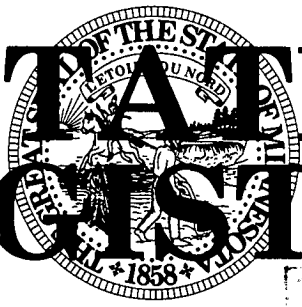


84 Sept. 17

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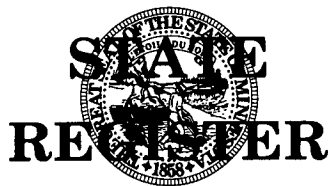
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VOLUME 9, NUMBER 12

September 17, 1984

Pages 581-628



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 9			
13	Monday Sept 10	Monday Sept 17	Monday Sept 24
14	Monday Sept 17	Monday Sept 24	Monday Oct 1
15	Monday Sept 24	Monday Oct 1	Monday Oct 8
16	Monday Oct 1	Monday Oct 8	Monday Oct 15

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

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

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

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

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How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the State Register. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

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 Rules.
• Proposed emergency rules.
• Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the State Register unless an agency requests this.)
• Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
• Notice of adoption of emergency rules.
• Adopted amendments to emergency rules (changes made since the proposed version was published).
• Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
• Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before July 31, 1983 are published in the Minnesota Rules 1983. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules 1983 due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The State Register publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

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

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Governing Health Maintenance Organizations

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. 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.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 14.05 to 14.36. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Robin Hanson, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Robin Hanson at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed**2730.0200 AUTHORITY AND PURPOSE.**

Parts 2730.0200 to ~~2730.0600~~ 2730.0700 are promulgated pursuant to the authority granted by Laws of Minnesota 1973, chapter 607, sections 10, subdivision 4, and 19, and by Minnesota Statutes, sections 14.05 to 14.36, for the purpose of setting forth rules and procedural standards that the commissioner of commerce deems necessary to carry out the provisions of the act.

2730.0300 EXAMINATION OF AGENTS, SOLICITORS, AND BROKERS.

Pursuant to Minnesota Statutes, section 62D.22, subdivision 8, and in accordance with Minnesota Statutes 1971, section 60A.17, and agents' license rules of the ~~insurance division~~ Department of Commerce, part 2700.0700, the commissioner shall conduct written examinations for the licensing of health maintenance organization agents, solicitors, and brokers. Such examinations shall be designed to determine:

A. the abilities and qualifications of each license applicant to protect the rights of health maintenance organizations, enrollees, providers association with health maintenance organizations, and the general public relative to solicitations for enrollment in health maintenance organizations; and

B. each license applicant's familiarity with enrollee obligations, rights, and duties under health maintenance contracts and evidences of coverage, health service benefits thereunder, charges for and limitations upon services, and the authorized forms of solicitation and advertising of health maintenance organization services.

2730.0400 SPECIAL EXAMINATIONS.

Upon application in writing, affirmatively showing the reason or reasons therefor, the commissioner of commerce may conduct special examinations for purposes of authorizing solicitation or advertising limited in scope or duration or for particular requirements of health maintenance organization agent, solicitor, and broker license applicants.

2730.0500 DETERMINATION OF UNREASONABLE EXPENSES.

Not less frequently than once every three years, the commissioner of health or the commissioner of commerce shall determine whether any expense a health maintenance organization incurs or pays is unreasonably high in relation to the value of any service or good provided to it. In making such determinations, ~~the commissioner shall~~, to the extent possible, give due consideration shall be given to:

A. the expense incurred or paid by other health maintenance organizations and other health care delivery systems for the same or similar service or goods;

B. the cost of such service or goods to the supplier thereof;

C. the impact of such expense upon the finance solvency of the health maintenance organization;

D. all pertinent cost/service data obtained or obtainable by the ~~board~~ commissioner of health from the health maintenance organization pursuant to Minnesota Statutes, sections 62D.03, 62D.04, 62D.08, 62D.10, and 62D.14;

E. guidelines developed and published pursuant to Minnesota Statutes, section 145.61, subdivision 5, clause (e);

F. pertinent data available from any rating organization approved by the commissioner of commerce; ~~and~~

G. such other information and information collection techniques as the commissioner of health may employ that show the real cost or fair market value of such service or goods; and

H. whether the officers and trustees of the health maintenance organization have acted with good faith and in the best interests of the health maintenance organization in entering into, and performing under, a contract under which the health maintenance organization has incurred an expense.

2730.0600 COMMISSIONER'S ENFORCEMENT AUTHORITY.

Upon a finding by the commissioner of health or the commissioner of commerce that a health maintenance organization is incurring or paying for any expense that is unreasonably high in relation to the value of the service or goods provided, the commissioner of health may:

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

- A. exercise the enforcement authority granted him pursuant to Minnesota Statutes, sections ~~72A.17~~ to ~~72A.32~~;
- ~~B. issue an order pursuant to Minnesota Statutes, section ~~62D.18~~ ~~62D.17~~;~~
- ~~C. report such finding to the board and recommend the exercise of any authority available to the board pursuant to Minnesota Statutes, sections ~~62D.15~~ to ~~62D.17~~;~~
- B. consider the unreasonable expense to constitute a failure of the health maintenance organization to satisfy Minnesota Statutes, section 62D.12, subdivision 9, paragraph (c) or 62D.15, subdivision 1, paragraph (i) and to proceed accordingly;
or
- ~~D. C. exercise such other statutory power as is available to him and that he deems appropriate.~~

2730.0700 INTERAGENCY AGREEMENT.

The commissioner of commerce may by agreement with the commissioner of health provide procedures for the implementation and coordinated enforcement of part 2730.0500.

Department of Commerce

Proposed Rules Relating to Subdivided Lands Registration

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. 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.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Lorraine Rowe, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 83.38. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Robin Hanson, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Robin Hanson at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2810.2100 PREPARING APPLICATIONS FOR REGISTRATION BY QUALIFICATION.

The guidelines set forth hereafter are intended to indicate the form and informational content of an application for registration required by the commissioner of commerce. These guidelines shall be applicable to applications filed for

PROPOSED RULES

registration by qualification pursuant to Minnesota Statutes 1973, ~~sections~~ section 83.23 and 83.26, clause (2)(b). The primary purpose of the application for registration is to provide compliance with the requirements of Minnesota Statutes, chapter 83 and the rules promulgated thereunder. The information to be included in the application for registration is set out in detail in this section. The information requested is not to be viewed as determinative of the entire obligation of disclosure. Disclosure and the manner of disclosure will depend upon the particular facts and circumstances involved. Disclosure means more than merely compiling the information requested by the application form or supplying the information suggested by the guidelines. This obligation is the independent obligation of the subdivider, its counsel, its accountant, and others contributing to the disclosure to the extent of their contribution. Applications for registration which are inadequately prepared and seriously deficient in terms of compliance with the statute and rules will be summarily denied.

2810.2150 FORM OF APPLICATION FOR REGISTERING SUBDIVIDED LAND BY QUALIFICATION.

An application for registration of subdivided land by qualification shall be typewritten and submitted on 8½ inch by 14 inch white bonded paper. The application shall state verbatim the questions in this part, with the appropriate answers underneath each question or attached as an addendum. Such application shall be in the form in part 2810.9910.

This form is to be prepared and filed pursuant to ~~chapter 83 of the~~ Minnesota Statutes 1973, section 83.23, ~~subdivision 3~~ and mailed to: State of Minnesota, Department of Commerce, 5th Floor, Metro Square Building, Saint Paul, Minnesota 55101.

2810.2170 CHANGES SUBSEQUENT TO REGISTRATION.

Subpart 1. Amendment procedure. An application to amend the registration shall be made by submitting a revised application for registration or a revised public offering statement with all alterations of the text previously filed underscored and shall be accompanied by a verification sheet manually signed and notarized.

Subp. 2. Exhibit. If required, a new exhibit must be included.

Subp. 3. Fee. A \$25 fee must be filed with the amendment. Make check payable to Treasurer, State of Minnesota.

2810.2610 GUIDELINES FOR PUBLIC OFFERING STATEMENT.

Subpart 1. to 4. [Unchanged.]

Subp. 5. Other offering statements. The commissioner may accept, pursuant to application for registration under Minnesota Statutes, chapter 83, any currently effective public offering statement prepared for compliance with the registration provisions of the subdivided land laws of other jurisdictions as the commissioner may from time to time designate. The commissioner reserves the right to require alterations in these statements as he considers necessary to fulfill the requirements of Minnesota Statutes, chapter 83.

2810.2700 ~~STATEMENT OF SUBDIVIDER~~ APPLICATION FOR REGISTRATION BY NOTIFICATION.

~~A statement of the subdivider~~ An application for registration by notification shall be typewritten and submitted on 8½ inch by 14 inch white bonded paper. This statement shall state verbatim the questions, with the appropriate answers underneath each question, or attached as an addendum. Such statement shall be in the ~~form~~ format in part 2810.9940.

2810.9910 ~~FORM~~ FORMAT FOR REGISTRATION OF SUBDIVIDED LANDS BY QUALIFICATION.

File No. _____
Date Approved _____
Date Denied _____
Examiner _____
Commissioner _____

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

REGISTRATION OF SUBDIVIDED LANDS BY QUALIFICATION

This form is to be prepared and filed pursuant to ~~chapter 83~~ of Minnesota Statutes ~~1973~~, section 83.23, ~~subdivision 3~~ and mailed to:

State of Minnesota
Department of Commerce
Registration and Licensing Division
5th Floor, Metro Square Building
St. Paul, Minnesota 55101

1. to 8. [Unchanged.]

9. Append hereto, if applicable, a legal description of the lands to be subdivided verified by affidavit of an independent professional land surveyor which shall include a statement of the topography and a topographical map together with a map showing the division to be proposed or made, the dimension of the lots, parcels, units, or interests and the relation of the subdivided lands to existing streets, roads, and other offsite stakes have been placed in accordance with the land surveyed.

10. If such markers, monuments, or stakes have not been placed, state the estimated cost of accomplishing this result, if applicable.

11. and 12. [Unchanged.]

13. (a) to (d) [Unchanged.]

(e) State the location of primary and secondary schools, if applicable.

(f) and (g) [Unchanged.]

14. and 15. [Unchanged.]

16. Append hereto a financial statement of the subdivider, if required, as of the end of the subdivider's most recent fiscal year bearing a certification reflecting an audit by an independent certified public accountant. If the fiscal year end of the subdivider is in excess of 90 days prior to the date of filing the application, a financial statement, which may be unaudited, is to be appended reflecting the financial condition of the subdivider as of a date within 90 days of the date of the application.

17. to 21. [Unchanged.]

2810.9440 FORM OF STATEMENT OF SUBDIVIDER FORMAT FOR REGISTRATION OF SUBDIVIDED LANDS BY NOTIFICATION.

File No. _____
Date Approved _____
Date Denied _____
Examiner _____
Commissioner _____

STATEMENT OF THE SUBDIVIDER

REGISTRATION OF SUBDIVIDED LANDS BY NOTIFICATION

Minnesota Statutes, section ~~83-26~~, ~~subdivision 2(b)~~ 83.23

This form is to be prepared and filed pursuant to Minnesota Statutes ~~1973~~, section ~~83-26~~ 83.23 and mailed to:

State of Minnesota
Department of Commerce
Registration and Licensing Division
5th Floor, Metro Square Bldg.
Saint Paul, Minnesota 55101

1. to 7. [Unchanged.]

8. Attach a title opinion of a licensed practicing attorney concerning the State of condition of title to the subdivided lands which shall include land to be subdivided, including, but not limited to, a statement reflecting all encumbrances, deed restrictions, and covenants applicable thereto to the title and state the condition of the title as recorded as of a date 30 days prior to the filing of this application. THE STATEMENTS REQUIRED BY THIS PARAGRAPH MUST BE AUTHORED BY A LICENSED PRACTICING ATTORNEY WHO IS NOT A SALARIED EMPLOYEE, PARTNER, OFFICER, OR

PROPOSED RULES

DIRECTOR OF THE SUBDIVIDER OR AN AGENT OF THE SUBDIVIDER, AND THE ATTORNEY SHALL CERTIFY AS PART OF THE STATEMENT THAT THE ATTORNEY ENJOYS SUCH A STATUS; OR BY A TITLE INSURANCE COMPANY ACCEPTABLE TO THE COMMISSIONER.

9. to 15. [Unchanged.]

16. Attach an irrevocable appointment of the commissioner to receive service of any lawful process, any civil proceeding arising under this act against the subdivider, or his personal representative, in accordance with part 2810.9920.

THE SUBDIVIDER CONSENTS TO PERMIT INSPECTION OF THE LOTS, PARCELS, UNITS OR INTERESTS TO BE OFFERED AND FURTHER TO PERMIT INSPECTION OF ITS BOOKS, RECORDS, ACCOUNTS, AND FILES BY THE COMMISSIONER OF COMMERCE OR HIS DESIGNEE WITH REFERENCE TO THE SALE OF THE SUBDIVIDED LANDS DESCRIBED HEREIN, AND AGREES TO PROVIDE THE COMMISSIONER WITH SUCH ADDITIONAL INFORMATION WITH RESPECT TO THE SALE OF THESE SUBDIVIDED LANDS AS HE MAY REQUIRE.

