

85, Feb 11

STATE REGISTER

STATE OF MINNESOTA

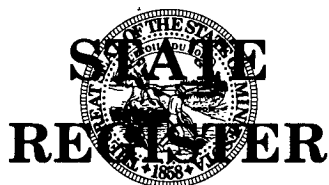
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VOLUME 9, NUMBER 33

February 11, 1985

Pages 1775-1838



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			
34	Monday Feb 4	Monday Feb 11	Monday Feb 18
35	Monday Feb 11	Friday Feb 22	Monday Feb 25
36	Friday Feb 22	Monday Feb 25	Monday Mar 4
37	Monday Feb 25	Monday Mar 4	Monday Mar 11

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

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

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

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

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

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

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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:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issues 27-38, inclusive

Issue 39, cumulative for 1-39
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EXECUTIVE ORDERS

Executive Order No. 85-1

Providing for the Establishment of the Governor's Advisory Council on State-Local Relations

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

WHEREAS, questions regarding the division of service delivery and financing responsibilities and powers between the state and its local governments are of preeminent importance for responsible and efficient governance; and

WHEREAS, the state is responsible for the overall design of a workable system of local governments; and

WHEREAS, it is desirable to improve the state government's capacity to anticipate and identify emerging issues in state-local relations and to improve the quality of discussion of state-local relations issues;

NOW, THEREFORE, I order:

1. There is hereby created a Governor's Advisory Council on State-Local Relations to monitor local government issues and state-local relations, and to advise the Governor on state-local affairs.

2. The Council shall be composed of the following:

- a. Two members appointed by the League of Minnesota Cities,
- b. Two members appointed by the Association of Minnesota Counties,
- c. Two members appointed by the Minnesota Association of Townships,
- d. Two members appointed by the Minnesota School Board Association,
- e. One member appointed by the Minnesota Association of Regional Commissions,
- f. The Commissioner of the Department of Energy and Economic Development,
- g. The Commissioner of the Department of Finance,
- h. The Commissioner of the Department of Education,
- i. The Director of the State Planning Agency, and
- j. The Chairman of the Metropolitan Council.

The Speaker and the Minority Leader of the House of Representatives are each invited to appoint one Representative to the Council. The Majority Leader and the Minority Leader of the Senate are also each invited to appoint one Senator to the Council.

In the event that an agency or department head who is a member of the Council is unable to attend a scheduled meeting, he or she shall designate a deputy or an assistant to represent the department or agency.

The Council shall elect a chairperson from among its membership, and adopt by-laws governing its operation.

3. Duties of the Council

The Council shall monitor local government affairs and state-local relationships, identify issues needing attention by the state, and make policy recommendations to the Governor. These responsibilities shall be met through the following activities:

- a. Informal hearings and surveys to solicit local government attitudes on state-local issues.

- b. Review and comment on proposals submitted to the Council for review by the Governor.
- c. Review of special research reports and issue papers on local government issues prepared by state agencies and departments.
- d. Development of policy recommendations on specific issues.

The Council shall also prepare an annual report identifying emerging issues prior to each legislative session. The report shall be presented to the Governor's Subcabinet on Local and Regional Affairs no later than November 15 of each year.

The Council shall meet at least four times each year or more often, as requested by the Governor.

4. Administrative Provisions

The Director of the State Planning Agency shall provide staff support as he deems necessary for the Council to fulfill its duties.

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

IN TESTIMONY WHEREOF I have set my hand this 22nd day of January, 1985.



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 Relating to Cosmetology (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Cosmetology

The Department of Commerce recently published rules relating to Cosmetology in the *State Register* on January 21, 1985 (9 SR 1643). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Financial Planners (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Financial Planners

The Department of Commerce recently published rules relating to Financial Planners in the *State Register* on January 21, 1985 (9 SR 1649). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Unfair Practices in Franchise Agreements (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Unfair Practices in Franchise Agreements

The Department of Commerce recently published rules relating to Unfair Practices in Franchise Agreements in the *State Register* on January 28, 1985 (9 SR 1679). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 28, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

Higher Education Coordinating Board

Proposed Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

Request for Public Comment

Notice is hereby given that the Minnesota Higher Education Coordinating Board has proposed the following temporary rule for the Student Educational Loan Fund pursuant to Minnesota Laws 1983, Chapter 258, Section 59. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rule for 25 days immediately following publication of this material in the *State Register* by writing to:

Dick Leighninger
Minnesota Higher Education Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Authority for the adoption of this rule is contained in Laws 1983, Chapter 258, Section 49, and Minnesota Statutes § 136A.111. The proposed temporary rule may be revised on the basis of the comments received. Any written material received will become part of the record in the final adoption of the temporary rule. This temporary rule will be effective for not more than 180 days upon approval by the Attorney General.

