23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33; T.126, R.45, S.25, 26, 27, 28, 36)	7
Twelve Mile Creek, East Fork	(T.125, 126, R.44, 45)	2C
Twelve Mile Creek, West Fork	(T.125, 126, R.44, 45)	2C
Twin Lake Creek	(T.144, 145, R.40)	2C
Two Rivers, Middle Branch	(Source to Hallock)	1C, 2B, 3B
Two Rivers, South Branch	(T.161, R.41-49)	1C, 2B, 3B
Unnamed Creek Rothsay	(T.135, R.45, S.21, 22, 23, 25, 26)	7
Unnamed Creek Shevlin	(T.147, R.36, S.17, 18; T.147, R.37, S.11, 12, 13, 14)	7
Unnamed Ditch Audubon	(T.139, R.42, S.4, 9)	7
Unnamed Ditch Lake Park	(T.139, R.43, S.4; T.140, R.43, S.33)	7
Unnamed Ditch Glyndon	(T.139, R.47, S.1, 2, 12; T.140, R.47, S.35)	7
Unnamed Ditch Callaway	(T.140, R.41, S.6; T.140, R.42, S.1, 2, 10, 11)	7
Unnamed Ditch Gary	(T.145, R.44, S.22, 27, 34)	7

Unnamed Ditch Erskine	(T.149, R.42, S.34, 35)	7
Unnamed Ditch Thief River Falls	(T.154, R.43, S.31, 32, 33)	7
Unnamed Ditch Warroad	(T.163, R.37, S.19, 20, 21, 22, 23; T.163, R.38, S.19, 20, 21, 22, 23, 24, 30; T.163, R.39, S.25, 31, 32, 33, 34, 35, 36)	7
Whiskey Creek	(T.137, R.44, 45, 46)	2C
Whiskey Creek	(T.133, 134, R.47, 48)	2C
White Earth River	(T.143, 144, R.40, 41, 42)	2C
Willow Creek New York Mills	(T.135, R.38, S.13, 14, 15, 16, 17, 18)	7
Wolverton Creek	(T.135, 136, 137, R.48)	2C
Lakes		
Lake Bronson	(T.160, 161, R.46)	1C, 2B, 3B
Twin Lake, East	(T.138, R.41)	1B, 2A, 3B
Unnamed Slough Vergas	(T.137, R.40, S.18; T.137, R.41, S.13, 24)	7
*Green Water Lake	(Waters within the Green Water Lake Scientific and Natural Area, Becker County, T.141, R.38, S.28, 33, 34)	2B, 3B

**Subp. 4. Upper Mississippi River Basin.**

Streams

Alcohol Creek	(T.143, 144, R.34)	2C
Arramba Creek	(T.40, R.30)	2C
Basswood Creek	(T.141, 142, R.36)	2C
Battle Brook	(T.35, R.26, 27)	2C
Battle Creek	(T.120, R.30, 31)	2C
Bear Brook	(T.144, R.27)	2C
Bear Creek	(T.145, R.36)	2C
Beautiful Creek	(T.127, R.31)	2C
Beaver Creek	(T.136, 137, R.32, 33)	2C
Belle Creek	(T.117, 118, R.32)	2C
Birch Brook	(T.141, R.25)	2C
Black Brook	(T.41, 42, R.26)	2C
Black Brook	(T.42, 43, R.30)	2C
Blackwater Creek	(T.55, R.26)	2C
Blueberry River	(T.138, 139, R.35, 36)	2C
Bluff Creek	(T.135, 136, R.36, 37)	2C
Bogus Brook	(T.37, 38, R.26)	2C
Buckman Creek	(T.39, 40, R.30, 31)	2C
(excluding Class 7 segment)		
Buckman Creek	(T.39, R.30, S.4, 5, 6, 9; T.39, R.31, S.1, 2, 10, 11;	7
Buckman	T.40, R.30, S.31; T.40, R.31, S.36)	
Buckman Coop Cry.		
Bunker Hill Creek	(T.39, R.30, S.31, 32, 33)	7
Little Rock		
Little Rock Coop Cry.		
Cat River (excluding trout waters)	(T.136, 137, R.33, 34, 35)	2C

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# PROPOSED RULES

Chase Brook	(T.38, 39, R.27)	2C
Clearwater Creek	(T.56, 57, R.24, 25)	2C
Coon Creek	(T.43, R.29, 30)	2C
County Ditch No. 15 (Bear Creek)	(T.132, R.35, S.2; T.133, R.34, S.7; T.133, R.35, S.12, 13, 24, 25, 26, 35)	7
Bertha		
County Ditch No. 23 Garfield	(T.129, R.38, S.26, 27)	7
County Ditch No. 23A Willmar	(T.119, R.34, S.29, 30; T.119, R.35, S.23, 25, 26)	7
County Ditch No. 42 McGregor	(T.48, R.23, S.29, 32)	7
County Ditch No. 63 Near Hutchinson West Lynn Coop Cry.	(T.116, R.30, S.19, 20, 21, 28, 33)	7
County Ditch No. 132 Lakeside Lakeside Coop Cry.	(T.116, R.31, S.16, 21)	7
Crane Creek (excluding Class 7 segment)	(T.116, 117, R.26, 27)	2C
Crane Creek Winsted	(T.117, R.27, S.14, 20, 21, 22, 23, 24, 25)	7
*Crow River, North Fork	(From the Lake Koronis outlet to the Meeker-Wright County line)	2B, 3B
Dagget Brook	(T.43, R.29, 30)	2C
Eagle Creek	(T.120, R.29)	2C
Elk River, Little	(T.130, 131, R.30, 31)	2C
Elk River, So. Branch Little	(T.130, R.30, 31, 32)	2C
Estes Brook	(T.36, 37, 38, R.27, 28)	2C
Everton Creek	(T.149, R.30)	2C
Farley Creek	(T.147, R.28)	2C
Fish Creek	(T.28, R.22)	2C
Fletcher Creek	(T.42, R.31)	2C
Foley Brook	(T.141, R.25)	2C
Frederick Creek	(T.119, R.25)	2C
Frontenac Creek	(T.145, R.34)	2C
Hanson Brook	(T.40, R.27)	2C
Hay Creek	(T.43, 44, R.30, 31)	2C
Hazel Creek	(T.127, R.29, 30)	2C
Hennepin Creek (excluding trout waters)	(T.144, 145, 146, R.34, 35)	2C
Indian Creek	(T.141, 142, R.36, 37)	2C
Irish Creek	(T.129, R.31)	2C
Iron Creek	(T.135, R.32)	2C
Jewett Creek	(T.119, 120, R.30, 31)	2C
Johnson Creek	(T.137, R.28)	2C
Judicial Ditch No. 1 Lakeside Lakeside Coop Cry.	(T.116, R.31, S.28, 33)	7
Judicial Ditch No. 15 Buffalo Lake	(T.115, R.31, S.15, 16, 20, 21, 29, 30; T.115, R.32, S.22, 25, 26, 27, 28, 32, 33)	7
Iowa Pork Industries Hector		
Kettle Creek	(T.138, R.35, 36, 37)	2C
Kitchi Creek	(T.146, 147, R.29, 30)	2C
Kitten Creek	(T.137, R.34, 35)	2C
LaSalle Creek (excluding trout waters)	(T.143, 144, R.35)	2C
LaSalle River	(T.144, 145, R.35)	2C

## PROPOSED RULES

Laura Brook	(T.141, R.26)	2C
Meadow Creek	(T.128, R.30)	2C
Mike Drew Brook	(T.38, 39, R.26, 27)	2C
Mink Creek, Big	(T.41, 42, R.30, 31)	2C
Mink Creek, Little	(T.41, 42, R.29, 30, 31)	2C
*Mississippi River	(From Lake Itasca to Fort Ripley)	2B, 3B
*Mississippi River	(From Fort Ripley to the southerly boundary of Morrison County)	1C, 2B, 3B
Mississippi River	(From the southerly boundary of Morrison County to County State Aid Highway 7 bridge in St. Cloud)	1C, 2B, 3B
*Mississippi River	(County State Aid Highway 7 bridge in St. Cloud to the northwestern city limits of Anoka)	1C, 2B, 3B
Mississippi River	(From the northwestern city limits of Anoka to the Upper Lock and Dam at St. Anthony Falls in Minneapolis)	1C, 2B, 3B
Mississippi River	(Outlet of Metro Wastewater Treatment Works in St. Paul to river mile 830, Rock Island RR Bridge)	2C, 3B
Northby Creek	(T.140, R.27)	2C
Norway Brook	(T.139, R.30)	2C
O'Brien Creek	(T.56, 57, R.22)	2C
O'Neill Brook	(T.38, R.26)	2C
Oak Ridge Creek (Oak Creek)	(T.133, 134, R.36)	2C
Pigeon River	(T.147, R.27)	2C
Pike Creek (except Class 7 segment)	(T.129, R.30)	2C
Pike Creek Flensburg	(T.129, R.30, S.17, 18, 19, 20)	7
Pillager Creek	(T.133, R.30)	2C
Pioneer Creek	(T.118, R.24)	2C
Prairie Brook	(T.36, R.27)	2C
Rat Creek	(T.144, 145, R.34)	2C
Rice Creek	(T.30, 31, 32, R.22, 23, 24)	1C, 2B, 3B
Rice Creek	(T.35, R.29)	2C
*Rum River	(From the Ogechie Lake spillway to the northernmost confluence with Lake Onamia)	2B, 3B
*Rum River	(From the State Highway 27 bridge in Onamia to Madison and Rice Streets in Anoka)	2B, 3B
Sandy River McGregor	(T.48, R.23, S.19, 29, 30; T.48, R.24, S.13, 24)	7
Seven Mile Creek	(T.133, 134, R.30, 31)	2C
Six Mile Brook	(T.143, 144, R.26, 27)	2C
Skimmerhorn Creek	(T.149, R.30)	2C
Skunk Creek	(T.144, R.34)	2C
Skunk River (Co. Dt. No. 37) (Co. Dt. No. 29)	(T.123, R.35, S.4, 5, 9; T.123, R.35, S.9, 10, 11, 12; T.123, R.34, S.3, 4, 5, 6, 7, 8)	7
Brooten		
Snowball Creek	(T.56, R.23)	2C
Split Hand Creek	(T.53, R.24)	2C
Stag Brook	(T.121, 122, R.30, 31)	2C

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## PROPOSED RULES

Stanchfield Brook, Lower Braham	(T.37, R.23, S.3, 10, 15, 22)	7
Stocking Creek	(T.138, R.35)	2C
Stony Brook (Stoney Brook) Foley	(T.36, R.29, S.2, 9, 10, 11, 16; T.37, R.29, S.35, 36)	7
Stony Creek	(T.140, R.28)	2C
Stony Point Brook	(T.147, R.28)	2C
Sucker Creek (Gould Creek) (excluding trout waters)	(T.143, 144, R.36)	2C
Swamp Creek, Big	(T.137, 138, 139, R.32, 33)	2C
Swamp Creek, Little	(T.136, 137, R.33)	2C
Swan Creek	(T.134, 135, R.32)	2C
Swan Creek, Little	(T.135, R.32)	2C
Swift River	(T.142, R.27)	2C
Taylor Creek	(T.128, R.31)	2C
Ted Brook Creek	(T.130, R.31)	2C
Tibbits Brook	(T.33, 34, R.26, 27)	2C
Tibbetts Creek (Tibbetts Brook)	(T.39, 40, R.27, 28)	2C
Tower Creek	(T.135, R.32, 33)	2C
Two Rivers, South Branch Albany	(T.125, R.31, S.21, 22, 23)	7
Unnamed Creek Calumet	(T.56, R.23, S.21)	7
Unnamed Creek Hiller Mobile Home Court	(T.119, R.26, S.22, 26, 27, 35)	7
Unnamed Creek Grove City	(T.120, R.32, S.34, 35, 36)	7
Unnamed Creek Albertville	(T.121, R.23, S.30; T.121, R.24, S.25, 36)	7
Unnamed Creek Eden Valley Ruhland Feeds	(T.121, R.31, S.2; T.122, R.31, S.35)	7
Unnamed Creek Lake Henry	(T.123, R.33, S.11, 14)	7
Unnamed Creek Miltona	(T.129, R.36, S.6; T.130, R.36, S.30, 31)	7
Unnamed Ditch Braham	(T.37, R.23, S.2, 3)	7
Unnamed Ditch Ramey Ramey Farmers Coop Cry.	(T.38, R.28, S.4, 5; T.39, R.28, S.29, 30, 32; T.39, R.29, S.25, 26, 27, 28)	7
Unnamed Ditch McGregor	(T.48, R.23, S.31, 32)	7
Unnamed Ditch Nashwauk	(T.56, R.22, S.4, 5; T.57, R.22, S.32)	7
Unnamed Ditch Taconite	(T.56, R.24, S.22)	7
Unnamed Ditch Glencoe Green Giant	(T.115, R.28, S.21, 22, 27, 28)	7



## PROPOSED RULES

Unnamed Ditch Glencoe Green Giant	(T.115, R.28, S.14, 23)	7
Unnamed Ditch Winsted Green Giant	(T.117, R.27, S.10, 11)	7
Unnamed Ditch Hiller Mobile Home Court	(T.119, R.26, S.34, 35)	7
Unnamed Ditch Kandiyohi	(T.119, R.34, S.10, 15, 21, 22, 28, 29, 32)	7
Unnamed Ditch Belgrade	(T.123, R.34, S.19, 30)	7
Unnamed Ditch Flensburg	(T.129, R.30, S.30; T.129, R.31, S.25)	7
Unnamed Ditch Miltona	(T.130, R.36, S.30; T.130, R.37, S.25, 36)	7
Unnamed Stream Winsted	(T.117, R.27, S.11, 12)	7
Unnamed Stream Flensburg	(T.129, R.30, S.19, 30)	7
Vandell Brook	(T.37, 38, R.26)	2C
Welcome Creek	(T.56, 57, R.22)	2C
Whitney Brook	(T.39, R.26, 27)	2C
Willow River, North Fork	(T.142, R.25)	2C
Willow River, South Fork	(T.142, R.25)	2C
Wilson Creek	(T.137, R.30)	2C
Wolf Creek	(T.42, R.30)	2C
*Itasca Wilderness Sanctuary	(Waters within the Itasca Wilderness Sanctuary, Clearwater County, T.143, R.36)	2B, 3B
*Iron Springs Bog	(Waters within the Iron Springs Bog Scientific and Natural Area, Clearwater County, T.144, R.36)	2B, 3B
*Pennington Bog	(Waters within the Pennington Bog Scientific and Natural Area, Beltrami County, T.146, R.30)	2B, 3B
*Wolsfeld Woods	(Waters within the Wolsfeld Woods Scientific and Natural Area, Hennepin County, T.118, R.23)	2B, 3B
<b>Lakes</b>		
Bald Eagle Lake	(T.30, 31, R.21, 22)	1C, 2B, 3B
Benedict Lake	(T.142, R.32)	1B, 2A, 3B
Blue Lake	(T.46, 47, R.27)	1B, 2A, 3B
Blue Lake	(T.141, R.34)	1B, 2A, 3B
Bluewater Lake	(T.57, R.25)	1B, 2A, 3B
Centerville Lake	(T.31, R.22)	1C, 2B, 3B
Charley Lake	(T.30, R.23)	1C, 2B, 3B
Deep Lake	(T.30, R.22)	1C, 2B, 3B