The undersigned certifies that he has read the contents of the above form and the exhibits appended hereto and certifies that he has personal knowledge of the contents hereof and knows the responses set forth are true and accurate.

Dated this _____ day of _____

SUBDIVIDER

Subscribed and sworn to before me
this _____ day of _____

BY ITS _____

A \$10 \$100 fee must be filed with this application. Make check payable to Treasurer, State of Minnesota.

2810.9950 FORM FORMAT OF ANNUAL REPORT.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE, REGISTRATION AND LICENSING DIVISION

5th Floor Metro Square Bldg.

ANNUAL REPORT—SUBDIVIDED LAND

THIS REPORT MUST BE FILED NOT LATER THAN 30 120 DAYS AFTER THE ~~ANNIVERSARY DATE OF REGISTRATION~~ FISCAL YEAR END OF THE SUBDIVIDER.

1. to 13. [Unchanged.]

14. Attach the following exhibits.

A. (1) and (2) [Unchanged.]

(3) Financial statements consisting of a balance sheet, if required, certified by an independent Certified Public Accountant for the subdivider's last fiscal year end and an income statement, if required, similarly certified for the 12 months next preceding the date of the balance sheet; and a balance sheet dated within 90 days of the date of filing this annual report together with an income statement for the period from the subdivider's fiscal year end to the date of said balance sheet.

Signed _____

By: _____

its _____

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

APPLICANT'S VERIFICATION

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 19____,
_____, appeared before me, a Notary Public, and being first duly sworn, says that it is the applicant; that it has read the foregoing application and accompanying exhibits, and that the contents thereof are true of its own knowledge.

(NOTARIAL SEAL)

Notary Public, _____ County _____
My Commission Expires _____

INDIVIDUAL VERIFICATION

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, 19____,
_____, appeared before me, a Notary Public, and being first duly sworn, says that he is the _____
of _____ and that he is duly authorized and empowered to execute this application on its behalf.

(NOTARIAL SEAL)

Notary Public, _____ County _____
My Commission Expires _____

2810.9960 FORMAT OF REQUEST FOR EXEMPTION FROM REGISTRATION.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE, REGISTRATION AND LICENSING DIVISION
5th Floor Metro Square Bldg.

REQUEST FOR EXEMPTION FROM REGISTRATION

SUBMIT NO LATER THAN TEN DAYS PRIOR TO THE FIRST OFFER, A COVER LETTER STATING THE REASONS FOR THE REQUEST ALONG WITH AN INFORMATION SHEET WHICH CONTAINS THE FOLLOWING:

1. Name of the subdivision.
2. Name, address, and telephone number of the subdivider.
3. Name, address, and telephone number of the escrow agent.
4. Attach as exhibits:
 - (a) Sales contract.
 - (b) In accordance with part 2810.2610, an offering statement or fact sheet.

Dated this _____ day of _____

Subscribed and sworn to before me this _____
day of _____

SUBDIVIDER
BY ITS _____

A \$50 fee must be filed with this request. Make check payable to Treasurer, State of Minnesota.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *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 strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after 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 emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Agriculture Dairy Industries Division

Adopted Emergency Rules Governing Manufactured Grade Milk Reimbursement Program

The rules proposed and published at *State Register*, Volume 9, Number 2, pages 86-90, July 9, 1984 (9 S.R. 86) are adopted as proposed.

Department of Human Services/Public Welfare Income Maintenance Bureau

Adopted Rules Governing General Assistance Program Requirements

The rules proposed and published at *State Register*, Volume 8, Number 45, pages 2363-2375, May 7, 1984 (8 S.R. 2363) are adopted with the following modifications:

Rules as Adopted

9500.0530 ELIGIBILITY REQUIREMENTS.

General assistance shall be granted to an assistance unit that meets all of the following qualifications:

A. The assistance unit ~~includes~~ shall not include a person who is eligible for or receiving one of the following federally aided assistance programs: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance, or a successor to these programs.

B. Except as provided in part 9500.0531, the assistance unit does not possess net equity in real and personal property that exceeds the maximum standards established in the AFDC program.

C. ~~The assistance unit has not transferred property without receiving reasonable consideration for the purpose of qualifying for general assistance.~~

~~The determination of the resources of an individual or assistance unit shall include any nonexempt or nonwaived resources or interest therein which was given away or sold for less than fair market value within the six months preceding the application for general assistance or during the period of eligibility.~~

~~The transaction shall be presumed to have been for the purpose of establishing or maintaining eligibility absent the submission of clear and convincing evidence that the transaction was primarily related to another purpose.~~

~~The value of the transferred resources shall be the fair market value at the time of disposal less the amount of compensation received. A period of ineligibility for general assistance shall be required based on the uncompensated value of the transferred resources. The individual or assistance unit shall be ineligible for general assistance for the full number of months derived by dividing the uncompensated value of the transferred resources by the monthly need standard of the individual or assistance unit.~~

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ADOPTED RULES

~~D.~~ The assistance unit has countable income less than the general assistance standard or the average of its seasonal income for any three-month period is less than the general assistance standards standard. For the purposes of this part, seasonal income means the average monthly income received during the six month period immediately preceding the calculation of the grant.

~~E.~~ D. The assistance unit contains a member who, if apparently eligible for participation in the federally sponsored Supplemental Security Income (SSI) program, has executed an authorization form (DPW 1795) permitting the secretary of health, education, and welfare, in accordance with Public Law Number 93-368, to make his initial SSI payment to the county welfare agency which provides him general assistance during the interim period while he awaits his first SSI check. If the person fails to complete the authorized form, the person shall be determined ineligible for general assistance and the assistance standard used shall be based on the number of remaining eligible members of the assistance unit.

~~F.~~ E. The assistance unit ~~contains~~ shall contain only members who are exempt from or who are in compliance with the registration and work requirements of parts ~~9555.3400 to 9555.3408~~ 9555.3410.

9500.0531 EXCLUSION OF EXCESS PROPERTY.

Subpart 1. Property excluded. In determining eligibility for general assistance, the local agency shall exclude real and personal property more than the limits in part 9500.0530, item B, when the local agency finds that:

B. a reasonable expectation exists that the assistance unit will use the property as a source of self-support either within six months of the date when the applicant or recipient is determined to have property more than the limit in part 9500.0530, item B; or, if the property produces income on a seasonal basis, during the income producing season immediately following the determination;

C. the property produces net income that is being used for the support of the assistance unit;

~~9500.0532 WAIVER OF EXCESS PROPERTY.~~

~~Subpart 1. Conditions for waiver.~~ When determining eligibility for general assistance, the local agency shall waive real and personal property more than the limit in part 9500.0530, item B when the local agency determines that:

~~A.~~ D. the applicant has not received general assistance within the last 60 days and the circumstances of the applicant indicate that the need for general assistance will not exceed 30 days;

~~B.~~ E. a grant of general assistance for an emergency need is required and the excess property cannot be liquidated in time to meet that need; or

~~C.~~ F. an undue hardship would be imposed upon the applicant or recipient by the forced disposal of the property.

~~9500.0533~~ 9500.0532 INFORMING APPLICANTS OR RECIPIENTS OF EXCLUSION AND WAIVER CONDITIONS.

Upon determining that an assistance unit is not eligible for general assistance or emergency assistance under the general assistance program due to owning property more than the limit in part 9500.0530, item B, the local agency shall inform in writing the applicant or recipient of the conditions under which excess property may be excluded or waived.

9555.3400 DEFINITIONS.

Subpart 1. Scope. As used in parts 9500.0530 to 9500.0532 and 9555.3400 to 9555.3408 9555.3410, the following terms have the meanings given them.

Subp. 2. Adult child. "Adult child" means a person aged 18 years or older.

Subp. 3. Advanced age. "Advanced age" means the condition that applies to a recipient who:

~~Subp. 3.~~ **4. Applicant.** "Applicant" means a person who has a pending application for general assistance with a local agency.

~~Subp. 4.~~ **5. Assistance standard.** "Assistance standard" means the amount established by the commissioner under Minnesota Statutes, section 256D.01, to provide for an assistance unit's shelter, fuel, food, clothing, utilities, necessary household supplies, and personal need items.

~~Subp. 5.~~ **6. Assistance unit.** "Assistance unit" means a single person or responsible relatives and any child his or her minor children or a married couple and the minor children of either of those persons, who. To be included together in an assistance unit, the persons must share a living arrangement and who are eligible for receive general assistance.

~~Subp. 6.~~ **Child.** "Child" means an individual who is under the age of 18.

Subp. 7. Commissioner. "Commissioner" means the commissioner of public welfare Department of Human Services or a designee.

Subp. 8. Countable income. "Countable income" means net earned and unearned income that is not exempt or disregarded under the general assistance program and which is actually available to the recipient during the month covered by the grant.

Subp. 9. Department. "Department" means the Department of ~~Public Welfare~~ Human Services.

Subp. 10. Director of the local agency. "Director of the local agency" means the director of the local agency or the director's designee.

~~**Subp. 11. Employment-related educational program.** "Employment related educational program" means high school or a training program:~~

~~A. taken after a person has set a vocational goal;~~

~~B. needed to meet the goal;~~

~~C. which has a course of study that does not exceed 24 consecutive months;~~

~~D. expected to make the person employable upon completion;~~

~~E. for an occupation that is expected to lead to suitable employment;~~

~~F. for employment located in an area where the person dwells or to which the person is willing to move or travel;~~

~~G. which requires the person to be a full-time student;~~

~~H. within the person's physical and mental capabilities;~~

~~I. given in Minnesota or has been approved by the director of the local agency;~~

~~J. undertaken to develop employment skills; and~~

~~K. given through an institution or facility licensed or accredited by a state commissioner of education, or is given by or through a state or federal agency which provides education or employment services.~~

~~**Subp. 12. Full-time student.** "Full-time student" means a person student attending a postsecondary institution who:~~

~~A. attends training for a minimum of 25 hours per week if the training does not involve shop practice and for a minimum of 30 hours per week if the training involves shop practice for a high school or a trade vocational or technical student; or~~

~~B. registers for and passes attends a minimum of 12 credit hours per semester or quarter.~~

~~**Subp. 13. 12. Good cause.** "Good cause" means circumstances beyond the applicant's or recipient's control, including, but not limited to: illness, illness of another family member which requires the applicant's or recipient's presence, a family emergency, or the inability to obtain transportation.~~

~~**Subp. 14. 13. Grant.** "Grant" means the amount paid to a general assistance recipient as determined in part 9555.3402.~~

~~**Subp. 15. 14. Local agency.** "Local agency" means a county, or a multicounty agency, that is authorized under Minnesota Statutes as the agency responsible for the administration of the general assistance program.~~

~~**Subp. 16. 15. Medical certification.** "Medical certification" means a statement signed by a licensed physician or licensed consulting psychologist about a person's illness, injury, or incapacity.~~

~~**Subp. 17. 16. MEED program.** "MEED program" means the Minnesota Emergency Employment Development Act, under Minnesota Statutes, sections 268.60 to 268.77.~~

~~**Subp. 18. 17. Mentally ill.** "Mentally ill" means the condition of a person who has a medically certified psychological disorder resulting in behavior that severely limits the person from obtaining, performing, or maintaining suitable employment.~~

~~**Subp. 19. 18. Mentally retarded.** "Mentally retarded" means the condition of a person who is medically certified as severely limited in obtaining, performing, or maintaining suitable employment because of having demonstrated deficits in adaptive behavior and because of intellectual functioning which is two or more standard deviations below the mean of a professionally recognized standardized test that severely limits the person in obtaining, performing, or maintaining suitable employment.~~

~~**Subp. 19. Minor child.** "Minor child" means a person under the age of 18.~~

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ADOPTED RULES

Subp. 20. Negotiated rate. Except for shelter facilities provided for under Minnesota Statutes, section 256D.05, subdivision 3, "negotiated rate" means a general assistance payment which includes room and board and which is either set by the state or local agency or is negotiated by one of those agencies with a party not included in the assistance unit. The set or negotiated rate is deemed to provide for an assistance unit's shelter, fuel, food, utilities, and household supply need items, and other costs necessary to provide room and board. The rate shall pay only for those items. It shall not include the clothing and personal needs allowance under Minnesota Statutes, section 256D.06, subdivision 3, payments for foster care, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services.

Subp. 23. Responsible relative. "Responsible relative" means the spouse of an applicant or recipient, or the parent of a minor child who is an applicant or recipient, or the parent of an adult child who resides with the parent and is an applicant or recipient.

Subp. 26. Vocational or technical training program. "Vocational or technical training program" means a training program of two years or less which requires that the person be a full-time student and which is undertaken at a postsecondary area vocational-technical institute or a private business, trade, vocational, or technical school accredited, licensed, or approved under state laws and rules.