A copy of the proposed temporary rule is attached to this notice.

David A. Longanecker
Executive Director

Emergency Rules as Proposed (all new material)

STUDENT EDUCATIONAL LOAN FUND (SELF) MINNESOTA HIGHER EDUCATION COORDINATING BOARD (MHECB) SUPPLEMENTAL AND ADDITIONAL LOANS

4850.0010 [Emergency] PURPOSE.

The purpose of parts 4850.0010 to 4850.0018 is to augment Minnesota Statutes, sections 136A.14 to 136A.141, and 136A.15 to

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

136A.1702, establishing a state program of supplemental loans to post-secondary students by providing standards, criteria, and rules for the program.

4850.0011 [Emergency] DEFINITIONS.

Subpart 1. Academic year. "Academic year" means:

- A. a period of time, typically eight or nine months, in which a full-time student is expected to complete the equivalent of at least two semesters, two trimesters, or three quarters at an eligible school using credit hours; or
- B. at least 900 clock hours of training for a program at an eligible school using clock hours.

Subp. 2. Anticipated graduation date. "Anticipated graduation date" means the date indicated by the eligible school at the time the student applies for a SELF loan, as the date that the student will graduate given the enrolled program and normal satisfactory academic progress.

Subp. 3. Board. "Board" means the Minnesota Higher Education Coordinating Board.

Subp. 4. Capitalized interest. "Capitalized interest" means accrued interest that is added to the outstanding loan principal.

Subp. 5. Certificate or degree. "Certificate" or "degree" means a written or printed statement of the fact that the holder has met the eligible school's minimum requirements for completion and certifying a minimum mastery of the subject matter for a particular academic or vocational program.

Subp. 6. Certification. "Certification" means the statement of an eligible school that verifies and documents the identity, eligible enrollment, satisfactory academic progress, and cost of attendance of the borrower; performs the "maximum effort" test; and calculates the maximum allowable SELF loan eligibility and recommends a specific loan amount. The certification also shall indicate whether or not the student is in default of previous loans through:

- A. checking loan history at the school;
- B. checking an available financial aid transcript from a school previously attended by a borrower who is a transfer student; and
- C. using any other information reasonably available to the school about the student's prior student loan history, written, verbal, or electronic.

Subp. 7. Cost of attendance. "Cost of attendance" includes:

- A. tuition and fees charged for the loan period;
- B. room and board charged for the loan period, or a reasonable allowance as determined by the school, for off-campus living; and
- C. a reasonable allowance as determined by the school for books, supplies, transportation, and personal expenses.

Subp. 8. Credit worthy cosigner. "Credit worthy cosigner" means one who, in the judgment of the board has:

- A. no credit bureau balances discharged through bankruptcy or garnishments; and
- B. no more than five percent of current credit bureau balances past due.

Subp. 9. Default. "Default" means the condition that exists if the borrower fails to perform any of the conditions of the promissory note.

Subp. 10. Delinquency. "Delinquency" means the condition that exists when a borrower's scheduled payment of principal or interest or both is received by the board after the due date.

Subp. 11. Due diligence. "Due diligence" means the use of practices by the board in making, servicing, and collecting of SELF loans that are at least as extensive and forceful as those generally practiced by financial institutions for consumer loans.

Subp. 12. Eligible school. "Eligible school" means a school that:

- A. has been approved by the United States Department of Education to participate in federal title IV financial aid programs;
- B. is located in the United States or its territories; and
- C. signs an institutional loan participation agreement with the Minnesota Higher Education Coordinating Board that lists the duties and responsibilities of both the school and the board.

Subp. 13. Eligible student. "Eligible student" means a student who:

- A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state or United States territory;

B. is enrolled at least half-time in a program leading to a certificate, associate, baccalaureate, masters, doctorate, or other professional degree;

C. is making satisfactory academic progress as defined by the school;

D. is not currently in default, as defined by each specific program, of any student educational loan program (GSL, FISL, NIDSL, HPL, HEAL, ALAS, or other state supplemental loan program) at the current or any previous school;

E. is not currently delinquent in payment of interest or principal on an outstanding loan from the student educational loan fund;

F. has a credit worthy cosigner;

G. demonstrates financial eligibility by meeting the "maximum effort" test; and

H. has an anticipated graduation date no later than November 1, 1992.

Subp. 14. Enrolled student. "Enrolled student" means a student who has registered for and begun the loan period at the eligible school.