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# PROPOSED RULES

Hay Lake, Lower	(T.137, R.28, 29)	1B, 2A, 3B
Kabekona Lake	(T.142, 143, R.32, 33)	1B, 2A, 3B
Kennedy Lake	(T.58, R.23)	1B, 2A, 3B
LaSalle Lake, Lower	(T.145, R.35)	1B, 2A, 3B
Otter Lake	(T.30, 31, R.22)	1C, 2B, 3B
Pleasant Lake	(T.30, R.22, 23)	1C, 2B, 3B
Pokegama Lake	(T.54, 55, R.25, 26)	1B, 2A, 3B
Roosevelt Lake	(T.138, 139, R.26)	1B, 2A, 3B
Sucker Lake	(T.30, R.22)	1C, 2B, 3B
Trout Lake	(T.55, 56, R.24)	1B, 2A, 3B
Trout Lake, Big	(T.57, 58, R.25)	1B, 2A, 3B
Trout Lake, Big	(T.137, 138, R.27, 28)	1B, 2A, 3B
Trout Lake, Little	(T.57, R.25)	1B, 2A, 3B
Unnamed Swamp Flensburg	(T.129, R.31, S.25)	7
Unnamed Slough Miltona	(T.130, R.37, S.26, 35, 36)	7
Unnamed Swamp Staples	(T.133, R.33, S.1)	7
Unnamed Swamp Taconite	(T.56, R.24, S.22)	7
Vadnais Lake	(T.30, R.22)	1C, 2B, 3B
Wabana Lake	(T.57, R.25)	1B, 2A, 3B
Watab Lake, Big	(T.124, R.30)	1B, 2A, 3B
Wilkinson Lake	(T.30, R.22)	1C, 2B, 3B

## Subp. 5. Minnesota River Basin.

### Streams

Altermatts Creek (County Ditch No. 39) Comfrey	(T.108, R.33, S.17, 19, 20, 30; T.108, R.34, S.24, 25, 35, 36)	7
Badger Creek	(T.101, 102, R.28)	2C
Beaver Creek, East Fork (County Ditch No. 63) Olivia Olivia Canning Co.	(T.115, R.34, S.1, 2, 3, 4, 5, 6; T.115, R.35, S.1, 12, 13, 14, 23, 24, 25, 26; T.116, R.34, S.16, 20, 21, 28, 29, 30, 32, 33, 34, 35)	7
Blue Earth River, East Fork	(Brush Creek to mouth)	2C, 3B
Blue Earth River, West Fork	(Iowa border to mouth)	2C, 3B
Boiling Spring Creek (excluding Class 7 segment)	(T.113, 114, R.37, 38)	2C
Boiling Springs Creek (County Ditch No. 1B) Echo	(T.113, R.38, S.5, 8; T.114, R.37, S.19, 30; T.114, R.38, S.25, 26, 27, 32, 33, 34)	7
Boot Creek (excluding Class 7 segment)	(T.105, 106, R.22, 23)	2C
Boot Creek New Richland	(T.105, R.22, S.6, 7; T.105, R.23, S.12, 13, 24)	7
Brafees Creek	(T.116, 117, R.40)	2C
Brush Creek	(Iowa border to mouth)	2C, 3B
Bull Run Creek, Little	(T.106, R.24, 25)	2C
Butterfield Creek	(T.106, 107, R.31, 32, 33)	2C
Canby Creek (excluding trout waters)	(South Dakota border to mouth)	2C, 3B
Cedar Run Creek	(T.103, 104, R.32, 33)	2C

## PROPOSED RULES

Cherry Creek	(T.110, R.25, S.7, 8, 16, 17;	7
Cleveland	T.110, R.26, S.12)	
Chetomba Creek	(T.116, 117, R.36, 37, 38)	2C
Cobb Creek	(T.104, R.23, S.7, 8, 17;	7
Freeborn	T.104, R.24, S.11, 12)	
Cobb Creek Ditch	(T.103, R.23, S.2; T.104,	7
Freeborn	R.23, S.14, 15, 16, 23, 26, 35)	
Cobb River, Big	(T.104, 105, 106, 107, R.23, 24, 25, 26)	2C
Cobb River, Little	(T.105, 106, R.23, 24, 25, 26)	2C
Cottonwood Creek	(T.119, 120, 121, R.41, 42)	2C
County Ditch No. 1	(T.113, R.38, S.8, 9)	7
Echo		
County Ditch No. 4	(T.110, R.44, S.5; T.111,	7
Arco	R.44, S.32, 33)	
County Ditch No. 4	(T.115, R.25, S.30; T.115,	7
Norwood	R.26, S.13, 14, 24, 25)	
County Ditch No. 5	(T.117, R.45, S.6, 7, 18;	7
Marietta	T.117, R.46, S.1; T.118, R.46, S.23, 25, 26, 36)	
County Ditch No. 6	(T.107, R.24, S.4, 8, 9, 17,	7
Janesville	18; T.107, R.25, S.13)	
County Ditch No. 7	(T.126, R.39, S.25, 26)	7
Lowry		
County Ditch No. 12	(T.107, R.23, S.22, 23)	7
Waseca		
County Ditch No. 12	(T.113, R.36, S.7, 8, 18, 19;	7
(Rice Creek)	T.113, R.37, S.15, 21, 22, 23, 24)	
Belview		
County Ditch No. 14	(T.109, R.43, S.18; T.109,	7
Tyler	R.44, S.2, 3, 11, 13, 14; T.110, R.44, S.33, 34)	
County Ditch No. 22	(T.111, R.23, S.4, 9, 10;	7
Montgomery	T.112, R.23, S.33)	
Green Giant Co.		
County Ditch No. 27	(T.117, R.43, S.3, 4, 5, 6; T.117, R.44, S.1;	7
Madison	T.118, R.43, S.34; T.118, R.44, S.35, 36)	
County Ditch No. 28	(T.118, R.46, S.22, 23, 26)	7
Marietta		
County Ditch No. 38	(T.107, R.37, S.28, 29)	7
Storden		
County Ditch No. 40A	(T.111, R.29, S.8, 14, 15,	7
Lafayette	16, 17, 23, 24)	
County Ditch No. 42	(T.112, R.29, S.6, 7)	7
Winthrop		
County Ditch No. 44	(T.101, R.25, S.7, 8, 16, 17;	7
Bricelyn	T.101, R.26, S.1, 12; T.102, R.26, S.36)	
Owatonna Canning Co.		
County Ditch No. 45	(T.114, R.36, S.5, 6; 7, 18; T.114, R.37, S.13;	7
Renville	T.115, R.36, S.7, 18, 19, 29, 30, 32)	
County Ditch No. 46	(T.119, R.35, S.19, 20, 29)	7
Willmar		
County Ditch No. 51	(T.110, R.24, S.5, 6; T.111, R.24, S.31, 32;	7
Le Center	T.111, R.25, S.26, 35, 36)	

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# PROPOSED RULES

County Ditch No. 54 Montgomery	(T.112, R.23, S.26, 33, 34, 35)	7
County Ditch No. 60 (Chippewa River) Millerville Millerville Coop Cry.	(T.130, R.39, S.14, 22, 23, 27, 28, 32, 33)	7
County Ditch No. 61 Kerkhoven	(T.120, R.37, S.21, 22)	7
County Ditch No. 63 Hanska	(T.108, R.30, S.11, 12, 14, 17, 18, 19, 20, 21, 22, 23, 27, 28)	7
County Ditch No. 66 Bird Island	(T.115, R.34, S.15, 16, 17, 18, 22, 23)	7
County Ditch No. 87 Wells	(T.103, R.24, S.6; T.104, R.24, S.31; T.104, R.25, S.36)	7
County Ditch No. 104 Sacred Heart	(T.114, R.38, S.1, 2; T.115, R.37, S.7, 18; T.115, R.38, S.13, 24, 25, 35, 36)	7
County Ditch No. 109 Morgan	(T.111, R.34, S.4, 5, 8, 17; T.112, R.34, S.22, 23, 27, 28, 33)	7
Crow Creek	(T.112, R.35)	2C
Dry Creek	(T.108, 109, R.36)	2C
Dry Weather Creek	(T.117, 118, R.39, 40, 41)	2C
Dry Wood Creek	(T.122, R.42, 43)	2C
Echo Creek	(T.114, R.37)	2C
Eight Mile Creek	(T.111, 112, 113, R.31)	2C
Elm Creek, North Fork	(T.104, R.34)	2C
Elm Creek, South Fork	(T.103, R.34)	2C
Emily Creek	(T.118, 119, R.43)	2C
Fish Creek	(T.123, 124, R.47, 48)	2C
Five Mile Creek	(T.120, R.44)	2C
Florida Creek	(South Dakota border to mouth)	2C, 3B
Foster Creek (excluding Class 7 segment)	(T.102, 103, R.24)	2C
Foster Creek Alden	(T.103, R.23, S.31; T.103, R.24, S.25, 36)	7
Hassel Creek	(T.122, 123, R.38, 39)	2C
Hawk Creek (County Ditch No. 10) Willmar/Pennock	(T.118, R.36, S.2, 3, 8, 10, 15, 16, 17, 18, 19; T.118, R.37, S.5, 6, 7, 8, 9, 14, 15, 16, 18, 19, 23, 24, 30, 31; T.119, R.35, S.19; T.119, R.36, S.24, 25, 26, 35)	7
Hazel Run	(T.115, R.39, 40, 41, 42)	2C
Iosco Creek	(T.108, R.23)	2C
Judicial Ditch No. 1 Delavan	(T.104, R.27, S.23, 25, 26, 36)	7
Judicial Ditch No. 1A Lafayette	(T.111, R.27, S.5, 6, 7; T.111, R.28, S.10, 11, 12, 15, 16, 17, 18, 19; T.111, R.29, S.24)	7
Judicial Ditch No. 5 Murdock	(T.120, R.38, S.4, 5, 6, 9, 10, 11; T.120, R.39, S.1, 4, 9, 10, 11, 12)	7
Judicial Ditch No. 6 Hanska	(T.107, R.30, S.4; T.108, R.30, S.28, 33)	7
Judicial Ditch No. 10 Hanska	(T.108, R.30, S.4; T.109, R.30, S.35, 36)	7
Judicial Ditch No. 12 Tyler	(T.109, R.43, S.9, 15, 16, 17, 18)	
Judicial Ditch No. 29 Arco	(T.111, R.44, S.21, 28, 33)	7

Judicial Ditch No. 30 Sleepy Eye Del Monte Corp.	(T.109, R.32, S.4, 5, 6; T.110, R.32, S.31)	7
Judicial Ditch No. 49 (Providence Creek) Amboy	(T.105, R.27, S.18, 19; T.105, R.28, S.13)	7
Lac qui Parle River	(Lake Hendricks outlet to Minnesota River)	2C, 3B
Lac qui Parle River, West Fork	(South Dakota border to mouth)	2C, 3B
Lazarus Creek	(South Dakota border to Canby Creek)	2C, 3B
Le Sueur River, Little	(T.106, R.22)	2C
Lone Tree Creek	(T.109, R.39, S.2, 3, 4, 7, 8, 9;	7
Tracy	T.110, R.38, S.19, 20, 30; T.110, R.39, S.25, 34, 35 36)	
Middle Creek	(T.113, 114, R.36)	2C
Mink Creek	(T.104, R.30, 31)	2C
Minneopa Creek	(T.108, R.28, S.26, 27, 32, 33, 34)	7
Lake Crystal Minnesota River	(Big Stone Lake outlet to the Lac qui Parle dam)	1C, 2B, 3B
*Minnesota River	(Lac qui Parle dam to Granite Falls)	1C, 2B, 3B
*Minnesota River	(Granite Falls to Redwood County State Aid Highway 11 bridge)	2B, 3B
Minnesota River	(River Mile 22 to mouth)	2C, 3B
Minnesota River, Little	(South Dakota border crossing to Big Stone Lake)	2C, 3B
Morgan Creek	(T.109, R.29, 30)	2C
Mud Creek	(T.114, R.43, 44, 45)	2C
Mud Creek	(T.121, R.37, S.31; T.121, R.38, S.18, 19, 20, 28, 29, 33, 34, 35, 36; T.121, R.39, S.11, 12, 13)	7
DeGraff/Murdock Muddy Creek	(T.124, R.42, S.6, 7, 15, 16, 17, 18, 21, 22, 23; T.124, R.43, S.1, 4, 5, 6, 7, 8; T.124, R.44, S.1, 2, 3, 12; T.125, R.43, S.34, 35, 36)	7
(Mud Creek) (County Ditch No. 2) (County Ditch No.4) Chokio		
Palmer Creek	(T.116, 117, 118, R.39)	2C
Pelican Creek	(T.130, R.41, 42)	2C
Pell Creek	(T.109, R.38, S.25, 26, 27, 28)	7
Walnut Grove Perch Creek	(T.104, 105, 106, R.29, 30)	2C
Rice Creek	See County Ditch No. 12	
Rush River, Middle Branch	(T.112, R.27, S.16, 19, 20, 21, 30; T.112, R.28, S.18, 19, 20, 21, 22, 25, 26, 27, T.112, R.29, S.7, 8, 9, 13, 14, 15, 16, 17, 18)	7
Winthrop		
St. James Creek (excluding Class 7 segment)	(T.105, 106, R.31, 32, 33)	2C
St. James Creek	(T.106, R.31, S.5, 7, 8, 18; T.107, R.31, S.21, 22, 28, 32, 33)	7
St. James		
Shakopee Creek	(T.119, 120, R.36, 37, 38, 39, 40)	2C
Silver Creek	(T.108, R.23, 24)	2C
Smith Creek	(T.113, R.35, 36)	2C
South Creek	(T.102, 103, R.28, 29, 30)	2C, 3B
Spring Branch Creek	(T.106, R.29, 30)	2C