Subp. 27. Vocational rehabilitation training programs. "Vocational rehabilitation training program" means a program undertaken under an individualized written rehabilitation plan developed by the division of vocational rehabilitation or a vocational specialist.

Subp. 28. Work experience and work training program. "Work experience" and "work training program" means an employment-related experience or training program or a short-term employment or training readiness program provided or supervised by a publicly funded agency.

9555.3401 ~~STATUTORY AUTHORITY~~ APPLICABILITY.

Subpart 1. Authority. The following Minnesota Statutes authorize the commissioner to adopt rules 9555.3401 to 9555.3409:

A. ~~Minnesota Statutes, section 256D.01, subdivision 1, authorizes the commissioner to establish minimum standards of assistance for the general assistance program.~~

B. ~~Minnesota Statutes, section 256D.01, subdivision 1, authorizes the commissioner to adopt rules concerning eligibility for the emergency assistance program under aid to families with dependent children to the extent permitted by federal law to require the use of the emergency program under aid to families with dependent children as the primary financial resource when available.~~

C. ~~Minnesota Statutes, section 256D.09, subdivision 2, authorizes the commissioner to provide by rule for situations in which vouchers or vendor payments may be used by local agencies.~~

D. ~~Minnesota Statutes, section 256D.111, subdivisions 1 to 5, authorize the commissioner to adopt rules governing:~~

- ~~(1) a reasonable period of disqualification from general assistance for a recipient who fails to comply with the registration and work requirements of part 9555.3403;~~
- ~~(2) the use of vouchers or vendor payments rather than cash grants for the family of a person disqualified; and~~
- ~~(3) written notice from local agency to recipient about job registration, search and acceptance requirements, and the period of disqualification imposed for noncompliance with the requirements.~~

E. ~~Minnesota Statutes, section 256D.112, authorizes the local agency to refer adult recipients to the commissioner of the Department of Economic Security for services under the Minnesota Emergency Employment Development Act upon issuance of a one month grant, and to terminate assistance following referral.~~

F. ~~Minnesota Statutes, section 256D.03, requires a local agency to administer general assistance rules and that the commissioner adopt rules establishing administrative and fiscal procedures.~~

G. ~~Minnesota Statutes, section 256D.04, requires the commissioner to supervise local agency administration of the program and to adopt rules to assure uniform administration and to enforce the standards of the law.~~

Subp. 2. Applicability. Parts 9555.3400 to 9555.3408 9555.3410 establish the rights and responsibilities of the Department of Public Welfare Human Services, local agencies, and recipients of general assistance concerning registration and work requirements, participation in the Minnesota Emergency Employment Development Act MEED program, establish standards of assistance, and authorize local agencies to enter into a contract with the Department of Economic Security to determine the eligibility of MEED program applicants for an allowance, and shall be read together and with parts 9500.0500 to 9500.0610 for

purposes of administering the general assistance program. To the extent that parts 9555.3400 to ~~9555.3408~~ 9555.3410 conflict with parts 9500.0500 to 9500.0610, parts 9555.3400 to ~~9555.3408~~ 9555.3410 shall prevail.

9555.3402 ASSISTANCE STANDARDS, PAYMENTS, AND PARTICIPATION.

Subp. 3. Payment to assistance unit. Except as in subpart 4, the monthly payment to an assistance unit must be the difference between the applicable state assistance standard, or the local agency standard, and the unit's countable income or seasonal income. The state assistance standard, minus countable income or seasonal income, shall be used to determine the amount of the state participation in the payment.

Subp. 4. State assistance standard; person in dwelling with negotiated rate, state hospital, or nursing home. The state assistance standard for a person living in a dwelling with a negotiated rate, state hospital, or nursing home must be the clothing and personal needs allowance that has been set for medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 7 1. To receive a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure, including the requirements of Minnesota Statutes, sections 245.781 to 245.813, if applicable.

Subp. 5. Payment; person in dwelling with negotiated rate, state hospital, or nursing home. The monthly payment for a person living in a dwelling with a negotiated rate, state hospital, or nursing home must be the sum of the negotiated rate ~~paid to the dwelling, if any,~~ and the clothing and personal needs allowance ~~paid to the person~~ as in subpart 4, minus the person's countable income or seasonal income.

9555.3403 REGISTRATION AND WORK REQUIREMENTS.

Subp. 2. Referral form. Referrals to the Department of Economic Security by the local agency must be made on a form prescribed by the commissioner of the Department of ~~Public Welfare~~ Human Services. The form must be written ~~in plain and easily understood English~~ and must include:

Subp. 3. Registration requirement. Recipients who are referred by the local agency as in subpart 1 shall register for employment services with the Department of Economic Security within 15 calendar days of the date on which the local agency made the referral.

~~The recipient shall maintain registration for employment services as part of the local agency's semiannual redetermination of eligibility.~~

Subp. 4. Failure to meet registration requirements. The local agency shall contact the Department of Economic Security to determine whether the recipient met the registration requirements. If the Department of Economic Security verifies that the recipient has registered, the recipient shall be considered to have met the registration requirement. If the Department of Economic Security verifies that the recipient has not registered, ~~the~~ that department shall provide the local agency with a written statement that the recipient has not registered. The statement must establish the recipient's failure to comply with the registration requirement and the local agency shall notify the recipient of termination from assistance ~~at least ten days before the proposed termination date as prescribed in subpart 8.~~ The recipient may appeal the agency's determination of disqualification due to the recipient's failure to register without good cause under Minnesota Statutes, section 256.045.

Subp. 5. Work requirements. Recipients who are referred to the Department of Economic Security for employment assistance shall comply with work requirements set by the Department of Economic Security. The recipient shall:

C. accept any offer of, ~~and maintain~~ suitable employment.

Subp. 6. Failure to meet work requirements. The Department of Economic Security shall determine whether ~~an applicant or~~ a recipient failed to comply with the work requirements of that department. ~~If the commissioner of economic security certifies to the local agency that the applicant did not maintain suitable employment, the local agency shall find the applicant ineligible for general assistance for the period under subpart 7-~~ If the commissioner of the Department of Economic Security certifies to the local agency that the recipient failed to meet other work requirements, the local agency shall notify the recipient of termination from assistance ~~at least ten days before the proposed termination date as prescribed in subpart 8.~~

The Department of Economic Security shall hear appeals regarding compliance with the work requirements. Neither the local agency nor the ~~applicant or~~ recipient may appeal a final determination of noncompliance to the commissioner of ~~public welfare~~ the Department of Human Services.

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ADOPTED RULES

Subp. 7. ~~Ineligibility and Disqualification.~~ An applicant who did not maintain suitable employment shall be determined ~~ineligible for general assistance as provided in items A to H.~~ A recipient who did not comply with the registration or work requirements of subpart 3 or 5 shall be disqualified from receiving general assistance as provided in items A to H I.

A. Except as provided in item C, the period of ~~ineligibility or~~ disqualification shall be 30 days for the first occurrence.

B. Except as provided in item C, the period of ~~ineligibility or~~ disqualification shall be 90 days for an occurrence that is within 12 months from the end of any prior ~~ineligibility or~~ disqualification period.

C. A recipient certified by the commissioner of the Department of Economic Security as unavailable for work due to full-time student status shall be disqualified from the receipt of general assistance as provided in subitem (1) or (2).

(1) The period of disqualification for the first occurrence shall be for the period during which the recipient continues to be a full-time student, or the period in A, whichever is longer.

(2) The period of disqualification for an occurrence that is within 12 months from the end of any prior disqualification period shall be for the period during which the recipient continues to be a full-time student or the period specified in B, whichever is longer.

~~D.~~ A subsequent finding of ~~ineligibility or~~ disqualification that occurs more than 12 months from the end of any prior ~~ineligibility or~~ disqualification period shall be the same as for a first occurrence.

~~D.~~ The period of ~~ineligibility or~~ disqualification begins as described in subitem (1) or (2).

~~(1) If the commissioner of economic security certifies that the applicant failed to maintain suitable employment, the period of ineligibility begins on the date the determination is made and certified.~~

~~(2) E.~~ If the commissioner of economic security certifies that the recipient failed to comply with work requirements under subpart 5 or the registration requirements of subpart 3, the disqualification period begins on the first calendar day of the month following the month of certification. If the certification is received so late in a month that prior notice under subpart 8 cannot be given, the disqualification period begins on the first calendar day of the second month following certification of noncompliance by the Department of Economic Security.

If the recipient appeals on or before the proposed disqualification date, the disqualification process must stop and assistance will continue under subpart 9 until a final decision is rendered. If there is a decision that the recipient must be disqualified, the disqualification period begins on the first day of the following month.

~~E. F.~~ A person who is disqualified and who applies for general assistance during the period of disqualification shall be considered a recipient for purposes of this subpart 7.

~~F. G.~~ If a recipient who received a notice of disqualification complies with the registration or work requirements and verifies the compliance on or before the effective date of the disqualification, assistance must be continued without a period of disqualification.

~~G. H.~~ If otherwise eligible, an applicant who resumes suitable employment during a period of ~~ineligibility~~ under item ~~D~~ shall be eligible to receive general assistance as of the date the local agency receives verification from the Department of Economic Security or exemption under subpart 11. The period of ~~ineligibility~~ must be counted if the applicant has a subsequent period of ~~ineligibility~~. If otherwise eligible, a recipient who complies with, or becomes exempt from, the registration or work requirements during a disqualification period shall receive general assistance as of the date that the agency receives verification of compliance or exemption. The disqualification must be counted if there is a subsequent occurrence of noncompliance.

~~H. I.~~ ~~Ineligibility under subpart 7 or~~ Disqualification under this subpart 7, item D does not affect a person's eligibility for general assistance medical care.

Subp. 8. Notice of disqualification. The local agency shall notify the recipient of disqualification at least ten days before reducing, suspending, or terminating the grant due to noncompliance. The notice must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the recipient not later than ten days before the effective date of the action; and

C. clearly state ~~in plain and easily understood English~~ what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

Subp. 10. Payment provisions during period of ~~ineligibility or~~ disqualification. If an applicant is ~~ineligible~~ or a recipient is disqualified under subpart 7, the local agency shall use vouchers and vendor payments, or both, to meet the financial needs of

the remaining eligible members of the assistance unit. The assistance standard used must be based upon the number of remaining eligible members in the assistance unit.

Subp. 11. Exemption from registration and work requirements. A recipient who meets the conditions listed in items A to M shall be exempt from the registration and work requirements of subparts 3 and 5.

C. ~~The local agency has approved the exemption because~~ the person is at home on a substantially continuous basis because of age or a medically certified illness, injury, or incapacity of another member of the assistance unit. The medical certification must state that the person requiring care is unable to care for himself or herself.

D. ~~The local agency has approved the exemption because~~ the person is at home on a substantially continuous basis because of age or a medically certified illness, injury, or incapacity of another member of the household who is not a member of the assistance unit. The medical certification must state that the person requiring care is unable to care for himself or herself.

H. The person does not meet the condition in item A, B or ~~D~~ E but is mentally retarded or mentally ill.

K. The person is completing a secondary education program, or has been referred to, has applied for, or is in a work training, work experience, vocational rehabilitation, or other ~~employment related educational~~ vocational or technical training program. Exemption ~~under one of the programs~~ shall not exceed:

(1) ~~three months if the person is a part-time high school student; or~~

(2) two months, including the month of application, if the person is waiting for acceptance into ~~an employment related educational program~~ one of these programs.

L. The person is an adult member of an assistance unit that includes at least one minor child and another responsible relative a second adult who is employed full time, has registered for employment services with the Department of Economic Security, or has been accepted in ~~an employment related educational~~ a work training, work experience, vocational rehabilitation, or vocational or technical training program.

9555.3404 SERVICES TO RECIPIENTS REFERRED TO MINNESOTA EMERGENCY EMPLOYMENT DEVELOPMENT PROGRAM (MEED).

Subpart 1. Information. Until such time as the MEED program ends, the local agency shall ~~inform~~ provide to all adult applicants for, and recipients of general assistance, a written description of the MEED program. ~~The information must describe the program in plain and easily understood English prepared by the commissioner.~~

Subp. 2. Mandatory referrals. The local agency shall refer all adult recipients who are not exempt under subpart ~~8~~ 7 to the commissioner of economic security for employment allowances and services under the MEED program. The referral must be made when ~~when~~ the local agency issues a grant of general assistance. A recipient who is referred shall apply to the Department of Economic Security to obtain MEED program services. The registration need not be verified.

Subp. 4. Grant upon referral. A grant upon a referral must be issued in the following manner:

A. An eligible assistance unit shall, at a minimum, receive a one-month grant from the local agency. The grant must be issued within 15 calendar days of the date of application or the subsequent date when all eligibility conditions are met. If the local agency is unable to issue the grant within that 15-day period, the grant must be issued to cover the period beginning with the date of application, or the subsequent date when all eligibility conditions are met, through 15 days beyond the date of issuance. The total period covered must not be less than 30 days. ~~Notwithstanding the provisions of~~ Except as provided in Minnesota Statutes, section 256D.09, subdivision 1, the grant must be issued in one payment without regard to the beginning or ending date of the month.