Subp. 15. Financial aid. "Financial aid" includes all money flowing to the student that is contingent upon the student's enrollment at the eligible school.

Subp. 16. Forbearance. "Forbearance" means permitting the temporary halt of payments, allowing an extension of time for making payments, or accepting smaller payments than were scheduled.

Subp. 17. Full-time student. "Full-time student" means one who is enrolled in an eligible school and who carries a full-time post-secondary level, vocational or academic workload as determined by the eligible school, ending in a certificate or degree.

Subp. 18. Grade level. "Grade level" means the relative position of an eligible student in a degree or certificate granting program, and corresponds to an academic year. (For example, an eligible student in the second year of a four-year program would be in a grade level 02.)

Subp. 19. Graduate student. "Graduate student" means a student who is pursuing a program, or has a baccalaureate degree and is enrolled in courses which are normally part of a program leading to a graduate or professional degree or certificate at an eligible school, and has successfully completed the equivalent of at least three years of full-time study at an eligible school either prior to entrance into the program or as part of the program itself.

Subp. 20. Half-time student. "Half-time student" means one who is enrolled in an eligible school and carrying a half-time academic workload as determined by the eligible school that amounts to at least one-half the workload of a full-time certificate or degree seeking student. In eligible schools utilizing clock hours, half-time enrollment includes programs requiring at least 300 clock hours.

Subp. 21. In-school period. "In-school period" means the period that the borrower is enrolled in an eligible school.

Subp. 22. Late charge. "Late charge" means a charge, not to exceed \$20, that is assessed against borrowers each time a payment of principal and/or interest is received by the board more than 15 days after the due date.

Subp. 23. Loan period. "Loan period" means the period for which the student receives the loan. The period begins on the first day of class and must not exceed 12 months.

Subp. 24. Maximum effort. To have used "maximum effort" means that the student has applied for and exhausted all eligibility for other forms of financial aid (except work-study and PLUS/ALAS) before applying for a SELF loan. Financial aid administrators must include any financial aid that has been awarded or is expected to be awarded to the student for the loan period.

Subp. 25. Payout period. "Payout period" means the time period which begins immediately following the transition period and runs to the earliest of:

A. November 1, 2000; or

B. ten years from the date of the end of the transition period; or

C. a period negotiated with the borrower.

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Subp. 26. The bonds. "The bonds" means the variable rate demand bonds series 1984 issued by the Minnesota Higher Education Coordinating Board due December 1, 2000, for purposes of funding the student educational loan fund.

Subp. 27. Transition period. "Transition period" means a one-year (365 days) period immediately following graduation or termination of enrollment.

Subp. 28. Undergraduate student. "Undergraduate student" means a student who is not a graduate student.

4850.0012 [Emergency] SCHOOL AGREEMENTS AND STUDENT APPLICATIONS.

Subpart 1. Institutional loan participation agreement. The eligible school and the board must sign a loan participation agreement that will:

- A. state the eligible school's responsibility for proper certification and delivery of loans to students; and
- B. name a representative of the eligible school who is to be responsible for the administration of the agreement.

Subp. 2. Termination. The board may terminate the agreement with an eligible school upon determining that continuation of the agreement is not in the best interest of the student educational loan fund. All obligations of the school under the agreement shall continue in full force and effect with respect to all SELF loans then outstanding to students of the school.

Subp. 3. Application, guarantee, and promissory note. The student shall complete the SELF application and attached promissory note, and deliver or mail them to the eligible school for certification. The eligible school shall then deliver or mail the application and promissory note to the student who shall deliver or mail them to the cosigner who shall complete his or her portion of the application and promissory note and deliver or mail them to the board. The board will check the application and promissory note for completeness, determine the eligibility of the applicant, and conduct a credit check of the cosigner. If the board approves the loan application, the document file shall be sent to the trustee (or agent) for approval. The trustee (or agent) shall approve the application and forward the document file to the servicer or shall reject the application and return the document file to the board. The servicer shall enter the application on the servicing computer system, prepare and mail a disclosure statement to the borrower and cosigner, advise the school of the loan approval, schedule disbursements, deduct and mail the guarantee fee from the loan proceeds to the insurer, and place the document file in permanent storage. If the board rejects the loan application, the applicant and the cosigner must be advised in writing of the decision and the reasons for the rejection.