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## PROPOSED RULES

Spring Creek	(T.110, 111, R.32, 33, 34)	2C
Spring Creek	(T.117, R.40)	2C
Stony Run	(T.121, 122, R.45, 46)	2C
Stony Run Creek	(T.116, R.40)	2C
Three Mile Creek	(T.112, R.33)	2C
Timms Creek	(T.114, 115, R.36)	2C
Unnamed Creek	(T.114, R.26, S.2, 3, 4, 8, 9, 17)	7
Green Isle		
Unnamed Creek	(T.118, R.37, S.2, 3, 4, 5; T.119, R.36,	7
Pennock	S.4, 5, 6, 7, 18, 19; T.119, R.37, S.24, 25, 26, 35)	
Unnamed Creek	(T.120, R.38, S.1, 2; T.121, R.38, S.35)	7
Murdock		
Unnamed Ditch	(T.27, R.24, S.28, 33)	7
Burnsville		
Freeway Sanitary		
Landfill		
Unnamed Ditch	(T.101, R.25, S.10)	7
Bricelyn		
Owatonna Canning Co.		
Unnamed Ditch	(T.102, R.23, S.4, 5; T.103, R.23, S.31, 32)	7
Alden		
Unnamed Ditch	(T.104, R.30, S.2, 11; T.105, R.30, S.25, 26, 35)	7
Truman		
Unnamed Ditch	(T.105, R.22, S.17, 18, 19;	7
New Richland	T.105, R.23, S.24)	
Unnamed Ditch	(T.105, R.30, S.3; T.106, R.30, S.14, 23,	7
Lewisville	26, 34, 35)	
Unnamed Ditch	(T.106, R.24, S.34)	7
Waldorf		
Unnamed Ditch	(T.107, R.23, S.14, 23)	7
Waseca		
Unnamed Ditch	(T.107, R.36, S.21)	7
Jeffers		
Unnamed Ditch	(T.107, R.37, S.19, 30)	7
Storden		
Unnamed Ditch	(T.108, R.25, S.18, 19; T.108, R.26, S.13)	7
Eagle Lake		
Unnamed Ditch	(T.109, R.38, S.28)	7
Walnut Grove		
Unnamed Ditch	(T.109, R.39, S.18; T.109, R.40, S.13)	7
Tracy		
Unnamed Ditch	(T.110, R.36, S.3; T.111, R.36, S.18,	7
Wabasso	19, 20, 28, 29, 33, 34; T.111, R.37, S.13)	
Unnamed Ditch	(T.111, R.29, S.6, 7, 8; T.111, R.30, S.12)	7
Lafayette		
Unnamed Ditch	(T.111, R.37, S.13, 24)	7
Wabasso		
Unnamed Ditch	(T.112, R.23, S.33)	7
Montgomery		
Unnamed Ditch	(T.113, R.30, S.5; T.114, R.29, S.19,	7
Near Fernando	20, 30; T.114, R.30, S.25, 26, 27, 28, 29, 32)	
Round Grove		
Coop Cry.		
Unnamed Ditch	(T.114, R.26, S.19; T.114, R.27, S.11, 12, 13, 14, 24)	7
Green Isle		
Unnamed Ditch	(T.114, R.44, S.21, 28)	7
Porter		

## PROPOSED RULES

Unnamed Ditch	(T.115, R.25, S.9, 16)	7
Bongards		
Bongards		
Creameries		
Unnamed Ditch	(T.115, R.41, S.16)	7
Clarkfield		
Unnamed Ditch	(T.115, R.41, S.16, 21)	7
Clarkfield		
Unnamed Ditch	(T.118, R.44, S.27, 28, 34, 35)	7
Madison		
Unnamed Ditch	(T.119, R.36, S.2, 3, 4, 9, 10)	7
Pennock		
Unnamed Ditch	(T.121, R.38, S.19, 29, 30)	7
DeGraff		
Unnamed Ditch	(T.122, R.40, S.6; T.122, R.41, S.1, 12; T.123, R.40,	7
Hancock	S.18, 19, 30, 31; T.123, R.41, S.11, 12)	
Unnamed Ditch	(T.24, R.43, S.3, 4)	7
Alberta		
Unnamed Ditch	(T.126, R.39, S.6)	7
Farwell		
Farwell Coop		
Cry. Assn.		
Unnamed Ditch	(T.126, R.39, S.26, 35)	7
Lowry		
Unnamed Ditch	(T.129, R.39, S.21, 22)	7
Brandon		
Unnamed Ditch	(T.129, R.40, S.10, 11)	7
Evansville		
Unnamed Dry Run	(T.108, R.27, S.16)	7
Near Minneopa		
Blue Earth-		
Nicollet Elec.		
Unnamed Dry Run	(T.108, R.26, S.19, 30;	7
Mankato	T.108, R.27, S.24)	
Southview Hts.		
Coop Assn.		
Unnamed Stream	(T.109, R.26, S. 20, 21, 28)	7
Mankato		
Midwest Electric		
Products		
Unnamed Stream	(T.115, R.21, S.8, 9)	7
Savage		
Unnamed Stream	(T.117, R.43, S.22)	7
Dawson		
Dawson Mills		
Soy Isolate		
Wabasha Creek	(T.112, R.34)	2C
Whetstone River	(South Dakota border to mouth)	2C, 3B
Old Whetstone River	(T.121, R.46, S.16, 21)	7
Channel		
Ortonville		

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# PROPOSED RULES

Big Stone Canning Co.		
Willow Creek	(T.104, 105, R.31, 32)	2C
Wood Lake Creek	(T.113, 114, R.38, 39)	2C
Yellow Bank River, North Fork	(South Dakota border to mouth)	2C, 3B
Yellow Bank River, South Fork	(South Dakota border to mouth)	2C, 3B
Yellow Medicine River, North Fork	(South Dakota border to mouth)	2C, 3B
Lakes		
Amber Lake	(T.102, R.30)	1C, 2B, 3B
Bardwell Lake	(T.102, R.30)	1C, 2B, 3B
Budd Lake	(T.102, R.30)	1C, 2B, 3B
George Lake	(T.102, R.30)	1C, 2B, 3B
Hall Lake	(T.102, R.30)	1C, 2B, 3B
Mud Lake	(T.102, R.30)	1C, 2B, 3B
One Hundred Acre Slough	(T.106, R.31, S.7)	7
St. James		
Silver Lake, North	(T.101, R.30)	1C, 2B, 3B
Sisseton Lake	(T.102, R.30)	1C, 2B, 3B
Unnamed Marsh	(T.124, R.47, S.8)	7
Barry		
Unnamed Slough	(T.127, R.40, S.34)	7
Kensington		
Unnamed Slough	(T.129, R.39, S.21, 22)	7
Unnamed Swamp	(T.104, R.25, S.3, 4)	7
Minnesota Lake		
Unnamed Swamp	(T.107, R.37, S.30)	7
Storden		
Unnamed Swamp	(T.122, R.36, S.30)	7
Sunbufg		
Sunburg Coop Cry.		
Unnamed Swamp	(T.126, R.39, S.35, 36)	7
Lowry		
Wilmert Lake	(T.101, R.30)	1C, 2B, 3B
<b>Subp. 6. St. Croix River Basin.</b>		
Streams		
Bear Creek	(T.43, R.23, 24)	2C
Bergman Brook	(T.42, 43, R.23, 24)	2C
Groundhouse River, West Fork	(T.39, 40, R.26)	2C
Hay Creek	(T.42, 43, 44, R.15, 16)	1B, 2B, 3B
*Kettle River	(From the north Pine County line to the dam at Sandstone)	2B, 3B
*Kettle River	(From the dam at Sandstone to its confluence with the St. Croix River)	2B, 3B
King Creek	(T.47, R.19)	2C
Mission Creek (excluding trout waters)	(T.39, 40, 41, R.20, 21)	1B, 2B, 3B
Rock Creek	(T.37, 38, R.20, 21)	1B, 2B, 3B
Rush Creek	(T.37, R.20, 21)	1B, 2B, 3B
*St. Croix River	(Wisconsin border crossing to Taylors Falls)	1B, 2B, 3B
*St. Croix River	(Taylors Falls to mouth)	1C, 2B, 3B
Sunrise River, West Branch	(T.34, R.21, 22)	1B, 2B, 3B
Tamarack River, Lower	(Hay Creek to mouth)	1B, 2B, 3B



## PROPOSED RULES

Tamarack River, Upper (Spruce River)	(T.42, R.15, 16)	1B, 2B, 3B
Unnamed Ditch Chisago City	(T.34, R.20, S.19, 29, 30, 31, 32)	7
Unnamed Ditch Almelund Almelund Coop Cry.	(T.35, R.20, S.25)	7
Unnamed Ditch Moose Lake	(T.46, R.19, S.30)	7
Unnamed Dry Run Wahkon	(T.41, R.25, S.3; T.42, R.25, S.29, 32, 33, 34)	7
Unnamed Stream Shafer	(T.34, R.19, S.32, 33, 34)	7
*Kettle River	(Waters within the Kettle River Scientific and Natural Area, Pine County, T.41, R.20)	
Lakes		
Grindstone Lake	(T.42, R.21)	1B, 2A, 3B
Unnamed Swamp Shafer	(T.34, R.19, S.31, 32)	7
*Boot Lake	(Waters within the Boot Lake Scientific and Natural Area, Anoka County, T.33, R.22)	2B, 3B

### Subp. 7. Lower Mississippi River Basin.

#### Streams

Albany Creek, West	(T.110, 111, R.12, 13)	2C
Bear Creek (Excluding trout waters)	(T.107, R.9)	2C
Brush Valley Creek	(T.104, R.5)	2C
*Cannon River	(From the northern city limits of Faribault to its confluence with the Mississippi River)	2B, 3B
Carters Creek Wykoff	(T.103, R.12, S.4, 9, 15, 16, 22)	7
Chub Creek, North Branch	(T.112, 113, R.19)	2C
Cold Creek	(T.110, 111, R.14)	2C
County Ditch No. 15 Kilkenny	(T.110, R.23, S.22, 23)	7
Crane Creek	(T.107, 108, R.20, 21, 22)	2C
Dakota Creek	(T.105, R.5)	2C
Dry Creek	(T.108, R.12, 13)	2C
Dutch Creek	(T.112, R.20, 21)	2C
Gilmore Creek (excluding trout waters)	(T.107, R.7)	2C
Harkcom Creek	(T.108, R.16)	2C
Homer Creek	(T.106, R.6)	2C
Indian Spring Creek	(T.103, R.5)	2C
King Creek	(T.111, R.11, 12)	2C
Long Creek	(T.108, 109, R.12)	2C
MacKenzie Creek	(T.108, 109, R.21)	2C
Mahoney Creek	(T.103, R.10)	2C

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## PROPOSED RULES

Mound Prairie Creek	(T.104, R.5)	2C
Mud Creek	(T.108, 109, R.20, 21)	2C
Pine Creek	(T.112, 113, R.17, 18)	2C
Pleasant Valley Creek	(T.106, 107, R.6, 7)	2C
Plum Creek	(T.108, R.15)	2C
Prairie Creek	(T.110, 111, 112, R.18, 19, 20)	2C
Riceford Creek Mabel	(T.101, R.8, S.24, 25, 26)	7
Salem Creek	(T.106, R.15, 16)	2C
Shingle Creek	(T.109, 110, R.17)	2C
Silver Creek (excluding trout waters)	(T.104, 105, R.6)	2C
Silver Spring Creek	(T.108, 109, R.13)	2C
Snake Creek	(T.109, R.10)	2C
Sugar Creek (Sugarloaf Creek)	(T.111, 112, R.12, 13)	2C
Sullivan Creek	(T.103, R.5)	2C
Trout Brook (Mazeppa Creek) Goodhue	(T.110, R.15, S.3, 4; T.111, R.15, S.28, 33, 34)	7
Trout Creek, Little	(T.106, R.5, 6)	2C
Trout Run Creek (Trout Creek) (excluding trout waters)	(T.104, 105, R.10)	2C
Unnamed Creek Canton	(T.101, R.9, S.20)	7
Unnamed Creek Byron	(T.107, R.15, S.17, 20, 29)	7
Unnamed Creek Plainview	(T.108, R.11, S.16, 17, 20, 21, 22, 27, 34)	7
Unnamed Creek West Concord	(T.108, R.17, S.17, 20, 21)	7
Unnamed Ditch Claremont	(T.107, R.18, S.27, 34)	7
Unnamed Ditch Lonsdale	(T.112, R.22, S.25, 35, 36)	7
Unnamed Ditch Hampton	(T.113, R.18, S.5, 6; T.114, R.18, S.31)	7
Unnamed Dry Run Altura	(T.107, R.9, S.7, 18)	7
Unnamed Dry Run Owatonna Owatonna Canning Co.	(T.107, R.20, S.6; T.107, R.21, S.1)	7
Unnamed Dry Run Owatonna Owatonna Canning Co.	(T.107, R.20, S.6; T.107, R.21, S.1)	7
Unnamed Stream Dodge Center Owatonna Canning Co.	(T.107, R.17, S.27, 34)	7
Whitewater River, North Fork Elgin Lakes	(T.108, R.12, S.25, 26, 27)	7
Unnamed Marsh Kilkenny	(T.110, R.23, S.22, 23)	7