Subp. 5. Registration for MEED program. To comply with the registration and work requirements in part 9555.3403, subparts 3 and 5, a recipient shall register with the Department of Economic Security for the MEED program, comply with its reporting and job search requirements, be available for work, and accept any offer of, ~~and maintain~~ suitable employment.

Subp. 6. Termination from employment allowance. A member of an assistance unit who is terminated from the receipt of an employment allowance provided by the Department of Economic Security due to failure to comply with the work requirements of that department shall be disqualified from the receipt of general assistance. The disqualification must begin following the final day covered by the employment allowance, and must continue for 30 or 90 days under part 9555.3403,

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subpart 7, items A to ~~C~~ D. At the end of the disqualification period or on exemption from the referral and work requirements under subpart 7, the person, if otherwise eligible, shall be eligible for further grants. If the recipient is not exempt under subpart 7 at the end of the period of disqualification, part 9555.3404 applies. Other eligible members of the assistance unit containing a member who has been disqualified from receipt of general assistance may receive general assistance vouchers or vendor payments as provided in part 9555.3403, subpart 10, during the period of disqualification. The assistance standard used must be based on the number of remaining eligible members in the assistance unit.

~~Subp. 7. Failure to maintain suitable employment. The local agency shall find ineligible an applicant who fails to maintain suitable employment in a MEED position. The period of ineligibility must begin on the date that the commissioner of economic security certifies the applicant's failure to maintain suitable employment and must continue for 30 or 90 days under part 9555.3403, subpart 7, items A to C. At the end of the period of ineligibility or upon exemption from the work requirements of subpart 8, the applicant, if otherwise eligible, shall be eligible to receive a grant. If the applicant is not exempt under subpart 8 at the end of the period of ineligibility, part 9555.3403 applies.~~

~~Other eligible members of the assistance unit containing a member who has been found ineligible under this subpart, may receive general assistance vouchers or vendor payments as provided in part 9555.3403, subpart 10, during the period of ineligibility. The assistance standard used must be based on the number of remaining eligible members in the assistance unit.~~

~~Subp. 8. Exemptions from referral. A recipient shall be exempt from referral to the MEED program if the recipient:~~

~~Subp. 9. 8. Continuation of assistance. The local agency shall continue to provide assistance to those recipients who were recipients on September 30, 1983, and whose assistance has not terminated since that date, and to recipients who are otherwise exempt from referral to the MEED program until the recipient no longer meets the eligibility conditions.~~

~~Subp. 10. 9. Request for MEED program services. An exempt applicant or recipient may request services from the MEED program. If requests by the applicant or recipient, the local agency shall refer these persons to the Department of Economic Security using the referral form in subpart 3.~~

~~Subp. 11. 10. Employment allowances. Employment allowances provided by the Department of Economic Security must be paid in accordance with part 9555.3402, subpart 1. The allowances must be unearned income for purposes of determining eligibility for and the amount of general assistance, emergency general assistance, and the payments for persons in facilities with rates established or negotiated by the state or the local agency. Eligibility for emergency general assistance under Minnesota Statutes, section 256D.06, subdivision 2 is not precluded by receipt of an employment allowance.~~

~~Subp. 12. Discontinuance of MEED or employment allowance program. Part 9555.3404 shall not apply when the commissioner of economic security notifies the department that the MEED program or the employment allowances program has been discontinued or the employment allowance allocation has been depleted.~~

9555.3406 DISCLOSURE OF DATA.

~~Notwithstanding Under Minnesota Statutes, section 13.46, data that the department or a local agency collects, maintains, uses, or disseminates about a person for the general assistance program, including MEED program data, may be disclosed without the consent of the person to the Minnesota Department of Economic Security and its agents including the MEED program administrators, to monitor the eligibility of the person for unemployment compensation, or for any employment or training program administered by the agency.~~

9555.3409 PREPARATION OF WRITTEN MATERIALS.

Subpart 1. Use of language. All referral forms, notices, and other written information prepared by the commissioner or a local agency for use in the general assistance program by applicants or recipients must be prepared in clear and easily understood English and other languages that the commissioner determines appropriate for the applicants or recipients. A local agency, subject to prior approval from the department, may translate referral forms, notices, and other written information used in the implementation of the general assistance program into as many languages as the local agency determines appropriate to address the needs of its applicants and recipients.

Subp. 2. Language use accompanying forms. The commissioner shall prepare a written statement in English, Spanish, Laotian, Vietnamese, Cambodian, Hmong, and other languages that the commissioner determines appropriate for the applicants and recipients, that states that the written document accompanying the statement is very important, and that if the reader does not understand the document, the reader should seek immediate assistance. The written statement must accompany all written information given by the department or a local agency to an applicant or recipient.

Subp. 3. Commissioner's determination of languages appropriate for applicants and recipients. The commissioner's determination of languages appropriate for translation in preparation of written materials for applicants and recipients as in subparts 1 and 2 shall be based upon relevant factors including:

- A. the percentage of persons in the statewide general assistance program caseload who speak a particular language;
- B. the need expressed by persons or organizations which are composed of or represent applicants or recipients; and
- C. the anticipated benefit to applicants and recipients.

9500.0361 NOTICE TO AFDC APPLICANTS AND RECIPIENTS.

Subp. 3. Requirement. Until such time as the MEED program ends, the local agency shall notify each adult applicant for or recipient of aid to families with dependent children of the availability of the MEED program and shall also provide a description of the program. Persons required to register for the work incentive program or with job services shall be referred by the local agency to the Department of Economic Security, which shall:

REPEALER. Minnesota Rules, parts 9555.3403, subpart 11, item M; and 9555.3404, subparts 2, 3; 4, item A; 8; and 9 are repealed on October 1, 1984. Parts 9555.3404, subpart 4, items B, C, and D; 9555.3404, subparts 5, 6, 7, and 10; 9555.3405; and 9555.3407 are repealed on January 1, 1985.

Department of Labor and Industry

Adopted Rules Relating to Workers' Compensation; Fees for Medical Services

The rules proposed and published at *State Register*, Volume 8, Number 48, pages 2519-2566, May 28, 1984 (8 S.R. 2519) are adopted with the following modifications:

Rules as Adopted

5221.0100 DEFINITIONS.

Subp. 3. Charge or fee. "Charge" or "fee" means the payment requested by a provider on a bill for a particular service. These rules do not prohibit a provider from billing usual and customary fees which are in excess of the amount listed in the fee schedule.

Subp. 9. Maximum fee schedule. "Maximum fee schedule" means the list of codes, ~~services~~ service descriptions, and corresponding 75th percentile dollar amounts established pursuant to part 5221.0900.

Subp. 13. Service or treatment. "Service" or "treatment" means any procedure, operation, consultation, supply, product, or other thing performed or provided for the purpose of curing ~~or~~ and relieving an injured worker from the effects of an injury or occupational disease, pursuant to Minnesota Statutes, section 176.135, subdivision 1.

5221.0600 PAYER RESPONSIBILITIES.

Subp. 2. Payment of charges. Before paying a charge, the payer shall determine whether it is excessive. If a charge is determined to be excessive, the payer shall not pay the ~~charge~~ charge part that is excessive. As soon as reasonably possible, and no later than 21 calendar days after receiving the bill and ~~any necessary reports~~ medical data, the payer shall pay the charge or deny all or part of the charge on the basis of excessiveness or noncompensability, with written notification to the provider of the determination, the reason for the determination, and the options of appeal. Failure to comply with the requirements of this paragraph subjects the payer to the penalties provided in Minnesota Statutes, sections 176.221 and 176.225.

Subp. 3. Determination of excessiveness. Subject to the provider's right to appeal under part 5221.0800, the payer shall ascertain whether a charge is excessive by evaluating the charge and service according to the standards of excessiveness specified in part 5221.0500. The payer shall also comply with the following procedures:

B. In determining whether the code or description submitted for a particular service is correct, the code to which a service should be assigned if no code or an incorrect code was submitted, or whether a charge is excessive because the service is not usual, customary, and reasonably required for the cure and relief of the effects of injury; the payer shall consider the

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professional judgment and standards of the relevant healing art, as necessary to make a sound determination. Professional judgment and standards may include but are not limited to any of the following, provided that final determinations shall remain the responsibility of the payer:

(1) the opinion of persons with expertise concerning the service, including the provider whose charge is being evaluated;

(3) widely accepted publications concerning the procedures and standards of a healing art. These may include, but are not limited to, publications concerning the reasonable length of hospital stays for certain procedures, publications which compare the merits and necessity of inpatient and outpatient treatment for certain procedures, relative value scales coding and fee schedules, and other medical reference materials.

C. If a service is not included in the maximum fee schedule, the payer shall ~~consider~~ pay the reasonable value of ~~the~~ that service as defined in Minnesota Statutes, section 176.135, subdivision 3, if not otherwise excessive.

5221.0700 PROVIDER RESPONSIBILITIES.

Subp. 2. Submission of information. Providers shall include on bills the patient's name, date of injury, and the employer's name, ~~narratives~~ service descriptions and codes which accurately describe all services provided and all injuries or conditions treated, the date upon which each service was provided, and the providers' social security number. Where applicable, codes from the maximum fee schedules in parts 5221.0100 to 5221.3200 shall be used. This subpart shall not prohibit the use of other coding schedules where codes in the maximum fee schedule do not apply.

Subp. 3. Cooperation with payer. Pursuant to Minnesota Statutes, section 176.138, providers shall comply promptly with payers' reasonable requests for ~~information~~ medical data concerning the services provided, the patient's condition, the plan of treatment, and other issues pertaining to the payer's determination of a service's compensability or a charge's reasonableness.

5221.0900 MAXIMUM FEE SCHEDULE.

Subp. 2. Revisions. The commissioner shall revise the maximum fee schedule annually to incorporate charge data from the preceding calendar year. Until revisions are adopted the current maximum fee schedule remains in force. The commissioner may revise the maximum fee schedule at any time to (1) improve the schedule's accuracy, fairness, or equity; (2) simplify the use and administration of the schedule; (3) encourage providers to develop and deliver services; or (4) to accommodate improvements or correct deficiencies of the data base. The medical services review board shall advise the commissioner regarding these revisions.

5221.1000 MAXIMUM FEE SCHEDULE FOR REIMBURSEMENT OF WORKERS' COMPENSATION MEDICAL SERVICES.

Subp. 2. Applicability of the fee schedule. The payer shall undertake reasonable investigations ~~that it considers reasonable~~ to ascertain whether a service is subject to the maximum fee schedule. A service is subject to the maximum fee schedule if it conforms to a description contained in the maximum fee schedule in the section for the appropriate kind of medical provider. The standards of excessiveness contained in part 5221.0500 apply whether or not a service is subject to the maximum fee schedule.

Subp. 3. Coding. For services which are or which may be subject to the maximum fee schedule, the payer shall undertake reasonable investigations ~~that it considers reasonable~~ to ascertain whether or not the code assigned to a service by the provider is correct. If no code has been assigned the payer shall determine the appropriate code, and shall evaluate the service on the basis of that code. A broad, inclusive service description may be divided into its component services, charges, and codes, if the inclusive service is not subject to the maximum fee schedule but some of the component services are.

5221.1200 CONSULTATIONS.

Subp. 2. Definitions. For the purpose of this part the following terms have the meanings given them unless the context clearly indicates a different meaning.

A. Consultation. "Consultation" includes services rendered by a physician whose opinion or advice is requested by a physician or other appropriate source for the further evaluation or management of the patient. When as a result of the consultation the consulting physician assumes responsibility for the continuing care of the patient, any subsequent service rendered by the physician will cease to be a consultation. A referral does not constitute a consultation if the effect of the referral is to transfer the total or specific care of the patient from one physician to another.

5221.2200 SPECIAL SERVICES.

Code	Service	Maximum Fee
99080	Special reports like insurance forms, or the review of medical data to clarify a patient's status more than the information conveyed in the usual medical communications or <u>on standard reporting form forms required by the commissioner</u>	Reasonable- ness of charges re- viewable by commissioner

5221.2250 PHYSICIAN SERVICES—SURGERY.

Subp. 2. Instructions. The instructions in items A to E govern the assignment of codes and the evaluation of services described in this part.

A. With the exception of services designated with an asterisk (*), all services include the operation per se, local infiltration, digital block, or topical anesthesia when used, and the normal uncomplicated follow-up care, both pre- and postoperative. This concept is referred to as a "package" for surgical procedures. For the purposes of this definition, preoperative care does not include any care administered before the provider determines that surgery is required.

5221.2300 PHYSICIAN SERVICES—RADIOLOGY.

Subp. 2. Diagnostic radiology. The following codes, service descriptions, and maximum fees apply to diagnostic radiology procedures.