4850.0014 [Emergency] AMOUNT AND TERMS.

Subpart 1. Loan amounts. The minimum loan amount from the student educational loan fund is \$1,000.

The maximum loan amounts are:

A. for an under graduate student, \$4,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt (excluding PLUS loans borrowed on the student's behalf) does not exceed the following grade level limitations:

- (1) grade level 1, \$ 4,000;
- (2) grade level 2, \$ 8,000;
- (3) grade level 3, \$12,000;
- (4) grade level 4, \$16,000; and
- (5) grade level 5, \$16,000;

B. for a graduate student, \$6,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt of the student (excluding PLUS loans borrowed on the student's behalf) does not exceed \$25,000 for both undergraduate and graduate education.

Subp. 2. Two loans in one year. A student may borrow twice in the same grade level as long as a total of 11 months elapses from the beginning of the first loan period to the beginning of the second loan period, but the student may not exceed the cumulative debt for that grade level.

Subp. 3. Cosigners. All borrowers from the student educational loan fund shall have a credit worthy cosigner who is either a United States citizen or a permanent resident. The cosigner is jointly and separately responsible for making loan payments (principal, interest, and other charges). The cosigner is relieved of this financial responsibility only in the event of death or permanent disability of the borrower.

If the cosigner is unemployed, retired, or has no credit history, credit-worthiness shall be determined by the board, by a review of banking references and a review of net worth data with a minimum test requiring that net worth equal or exceed a sum ten times the size of each loan amount requested.

Subp. 4. Interest rate. The interest rate on the loan must be fixed by the board at a margin in excess of the "index rate" on the

bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the board determines that the margin does not reflect the costs of the SELF program, the board may increase or decrease the margin within the limits of law. The board shall advise borrowers of changes in the margin. Information about how the interest rate is calculated will be available from the board or the financial aid office at the eligible school.

4850.0015 [Emergency] LOAN DISBURSEMENTS.

Subpart 1. Disbursement scheduling. Checks must be jointly payable to the borrower and the eligible school. If the loan period covers more than one academic or payment period, the loan must be disbursed in installments during each academic or payment period. (For example, if an eligible school's academic year is divided by quarters, the student's loan amount may be disbursed in three installments, once each quarter.) Disbursements must be made at the beginning of each academic term, unless the board requires or the school suggests other more appropriate dates.

Subp. 2. Disbursement when check arrives before loan period. A loan check must not be disbursed to the student before the start of the loan period. The school must wait until the student starts the loan period and after having checked enrollment and satisfactory academic progress requirements, must deliver the check to the student for the student's endorsement. The check must then be endorsed by the school. The school must next subtract from the proceeds the amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The remaining proceeds may be returned to the student or retained on account at the election of the student. The school may not keep on account any more money than it charges for that payment period without the written permission of the student.

Subp. 3. Disbursement when check arrives during the loan period. When the check arrives during the loan period, the school, having checked enrollment and satisfactory academic progress, shall endorse the check along with the student, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 2. If the student is on a school approved leave of absence when the check arrives, the school may hold the check until the student returns. If the student fails to do so, the check must be returned to the board within 30 days from the date on the check.

Subp. 4. Disbursement when check arrives after loan period. When the check arrives after the loan period, the school, having checked enrollment and satisfactory academic progress, may endorse the check along with the student within 30 days from the end of the loan period, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 3. If the check arrives more than 30 days after the end of the loan period, the school must return the check to the board.

4850.0016 [Emergency] NONENROLLMENT, TRANSFER, AND WITHDRAWAL.

Subpart 1. Nonenrollment. A school shall return a check to the board for a student who fails to enroll within 30 days of the date on the check.

Subp. 2. Withdrawal and transfer to another eligible school. If the student fails to complete the loan period at the school where the loan application was certified and transfers to another eligible school, additional loan disbursements to the student shall be permitted at the new school as long as the board is notified by the student or the school of the new enrollment. The school must immediately notify the board of any borrower who withdraws for any purpose. Refunds due the student as a result of the process of withdrawing and transferring to another eligible school need not be returned to the board. The new school shall certify the enrollment of the transferring student.