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**PROPOSED RULES**

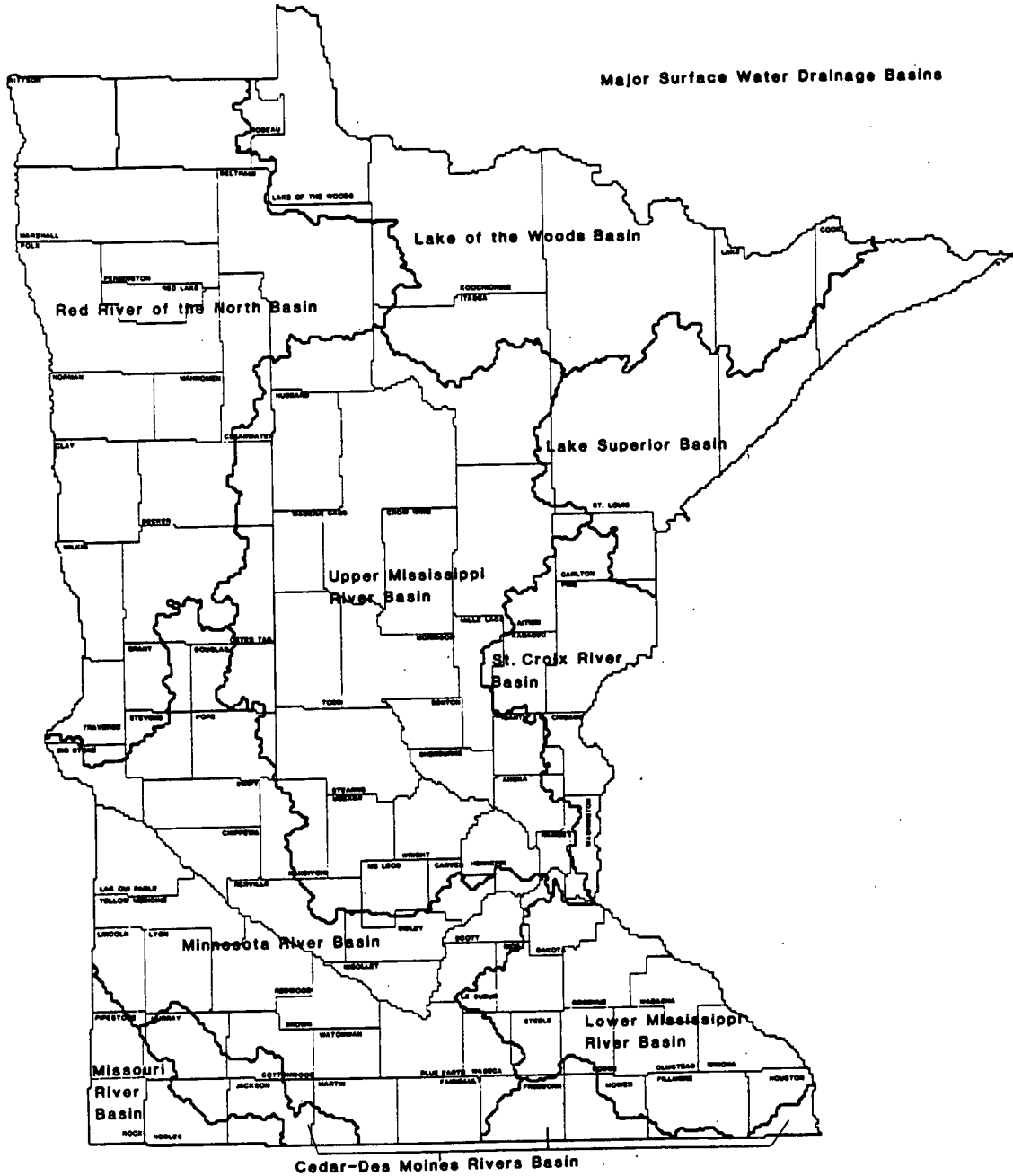
Unnamed Swamp Hampton	(T.113, R.18, S.8)	7
<b>Subp. 8. Cedar-Des Moines Rivers Basin.</b>		
Streams		
Bancroft Creek	(T.103, 104, R.21)	2C
Bear Creek (excluding Class 7 segment)	(Source to Iowa border)	2C, 3B
Bear Creek, North Spring Grove	(T.101, R.7, S.26, 27, 35)	7
Beaver Creek	(T.101, 102, R.13, 14)	2C, 3B
Cedar River, Little	(Source to Iowa border)	2C, 3B
Clear Creek	(T.102, R.4)	2C
County Ditch No. 11 Sherburn	(T.101, R.32, S.4, 9, 10; T.102, R.32, S.7, 8, 16, 17, 21, 27, 28, 33, 34)	7
County Ditch No. 48 Conger	(T.102, R.22, S.19, 20; T.102, R.23, S.24, 25, 26, 35)	7
Deer Creek	(T.101, R.19, 20)	2C, 3B
Dobbins Creek	(T.103, R.16, 17)	2C
Goose Creek Twin Lakes	(T.101, R.20, S.31; T.101, R.21, S.16, 17, 18, 21, 22, 26, 27, 35, 36; T.101, R.22, S.12, 13)	7
Heron Lake Outlet	(T.104, 105, R.37)	2C
Iowa River, Little	(T.101, 102, R.14)	2C
Jack Creek Wilmont	(T.104, R.41, S.25, 26, 30, 31, 32, 33, 34, 35, 36)	7
Lime Creek	(T.101, R.22, 23)	2C, 3B
Murphy Creek	(T.103, R.18)	2C
Okabena Creek (excluding Class 7 segment)	(T.102, 103, R.37, 38, 40)	2C
Okabena Creek Worthington Worthington Lagoons and Allied Mills	(T.102, R.38, S.6, 7; T.102, R.39, S.7, 8, 9, 10, 11, 12, 14, 15, 16, 18; T.102, R.40, S.13)	7
Orchard Creek	(T.102, R.18, 19)	2C
Pine Creek (excluding Class 7 segment)	(T.101, R.10)	2C, 3B
Pine Creek Harmony	(T.101, R.9, S.31; T.101, R.10, S.24, 25, 36)	7
Roberts Creek	(T.103, 104, R.16, 17, 18)	2C
Rose Creek	(T.102, 103, R.16, 17, 18)	2C
Soldier Creek	(T.101, R.32, 33)	2C, 3B
Turtle Creek	(T.103, R.18, 19, 20)	2C
Unnamed Creek Spring Grove	(T.101, R.7, S.14, 22, 23, 27)	7
Unnamed Creek Emmons	(T.101, R.22, S.31)	7
Unnamed Creek Brownsdale	(T.103, R.17, S.4, 9)	7

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# PROPOSED RULES

Unnamed Creek	(T.104, R.18, S.5, 8, 9,	7
Blooming Prairie	16; T.105, R.18, S.31)	
Unnamed Creek	(T.105, R.41, S.3, 4, 9;	7
Iona	T.106, R.40, S.19, 29, 30,	
	32; T.106, R.41, S.24, 25, 26, 34, 35)	
Wapsipinicon River	(T.101, R.15)	2C, 3B
Waterloo Creek	(T.101, R.6, 7)	1B, 2B, 3B
Wildcat Creek	(T.103, R.4)	2C
(excluding trout waters)		
Wolf Creek	(T.103, R.16, 17, 18)	2C
Woodbury Creek	(T.101, 102, R.18, 19)	2C
<b>Subp. 9. Missouri River Basin.</b>		
Streams		
Ask Creek	(T.101, R.45)	2C
Beaver Creek	(T.102, 103, 104, R.45, 46, 47)	2C, 3B
Flandreau Creek	(T.107, 108, R.46, 47)	2C, 3B
(excluding Class 7 segment)		
Flandreau Creek	(T.108, R.46, S.1, 2, 11;	7
Lake Benton	T.109, R.45, S.30, 31; T.109, R.46, S.36)	
Kanaranzi Creek	(Source to Iowa border)	2C, 3B
Medary Creek	(Source to South Dakota border)	2C, 3B
Mound Creek	(T.103, 104, R.45)	2C
Mud Creek	(T.101, 102, R.45, 46)	2C, 3B
Pipestone Creek	(Source to South Dakota border)	2C, 3B
Rock River	(Source to Iowa border)	2C, 3B
(excluding Class 7 segment)		
Rock River	(T.107, R.44, S.18, 19, 20,	7
Holland	29; T.107, R.45, S.12, 13)	
Rock River, Little	(Source to Iowa border)	2C, 3B
Sioux River, Little	(Source to Iowa border)	2C, 3B
Sioux River,	(Source to Iowa border)	2C, 3B
West Fork Little		
Skunk Creek	(T.101, 102, R.37, 38, 39)	2C
Split Rock Creek	(Split Rock Lake outlet to	2C, 3B
	South Dakota border)	
Unnamed Creek	(T.104, R.46, S.6)	7
Jasper		
Unnamed Creek	(T.105, R.44, S.6, 7, 8;	7
Hatfield	T.105, R.45, S.1; T.106, R.45, S.36)	
Unnamed Creek	(T.106, R.45, S.34, 35, 36)	7
Hatfield		
Unnamed Ditch	(T.101, R.45, S.31, 32)	7
Steen		
Unnamed Ditch	(T.101, R.46, S.28, 33)	7
Hills		
Unnamed Ditch	(T.109, R.45, S.17, 19, 20)	7
Lake Benton		

**7050.0480 MAP: MAJOR SURFACE WATER DRAINAGE BASINS.**



REPEALER. Minnesota Rules, parts 7055.0010, 7055.0020, 7055.0030, 7055.0040, 7055.0050, 7055.0060, 7055.0070, 7055.0080, 7055.0090, 7055.0100, 7055.0110, 7055.0120, 7055.0250, 7055.0260, 7055.0270, 7055.0280, 7055.0290, 7055.0300, and 7055.0310 are repealed.

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# PROPOSED RULES

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## Department of Public Welfare

### Proposed Temporary Rules Governing Semi-Independent Living Services for Mentally Retarded Persons

#### Notice of Intent to Adopt Temporary Rules

The State Department of Public Welfare proposes to adopt the above-entitled temporary rules to implement Laws of Minnesota 1983, chapter 310, section 1, subdivision 6.

Persons interested in these rules have until April 9, 1984 to submit written comments. The proposed temporary 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. Written comments should be sent to:

Robert F. Meyer  
Mental Health Bureau  
Department of Public Welfare  
Fourth Floor, Centennial Building  
St. Paul, MN 55155  
612/296-2147

Upon adoption of these temporary rules, this notice, all written comments received, and the adopted temporary rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

The adopted temporary rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these temporary rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The temporary rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

The purpose of 12 MCAR §§ 2.02001-2.02011 (Temporary) is to establish procedures to implement a statewide program of semi-independent living services to assist county boards in reducing their utilization of intermediate care services in state hospitals and community residential facilities for persons who are mentally retarded.

Semi-Independent Living Services (SILS) means an array of services that includes training, counseling, instruction, supervision and assistance provided in accordance with the client's individual program plan provided for fewer than 24-hours per day. Services may include assistance in budgeting, meal preparation, shopping, personal appearance, counseling and related social support services needed to maintain and improve the clients' functioning.

These temporary rules will not result in any additional state or county spending beyond the amount of funds appropriated under Laws of Minnesota 1983, chapter 310.

Copies of this notice and the proposed temporary rule may be obtained by contacting Robert F. Meyer, 612/296-2147.

March 5, 1984

Leonard W. Levine  
Commissioner of Public Welfare

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

##### 12 MCAR § 2.02001 [Temporary] Authority, purpose, and applicability.

A. Authority. Minnesota Statutes, section 252.275, subdivision 6, authorizes the commissioner to adopt rules to govern grant applications, criteria for approval of applications, allocation of grants, and maintenance of program and financial statements for county or human service boards applying for state grants for semi-independent living services for mentally retarded persons.

B. Purpose. The purpose of 12 MCAR §§ 2.02001-2.02011 [Temporary] is to establish procedures to implement a statewide program of semi-independent living services to assist county boards in reducing their utilization of intermediate care services in state hospitals and community residential facilities for persons who are mentally retarded.

C. Applicability. Rules 12 MCAR §§ 2.02001-2.02011 [Temporary] govern the county boards' grant proposal, submission and reporting, and the department grant approval of semi-independent living services for mentally retarded persons. Only county boards may apply for a state grant for semi-independent living services. Rules 12 MCAR §§ 2.02001-2.02011 [Temporary]

govern only semi-independent living services funded under appropriations made available under Minnesota Statutes, section 252.275. Rules 12 MCAR §§ 2.02001-2.02011 [Temporary] do not govern semi-independent living services funded as a home and community-based service under Minnesota Statutes, section 256B.50, or semi-independent living services funded as a community social service under Minnesota Statutes, sections 256E.01 to 256E.12.

**12 MCAR § 2.02002 [Temporary] Definitions.**

A. Applicability. As used in 12 MCAR §§ 2.02001-2.02011 [Temporary], the following terms have the meanings given to them.

B. Administrative operating costs. "Administrative operating costs" has the meaning given it in 12 MCAR § 2.05313 [Temporary] C.

C. Case management. "Case management" has the meaning given it in 12 MCAR § 2.185.

D. Client. "Client" means an adult who is mentally retarded, 18 years of age and older, and receiving semi-independent living services as provided in 12 MCAR § 2.018.

E. Commissioner. "Commissioner" means the commissioner of the Department of Public Welfare.

F. County board. "County board" means that body of duly elected officials responsible for the governance of the county under the authority of Minnesota Statutes, sections 375.02 to 375.55. When a human service board has been established under Minnesota Statutes, section 402.02 to 402.10, it shall be considered to be the county board for the purposes of 12 MCAR §§ 2.02001-2.02011 [Temporary].

G. Department. "Department" means the Department of Public Welfare.

H. Financially responsible county board. "Financially responsible county board" means the county of financial responsibility as defined in Minnesota Statutes, section 256E.08.

I. Host county contract. "Host county contract" has the meaning given it in 12 MCAR § 2.160.

J. Individual program plan. "Individual program plan" has the meaning given it in 12 MCAR § 2.185.

K. Individual service plan. "Individual service plan" has the meaning given it in 12 MCAR § 2.185.

L. Interdisciplinary team. "Interdisciplinary team" has the meaning given it in 12 MCAR § 2.185.

M. Intermediate care facility for mentally retarded or ICF/MR. "Intermediate care facility for mentally retarded" or "ICF/MR" means a program licensed to serve mentally retarded residents under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which are also certified as an intermediate care facility for mentally retarded under Code of Federal Regulations, title 42, section 442 (as amended through December 1983).

N. Local matching money. "Local matching money" means local actual cash revenues made available by a county board for the provision of semi-independent living services.

O. Local social service agency. "Local social service agency" has the meaning given it in 12 MCAR § 2.185.

P. Mentally retarded person. "Mentally retarded person" has the meaning given it in 12 MCAR § 2.185.

Q. Provider. "Provider" means an individual, organization, or agency providing semi-independent living services and meeting the requirements of 12 MCAR § 2.02004 [Temporary] and 12 MCAR § 2.018.

R. Request for proposal. "Request for proposal" means a written proposal by the county board specifying the number and types of clients to be served, the amount and type of services to be provided, the client outcomes to be expected, the criteria for provider selection, and the service cost or budget limitations, if any.

S. Semi-independent living services. "Semi-independent living services" means services which include training, counseling, instruction, supervision, and assistance provided in accordance with the client's individual program plan provided for fewer than 24 hours per day. Services may include assistance in budgeting, meal preparation, shopping, personal appearance, counseling, and related social support services needed to maintain and improve the clients' functioning.

T. Service site. "Service site" means the building where clients reside while receiving semi-independent living services.

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## PROPOSED RULES

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U. Unit of service. A "unit of service" means one hour of staff time spent on the activities of developing, implementing, coordinating, and evaluating a client's program plan. A unit of service is limited to:

1. direct contact activities involving direct contact with the client either face-to-face or over the phone directed at the attainment of the individual service plan;
2. collateral activities which means direct verbal or written contact with professionals or others relating to client which is directed toward the attainment of the individual service plan; and
3. individual program planning activities, which means attending the client's interdisciplinary team meetings, assessing the client's functioning levels, developing and reviewing the client's quarterly and annual program plans, and charting and reporting on the client's progress toward individual service objectives.

### 12 MCAR § 2.02003 [Temporary] Client eligibility.

A. Client eligibility. The county board may receive state reimbursement under 12 MCAR §§ 2.02001-2.02011 [Temporary] for a person who is:

1. determined to be mentally retarded in accordance with the procedures of 12 MCAR § 2.185; and is 18 years of age and older;
2. a resident of an ICF/MR, who would otherwise remain in an ICF/MR if semi-independent living services were not provided, or the resident is determined by the local social service agency to be at risk of institutional placement and in need of semi-independent living services. At risk of institutional placement means that the client would be placed into a long-term intermediate care facility for mentally retarded persons within one year if semi-independent living services were not provided; and
3. eligible for the categorical requirement of disability used in the Medical Assistance Program. The person must have a current federal or state determination of disability by the Social Security Administration or a state disability determination by the Department of Public Welfare's medical review team.

B. Exceptions. Individual client exceptions to having a federal or state disability determination may be made when it is demonstrated that the person meets the criteria in A.1. and A.2. of this rule. Application for individual exceptions must be submitted in writing by the financially responsible county board to the mental retardation division. Individual exceptions will be reviewed and determined by the mental retardation division in consultation with the state medical review team within 30 days of the receipt of the county board's request unless additional information is required.

C. Appeals. If a client receiving semi-independent living services is no longer determined to be disabled and has appealed that determination, the client continues to be eligible for semi-independent living services until the final determination of the appeal.