Code	Service	Maximum Fee
	Urinary Tract	
74455	Urethrocytography, voiding; supervision and interpretation only	66.00
<u>74455-26</u>	professional component only	22.70

5221.3200 HOSPITAL—SEMI-PRIVATE ROOM CHARGES.

Subp. 2. Group 1. The following hospitals make up group 1:

AA. ~~Sister Kenny Institute, Minneapolis~~

~~BB.~~ United Hospital, St. Paul

~~CC.~~ BB. United Medical Center, Fridley

Subp. 3. Group 2. The following hospitals make up group 2:

DDDDDD. Winona General Hospital, Winona

EEEEEE. Worthington Regional Hospital, Worthington

FFFFFF. Zumbrota Community Hospital, Zumbrota

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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.

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to the Use of Overinsurance Reduction of Benefit Provisions in Group Health Insurance Policies and Group Service Plan Corporation Contracts 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 new rules governing the use of overinsurance reduction of benefit provisions of group health insurance policies and group service plan corporation contracts. Promulgation of these rules is authorized by Minnesota Statutes, sections 45.023.

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 section 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 October 17, 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

Notice of Proposed Final Statement for Allocation of Small Cities Development Grant Funds Under the Housing and Community Development Act of 1974, as Amended, and Notice of Public Hearing

Notice is hereby given that the Department proposes to submit the following Final Statement to the U.S. Department of Housing and Urban Development as required by the Housing and Community Development Act of 1974, as amended.

A public hearing will be conducted by the Division of Community Development on September 21, 1984, at 10:00 a.m., in Conference Room 3, Ninth Floor, of the American Center Building, 150 East Kellogg Avenue, St. Paul, 55101, to receive comments on the Final Statement.

Written statements must be received on, or before, September 24, 1984.

Robert F. Benner
Deputy Commissioner

Final Statement as Proposed

Federal fiscal year 1985 Community Development Block Grant funds made available to the state for distribution to non-entitlement areas will be distributed in accordance with administrative rules adopted at 10 MCAR §§ 1.500-1.565. These rules are the same as those under which fiscal year 1984 funds were administered.

The text of said rules follows:

10 MCAR § 1.500 Small cities community block grant program; general provisions.

A. Purpose of these rules. Rules 10 MCAR §§ 1.500-1.565 give procedures for evaluating applications for grants and awarding them to eligible applicants by the Department of Energy and Economic Development under United States Code, title 42, sections 5301-5316 (1981), and regulations adopted in Code of Federal Regulations, title 24, part 570.

B. Objective of the program. The primary objective of this 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.

C. Definitions. As used in 10 MCAR §§ 1.500-1.565, the following terms have the meanings given them.

1. "Application year" means the federal fiscal year beginning October 1 and ending September 31.
2. "Community development need" means a demonstrated deficiency in housing stock, public facilities, economic opportunities, or other services which are necessary for developing or maintaining viable communities.
3. "Competitive grant" means a grant application that is evaluated and ranked in comparison to other applications in the same grant category and includes housing, public facilities, and comprehensive applications.
4. "Comprehensive program" means a combination of at least two interrelated projects which are designed to address community development needs which by their nature require a coordination of housing, public facilities, or economic development activities. A comprehensive program must be designed to benefit a defined geographic area, otherwise known as a program area.
5. "Economic development project" means one or more activities designed to create new employment, maintain existing employment, increase the local tax base, or otherwise increase economic activity in a community.
6. "Eligible activities" means those activities so designated in United States Code, title 42, section 5305 (1981) and as described in Code of Federal Regulations, title 24, sections 570.200-570.207 (1981).
7. "General purpose local government" means townships as described in Minnesota Statutes, chapter 365; cities as described in Minnesota Statutes, chapters 410 and 412; and counties.
8. "Grant" means an agreement between the state and an eligible recipient through which the state provides funds to carry out specified programs, services, or activities.
9. "Grant close-out" means the process by which the office determines that all applicable administrative actions and all required work have been completed by the grant recipient and the department.
10. "Grant year" means any period of time during which the United States Department of Housing and Urban Development makes funds from any federal fiscal year available to the state for distribution to local governments under United States Code, title 42, sections 5301-5316 (1981), and includes the period of time during which the office solicits applications and makes grant awards.
11. "Infrastructure" means the basic physical systems, structures, and facilities, such as roads, bridges, water, and sewer, which are necessary to support a community.
12. "Low and moderate income" means income which does not exceed 80 percent of the median income for the area, with adjustments for smaller and larger families.
13. "Metropolitan city" means a city over 50,000 population or a central city of a standard metropolitan statistical area that receives entitlement grants under United States Code, title 42, section 5306 (1981) directly from the United States Department of Housing and Urban Development.
14. "Nonentitlement area" means an area that is not a metropolitan city or part of an urban county.
15. "Office" means the office or division in the Department of Energy and Economic Development to which the program is assigned.
16. "Per capita assessed valuation" means the adjusted assessed valuation divided by population.
17. "Population" means the number of persons who are residents in a county, city, or township as established by the last federal census, by a census taken pursuant to Minnesota Statutes, section 275.53, subdivision 2, by a population estimate made by the Metropolitan Council, or by the population estimate of the state demographer made under Minnesota Statutes, section 116J.42, subdivision 7, clause (10), whichever is most recent as to the stated date of count or estimate, up to and including the most recent July 1.
18. "Poverty persons" means individuals or families whose incomes are below the poverty level as determined by the

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most current data available from the United States Department of Commerce, taking into account variations in cost of living for the area affected.

19. "Program" means the community development block grant program for nonentitlement areas.
20. "Program area" means a defined geographic area within which an applicant has determined that, based on community plans or other studies, there exists a need for community development activities. A program area may be a neighborhood in a community or an entire community.
21. "Program income" means gross income earned by the grant recipient from grant-supported activities, excluding interest earned on advances.
22. "Project" means one or more activities designed to meet a specific community development need.
23. "Regional or community development plans" means written documents, resolutions, or statements which describe goals, policies, or strategies for the physical, social, or economic development of a neighborhood, community, or substate area. Regional or community development plans include comprehensive plans and elements of comprehensive plans, including land use plans, which have been approved by the governing boards of townships, counties, or cities, and also include regional development plans adopted under Minnesota Statutes, section 462.381, where applicable.
24. "Slums and blight" means areas or neighborhoods which are characterized by conditions used to describe deteriorated areas in Minnesota Statutes, section 462.421 or which are characterized by the conditions used to describe redevelopment districts in Minnesota Statutes, section 273.73, subdivision 10.
25. "Single purpose project" means one or more activities designed to meet a specific housing or public facilities community development need.
26. "Urban county" means a county which is located in a metropolitan area and is entitled to receive grants under United States Code, title 42, section 5306 (1981), directly from the United States Department of Housing and Urban Development.

10 MCAR § 1.505 Types of competitive grants available.

A. Single purpose grants. The office shall approve grants for single purpose projects for funding from a single grant year. The office shall place single purpose grant applications in one of the following categories for purposes of evaluation:

1. housing projects which include one or more activities designed to increase the supply or quality of dwellings suited to the occupancy of individuals and families; or
2. public facilities projects which include one or more activities designed to acquire, construct, reconstruct, or install buildings or infrastructure which serve a neighborhood area or community.

B. Comprehensive grants. The office shall approve comprehensive grants for two or more projects which constitute a comprehensive program. Comprehensive grants shall be approved for funding from one, two, or three grant years. In the case of grants approved for funding from more than one grant year, the office shall make funds available to the grant recipient in the second or third year only after the recipient submits an approved application. Approval shall be subject to a finding by the office that the grant recipient has made normal progress and is in compliance with 10 MCAR §§ 1.500-1.565.

C. Previous grant commitments. The provisions of B. apply to three-year comprehensive grant commitments made by the United States Department of Housing and Urban Development in 1981 under United States Code, title 42, section 5306 (1980).

10 MCAR § 1.506 Economic development grants; noncompetitive.

The office shall approve grants for economic development projects for funding throughout a single application year, or until the funds reserved have been exhausted.

10 MCAR § 1.510 Application process and requirements.

A. Grant application manual. The office shall prepare a manual for distribution to eligible applicants no later than 120 days before the application closing date for competitive applications. The manual must instruct applicants in the preparation of applications and describe the method by which the office will evaluate and rank applications. If 10 MCAR §§ 1.500-1.565 are not adopted before September 15, 1982, the 120-day period is waived for the 1983 grant year but the office shall make the manual available no later than 60 days before the application closing date.

B. Eligibility requirements. Any unit of general purpose local government, including cities, counties, and townships located in a nonentitlement area or electing exclusion from an urban county under United States Code, title 42, section 5302

(1981), may apply for a grant. An eligible applicant may apply on behalf of other eligible applicants. Applications submitted on behalf of other applicants must be approved by the governing body of all local governments party to the application. An eligible applicant may apply for only one competitive grant per grant year and no eligible applicant shall be included in more than one competitive application. An eligible applicant may apply for one economic development grant in addition to a competitive grant each application year.

C. Disqualification of applicants. Applications from otherwise eligible applicants shall be disqualified where for previously awarded grants under these rules or awarded by the Department of Housing and Urban Development under United States Code, title 42, section 5306 (1981), it is determined by the office that any of the following conditions exist:

1. there are outstanding audit findings on previous community development grants and the grantee has not objected on a reasonable basis to the findings or demonstrated a willingness to resolve the findings;
2. previously approved projects have passed scheduled dates for grant close-out and the grantee's ability to complete the project in an expeditious manner is in question; or
3. the applicant has not made scheduled progress on previously approved projects and the grantee's ability to complete the project in an expeditious manner is in question.

D. Contents of application. The contents of the application must be consistent with the informational requirements of 10 MCAR §§ 1.500-1.565 and must be on a form prescribed by the office. The application must be accompanied by:

1. an assurance, signed by the chief elected official, that the applicant will comply with all applicable state and federal requirements;
2. an assurance signed by the chief elected official certifying that at least one public hearing was held at least ten days but not more than 60 days before submitting the application; and
3. a copy of a resolution passed by the governing body approving the application and authorizing execution of the grant agreement if funds are made available.

The office may request additional information from the applicant if it is necessary to clarify and evaluate the application.

E. Time limit for submitting applications. Competitive applications must be received in the office or postmarked by the closing date. The office shall give notice of the period during which applications will be accepted. The notice must be published in the *State Register* at least 120 days before the closing date. Economic development project applications may be submitted at any time during the grant year.

F. Regional review. The applicant must submit a complete copy of the application to the Regional Development Commission, where such a commission exists, or the Metropolitan Council, where it has jurisdiction, for review and comment in accordance with Minnesota Statutes, section 462.391, subdivision 3, or Minnesota Statutes, section 473.171, respectively.

10 MCAR § 1.515 Evaluation of applications; in general.

All applications shall be evaluated by the office. A fixed amount of points shall be established as the maximum score attainable by any application. Points shall be made available within each class of rating criteria in accordance with the percentages and fractions indicated in 10 MCAR §§ 1.520-1.545. Economic development project applications must meet threshold criteria in order to be evaluated.

10 MCAR § 1.520 Comparison of all competitive applications; general competition.

A. Points available. Thirty percent of the total available points shall be awarded by the office based on a general competition involving a comparison of all applications.

B. Evaluation of community need. Two-thirds of the points in the general competition shall be awarded based on evaluation of community need, which shall include:

1. the number of poverty persons in the area under the applicant's jurisdiction;
2. the percentage of persons resident in the area under the applicant's jurisdiction who are poverty persons; and
3. the per capita assessed valuation of the area under the jurisdiction of the applicant, such that points are awarded in inverse relationship to applicants' per capita assessed valuation.

C. Evaluation of other factors. One-third of the points in the general competition shall be awarded based on evaluation of:

1. the extent to which the proposed activities are compatible with regional or community development plans; and
2. adequacy of the applicant's management and financial plan.

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10 MCAR § 1.525 Comparison of competitive applications within categories.

After completing the general competition described in 10 MCAR § 1.520, the office shall place each application in the appropriate grant category in accordance with 10 MCAR § 1.505. The categories are housing projects, public facilities projects, and comprehensive programs. Seventy percent of the total points available for each application shall be awarded based on a comparison of the applications within each of the categories as further described in 10 MCAR §§ 1.530-1.545.

10 MCAR § 1.530 Evaluation of housing projects.

A. Project need. Three-sevenths of the points available in the housing category competition shall be awarded by the office based on evaluation of the need for improvements or additions to the housing stock serving low- and moderate-income persons as evidenced by:

1. housing units which are occupied by low- and moderate-income persons and are either substandard or pose a threat to the health or safety of the occupants;
2. an inadequate supply of affordable housing for low- or moderate-income persons; or
3. other documented conditions which give evidence of the need for improvements or additions to the housing stock serving low- and moderate-income persons.

B. Project impact. Three-sevenths of the points available in the housing category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities will eliminate or reduce the need for improvements or additions to the housing stock serving low- and moderate-income persons.

C. Project cost-effectiveness. One-seventh of the points available in the housing category competition shall be awarded by the office based on:

1. evaluation of the extent to which the proposed activities will make cost-effective and efficient use of grant funds including coordination with, and use of, funds from other public and private sources; and
2. evidence that the cost of the proposed activities per benefiting household is reasonable.

10 MCAR § 1.535 Evaluation of public facilities projects.

A. Project need. Three-sevenths of the points available in the public facilities category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities are necessary to improve provision of public services to low- and moderate-income persons or to eliminate an urgent threat to public health or safety.

B. Project impact. Three-sevenths of the points available in the public facilities category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities will reduce or eliminate the need identified under A., and, in the case of activities designed to improve the provision of public services to low- and moderate-income persons, an evaluation of the extent to which the proposed activities directly benefit low- and moderate-income persons.

C. Project cost-effectiveness. One-seventh of the points available in the public facilities category competition shall be awarded by the office based on evaluation of the extent to which the proposed activities will make cost-effective and efficient use of grant funds, including consideration of:

1. the extent to which the requested grant funds are necessary to finance all or a portion of the costs;
2. evidence that the cost of the proposed activities per benefiting household or person is reasonable; and
3. the extent to which the project benefits existing, rather than future, population, except in cases where the proposed activities are necessary due to expected development or growth which is beyond the applicant's control.

10 MCAR § 1.545 Evaluation of comprehensive program projects.

A. Program need. Three-sevenths of the points available in the comprehensive program category competition shall be awarded by the office based on evaluation of need for the proposed comprehensive program, including consideration of:

1. the number of low- and moderate-income persons in the program area;
2. the percentage of residents in the program area which are of low or moderate incomes; and
3. the need for the proposed comprehensive program as evidenced by at least two of the following: the need for improvements or additions to the housing stock serving low- and moderate-income persons, the need for new or improved public facilities in the program area, or employment problems in the program area.

B. Program impact. Three-sevenths of the points available in the comprehensive program category competition shall be awarded by the office based on evaluation of the extent to which the proposed comprehensive program will eliminate or reduce the need identified under A., and the extent to which the proposed program will improve the long-term physical or economic condition of the program area and its residents.

C. Program cost-effectiveness. One-seventh of the points available in the comprehensive program category competition shall be based on evaluation of the extent to which the proposed comprehensive program will make cost-effective and efficient use of grant funds, including consideration of coordination with, and use of, funds from other public and private sources.

10 MCAR § 1.546 Evaluation of economic development projects.

A. In general. Evaluation of economic development applications consists of eligibility threshold screening and project review. Applications must meet the eligibility thresholds in order to be referred for project review. Applications that fail to meet eligibility thresholds may be revised and resubmitted.

B. Federal and state eligibility thresholds. Applicants shall provide a description of the ways that activities address one of the federal objectives described in 10 MCAR § 1.500 B. Each activity proposed for funding must be eligible under current federal regulations.

Applicants shall describe how they will meet two of the three following thresholds based on state economic development objectives:

1. creation or retention of permanent private sector jobs;
2. stimulation or leverage of private investment; or
3. increase in local tax base.

C. Project review. Applications that meet eligibility thresholds will be awarded points by the office based on evaluation of the two rating categories: project design and financial feasibility. Applications must attain at least two-thirds of the total available points for economic development to be recommended for funding. Applications must score at least half of the points available in each of the two rating categories.

Two-thirds of the available points will be awarded based on an evaluation of project quality including an assessment of need, impact, and the capacity of the applicant to complete the project in a timely manner. Consideration of need for an economic development project must be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress. Consideration of impact must be based on the extent to which the project reduces or eliminates the need. Consideration of capacity must be based on demonstration of administrative capability, realistic implementation schedules, and the ability to conform to state and federal requirements.

One-third of the available points will be awarded based on an evaluation of the effective use of program funds to induce economic development. Consideration of financial feasibility must include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

D. Funding recommendations. Applications that attain at least two-thirds of the available points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

10 MCAR § 1.550 Determination of grant awards.

A. Funds available for grants. The amount of funds available for grants shall be equal to the total allocation of federal funds made available to the State under United States Code, title 42, section 5306 (1981), after subtracting an amount for costs incurred by the office for administration of the program, as allowed by that law. The office is not liable for any grants under 10 MCAR §§ 1.500-1.565 until funds are received from the United States Department of Housing and Urban Development.

B. Division of funds.

1. Of the funds available for grants in each grant year, 30 percent shall be reserved by the office to fund single purpose grants, 15 percent shall be reserved for economic development grants, and 55 percent shall be reserved by the office to fund comprehensive grants, including the second and third years of comprehensive grants approved for funding under 10 MCAR § 1.505 and 10 MCAR § 1.545. However, the office may modify the proportions of funds available for single purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

2. At least 30 percent of the funds made available for single purpose grants shall be awarded for applications in each of the two categories: housing and public facilities. However, no application with a rating below the median score for its category shall be funded by the office solely for the purpose of meeting this requirement.

3. If there are unawarded economic development funds available at the end of the application year, two-thirds of the remaining funds will be available for competitive single purpose projects and one-third will be available for economic development projects during the next application year.

C. Funding list. Within each grant category, a list of applications shall be prepared in rank order of the scores received

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after evaluation pursuant to 10 MCAR §§ 1.515-1.545. Based on these lists, and subject to the availability of funds within each category, applications with the highest rank shall be recommended to the commissioner for funding. In the case of a tie between any two applications within any category, the application with the highest score in the general competition shall receive the higher ranking on the list.

D. Approval by commissioner. The list of applications recommended for funding, including recommended grant awards, shall be submitted by the office to the commissioner for approval. A decision by the commissioner not to approve any application recommended for funding must be made in writing to the applicant, giving reasons for disapproval.

E. Reduction in amount requested. The office may recommend an application for funding in an amount less than requested if, in the opinion of the office, the amount requested is more than is necessary to meet the applicant's need. If the amount of the grant is reduced, the reasons for the reduction shall be given to the applicant.

F. Grant ceilings. No competitive single purpose grant may be approved for an amount over \$600,000. No comprehensive grant may be approved for an amount over \$700,000 from any single grant year or for more than a total of \$1,400,000 over three grant years. No economic development grant may be approved for an amount over \$500,000.

10 MCAR § 1.555 Grant agreements.

A. Grant contract required. A grant contract shall be offered to each applicant whose application is approved for funding. The contract must be signed by a person authorized to commit the applicant to legally binding agreements and to execute the contract.

B. Contents of grant contract. The grant contract must include:

1. a work program which indicates completion dates for major parts of the project and a projected budget supporting the work program;
2. a description of the manner in which payments will be made to grant recipients with the condition that five percent of the grant award will not be paid until successful completion of all activities in the work program; and
3. assurances that the grant recipient will comply with all applicable state and federal laws, including at least the federal laws or regulations for which the state is made responsible for enforcement in Code of Federal Regulations, title 24, sections 570.495 and 570.496.

C. Use of program income. Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for project-related costs within 12 months from the time it is earned. The office shall reduce future grant payments by the amount of any unobligated program income which an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

D. Grant account required. Grant recipients must establish and maintain separate accounts for grant funds. In accordance with Code of Federal Regulations, title 24, section 570.494, clause 4, interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States Treasury.

E. Restrictions on use of funds. No grant funds shall be used to finance activities not included in the grant agreement. If it is determined that an improper use of funds has occurred, the office will take whatever action is necessary to recover improperly spent funds.

F. Suspension of payments. The office shall suspend payments of funds to grant recipients which are not in compliance with applicable state and federal laws, rules, and regulations. Grant recipients must return funds which are improperly expended.

G. Amendments to the agreement. Amendments to the grant agreement must be in writing.

10 MCAR § 1.560 Record keeping and monitoring.

A. Financial records. Grant recipients shall maintain financial records which identify the source and application of funds for grant-supported activities. These records must contain information about grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and other information required by the office under the responsibilities it assumes under Code of Federal Regulations, title 24, section 570.497, clause b. Financial records, supporting documents, statistical records, and all other records pertinent to a grant must be retained by the grant recipient for three years from the date of submitting the final financial report. No such records or documents may be disposed of while audits, claims, or litigations involving the records are in progress.

B. Audits. Grant recipients must arrange for and pay for an audit before grant close-out. Audits will usually be done annually, but no less frequently than every two years. In the case of two- and three-year comprehensive programs, the office shall require an audit after two years; costs incurred pursuant to this requirement are eligible under this program.

C. Financial status report. Grant recipients shall file financial status reports at the close of each reporting period as designated by the office and shall file a final financial report before grant close-out. Financial status reports must be on forms prescribed by the office. The office may not require these reports more often than quarterly.

D. Performance report. Grant recipients shall also file performance reports at the close of each reporting period as designated by the office and shall file a final performance report before grant close-out. Performance reports shall be on forms prescribed by the office. The office may not require these reports more often than quarterly.

E. Access to records. Representatives of the office, either the State Auditor or Legislative Auditor as is appropriate, and federal auditors shall have access to all books, records, accounts, reports, files, and other papers, things, or property belonging to grant recipients which are related to the administration of grants and necessary for audits and monitoring compliance with 10 MCAR §§ 1.500-1.565.

10 MCAR § 1.565 Application of federal law. If it is determined that any provisions of 10 MCAR §§ 1.500-1.560 are inconsistent with federal law, then federal law controls to the extent necessary to eliminate the conflict.

**Department of Energy and Economic Development
Financial Management Division**

Notice of Availability of Issuance Authority in Competitive Pool

Pursuant to Minn. Laws 1984, ch. 582 § 17, subd. 2, to be codified as 474.20, the Department gives notice that the amount of industrial development bond issuance authority available in the competitive pool as of September 5, 1984, is \$86,033,118.00, and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by September 20, 1984. Pursuant to Minn. Laws 1984, ch. 585 § 16, to be codified as 474.19, non entitlement issuers must submit an application, a preliminary resolution, and an application document and any other supporting documents required.

Balance of Competitive Pool on August 5, 1984—\$103,240,000.00

Add:

Unused Entitlement Allocations as of Sept. 1, 1984:	\$ 85,442,583.00
Returned Allocations:	\$ none
Total Pool Available as of September 5, 1984:	\$188,682,583.00

Allocations awarded from the Competitive Pool during the month ending September 5, 1984, are:

<u>Issuer</u>	<u>Project</u>	<u>No. of Points</u>	<u>Amount</u>
Hennepin County	Waste Management	n/a	\$92,454,465.00
City of Norwood	Norwood 212 Partnership	5	500,000.00
City of Anoka	Meadow Creek I Partnership	5	560,000.00
Waconia	Medallian Kitchens	7	1,150,000.00
Washington City HRA	Park Jr. High School	7	385,000.00
Oakdale	Zycad Corp.	5	6,000,000.00
Chisago City	Chisago Center	9	1,600,000.00
Total Allocations Awarded:			<u>\$102,649,465.00</u>
Amount of Issuance Authority Available as of September 5, 1984			<u>\$ 86,033,118.00</u>

Metropolitan Council

Notice of Review Schedule: Transportation Policy Plan/Amendment to Air Quality Control Plan for Transportation in the Twin Cities

The Metropolitan Council will begin review of proposed strategies to reduce carbon monoxide to acceptable levels at the intersection of Snelling and University Avenues in St. Paul. The proposed strategies will be incorporated into the Transportation Control Plan for Air Quality as an amendment to the Regional Transportation Policy Plan. The amended Air

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Quality Control Plan will then be submitted to the Minnesota Pollution Control Agency as a revision to the State Implementation Plan.

The following is a tentative schedule for reviewing the proposed amendment.

Sept. 19 (Wednesday)	Air Quality Committee reviews recommended strategies
Oct. 3 (Wednesday)	TAC reviews draft Control Plan Amendment
Oct. 17 (Wednesday)	TAB reviews draft Control Plan Amendment
Oct. 29 (Monday)	Metro Systems Committee reviews public hearing draft amendment
Nov. 8 (Thursday)	Metropolitan Council adopts the draft amendment for public hearing
Dec. 11 (Tuesday)	Public Hearing on the proposed amendment before the Metropolitan Council
Dec. 27 (Thursday)	Hearing Record Closes
Jan. 7 (Monday)	Hearing Report and final document available
Jan. 14 (Monday)	Metropolitan Systems Committee reviews final hearing report and approves final amendment
Jan. 24 (Thursday)	Metropolitan Council adopts final amendment

This schedule is tentative and subject to change. A subsequent notice of public hearing will be published. If you have any questions regarding the schedule or amendment, call Ann Braden of the Council's Transportation Planning staff at 291-6525.