D. Loss of eligibility. If a client is finally determined to no longer be disabled, the client is considered eligible for semi-independent living services for the remainder of the grant period.

E. Transfers from ICF/MR. Any client taken from an ICF/MR and placed in a semi-independent living service is eligible to receive three consecutive years of semi-independent living services reimbursement regardless of their medical assistance eligibility or disability status.

### 12 MCAR § 2.02004 [Temporary] Approved provider.

A. Approved provider. A provider is approved to receive state reimbursement from a responsible county board for semi-independent living services under 12 MCAR §§ 2.02001-2.02011 [Temporary] when:

1. the provider has a current license to provide semi-independent living services in accordance with Minnesota Statutes, sections 252.28 and 245.781, and 12 MCAR § 2.018;
2. the provider provides semi-independent living services to no more than eight clients per service site. More than eight clients may be served at a service site if fewer than 25 percent of the occupants of the building are receiving semi-independent living services. Service sites where more than four clients are served shall not be adjacent to or within any existing group residential facility or another semi-independent living services site where more than four clients are served. A provider licensed to provide semi-independent living services on January 1, 1983 not in compliance with this provision, shall submit a plan of compliance to the county board in which it is located by January 1, 1985. The plan of compliance shall not exceed two years and must be approved by the commissioner under the provisions of 12 MCAR § 2.185. The plan must provide for full compliance within two years of its submission; the provider is not approved to receive state reimbursement unless the commissioner approves the plan.

A county board may apply to the commissioner for an exception to 12 MCAR § 2.02004 [Temporary] A.2. based upon the lack of appropriate and adequate housing available to mentally retarded persons. The exception shall demonstrate that the



county proposal is based upon the individual program needs of the clients, assures that services are provided in the least restrictive setting, and avoids the excessive concentration of mentally retarded persons within any service site, town, municipality, or county of the state.

B. Hiring displaced state hospital staff. Each county board shall assure directly or put it in the contract with a provider, that reasonable efforts are made to hire qualified employees of state hospital mental retardation units who have been displaced by reorganization, closure, or consolidation of state hospital units. The county board shall:

1. send its county's request for proposals for the provision of semi-independent living services to the state hospital designated to serve its county's mentally retarded persons at the same time the proposal is sent to other providers; and
2. require that the semi-independent living services providers in the county send all job postings or advertisements to the county's designated state hospital personnel department for mentally retarded.

C. County board and provider contract. When a county board contracts for semi-independent living services, there must be a written host county contract between the county board and the semi-independent living services provider before they are eligible for state reimbursement provided under 12 MCAR §§ 2.02001-2.02011 [Temporary]. The contract must specify:

1. the procedures for monitoring of the provider's compliance with 12 MCAR § 2.02004 [Temporary];
2. the method of payment by the county board to the provider, in which the hourly rate and the units of service by the categories defined in 12 MCAR § 2.02002 [Temporary] and their administrative operating costs associated with providing semi-independent living services must be stated;
3. that reporting and maintenance of records must be consistent with the reporting and recording requirements of 12 MCAR §§ 2.02001-2.02011 [Temporary]; and
4. that services to be provided must be directed at the attainment of the goals and objectives of each client's individual service plan.

#### 12 MCAR § 2.02005 [Temporary] Reimbursable services.

A. Reimbursable services. A county board is eligible for state reimbursement for semi-independent living services when the services are directed at maintaining or improving a client's functioning level. Reimbursable services include, but are not limited to, supervision, assistance, counseling, or training in the following areas of service:

1. meal planning and preparation;
2. shopping;
3. first-aid training;
4. money management and budgeting;
5. administration of medications;
6. telephone and other public utility usage;
7. personal appearance and hygiene;
8. apartment or home maintenance and upkeep;
9. use of community emergency resources;
10. rights and responsibilities of community living;
11. social, recreational, and transportation skills; and
12. appropriate social behaviors.

B. Authorization for services. Semi-independent living services shall be authorized by the financially responsible county board or its designee before the services are reimbursable.

C. Unapproved providers. Semi-independent living services delivered by a provider not meeting the provisions of 12 MCAR § 2.02004 [Temporary], will not be reimbursed.

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## PROPOSED RULES

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D. Services to a person in an ICF/MR. Semi-independent living services provided to a person while he or she resides in an ICF/MR shall be reimbursed under 12 MCAR § 2.02001-2.02011 [Temporary] only when:

1. the amount of services does not exceed a total of 20 hours while the person resides in ICF/MR; and
2. the services have resulted in the person being placed into a semi-independent living arrangement.

E. No preclusion or substitution for day programs or occupations. Semi-independent living services provided which preclude the client from participation in the appropriate day program or occupation, or provided as a substitute for the appropriate day program or occupation, shall not be reimbursed.

### 12 MCAR § 2.02006 [Temporary] Application process.

A. Application forms and deadlines. The commissioner shall notify county boards of the deadlines and provide application forms for submission of proposals for grants under Minnesota Statutes, section 252.275.

B. Grant proposals. In order to qualify for a grant under Minnesota Statutes, section 252.275, the county board shall submit to the commissioner two completed copies of the annual proposal. A county board may submit its semi-independent living services proposal as part of its community social service plan. The proposal must at least:

1. describe the proposed semi-independent living services program or changes in the service program from the previous year to be provided under the grant;
2. state the measurable semi-independent living services program goals and objectives or changes in the service program goals and objectives from the previous year to be accomplished with the grant;
3. specify the projected annual service cost, semi-independent living service vendor, living arrangement, day occupation, projected number of service hours, hourly rate, and public assistance eligibility for each client to be served; and
4. include a budget showing total projected income and expenditures from all sources for the proposed semi-independent living services program and the methods used in projecting expenditures.

C. Review of proposals. The commissioner shall evaluate proposals submitted in accordance with 12 MCAR §§ 2.02001-2.02011 [Temporary] for approval. The criteria used for reviews of the proposals must include:

1. the degree to which the proposal reduces or limits the county board's use of long-term intermediate care for mentally retarded persons in state hospitals and community facilities according to Minnesota Statutes, section 252.28;
2. the degree to which the budget for services are based upon reasonable cost projections and methodologies; and
3. the compliance with 12 MCAR §§ 2.02001-2.02011 [Temporary].

D. Approval of applications. The commissioner shall base approval of applications and budgets for semi-independent living services on their compliance with Minnesota Statutes, section 252.275 and 12 MCAR §§ 2.02001-2.02011 [Temporary].

E. Compliance with applicable laws and rules. To be eligible for state reimbursement under 12 MCAR §§ 2.02001-2.02011 [Temporary], the county board and its contracting providers and subcontractors shall comply with:

1. Minnesota Statutes, section 245.825, and applicable rules governing the use of aversive and deprivation procedures;
2. Minnesota Statutes, chapter 13 governing the collection, security, and dissemination of records; and
3. Minnesota Statutes, section 626.557 and applicable rules governing reporting of maltreatment of vulnerable adults. If a county board does not comply with these statutes and rules, it will not be reimbursed under 12 MCAR §§ 2.02001-2.02011 [Temporary].

F. Adjustment of proposals. The commissioner shall adjust county proposals as necessary to assure compliance with Minnesota Statutes, section 252.025 and the provisions of 12 MCAR §§ 2.02001-2.02011 [Temporary].

G. Notice of grant award. The commissioner shall give written notice of the grant award determinations to the county boards.

### 12 MCAR § 2.02007 [Temporary] Use of state funds.

A. Reimbursement amounts. County boards shall be paid by the state agency based on their actual expenditures for semi-independent living services to eligible clients and the rate of state reimbursement determined by the commissioner in C. for the grant period. The amount of state reimbursement to a county board must not exceed the amount of the state grant award made to the county board for the grant period.

B. Other income. If a county board or a provider receives any income other than county money as a reimbursement for service costs also funded through state or local matching money under Minnesota Statutes, section 252.275, then:

1. this income shall be applied first to the local share to reduce the local share; and
2. if the income exceeds the local share of the approved service costs, the commissioner must reduce the state grant by the amount that the income exceeds the local share.

C. Rate of state reimbursement. The actual percentage of the total cost of semi-independent living services paid by the commissioner shall be the percentage of total expenditures for services budgeted by county boards for the grant period prorated against the state appropriations for the period. The commissioner shall work with county boards to adjust proposals as necessary to comply with Minnesota Statutes, section 252.275, subdivision 4. State reimbursement shall not be more than 95 percent or be less than 80 percent of the cost of semi-independent living services for eligible clients. Priority for funding shall be given to eligible clients who have received semi-independent living services in the previous grant period and continue to need services during the proposed grant period.

D. Board and lodging expenditures. Expenditures for board and lodging are not reimbursable as semi-independent living services. Board and lodging expenses are costs of:

1. normal and special diet food preparation and service;
2. linen, bedding, laundering, and laundry supplies;
3. housekeeping, including cleaning and lavatory supplies;
4. maintenance and operation of the building and grounds, including fuel, electricity, water, supplies and parts and tools to repair and maintain equipment and facilities; and
5. allocation of salaries and other costs related to these areas.

E. Case management and county administrative costs. Case management and county administrative costs are not reimbursable as semi-independent living services. If the county board is the provider of the services, the actual units of direct semi-independent living services provided by agency staff shall be reimbursed.

#### 12 MCAR § 2.02008 [Temporary] Fiscal and client reporting.

A. Records. The county board and its contracting providers and subcontractors shall maintain records to document compliance with 12 MCAR §§ 2.02001-2.02011 [Temporary] and with the goals and objectives in the approved application.

B. Reports. The county board shall use forms provided by the commissioner to report the use of funds for the previous grant period under Minnesota Statutes, section 252.275. The reports must consist of quarterly fiscal reports to ensure tracking of state expenditures for semi-independent living services and an annual program report describing the types of clients served and the amount and types of services provided. County boards shall submit quarterly fiscal reports within 20 days of the end of the quarter and annual program reports within 20 days of the end of the grant year. A county board may integrate these reports into its reports for community social services.

C. Financial records. The county board and its contracting providers and subcontractors shall maintain financial records, using generally accepted accounting principles, in a manner that enables expenditures to be easily compared with the approved budget, all sources of income readily identified, and documentation available for all expenditures.

D. Audits. The county board and its contracting providers and subcontractors shall make available for audit inspection all records required by 12 MCAR §§ 2.02001-2.02011 [Temporary] upon request by the commissioner.

E. Retention of records. Unless an audit in process requires a longer retention period, the county board and its contracting providers and subcontractors shall retain a copy of the following records required by 12 MCAR § 2.02001-2.02011 [Temporary] for at least four years:

1. the program and fiscal reports required in B. and C.;
2. records of specific payments made and income received; and
3. all other records.

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## PROPOSED RULES

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12 MCAR § 2.02009 [Temporary] Budget revision and adjustments, new awards.

A. Increase of a grant. The commissioner may increase a grant award to a county for semi-independent living services when:

1. it has been determined that unused grant money is available under 12 MCAR § 2.02010 [Temporary];
2. the grant increase is within the limits established under Minnesota Statutes, section 252.275, subdivision 4; and

3. the county expenditures for semi-independent living services, which are eligible for reimbursement, exceeded their budget projections.

B. State payments, reductions. Payments shall be in the form of an initial advance, with subsequent quarterly payments contingent upon receipt of a completed quarterly financial report from the county board on forms provided by the commissioner. If actual expenditures by the county board and its contracting providers and subcontractors are less than provided in its approved budget, the commissioner shall reduce the quarterly payments so that the grant remains within the limits in 12 MCAR § 2.02007 [Temporary].

C. New awards. The commissioner may make new grant awards for other proposals approved for funding within the provisions of Minnesota Statutes, section 252.275 from unused funds that are available under 12 MCAR § 2.02009 [Temporary] B. and 12 MCAR § 2.02010 [Temporary].

12 MCAR § 2.02010 [Temporary] Reduction, termination, and return of grants.

A. Unnecessary funds. If the commissioner determines, in consultation with a county board, that the total grant award to that county will not be earned during the grant period, the commissioner may reduce the grant award by the amount determined not to be needed. The commissioner shall notify the affected county board within 30 days of the grant award reduction.

B. Improper use of funds. If the commissioner determines that funds are not being used according to the approved application and budget, all or part of the grant must be terminated upon 30-day notice to the county board with a copy to the provider. The commissioner must require repayment of any funds not used according to the approved application and budget.

12 MCAR § 2.02011 [Temporary] Appeal process.

If the commissioner receives a written appeal from the county board within the 30-day-notice period, reconsideration by the commissioner in which the county board may state its reasons and present evidence, shall be provided before the grant is reduced, terminated, or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice of certified mail.

## ADOPTED RULES

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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.

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### Energy and Economic Development Authority

#### Adopted Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program

The temporary rules proposed and published at *State Register*, Volume 8, Number 26, pages 1506-1509, December 26, 1983 (8 S.R. 1506) are adopted with the following modifications:

**Temporary Rules as Adopted****6 MCAR § 2.2506 [Temporary] Financial criteria.**

A. Maximum loan amount. To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come-first-served basis, the authority shall establish three equal allocations of the ~~available funds~~ \$30 million appropriated to this program to be divided between small, medium, and large school districts. Small districts are defined as having less than 900 students and four classroom buildings or less. Small districts are eligible for up to \$250,000 per district. Large districts are defined as having greater than 5,000 students or greater than ten classroom buildings. Large districts are eligible for up to \$1,000,000 per district. All other districts are defined as medium size school districts and are eligible for up to \$500,000 per district. Cooperative vocational centers and any other eligible educational facilities not included in school districts are limited to \$250,000. If less than 33 percent of any of the three allocations is used within a year from the effective date of these rules, the authority may redistribute funds between the three allocations.

**6 MCAR § 2.2507 [Temporary] Reports and monitoring.**

A. Annual project status report. The school district shall submit to the authority on forms provided by the authority an annual project status report covering the period July 1 through June 30. These reports are due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problem on the project, and the corrective action taken. If at any time the school district has not demonstrated substantial progress towards completion of the project after 18 months, or anytime thereafter fails to substantially comply with the start and end dates given in the loan application as approved and as shown on the financial and progress reports, and if the school district cannot reasonably justify its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

**Department of Transportation****Adopted Rules Governing Distribution of Financial Assistance under the Public Transit Assistance Program (14 MCAR §§ 1.4031-1.4065) and Repeal of Existing Rules (14 MCAR §§ 1.4025-1.4030)**

The rules proposed and published at *State Register*, Volume 8, Number 11, pages 451 through 459, on September 12, 1983 (8 S.R. 451) are adopted with the following modifications:

**Rules as Adopted**

- A. Scope. The terms used in 14 MCAR §§ 1.4031-~~1.4065~~ 1.4044 have the meanings given them in this rule.
- B. Cost. "Cost" means the amount of money asked or paid or the liability incurred for a commodity or service.
- C. Cost contract. "Cost contract" means a cost reimbursement contract under which the contractor receives no fee, operating as a nonprofit organization.
- D. Cost-plus-a-fixed-fee contract. "Cost-plus-a-fixed-fee contract" means a cost reimbursement contract providing for the payment of a fixed fee to the contractor based upon negotiation.
- E. Cost-plus-incentive-fee contract. "Cost-plus-incentive-fee contract" means a cost reimbursement contract providing for a fee adjusted by a negotiated formula relating total allowable costs to target costs.
- F. Cost reimbursement contract. "Cost reimbursement contract" means a contract providing for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract.
- G. Department. "Department" means the Department of Transportation.
- H. Direct cost. "Direct cost" means cost incurred for the benefit of and traceable to a specific activity or incurred for providing a specific service.
- I. Fee. "Fee" means profit and represents a sum of money which is over and above actual costs.