Metropolitan Waste Control Commission

Public Meeting on Proposed Septage Management Program

The Metropolitan Waste Control Commission will conduct public meetings to hear public comment on a proposed septage management program and disposal sites. The meetings are scheduled as follows:

Thursday, September 20, 1984 at 7:00 p.m.
Empire Township City Hall, City Council Chambers
197th Street, 1 block East of Hwy. 3
Empire Township, MN

Thursday, October 18, 1984 at 7:00 p.m.
Stillwater City Hall, City Council Chambers
216 North 4th Street
Stillwater, MN

Tuesday, October 23, 1984 at 7:00 p.m.
Shakopee City Hall, City Council Chambers
129 East 1st Avenue
Shakopee, MN

Wednesday, October 24, 1984 at 7:00 p.m.
Coon Rapids City Hall, City Council Chambers
1313 Coon Rapids Boulevard
Coon Rapids, MN

The 7-County Metropolitan Area has an estimated 60,000 individual, on-site sewage disposal systems. For reliable operation, these systems must have their septic tanks pumped periodically. The pumped material, called septage, has a high organic and solids content. Septage in the 7-County Metropolitan Area is disposed of by 1) land application; 2) discharge into the Metropolitan Disposal System (MDS) either via a local sewer or the Commission's interceptor system; or 3) direct discharge into a wastewater treatment plant. The Commission does not allow any discharge of septage directly at Commission-owned wastewater treatment plants, though septage from many Metropolitan Area on-site systems is discharged by Waste Transport Haulers to the MDS at interceptor and local community sewer sites. This practice has not been formally regulated by the Commission, although individual committees exercise some control over septage disposal in their communities.

A study was conducted by the MWCC and it was determined that the MDS can accommodate the Metropolitan Area's septage provided that the septage is discharged at designated septage disposal sites located either tributary to or directly at one of the Commission's regional wastewater treatment plants.

The proposed septage management program consists of:

- 1) designating disposal sites;

- 2) permitting Waste Transport Haulers to use specific designated sites;
- 3) requiring periodic reports from Waste Transport Haulers on the amount discharged to the MDS;
- 4) charging Waste Transport Haulers for use of the MDS (1985 load charge of \$9.50 per 1,000 gallons); and
- 5) crediting communities in the Commission's cost allocation system for the volume discharged to the MDS by Waste Transport Haulers.

The Septage Management Study recommends that septage disposal sites be established at the 12 sites that were approved by their respective community for inclusion as designated septage disposal sites within the Commission's Septage Management Program. The recommended sites are as follows:

<u>Site #</u>	<u>Community</u>	<u>Location</u>
2	Shakopee	Blue Lake WWTP on the North side of Highway 101
3	Brooklyn Park	83rd Avenue North on County Road 18
4	Coon Rapids	L.S. #34 on Old Coon Rapids Boulevard
6	Empire Township	Empire WWTP on West 197th Street
10	Minneapolis	2nd Street North, just Southeast of 10th Ave. No.
12	Minnetonka	11522 Minnetonka Boulevard (City Shop Grounds)
14	Plymouth	L.S. #29 on Highway 55 and County Rd. 18.
16	St. Paul	3rd Street and Commercial Street
19	Shorewood	Covington Road and Vine Hill Road South (County Road 78)
20	White Bear Lake	1820 Whittaker Street (City Garage)
22	White Bear Township	Hugo Road and Overlake Road
23	Forest Lake	Gravel road East of Southwest 4th Street

All interested persons are encouraged to comment on this issue. Persons may register to speak by contacting Jean Bergal, MWCC Public Information Office, at 222-8423. Copies of the public information document on this subject can be obtained by calling Ms. Bergal.

Please bring this notice to the attention of any persons you feel would be interested in this matter.

Louis J. Breimhurst
Deputy Chief Administrator
Metropolitan Waste Control Commission

State Planning Agency

Announcement of Meeting of Institutional Care and Economic Impact Planning Board

The next meeting of the Institutional Care and Economic Impact Planning Board will be held on Oct. 5, 1984, in the Capitol Square Building, first floor, Conference Rooms A and B, from 10:00 a.m.-12:00 noon. This Board was established by Minnesota Laws 1984 Chapter 654 § 19.

The Planning Board consists of the Commissioners of the departments of Human Services, Administration, Employee Relations, Economic Security, Energy and Economic Development, and Finance. The Director of the State Planning Agency serves as Chair.

For additional information, contact:

Colleen Wieck, Executive Director
Developmental Disabilities Program
(612) 296-9964

Water Resources Board

Notice of Change in Meeting Date

The September 14, 1984 regular meeting of the Water Resources Board has been changed to September 24, 1984.

Mel Sinn
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 by calling 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
21-200-08631, 2418	Benefit Payment Authorization Assembly w/check	Economic Security	St. Paul	Contact buyer
27-151-43077, 1867	MCC Student Newspaper City College News	Minneapolis Community College	Mpls.	Contact buyer
27-157-42527	Moviola Editing Table—Rebid	Inver Hills Community College—Film in the Cities	St. Paul	Contact buyer
78-830-07157	Ticking—Rebid	MN Correctional Facility	St. Cloud	Contact buyer
26-070-10358 Rebid	Purchase of Microcomputers	Bemidji State University	Bemidji	Contact buyer
26-071-13787	Purchase of Computer System	Mankato State University	Mankato	Contact buyer
02-310-13436	Hearing Room Tables	Legislature	St. Paul	Contact buyer
26-073-16523	Purchase of Rainbow Computer	St. Cloud State University	St. Cloud	Contact buyer
26-074-09662	Purchase of Multiplexor Boards	Winona State University	Winona	Contact buyer
26-175-05900	Bus Transportation	Southwest State University	Marshall	Contact buyer
SCH. 113C	Dump Trucks	Various	Various	Contact buyer
26-070-10608, etc.	Air Cleaners	Bemidji State University	Bemidji	Contact buyer
26-137-02984	Purchase of Memory Boards	Winona State University	Winona	Contact buyer
79-000-44356	Power Supply	Transportation	St. Paul	Contact buyer
78-830-07157	Ticking	MN Correctional Facility	St. Cloud	Contact buyer
26-071-14538	Purchase of Graphics System	Mankato State University	Mankato	Contact buyer
Contract 07-500-31861	Security Guard Uniforms	Capitol Security	St. Paul	Contact buyer
79-000-44280	Overhaul of Aircraft Engine	Public Safety	St. Paul	Contact buyer
	Antenna-Circuit Breaker in Kit	Transportation Aeronautics	St. Paul	Contact buyer
Contract	Automotive Paint & Body Supplies	MN Correctional Facility	Stillwater	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-074-08733	Purch. Word Processing System	Winona State University	Winona	Contact buyer
Contract 26-073-16301	Tools: Portable Electric Operated Purchase of Photocopy Machine	Various St. Cloud State University	Various St. Cloud	30,000.00-40,000.00 Contact buyer
27-140-43271	Purchase of Photocopy Machine	Brainerd Community College	Brainerd	Contact buyer
29-000-36488	Drill Observation Wells	Natural Resources—Water Division	St. Paul	Contact buyer
02-310-13438	Fiberglass Trucks	St. Peter Hospital	St. Peter	Contact buyer
04-121-25030-1, 1738-9	Blue & Yellow Seed Tags	Agriculture	St. Paul	Contact buyer
67-260-10168, 2476	Carrier Route Code Address and Print Income Tax Labels	Revenue	St. Paul	Contact buyer
67-260-10169, 2475	Affix Labels to Income Tax Booklets	Revenue	St. Paul	Contact buyer
26-071-14513	Movable Panels	Mankato University	Mankato	Contact buyer
26-073-16600	Stereo Deck Cartridge Machines	St. Cloud University	St. Cloud	Contact buyer
29-000-36643, 2504	1984-1985 Winter State Park Maps	Natural Resources	St. Paul	Contact buyer
29-000-36301, etc.	All Terrain Vehicles	Natural Resources	Various	Contact buyer
26-074-09087	Nursery Stock	Winona State University	Winona	Contact buyer
55-000-89819	Cold Food Merchandiser	Human Services—Services for the Blind	Mpls.	Contact buyer
55-000-89812-13	Bill Changer Vending Machine	Human Services—Services for the Blind, Stillwater State Prison	Stillwater	Contact buyer
Contract 27-143-43927, etc.	Car Wash Service	Various	Various	Contact buyer
02-310-13445	Riding Mower	Various	Various	Contact buyer
	Wiring to Telephones	State Office Bldg.	St. Paul	Contact buyer

Contact the receptionist at 296-2513 for referral to specific buyers.

Metropolitan Council

Invitation for Sealed Bids to Print Metro Monitor

The Metropolitan Council, 300 Metro Square Bldg., St. Paul 55101, is requesting sealed bids to print the Metro Monitor.

Specifications for printing the publication can be obtained by contacting Nadine Farrington, publications unit, at 291-6478.

Sealed bids will be accepted by the Metropolitan Council until 4 p.m. September 24, 1984. The Council's purchasing officer will open the sealed bids publicly in the Council offices at 10 a.m. September 25.

All sealed bids shall be marked "Bids to print Metro Monitor—to be opened on September 25, 1984." Bids shall be mailed to Nadine Farrington, Communications Department, Metropolitan Council, 300 Metro Square Bldg., St. Paul 55101.

The Metropolitan Council reserves the right to reject any or all bids, and to waive any minor irregularity or deviation from the specifications.

September 6, 1984

Sandra S. Gardebring, Chair

STATE CONTRACTS

Metropolitan Council

Request for Proposals for Contract Programming Services

The Metropolitan Council solicits a proposal for entering into a contract for programming services for the upgrading of Financial and HRA Section 8 systems. System implementation will be done on a Unix operating system using the Oracle Database Manager and RMCOBOL.

Four copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Metro Square Building, St. Paul, Minnesota 55101, Attention: Mr. Roy Larson, Contract Manager.

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

All proposals received on or before 4:00 p.m., September 27, 1984, will be considered by the Council. In the event that a proposal is accepted, the Council will notify the successful proposer in writing within 10 days following its consideration of the proposal.

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

Copies of the RFP will be available on or after September 17, 1984 and can be obtained by contacting Roy Larson at (612) 291-6480.

Pollution Control Agency

Request for Proposals for Consultant/Contractor Services for Feasibility Study Report on Municipal Water System in Beltrami County

The Minnesota Pollution Control Agency wishes to retain a consultant/contractor for the preparation of a Feasibility Study Report, Conceptual Design or Plans and Specifications on a municipal water supply system for a portion of Northern Township, Beltrami County. The affected area is bordered by the city of Bemidji on the south, Lake Bemidji on the east, and encompasses approximately one square mile. Drinking water is presently supplied to residents within the affected area by individual private wells. Many of these wells have become contaminated with several different volatile organic hydrocarbons. A health advisory was issued by the Minnesota Department of Health on August 31, 1984 and many residents are now receiving bottled water.

The draft Feasibility Study Report is to be completed within eight weeks from the date of the contract. It is estimated that the consultant/contractor services for this project may cost up to \$55,000.

Copies of the request for proposals including a proposed scope of work are available from:

Scott Lupin
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113-2785
Telephone Number: 612/296-7779

All proposals must be submitted to the Minnesota Pollution Control Agency by October 5, 1984 or three weeks from the date of the first publication of this notice, whichever is later.

State Designer Selection Board

Request for Proposals for State Projects

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA

The State Designer Selection Board has been requested to select designer for the University of Minnesota. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., October 10, 1984, to George

Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
 - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
- c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.
- b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7. PROJECT—38-84

**Study of the Heating Plant
Operation & Steam Distribution System
University of Minnesota
Duluth, Minnesota**

Project Description

The heating plant at the Duluth Campus operates with two 25,000 #/hr. boilers burning coal gas, coal tar, natural gas.

STATE CONTRACTS

Number 5 fuel oil or Number 2 fuel oil, and one 50,000 #/hr. boiler burning natural gas or fuel oil. Heating loads in very cold weather have run as high as 75,000 #/hr. Should the higher capacity boiler breakdown in severe weather, the plant would not be able to carry the load.

Consultant Services

An engineering study is to be conducted to determine the size, type, location and fuel that should be considered in planning for expansion of the boiler capacity on the Duluth Campus. The study would also consider modifications that might be made in the distribution system to improve efficiency.

Fees

The fees for the project will be negotiated on the basis of general guidelines for similar type projects.

Questions concerning this project may be referred to Clint Hewitt at (612) 373-2250.

John D. Nagel, Chairman
State Designer Selection Board

Department of Transportation

Request for Proposals for the Conduct of a Local Area Network Requirements and Conceptual Approach Analysis

The Minnesota Department of Transportation requests submission of proposals from qualified consultants for the conduct of a local area network requirements and conceptual approach analysis for the Transportation Building, John Ireland Boulevard, St. Paul.

The Transportation Building houses major offices of the Transportation Department, Public Safety Department, and Office of Attorney General.

The focus of the study will be to identify and estimate the Transportation Building local network system requirements, examine network approaches and alternatives consistent with overall state plans, identify preliminary design considerations, related cost projection and document the resultant findings and recommendations in a report.

Proposals should outline prospective work plans and include a statement of deliverables to be provided by the responder. Proposals should address the level of the Department's involvement in the project. It is anticipated that the data collection requirements, such as existing and contemplated computer and communications systems, building structure information, or others as outlined in the proposals, will be fulfilled by Department personnel. It is in the Department's interest that the project be completed in a prompt but practical time, preferably within 60 days from the date of project authorization. The estimated fee for these services will be \$10,000.

EVALUATION CRITERIA

1. Successful and comprehensive experience that the consultant has demonstrated in projects of similar scope.
2. Ability to complete the work within preferred time constraints.
3. Cost rates.
4. Responsiveness of the proposal to requirements of the study.
5. Consultant's oral presentation (optional at Department discretion).
6. Thoroughness with which consultant can demonstrate accessible and complete state-of-the-art knowledge, including forthcoming technological developments.

It is desirable that consultant have experience in local area network final design, specification, bid, and installation monitoring. Review meetings are desired at project milestone points, but should include, as a minimum, meetings devoted to introductory matters and presentation of final report, as well as an interpretive follow-up session. Orientation and review meetings will involve Department of Administration personnel to ensure compatibility with statewide objectives. Additional follow-up sessions if necessary will be negotiated within the terms and context of the proposed agreement.

Proposals must be received no later than 4:30 p.m., September 28, 1984.

Inquiries and proposals should be directed to the attention of:

Lee J. Nelson (296-3114) Alternate Douglas E. Elness (296-0851)
Minnesota Department of Transportation
308 Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

September 10, 1984

Richard P. Braun
Commissioner of Transportation

SUPREME COURT**Decisions of the Court of Appeals Filed Tuesday, September 4,
1984**

Compiled by Wayne O. Tschimperle, Clerk

C1-84-1151 Neighborhood Preservation Association of Detroit Lakes, Appellant, v. City of Detroit Lakes. Becker County.

The City of Detroit Lakes is not required to compensate owners of property abutting a platted street right-of-way for removal of trees within the right-of-way pursuant to necessary street improvement.

The notice of hearing sent by the City to abutting property owners was sufficient under Minn. Stat. § 429.031, subd. 1 (1982).

The City's street and sewer improvement projects were a necessary and reasonable exercise of the city council's powers.

Affirmed. Popovich, C.J.

C0-84-928 State of Minnesota v. Roger Melvin Noreen, Appellant. Chisago County.

A defendant must be allowed an opportunity to withdraw his plea when the sentencing court orders restitution to the victims of sexual offenses as a condition of probation when this was not part of the plea agreement.

Remanded. Popovich, C.J.

C2-84-297 State of Minnesota v. Freddie L. Dillard, Appellant. Hennepin County.

The evidence supports appellant's conviction for simple robbery.

Appellant was not denied a fair trial by what he alleges to be trial court error and prosecutorial misconduct.

There are no substantial and compelling reasons for departing from the presumptive sentence.

Affirmed. Popovich, C.J.

C3-84-762 Marla Snodgrass, Relator, v. Oxford Properties, Inc., and Commissioner of Economic Security. Department of Economic Security.

Relator's insubordination in refusing to cooperate with her supervisor or to take direction from him was misconduct sufficient to disqualify relator from unemployment compensation benefits pursuant to Minn. Stat. § 268.09, subd. 1 (Supp. 1983).

Affirmed. Popovich, C.J.

C3-84-311 State of Minnesota, by Irene Gomez-Bethke, Commissioner, Department of Human Rights, Appellant, v. Minneapolis Community Development Agency. Department of Human Rights.

The hearing examiner's decision dismissing appellant's claim of discrimination was supported by the evidence.

Affirmed. Popovich, C.J.

SUPREME COURT

C8-84-322 City of Minneapolis v. Joan A. Larsen, Appellant. Hennepin County.

Appellant was properly cross-examined about a prior traffic offense since it precipitated the events leading to a subsequent disorderly conduct charge.

The trial court properly refused to instruct the jury that appellant's arrest was illegal.

The trial court properly responded to jury questions.

Affirmed. Foley, J.

C0-84-315 City of Burnsville v. Carlton Brastad, Appellant. Dakota County.

Evidence was sufficient to convict appellant of violating a local ordinance prohibiting the outside storage of inoperative vehicles, equipment, and debris in a residential area.

Affirmed. Foley, J.

C7-83-1922 State of Minnesota v. Scott W. Nace, Appellant. St. Louis County.

Evidence that a co-defendant had earlier been convicted of the offense for which the defendant was on trial was properly admitted.

Appellant was not denied a fair trial.

Evidence was sufficient to convict defendant of burglary when he was caught in the dwelling by the police and later signed an incriminating statement.

Affirmed. Wozniak, J.

C9-83-1758 State of Minnesota v. Wilfred J. Hines, Appellant. Ramsey County.

The admission of *Spreigl* evidence was not reversible error.

A defendant convicted of robbery cannot also be convicted of theft from the person robbed and receiving (possessing) the stolen property. However, a defendant can be convicted of robbery and receiving (transferring) stolen property.

Affirmed in part and vacated in part. Wozniak, J.

C6-84-44 Charles William Kienast, Petitioner, Appellant, v. Commissioner of Public Safety. Olmsted County.

Appellant's contentions that the Commissioner of Public Safety failed to promulgate training standards for breathalyzer operators or to approve breathalyzer courses is rejected, pursuant to *Quimby v. State, Dept. of Public Safety*, _____ N.W. 2d _____ (1984), #C2-83-1021 (Minn. July 13, 1984).

Affirmed. Wozniak, J.

C2-84-235 Dean A. and Barbara J. Rostad, Appellants, v. On-Deck, Inc., a New Jersey Corporation, Gary Guy Willey. Hennepin County.

Minnesota courts can constitutionally exercise jurisdiction in a products liability action over an out-of-state manufacturer that distributes its products through a nationwide distributor with representatives in Minnesota.

Reversed. Lansing, J.

C5-84-469 David John Cornelius, et al., Appellant, v. Badger Mutual Insurance Company. Hennepin County.

The court improperly instructed the jury to limit damages to restoration value when the insurance policy between the parties allowed the insured to recover the full cost of repair, including improvement in value over the original condition.

Affirmed in part; reversed in part, and remanded.

Huspeni, J.

C4-84-236 T.P.B. Properties, a Partnership, Appellant, v. Coldwell Banker & Company. Ramsey County.

Under Rule 41.02(2), Minn. R. Civ. P., governing involuntary dismissals, if the trial court renders judgment on the merits against the plaintiff, the court shall make written findings as provided in Rule 52.01, Minn. R. Civ. P.

The standard of review to be applied when a case is involuntarily dismissed under Rule 41.02(2), Minn. R. Civ. P., with written findings by the trial court is that of Rule 52.01, Minn. R. Civ. P., concerning findings by the court, which may not be set aside unless clearly erroneous.

The trial court's findings dismissing appellant's causes of action after appellant's case-in-chief for failure to establish

necessary elements of fraud, negligence, or breach of fiduciary duty are reasonably sustainable by examination of the record as a whole.

Affirmed. Huspeni, J.

C7-84-571 Roger Sibbert, et al., v. State Farm Mutual Automobile Insurance Company, Appellant. Crow Wing County.

An insured injured in an accident involving one of his vehicles is entitled to also recover benefits from under-insured motorist coverage provided by a separate policy on a second vehicle owned by the insured. The "anti-stacking" clause in regard to such coverage is unenforceable.

Affirmed. Huspeni, J.

CX-84-838 In Re: the Marriage of: Michael W. Bjorke, Petitioner, Appellant, v. Ciri Smith Bjorke. Hennepin County.

The court must make specific findings of fact when it modifies legal custody. The court must make adequate and express findings to support a downward departure from the Minnesota Support Guidelines.

Remanded. Huspeni, J.

C5-83-2051 Loram Maintenance of Way, Inc., v. Consolidated Rail Corporation, The Home Insurance Company, Federal Insurance Company, Appellant. Hennepin County.

A party who fails to join the appeal of a co-party and fails to file timely notices of appeal or review is bound by the judgment.

The evidence substantially supports the trial court's conclusion that respondent possessed the machinery in question within the meaning of the lease agreement.

A twelve-month limitation of suit clause in a property damage insurance policy will not be enforced against a loss payee absent a showing of prejudice to the insurer.

Affirmed. Forsberg, J.

C9-84-295 In the Matter of the Contested Case of: Dr. Hector Brown, Relator, v. Minnesota Department of Public Welfare. Department of Public Welfare.

Respondent is estopped by its conduct from demanding reimbursement of medical assistance payments made to appellant-physician.

Reversed. Leslie, J.

C9-84-555 Thomas Leach, Appellant, v. Illinois Farmers Insurance Co. Washington County.

An out-of-state vehicle which has liability insurance coverage meeting the requirements of Minn. Stat. § 65B.49, subd. 3 (1982) is not uninsured under the Minnesota No-Fault Act even though its coverage for basic economic loss benefits is less than the amount required in Minnesota.

Affirmed. Nierengarten, J.

C5-83-1269, C4-83-1733 Glen Dahlbeck v. DICO Company, Inc., Appellants, Honeywell, Inc., Cutler-Hammer Inc., et al., and DICO Company Inc., et al., Third Party Plaintiffs, Appellants, New London Concrete and Supply Company, Third Party Defendant, APM Corporation, Third Party Defendant. Swift County.

The evidence was sufficient to sustain a verdict of strict liability against the manufacturer of a defective boom hoist.

Employer did not breach its duty to provide a safe workplace and equipment for its employee.

Evidence of fault on the part of certain defendants was insufficient to submit to the jury.

The trial court did not commit reversible error in its evidentiary rulings.

The evidence was sufficient for the jury to determine causation.

Defendant's due process rights were not violated by submitting liability and punitive damages simultaneously.

The assessed costs and disbursements were within the trial court's discretion.

The jury instructions, as a whole, properly stated the applicable law.

Affirmed. Nierengarten, J.

C1-84-47 In Re: the Marriage of: Karen Leona Haala, Petitioner, v. Norbert Peter Haala, Appellant. Brown County.

Specific findings are necessary for review of an order to modify visitation rights or substantial property rights where the record is inadequate.

Reversed. Randall, J.

SUPREME COURT

C4-83-1697 Robert J. Burgi, et al., d/b/a Ray Eckes Printing Service, Appellants, v. Ray Eckes, et al. Nicollet County.

The action of the City of North Mankato in declaring a building hazardous and ordering it razed constituted a destruction of the building by public authorities and thus, under a clause in the agreement, terminated the lease.

The owner of a building was released from his obligation to make major structural repairs to it due to impossibility of performance caused by tenant's filing of bankruptcy during the term of the lease, which filing resulted in a drastic reduction in tenant's monetary obligations to the owner.

A clause in a sales agreement referring to a clause in a lease was not inconsistent with the lease, and the two documents were to be construed as interrelated parts of a single contract.

Affirmed. Randall, J.

Decisions of the Supreme Court Filed Friday, September 7, 1984

Compiled by Wayne O. Tschimperle, Clerk

C1-82-1517 Robert J. Lundgren, D.C., as Trustee for the Heirs and Next of Kin of Ruth Carol Lundgren, Decedent, Appellant, v. Rick Fultz, Defendant, David W. Cline, Individually and as a Member of the Department of Psychiatry of the University of Minnesota Hospitals. Hennepin County.

The question of negligence should have been submitted to a jury where the defendant, a psychiatrist who was under no professional duty to do so, affirmatively helped his patient gain access to deadly weapons, one of which was used to murder plaintiff's decedent.

Reversed and remanded. Yetka, J.

Took no part, Scott, J. and Coyne, J.

C9-83-982, C9-83-1047 Senior Citizens Coalition of Northeastern Minnesota, Appellant, (C9-83-982); v. Minnesota Public Utilities Commission, and Minnesota Power & Light Company, Appellant, (C9-83-1047); v. Minnesota Public Utilities Commission, and Attorney General Hubert H. Humphrey, III. Ramsey County.

The Public Utilities Commission erroneously excluded from Minnesota Power & Light Company's rate base the utility's investment in recreational facilities which are being constructed at certain hydroelectric projects pursuant to licensing requirements of the Federal Energy Regulation Commission, because such facilities are "used and useful in rendering service to the public" within the meaning of Minn. Stat. § 216B.16, subd. 6 (1982).

The Public Utilities Commission lacked authority to award attorney fees and costs to intervenors under state law because, even assuming it had been implicitly delegated legislative authority to promulgate intervenor funding rules, it failed to properly do so.

The Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq. (1983), does not authorize the Public Utilities Commission to award attorney fees and costs to intervenors independent of any state authority to do so.

The Public Utilities Commission cannot be estopped from refusing to consider the intervenor's request for attorney fees and costs in the circumstances presented.

Affirmed in part (C9-83-982): reversed in part (C9-83-1047). Scott, J.

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