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## ADOPTED RULES

J. Financial assistance. "Financial assistance" means state funds paid to an eligible recipient in accordance with the public transit subsidy program established under Minnesota Statutes, section 174.24.

K. Generally accepted accounting principles. "Generally accepted accounting principles" means broad rules adopted by the accounting profession as guides for use in accumulating and reporting financial data and found in the American Institute of Certified Public Accountants Professional Standards, volume 3 "Accounting," published by Commerce Clearing House (Chicago 1979).

L. Indirect cost. "Indirect cost" means a cost incurred for the benefit of the operating entity as a whole and not traceable to a specific activity.

M. Negotiation. "Negotiation" means the process of conferring or bargaining to reach agreement.

N. Operating deficit. "Operating deficit" has the meaning given it in Minnesota Statutes, section 174.22, subdivision 5.

O. Public transit or transit. "Public transit" or "transit" has the meaning given it in Minnesota Statutes, section 174.22, subdivision 7.

P. Reasonable cost. "Reasonable cost" means a price for a commodity or service which, in its nature or amount, does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business.

Q. Regional Development Commission. "Regional Development Commission" has the meaning given it in Minnesota Statutes, section 462.384, subdivision 4.

R. Revenue. "Revenue" means sources of income.

S. Total operating cost. "Total operating cost" means the cost allowability provisions of 14 MCAR §§ ~~1.4040~~ ~~1.4036~~ and ~~1.4042~~ 1.4037, as well as the fee allowability provisions of 14 MCAR § ~~1.4043~~ 1.4038.

### 14 MCAR § 1.4032 Authority, purpose, and scope.

A. Authority. Rules 14 MCAR §§ 1.4031-~~1.4065~~ 1.4044 are adopted pursuant to Minnesota Statutes, sections 174.23, subdivisions 2 and 7; 174.24, subdivision 3; and 174.245, subdivision 2.

B. Purpose. The purpose of 14 MCAR §§ 1.4031-~~1.4065~~ 1.4044 is to establish the procedures and standards for review and approval of applications for transit financial assistance, to define "total operating cost" as the term is used in carrying out the public transit assistance program, to establish uniform performance standards for private operators of regular route transit systems in the Twin Cities metropolitan area transit taxing district, and to establish the procedures and standards for review and approval of applications for capital grant assistance.

C. Scope. Rules 14 MCAR §§ 1.4031-~~1.4065~~ 1.4044 apply to applicants for financial assistance under the public transit subsidy program established by Minnesota Statutes, section 174.24, and the public transit capital grant assistance program established by Minnesota Statutes, section 174.245.

### 14 MCAR § 1.4033 ~~Eligible recipient~~ Eligibility for public transit participation program.

"Eligible recipient," for the purposes of 14 MCAR §§ 1.4033-1.4043, means a legislatively established public transit commission or authority, a county or a statutory or a home rule charter city operating or providing financial assistance to public transit, a private operator of public transit, or a combination of them.

### 14 MCAR § ~~1.4035~~ 1.4034 Application for financial assistance through public transit participation program.

An applicant shall request financial assistance using a format prescribed by the department. The required information for the application is limited to the items specified in 14 MCAR § 1.4035. In addition to submitting an application to the department, an applicant shall submit an application to the appropriate regional development commission for review and approval for consistency with regional transportation plans and development guides. If there is no regional development commission in the area, the applicant shall submit the application to the State Planning Agency for review. When applicable, the application must also be submitted to the local transit authority, commission, or system for review and comment as to consistency with its approved transportation development program.

### 14 MCAR § ~~1.4037~~ 1.4035 Application format.

A. Management plan. Applicants shall include the following information in the management plan:

1. a description of the levels of service to be provided during the contract period, including a discussion of service area, type of service, vehicle descriptions, days and hours of service, contract services, and route maps;

2. a description of the participating transit system's proposed marketing program, including costs and benefits of major elements;

3. a description of proposed capital improvements in the participating transit system;
4. a description of revenue-producing contracts relating to the transit services provided by or for the applicant;
5. a description of expense contracts for services and goods procured by the transit system;
6. a description of the participating public transit system's vehicle maintenance program for the period of financial assistance;
7. a description of the organizational structure established to direct, control, review, and implement the management plan;
8. a description of measurable goals and objectives for the transit system, illustrating the benefits expected to be realized by the investment of state financial assistance;
9. a description of how revenue will be generated through the fare box;
10. a listing of transit and paratransit systems and their union affiliations currently operating in the applicant's area, and a description of existing or potential coordination with these systems;
11. a description of the driver selection process; and
12. a description of the proposed insurance carrier and the limits of coverage.

B. Operations report. Applicants shall include the following information in the operations report on forms provided by the department:

1. actual statistics on operating expenses and operating revenues for the most recent 12-month period;
2. anticipated statistics on operating expenses and operating revenues for the new contract period;
3. actual statistics on miles and hours of service and passengers carried for the most recent 12-month period; and
4. anticipated statistics on miles and hours of service and passengers carried for the new contract period.

C. Resolution regarding application submission. Applicants shall include with the application a resolution by the governing body authorizing the submission of an application, designating a person to represent the applicant in negotiations with the department, and attesting to the availability of local funds to provide the percentage of total cost specified in Minnesota Statutes, section 174.24, subdivision 3.

**14 MCAR § ~~1.4040~~ 1.4036 Determination of financial assistance; expense categories.**

A. Scope. In determining the total operating costs of a public transit system, upon which financial assistance is based, 14 MCAR § ~~1.4042~~ 1.4037 and the following definitions of expense categories apply and have the meanings given them in this rule.

B. Personnel services. The "personnel services" expense category includes:

1. administrative, management, and supervisory services which are the amount paid to employees of the transit system who are classified as managers, supervisors, coordinators, or administrators and for which the amounts claimed by employees not working solely for the transit system must be supported by detailed time sheets;
2. operators' wages which are the total amount paid to employees of the transit system who are classified as vehicle operators;
3. maintenance and repair wages which are the labor charges incurred in the performance of maintenance and repair of vehicles and other property required for the operation of the transit system, including only wages of maintenance personnel employed by the transit system;
4. other direct wages which are the amount paid to employees of the transit system who are not classified as operators, maintenance, or administrative personnel, such as dispatchers, bookkeepers, clerical personnel, janitors, and security personnel;
5. indirect labor charges which are the amount to be allocated to the transit contract for labor which is not traceable to a specific transit activity but which benefits the transit operation and must be based on a cost allocation plan approved by the Minnesota Department of Transportation; and

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6. fringe benefits which are the cost of providing fringe benefits for active and retired employees of the transit system, including pension benefits, vacation and sick leave benefits, social security taxes, workers' compensation insurance, unemployment insurance, life insurance, and first party medical coverage and which may be allocated indirectly based on a cost allocation plan approved by the Minnesota Department of Transportation.

C. Administrative charges. The "administrative charges" expense category includes:

1. management fees which are the amount paid for professional services provided by a management service company engaged contractually to provide operating management to the transit system;

2. tariffs and traffic expenses which are any necessary tariff filing fees and costs for the procurement of tickets, tokens, and transfers, etc.;

3. advertising, marketing, and promotional charges including the necessary cost of advertising and promoting the transit system;

4. legal, auditing, and other professional fees including attorney fees and expenses, court costs, witness fees, and fees for accounting and auditing services rendered by individuals or firms other than employees of the transit system for the purpose of maintaining continuing operations of the transit system, such as accident claims, defending workers' compensation claims, or other items directly related to the management plan and approved by the Minnesota Department of Transportation project manager and other professional fees including fees paid for planning, engineering, or other consultant services necessary to the continuing operation of the transit system;

5. security costs which are the costs necessary to provide armored car services and patrol services for vehicles, stations, yards, and buildings to detect and prevent criminal activity, fires, and unsafe conditions, etc., when the patrolling is performed by an outside security agency and not by transit system employees;

6. office supplies expense which is the cost of office supplies and materials and printing and photocopying charges, which are solely attributable to and necessary for the operation of the transit system;

7. lease and rental costs of administrative facilities including leases and rentals of such items as land, buildings, office equipment, and furnishings, that are used for performing the general administrative functions of the transit system;

8. utilities expense which is the cost of utilities such as gas, electricity, water, telephone services, and trash collection;

9. other direct administrative charges including other administrative charges necessary for the continuing operation of the transit system such as mileage reimbursement for transit support vehicles, approved conference fees, employee travel expenses, driver's training, approved membership fees for transit associations if the cost of membership is reasonably related to the value of the services or benefits received, and subscriptions to transit publications; and

10. indirect administrative charges which are the amount allocated to the transit contract for administrative services not traceable to a specific transit activity but which benefit the transit operation and which must be based on a cost allocation plan approved by the Minnesota Department of Transportation.

D. Vehicle charges. The "vehicle charges" expense category includes:

1. fuel and lubricants expense including costs of gasoline, diesel fuel, antifreeze, propane, lubricating oil, transmission fluid, and grease used by revenue and service vehicles;

2. maintenance and repair material expense including costs of parts, materials, and supplies used in the maintenance and repair of revenue and service equipment;

3. contract service maintenance labor expense which is the cost of labor for maintenance and repair service provided by persons other than transit system employees;

4. tire expense which is the cost of tires and tubes used on revenue and service equipment including the cost of recapping or regrooving and the rental costs for tires and tubes; and

5. other vehicle charges including the cost of first aid equipment, fire extinguishers, and other emergency equipment required for vehicles, and the cost of noncapitalized vehicle improvements which do not remake a vehicle or appreciably extend its useful life and which have received approval from the Minnesota Department of Transportation.

E. Operations charges. The "operations charges" expense category includes:

1. purchase of service which is the cost of having a subcontractor operate the project service, with cost established;

a. through competitive bidding procedures, except for those recipients covered under Minnesota Statutes, chapter

221;



- b. through a negotiated contract with the prime contractor in bid situations when only one bid is received; or
- c. through a negotiated subcontract in a nonbid situation:

2. depreciation which is the amount of depreciation or use allowance on depreciable items such as structures, revenue equipment, service vehicles and equipment, and office furniture and equipment and is the amount allowed based on a company's existing depreciation schedule or, if a schedule does not already exist, a depreciation schedule submitted to and approved by the Minnesota Department of Transportation, but which may not be charged for items purchased, totally or in part, with state or federal funds;

3. mileage reimbursement for passenger service including the cost of volunteer driver reimbursement for projects incorporating this type of service, as well as mileage reimbursement for transit personnel using private vehicles for emergency replacement passenger transport in the event of mechanical breakdown of transit vehicles;

4. repair and maintenance of other property including material costs associated with the upkeep and repair of buildings and stations, grounds, nonrevenue equipment owned or leased by the transit company, and miscellaneous expenses such as small tool replacement, and supplies used for cleaning and for general shop and garage purposes;

5. leases and rentals including leases and rentals of garages, depots, passenger vehicles, service vehicles, and passenger stations, ~~etc.~~, used in the operation of the transit system, with allowability based on the reasonableness of rates and the presence of evidence that the lease will not give rise to material equity in the property; and

6. other operations charges including the cost of such things as the purchase or rental and cleaning of uniforms, street tolls, standing and snowplow operations, passenger amenities, and station agents and which may be allocated indirectly based on a cost allocation plan approved by the department.

F. Insurance charges. The "insurance charges" expense category includes:

1. public liability and property damage insurance expense on vehicles including premiums paid to insure the transit system against loss through damage to its own property and to indemnify the transit system and all financial and operational participants against loss from liability for its acts which cause damage to the person or property of others; and

2. public liability and property damage insurance charges other than on vehicles, including excess liability insurance, baggage and express insurance, and fire and theft insurance.

G. Taxes and fees. The "taxes and fees" expense category includes:

1. vehicle registration and permit fees on vehicles;

2. federal fuel and lubricant taxes and excise taxes on tires;

3. state fuel and lubricant taxes; and

4. other taxes and fees including applicable real estate and property taxes.

**14 MCAR § ~~1.4042~~ 1.4037 Determination of financial assistance; disallowed expenses.**

A. Scope. In determining the total operating costs of a public transit system, upon which financial assistance is based, 14 MCAR § ~~1.4040~~ 1.4036 and the following definitions of disallowed expenses apply and have the meanings given them in this rule.

B. General purpose equipment. Expenditures for general purpose equipment are unallowable as operating costs ~~except with the prior approval of the department~~. "General purpose equipment" means equipment that is usable for other than transit contract purposes, such as office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, and automatic data processing equipment.

C. Interest and other financial costs. Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection with these costs are unallowable.

D. Fines and penalties. Costs resulting from violations of, or failure to comply with federal, state, or local laws and regulations are unallowable.

E. Contingencies. Contributions to a contingency reserve or any similar provision for unseen events are unallowable.

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F. Bad debts. Any losses arising from uncollectible accounts, other claims, and related costs are unallowable.

G. Donations and entertainment expense. Contributions and donations are unallowable as are any entertainment expenses.

### 14 MCAR § ~~1.4043~~ 1.4038 Determination of financial assistance; fee for service.

Operators for profit of public transit service are eligible for a fee for service. The profit or fee must be established as a dollar amount over and above costs of operation. The fee will be arrived at through noncompetitive negotiations and must represent a fair and reasonable price. Factors to be considered in determining the fee are degree of risk assumed by the contractor, the extent of the contractor's investment, and the contractor's past and present performance.

### 14 MCAR § ~~1.4044~~ 1.4039 Distribution of financial assistance; revenue categories.

A. Scope. In determining the local sources of funds which may comprise the fixed percentage of total operating costs to be paid by a recipient in accordance with the distribution classifications specified in Minnesota Statutes, sections 174.24, subdivision 3, the following definitions of revenue categories apply and have the meanings given them in this rule.

B. Passenger fare. "Passenger fare" means revenue earned from transporting passengers on the public transit system, including a cash fare, a donation received instead of a set fare, and an advanced fare received from the sale of a coupon, token, or pass.

C. Contract revenue. "Contract revenue" means revenue received from a contract with a beneficiary of a specific transit service, including an amount paid by an organization for a special route guarantee and revenue earned for a ride given in regular transit service but paid for by some organization for the benefit of the rider.

D. School bus revenue. "School bus revenue" means revenue earned from service provided under a contract with a school district, including an amount paid for transporting school children on regularly scheduled route service, for operating a bus exclusively to carry school children, and an amount paid by a college or university for operating a bus on or between campuses.

E. Charter revenue. "Charter revenue" includes reimbursement for charter service received in association with publicly funded transit service, providing that charter service rates are developed so that cost recovery equals or exceeds the full cost of providing the charter service.

F. Auxiliary revenue. "Auxiliary revenue" means revenue earned from an activity closely associated with the transit operation, including revenue received from an advertising service, delivery, a lease, and station and vehicle concessions.

G. Other financial assistance. "Other financial assistance" includes revenue earned from an activity not associated with the provision of the recipient's transit service but which is applied to help cover the system's costs, including a federal cash grant, senior citizen fare assistance, fuel and lubricant tax refund, insurance settlement, investment income, and any general donation.

### 14 MCAR § ~~1.4045~~ 1.4040 Distribution classifications.

Distribution of funds must be made in accordance with the recipient's classification as specified in Minnesota Statutes, section 174.24, subdivision 3. Exceptions to the distribution classifications are the Twin Cities Metropolitan Transit Commission based on the definition of urbanized area found in Minnesota Statutes, section 174.22, subdivision 10, private operators of regular route transit service in the metropolitan transit taxing district based on the statutory commitment to pay private operators up to 100 percent of the operating deficit, and the project for coordination of special transportation service in the metropolitan area based on the definition of elderly and handicapped service found in Minnesota Statutes, section 174.22, subdivision 13.

### 14 MCAR § ~~1.4050~~ 1.4041 Financial assistance contract.

A. Content. The financial assistance contract must be a cost reimbursement contract and may be a cost contract, a cost-plus-a-fixed-fee contract, or a cost-plus-incentive-fee contract. The contract must specify the maximum amount of financial assistance to be awarded to the eligible recipient by the department and state the terms and conditions of assistance. For recipients receiving payment under the method described in Minnesota Statutes, section 174.24, subdivision 5, the contract is effective for no more than one year. The final application must be incorporated into the contract as a legal part of the contract document. A resolution by the governing body which designates a person or persons to execute the contract on behalf of the recipient and to represent the recipient during the contract term must be included with the contract.

B. Disbursement schedule. Payments to recipients under contract must be made in accordance with Minnesota Statutes, section 174.24, subdivision 5.

C. Penalties. If a recipient fails to comply with the terms and conditions of the contract, the department shall terminate the financial assistance contract.

### 14 MCAR § ~~1.4055~~ 1.4042 Use of financial assistance.

A. Record keeping. An eligible recipient and any subcontractor shall maintain their financial records in accordance with

generally accepted accounting principles. The records must permit audit verification of transit cost allocations claimed during the contract period. The eligible recipient and any subcontractor also shall keep records on miles and hours of service and passengers carried. Records must be kept available for a period of three years from the date of final payment.

B. Reporting. At the end of each month of operation, a recipient shall provide the department with a report summarizing cost allocations and operating statistics for the period. Reports must be completed on forms provided or approved by the department and must be submitted no later than 20 working days after the end of the preceding month.

C. Audits. The financial records of the eligible recipient must be audited. They may be audited by the department or the department may accept all or part of the audit of an independent auditor instead of a departmental audit if the audit meets department standards. The financial records of a subcontractor may be audited at the department's discretion. Audits at the end of a contract period must establish approved total operating costs. New recipients are subject to a pre-award audit before contract execution and fund encumbrance. As provided by Minnesota Statutes, section 16.095, the records, books, documents, and accounting practices of the recipient and of any subcontractor relating to the contract are subject to audit and examination by the department and the legislative auditor during working hours.

D. Project monitoring. The department shall use the management plan required under 14 MCAR § ~~1.4037~~ 1.4035 A. as a basis for monitoring and evaluating the performance of the public transit system during the contract period. Public transit policy decisions made by the recipient and actions taken during the contract period must conform with the management plan. A proposed deviation from the management plan must be reported to the department and approval secured in writing before implementation. Approval will be granted if it is clearly documented that the proposed deviation will not increase overall project costs. Failure to secure approval jeopardizes continued financial assistance.

**14 MCAR § ~~1.4060~~ 1.4043 Uniform performance standards for private operators in metropolitan transit taxing district.**

A. Uniform standards. Performance standards developed by the private operators of regular route transit service must be specified in the management plan required under 14 MCAR § ~~1.4037~~ 1.4035 A. and approved by the department in the process of negotiation. Standards must emphasize maintaining the quality of the system, maintaining the efficiency of the system, and maintaining service levels to the extent necessary to maximize ridership.

B. Funding procedures for private operators. Private operators are subject to the application procedures described in 14 MCAR §§ ~~1.4035~~ 1.4034 and ~~1.4037~~ 1.4035. They also are subject to the contract described in 14 MCAR § ~~1.4050~~ 1.4041 and the provisions in 14 MCAR § ~~1.4055~~ 1.4042. By the provisions of Minnesota Statutes, section 174.24, subdivision 3, payments to private operators may equal up to 100 percent of the operating deficit. The operating deficit is recognized as the total operating cost defined in 14 MCAR § 1.4031 S., minus revenue received. Payments to private operators must be made monthly upon receipt of a request for funds submitted on forms provided by the department. An advance of funds not to exceed ten percent of the maximum contract award may be made in the first month of the contract upon justification from the recipient. This advance must then be deducted from the last two monthly requests for funds.

**14 MCAR § ~~1.4065~~ 1.4044 Public transit capital grant assistance program.**

A. Eligibility. To be eligible for capital grant assistance, an applicant must be a political subdivision, public transit authority, or other public or private nonprofit agency that operates or provides financial assistance to a public transit system, except that a public transit authority or commission that operates a public transit system in a city of the first class is not eligible.

B. Criteria. Requests for capital assistance from eligible recipients must be evaluated for the impact of the capital need addressed on the provision of transit service, for the impact on accessibility to the handicapped, and on the availability of local share money.

C. Standards. ~~Capital Only~~ assistance requests ~~must be considered~~ for the purchase of new transit vehicles or for the refurbishing of existing vehicles ~~may be considered~~. Refurbishing expenses are recognized as those costs that remake a vehicle to a renewed level of mechanical and structural soundness and which appreciably extend its useful life.

D. Procedures. The department shall conduct an annual survey of the capital needs of financial assistance grant recipients. The survey must ask respondents to relate capital needs to the criteria established. The resulting capital grant requests must be reviewed by an internal committee of departmental representatives. The committee shall evaluate requests ~~based on the criteria~~

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## **ADOPTED RULES**

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and establish priority rankings based on an equal weighting of each of the three criteria. The department shall award grants to the highest ranked eligible recipients from funds designated for capital grants.

E. Capital grant assistance contract. The capital assistance contract between the department and the eligible recipient must specify the maximum amount of financial assistance to be awarded to the recipient and must state the terms and conditions of assistance. In accordance with Minnesota Statutes, section 174.245, capital grants may not exceed two-thirds of the total cost of the purchase price or refurbishing expense. A resolution by the recipient's governing body pertaining to the capital grant request is required.

Repealer. Rules 14 MCAR §§ 1.4025; 1.4026; 1.4027; 1.4028; 1.4029; and 1.4030, are repealed.

## **OFFICIAL NOTICES**

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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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### **Department of Commerce**

#### **Outside Opinion Sought Regarding Amendments to Proposed Rules Relating to Securities Including the Impact of the Rules on Small Businesses**

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate amendments to rules governing securities. Promulgation of these amendments is authorized by Minnesota Statutes, section 80A.25. The reason for promulgation of these amendments is to eliminate any outmoded portions of the rules in order to increase their effectiveness and to remove any provisions which are unduly burdensome in relation to their benefit to the investor. Suggestions are requested which will ease any undue burden of the rules while still protecting the interests of the public.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce 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 to: Richard Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until April 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch  
Commissioner of Commerce

### **Department of Energy and Economic Development Community Development Division**

#### **Notice of Proposed Fund Distribution for the 1984 Small Cities Development Program**

The Department of Energy and Economic Development, Community Development Division, in accordance with the Housing and Community Development Act of 1974, as amended through the Housing and Urban-Rural Recovery Act of 1983 (P.L. 98-181), hereby gives notice on the 1984 Small Cities Development Program's proposed distribution of funds; proposed use of funds for activities that will benefit persons of low and moderate income; and plans of the State of Minnesota for minimizing displacement of persons as a result of activities assisted with Small Cities Development Program funds.

### 1. Proposed Distribution of Funds.

The U.S. Department of Housing and Urban Development has notified the Department of Energy and Economic Development, Community Development Division, will receive an allocation of \$21,792,000 for the 1984 Small Cities Development Program. Of this amount, \$435,840 will be reserved by the department for administration of the grant program and \$21,356,160 will be available for grants to eligible communities. Under the administrative rules for this program, 10 MCAR §§ 1.500-1.565, 15 percent or \$3,203,424 will be reserved for economic development grants; 30 percent or \$6,406,848 will be reserved for single purpose housing or public facilities grants; and 55 percent or \$11,745,888 will be reserved for comprehensive grants.

### 2. Proposed Use of Funds for Activities That Will Benefit Persons of Low and Moderate Income.

The purpose of the Small Cities Development Program is to develop viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income. Activities funded under this program shall not benefit moderate income persons to the exclusion of low income persons. All funded activities must be designed to:

- (1) benefit low- and moderate-income persons;
- (2) prevent or eliminate slums and blight; or
- (3) alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs.

Under the Housing and Community Development Act of 1974, as amended, at least 51 percent of the funds must be used for activities that benefit low and moderate income persons. The Department of Energy and Economic Development, Community Development Division, proposes that 70 percent of the funds be used to benefit persons of low and moderate income.

### 3. Plans of the State of Minnesota for Minimizing Displacement of Persons as a Result of Activities Assisted with Small Cities Development Program Funds:

Section 104 of the Housing and Community Development Act of 1974, as amended, through the Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, requires that states administering the Community Development Block Grant (CDBG) program in nonentitlement areas, develop plans "for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of such activities." This document shall constitute the policy of the Minnesota Small Cities Development Program with regard to the above requirements.

"Displacement," as defined by the U.S. Department of Housing and Urban Development Rules and Regulations, 24 CFR Part 570, Subpart K, 570.612, "means the involuntary movement, except temporary relocation, of a household from a dwelling unit resulting from its acquisition, rehabilitation, or demolition when: (1) funded in whole or in part with CDBG funds; or (2) funded with non-CDBG funds where the acquisition, rehabilitation, or demolition is a prerequisite for an activity carried out with CDBG funds (e.g., acquisition of land with local funds for a neighborhood facility to be constructed with CDBG funds). "Displacement" also means the involuntary movement, except temporary relocation, of a household from a dwelling unit necessitated by CDBG assisted code enforcement."

For the purpose of this policy, the Minnesota Small Cities Development Program shall divide displacement into two distinct types, defined as follows:

"Direct displacement" means displacement of any family, individual, business, nonprofit organization or farm that results from any acquisition of real property by a "state agency" that is carried out with the intention that such acquisition be for a community development activity assisted under the Small Cities Development Program (SCDP). The term "state agency," as defined in Appendix 1, Uniform Relocation Assistance and Real Property Acquisition, 24 CFR Part 42, Subpart A, 42.85, means any department, agency or instrumentality of a state or of a political subdivision of a state. The requirements of the Uniform Act and HUD implementing regulations (24 CFR Part 42) apply to such direct displacement, as provided in 24 CFR Part 570, Subpart K, 570.606.

"Indirect displacement," means that displacement as defined in 24 CFR Part 570, Subpart K, 570.612 (above) which results from, or is a prerequisite for, Small Cities Development Program activities, other than State Agency acquisition. Displacement resulting from SCDP funded rental rehabilitation and business development loans, where the grantee (city/county) does not acquire real property, are examples of indirect displacement.

It shall be the policy of the Minnesota Small Cities Development Program to identify, through its application review and rating process, as outlined in 10 MCAR § 1.515 through 1.546, those activities proposed by grantees which could result in either direct or indirect displacement. All direct displacement shall be subject to the requirements of the Uniform Act and SCDP

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budgets shall include adequate funding to cover Uniform Act requirements. State monitoring of SCDP grantees will ensure compliance.

Where the potential for indirect displacement is identified through the application review and rating process, the Minnesota Small Cities Development Program will determine whether the potential displacement is consistent with and essential to the applicant's proposed community development program. This evaluation will be based on the ultimate purpose to be served by the project, including the projected benefit of the project to low and moderate income persons, as offset by the potential displacement. Examples of circumstances which may constitute positive indicators for approval of applications despite possible displacement are:

1. Current housing conditions are a clear danger to the health and safety of the occupants.
2. The proposed project substantially increases the availability of standard housing for low and moderate income persons.
3. The specific site from which persons will be displaced is essential to completion of urgently needed public facilities or an economic development project which creates substantial low and moderate income jobs, and no alternate sites can be feasibly substituted.
4. The proposed project will substantially increase the tax base of the city, potentially relieving some of the tax burden for low and moderate income persons.
5. The potential displacement involves only voluntary sales by owner-occupants.

When the potential displacement is determined by the Minnesota Small Cities Development Program to be nonessential and/or inconsistent with community development objectives, the applicant will be so advised. SCDP funding will either be denied, or the activities restructured to prevent the displacement.

Where indirect displacement is determined consistent with and/or essential to the applicant's proposed community development program, the Minnesota Small Cities Development Program will require that the grantee develop and submit a plan for mitigating the adverse effects of any such displacement on low and moderate income persons, prior to release of funds for the activities proposed.

Budget revisions necessary to these efforts will be encouraged.

Grantee plans may include the provision of relocation payments and assistance at levels either higher or lower than those required by the Uniform Act. These plans may also include establishment of priorities for other forms of housing assistance currently operated by the grantee or by cooperating agencies within the grantee's jurisdiction, as well as income based assistance policies.

The Minnesota Small Cities Development Program will provide technical assistance to grantees in the development of their local displacement minimization plans, in order to insure the appropriateness and potential effectiveness of the proposed plans prior to approval.

This displacement minimization plan constitutes the initial efforts of the Minnesota Small Cities Development Program to minimize involuntary displacement of persons, consistent with other program objectives and goals. It is subject to addition and/or revision, as necessary, to insure compliance with the intent of the Housing and Community Development Act of 1974 as amended by the Housing and Urban-Rural Recovery Act of 1983.

## Department of Energy and Economic Development Energy Finance Division

### Announcement of Cycle VI of the Institutional Buildings Grants Program (IBGP)

Public and private non-profit schools and hospitals are eligible to compete for approximately \$1.2 million in federal funds for maxi-audits (Technical Assistance) or energy conservation measures (ECMs). Grants will be awarded on a competitive basis for 50% of project costs. The remaining 50% must be from non-federal resources. Hardship grants for more than 50% may be possible.

The Cycle VI application deadline is 4:30 p.m., Thursday, May 10, 1984.

For more information call (612) 297-2103 or write: IBGP, Energy Finance Division, Department of Energy and Economic Development, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN 55101.

## **Department of Labor and Industry Apprenticeship Advisory Task Force**

### **Notice of Intent to Appoint Apprenticeship Advisory Task Force**

The Commissioner of Labor and Industry intends to appoint an Apprenticeship Advisory Task Force to look into the issue of women and minorities in the skilled trades and apprenticeship programs and to recommend whether there are additional steps the Department or other interested parties could take to encourage greater involvement on the part of these groups.

Candidates with an interest in these issues should contact Elaine Failor, Department of Labor and Industry, at (612) 297-4794 before April 2, 1984.

## **Minnesota Teachers Retirement Association**

### **Meeting Notice**

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, April 6, 1984, 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.

## **Pollution Control Agency**

### **Outside Opinion Sought Regarding Implementation of a Permit Fee Rule for Air Quality and Water Quality Permits, Including the Impact of the Rules on Small Businesses**

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (agency) in response to Legislative authorization is seeking information and opinions from sources outside the agency on the development of a permit fee rule. The rule would address the collection of a fee to cover the reasonable costs of reviewing and acting upon applications for air quality and water quality permits and implementing and enforcing the conditions of the permits.

Opinion is also being solicited as to how these rules will affect small business as defined by Minnesota Law 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

To facilitate expression of opinions on the subject of a permit fee rule, a public meeting is scheduled to be held on April 5, 1984, at 9:00 a.m. in the Agency Board Room, at 1935 West County Road B-2, Roseville, Minnesota. Subject matter to be discussed at the meeting will include the breakdown of fees into various parts such as application fees, review fees and implementation fees, payment schedules, and implementation of a permit fee program.

Interested persons or groups may submit statements of information or opinion orally or in writing. Written comments will be accepted until April 20, 1984 and should be sent to:

Mary Kimlinger  
Minnesota Pollution Control Agency  
Division of Air Quality  
1935 West County Road B-2  
Roseville, Minnesota 55113  
Telephone (612) 296-7232

Any written material received by the agency shall be a part of the hearing record in the event a rule is proposed and a public hearing is held.

March 12, 1984

Sandra S. Gardebring  
Executive Director

# 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.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers at the indicated phone numbers as soon as possible. If the specific buyer is not available, contact Barbara Jolly or Harvey Leach at 296-3779.

## Department of Administration Procurement Division

### Commodities Contracts Currently Open for Bidding

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person	
02-307-43421	Janitorial Service—Health Bldg.	Health	Mpls.	Contact buyer	Jim Kinzie 296-3778	
21-200-07691	Rosemount Partition Accessories	Economic Security	St. Paul	Contact buyer	Maurie 296-3772	
26-137-02730-31-32-33	Purchase of Cache Tape Drive with Cables and Controller	Various	Various	Contact buyer	Doug 296-3775	
775986,	Directory of Farmers Markets,	Agriculture	St. Paul	Contact buyer	Art 296-3742	
04-251-22583	Roadside Stands					
775926,	Minnetours (Separations Only)	Tourism	St. Paul	Contact buyer	Art 296-3742	
22-400-00363	Contract	Tabulation Cards	All Agencies	125,000-150,000	Harvey 296-3779 or Art 296-3742	
79-650-A	Aggregates	Transportation	Owatonna	Contact buyer		
02-430-41778	Telephone Supplies	Austin Comm. College	Austin	Contact buyer	Don 296-3777	
Contract	Industrial Reproduction Graphic Pro. (Film, Chemicals & Papers)	Various	Various	1,500-2,000	Don 296-3777	
27-000-41926	Inspection of Trane Centrifugal Chiller	Rochester Comm. College	Rochester	Contact buyer	Ed 296-3770	
29-000-35529	Aerial Photography	DNR-Forestry	Same	Contact buyer	Doug 296-3775	
78-760-01781	Used Printing Equipment	MCF	Red Wing	Contact buyer	Bernadette 296-2546	
55-000-87661	X-ray Equipment	St. Peter Hospital	Same	Contact buyer	Donnalee 296-3776	
07-500-29314	Wire Harness	Public Safety	St. Paul	Contact buyer	Dale 296-3773	
775925,	Minnetours	Tourism	St. Paul	Contact buyer	Art 296-3742	
22-400-00364	79-250-WS	Winter Sand	Transportation	Crookston	Contact buyer	Jim 296-3778
REBID						
79-750-A	Aggregates	Transportation	Windom	Contact buyer	Jim 296-3778	
Contract	Rubbish Disposal	MCF	Sauk Centre	—	Jim 296-3778	
79-050-14662	Traffic Mgmt. Computer Systems	Transportation	Minneapolis	Contact buyer	Doug 296-3775	
Contract	Straighten Light Poles and Install New Bases	Transportation	St. Paul	15,000-25,000	Jim 296-3778	
26-071-13737	ECG Monitor	Mankato University	Mankato	Contact buyer	Donnalee 296-3776	
26-156-40513	Electronic Instrumentation	Normandale Community College	Bloomington	Contact buyer	Donnalee 296-3776	



Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
04-361-22562	Electornic Instrumentation	Agriculture	St. Paul	Contact buyer	Donnalee 296-3776
79-000-41494-92	MISC. Lab Supplies	Transportation	Roseville	Contact buyer	Donnalee 296-3776
27-156-40496	Microscopes	Various	Various	Contact buyer	Donnalee 296-3776
12-400-77579	Biological Safety Cabinet	Health	Minneapolis	Contact buyer	Donnalee 296-3776
78-770-01896	Dunnage Racks	MCF	Sauk Centre	Contact buyer	Maurie 296-3772
775688	1984-86 College Catalog	Fergus Falls	Fergus Falls	Contact buyer	Art 296-3742
27-142-41896		Comm. College			
774776,	1984-86 College Catalog	Lakewood Comm. College	White Bear Lk.	Contact buyer	Art 296-3742
27-154-40969		College			
Contract	Dodge and Plymouth Auto and Truck Parts	Various	Various	—	Harvey 296-3779
26-073-16157	Purchase of Data Transmission System	St. Cloud State Univ.	Same	Contact buyer	Doug 296-3775
26-074-09087	Nursery Stock	Winona State Univ.	Winona	Contact buyer	Cy 296-2621
79-000-41369	Video Equipment	Transportation		Contact buyer	Don 296-3777
65-300-02505	Environmental Control System	Supreme Court	Anoka	Contact buyer	Ed 296-3770
79-000-40967	Snowplows	Transportation	Various	Contact buyer	Dale 296-3773
etc.					
78-620-16277	Shielded Drive Shaft	Mn Corr. Facility	Stillwater	Contact buyer	Dale 296-3773
Various	Herbicides	Various	Various	Contact buyer	Donnalee 296-3776
Contract	Automotive V Belts	Various	Various	4,000-6,000	Harvey 296-3779
Contract	Slide Projectors & Trays	Various	Various	5,000-7,000	Don 296-3777
42-701-06521	Re-mfg. Photocopier Machines	Labor & Industry	Various	Contact buyer	Doug 296-3775
78-620-16201	Radiographic Fluoroscopic X-ray	MCF	Stillwater	Contact buyer	Donnalee 296-3776
77-900-08064	Computerized Sign Making System—Rebid	Zoo	Apple Valley	Contact buyer	Bernadette 296-2546

## Department of Energy and Economic Development

### Request for Proposals for Economic Analysis Services to Assess Impact of Convention Center

The Minnesota Department of Energy and Economic Development, in cooperation with the Governor's Task Force on the Minnesota Convention Center, is requesting proposals from individuals and organizations capable of assessing the projected economic impact a convention center would have on the state and local economies of Minnesota.

The Governor's Task Force on the Minnesota Convention Center is seeking the assistance of an individual or organization ("contractor") capable of assessing a Minnesota convention centers ability to compete for major national and international conventions, and the economic impact such a center would have. The contractor will also be required to recommend to the Task Force the appropriate criteria that should be used to evaluate specific proposals for the size, design and location of a convention center. The recommended criteria must be based on the contractor's detailed analysis of the most marketable convention center possible for the State of Minnesota.

Proposals for this contract must include a detailed background of the individual's or organization's experience in conducting studies of a similar nature. Proposals must outline the basic methodology that will be used in producing the required analysis and recommendations. The report must be completed by June 15, 1984.

The cost of the report may not exceed \$40,000. The Commissioner of Energy and Economic Development will award the contract after receiving a recommendation from the Task Force. The awarding of a contract is entirely contingent upon a legislative appropriation to the department for the activities of the Task Force. The issuance of this RFP does not require the department to award a contract.

## **STATE CONTRACTS**

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For a copy of the complete request for proposal, interested individuals should contact, and proposals should be addressed to: Kathleen Callahan, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101. All proposals must be received by 4:30 p.m., April 9, 1984. No late proposals will be accepted.

### **Department of Energy and Economic Development Developmental Resources Division and Minnesota Office of Tourism**

#### **Request for Proposals To Study and Report on the Market, Financial and Organizational Feasibility of the Proposed Bemidji Trail Country Tourism Project**

The Minnesota Department of Energy and Economic Development is requesting proposals from qualified individuals interested in studying and reporting on the feasibility of the Bemidji Trail Country Tourism Project.

Proposals are being requested to complete the following major project activities.

- A. Project Overview.
- B. Summary of existing and need tourism resources.
- C. Analysis of the project's market potential.
- D. Financial analysis/profitability.
- E. Organizational analysis.
- F. Examination of other factors impacting the project.
- G. Conclusion.

It is estimated that the cost of the project study need not approach, but shall not exceed \$25,000. Proposals should be received by MN DEED no later than 4:30 p.m., April 9, 1984.

The formal Request For Proposal may be requested and inquiries should be directed to:

Patrick R. Connoy  
Developmental Resources Division  
MN Department of Energy and Economic Development  
980 American Center Building  
150 Kellogg Boulevard  
St. Paul, MN 55101  
(612) 296-5022

### **Minnesota Teachers Retirement Association**

#### **Notice of Availability of Actuarial Consultant Contract (July 1, 1984-June 30, 1986)**

Minnesota Teachers Retirement Association, 302 Capitol Square Building, St. Paul, MN 55101—Tel. (612) 296-2409. Contact Persons: Harvey W. Schmidt or Elton I. Erdahl.

Provide actuarial consultant services to Association; prepare and submit actuarial valuations, experience studies and reports as required in M.S. 356.215; assist in the preparation of the certification of funds required from the State; consult with the Director of the Board and staff on any matters of actuarial nature; make any necessary special statistical studies in connection with proposed legislation; and perform any other services of an actuarial nature which the Board may deem desirable. Final Submission Date—May 15, 1984.

# SUPREME COURT

## Decisions of the Court of Appeals Filed Wednesday, March 7, 1984

### Compiled by Wayne O. Tschimperle, Clerk

C5-83-1868 Susan Karen Evenson, Relator v. Omnetic's and Commissioner of Economic Security. Department of Economic Security.

Relator's continued tardiness combined with repeated warnings constitutes misconduct, a disqualifying condition for unemployment compensation benefits under Minn. Stat. § 268.09, subd. 1(2).

Affirmed. Popovich, Chief Judge.

C3-83-1139 Raymond Case, Jr., petitioner, Appellant v. State of Minnesota. St. Louis County.

Following a direct appeal, a defendant may not raise issues previously raised, or known but not raised, in a subsequent postconviction proceeding.

Affirmed. Parker, Judge.

C2-83-1620 State of Minnesota v. Marion Sherman Munnell, Appellant. Itasca County.

Minn. Stat. § 609.21, subd. 1, is constitutional, both on its fact and as applied to drivers under the influence who are less negligent than the victims whose deaths they cause.

Fault of the victim is not a defense to Minn. Stat. § 609.21, subd. 1.

Affirmed. Foley, Judge.

C3-83-1352 James M. Seacrist, Relator v. City of Cottage Grove and Commissioner of Economic Security. Department of Economic Security.

When a police sergeant resigns rather than face disciplinary proceedings that would adversely affect his application for a Chief of Police job in another city, the sergeant voluntarily quit his job and is disqualified from receiving unemployment benefits.

Affirmed. Wozniak, Judge.

C5-83-1577 In Re the Marriage of: LeRoy W. Bledsoe, petitioner, Appellant v. Frances J. Bledsoe. Freeborn County.

An order denying modification of child support is appealable. If no appeal is taken, the order is *res judicata*.

Where a husband failed to pay child support payments supposedly because he had to make restitution payments as part of his probation for a theft conviction, the trial court did not abuse its discretion by refusing to forgive the arrearages.

Affirmed. Wozniak, Judge.

### Memorandum Opinion and Order

C4-83-1439, C9-83-1499 Mary E. Murphy, individually and as trustee for the heirs of Gary K. Murphy, Appellant v. Milbank Mutual Insurance Company and Kemper Insurance Company. Chisago County.

Kemper's petition for costs and disbursements is denied.

Popovich, Chief Judge.

## Decisions of the Supreme Court Filed Friday, March 9, 1984

### Compiled by Wayne O. Tschimperle, Clerk

C1-83-281 Borg Warner Acceptance Corporation, Appellant v. ITT Diversified Credit Corporation. Meeker County.

Holder of prior perfected blanket security interest in inventory has priority over subsequent purchase money lender who fails to notify prior secured party of purchase money interest, even though such failure was the result of a mistake by the filing officer.

Reversed and remanded with instructions to enter judgment in favor of Borg Warner in accordance with this opinion. Yetka, J.

C0-82-925 Brett Kashmark v. Western Insurance Companies, Appellant v. Progressive Casualty Insurance Co. Big Stone County.

For purposes of the uninsured motorist coverage provided by an insurance policy which defines an uninsured motor vehicle as an uninsured land motor vehicle of any type except "equipment designed mainly for use off public roads while not on public roads," an unregistered, uninsured all-terrain cycle is an uninsured motor vehicle when it is operated on a public street.

# SUPREME COURT

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Minn. Stat. § 65B.49, subd. 4 (1982) does not mandate the extension of uninsured motorist coverage to insure one who is neither the named insured nor a relative of the named insured residing in the named insured's household with respect to injuries sustained in a one vehicle accident while occupying a non-owned, uninsured vehicle.

Reversed and remanded. Coyne, J.

**C8-82-963 Sharon Wakefield v. Federated Mutual Insurance Company, Appellant. Hennepin County.**

Personal injury protection coverage ("PIP" no-fault basic economic loss benefits) afforded by endorsement to a business auto policy insuring several corporately owned motor vehicles may not be stacked where the premium for the endorsement is based on the number of vehicles covered by the policy.

Reversed. Coyne, J. Dissenting, Todd, Yetka, and Scott, JJ.

## ORDER FILED MARCH 6, 1984

**51102 In the Matter of the Petition for Disciplinary Action Against Ellis Olkon, Supreme Court.**

IT IS HEREBY ORDERED that, consistent with the original opinion of this court, *In Re Matter of Olkon, supra*, and upon the applicant's demonstrated satisfactory completion of the terms of the suspension from practice, the applicant is reinstated to practice law. Rule 18, Rules on Lawyers Professional Responsibility is deemed inapplicable to these proceedings. Yetka, J.

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