Subp. 3. Withdrawal. In the event that a borrower, for any reason, fails to complete a loan period and withdraws at a time when the institution pays a refund of charges to the student, an amount equal to the ratio of the disbursed loan to the total amount of the borrower's financial aid package for the same period is to be subtracted from the institutional refund amount, returned to the board, and applied to the outstanding loan amount.

Subp. 4. Reduction of enrollment to less than half-time status. The school shall notify the board immediately when a student reduces enrollment below a half-time status, but remains enrolled. Such a student shall be permitted to remain in an in-school repayment period for no more than six months including normal school vacation periods before the transition period begins.

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4850.0017 [Emergency] REPAYMENT PROCEDURES.

Borrowers shall make payments of principal and interest according to the following schedule:

A. During the school period, the board or its agent shall bill borrowers for accrued interest once during each calendar quarter. Payments are due by the 15th day following the date of the billing.

B. During the transition period, the board or its agent shall bill borrowers for accrued interest once during each calendar month. Payments are due by the 15th day following the date of the billing.

C. During the payout period, the board or its agent shall provide borrowers with coupon books annually for the repayment of loan principal and interest. The fixed amount of the coupon shall reflect (a) the interest rate in effect on the date the coupons are prepared (assumed rate), and (b) the length of the payout period. The actual interest rate on the loan will continue to vary. Payments of interest at the assumed rate exceeding actual interest accrued must be applied to the outstanding loan principal. If interest payments at the assumed rates are less than interest accrued, the difference must be billed annually by the board. A minimum annual payment of \$600 of loan principal and accrued interest must be required of all borrowers including SELF loans to spouses during the payout period.

D. Late charges must be billed to the borrower on the 30-day delinquent letter mailed by the board and are due and payable immediately.

E. Interest payments during the in-school period that are delinquent in excess of 120 days from the billing date must be capitalized. Capitalization of past due interest must be limited to two occasions before filing a claim.

F. A prepayment penalty must not be assessed against borrowers who elect to make unscheduled payments of loan principal.

G. The board may grant forbearances at its discretion when such action is considered by the board to be in the best interest of the program.

H. The board shall provide borrowers and cosigners with an annual statement of outstanding principal and interest paid during the previous calendar year.

4850.0018 [Emergency] CLAIMS.

Subpart 1. When filed. If after exercising due diligence, and after 120 days from the billing date the board fails to collect a payment from a borrower or the cosigner, a claim must be filed by the board with the program insurer for the outstanding principal of the loan plus accrued interest.

Subp. 2. When paid. Claims are paid in four categories:

A. A claim for death of the borrower must be filed by the board upon receipt of a death certificate. The cosigner's obligation to make any further payment of principal and interest or both on a SELF loan is canceled as of the date of death.

B. If the borrower becomes totally and permanently disabled, a claim must be filed by the board upon receipt of proper medical documentation. The cosigner's obligation to make any further payment of principal and interest on a SELF loan is canceled as of the date of medical documentation.

C. If a borrower or cosigner fails to perform any of the conditions of the promissory note, a claim must be filed by the board.

D. If a borrower is adjudicated bankrupt and has liability for the SELF loan discharged, the cosigner remains liable for unpaid principal and interest. If the cosigner fails to perform any of the conditions of the promissory note, the board shall file a claim.

Department of Human Services

Proposed Emergency Rules Relating to Medical Assistance for Home and Community-Based Services for the Mentally Retarded

Notice of Intent to Adopt Temporary Rules

The State Department of Human Services proposes to adopt the above-entitled temporary amendments to rules to amend in accordance with Laws of Minnesota 1984, Chapter 640, Section 28 the temporary rules authorized by Laws of Minnesota 1983, Chapter 312.

Persons interested in these temporary amendments have until 4:30 p.m., March 8, 1985, to submit written comments. The pro-

posed temporary amendments may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Jane Delage
Department of Human Services
4th Floor, Centennial Building
St. Paul, Minnesota 55155

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

Notice of the date of submission of the proposed temporary amendments to the attorney general will be mailed to any person requesting to receive this notice. This notice will state whether the proposed temporary amendments have been modified and will give instructions on how to obtain a free copy of the proposed temporary amendments as modified. The Attorney General shall approve or disapprove the proposed temporary amendments and any modifications on the tenth working day following the date of receipt of the proposed temporary amendments from the agency.

The adopted temporary amendments will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the temporary amendments' form. Temporary amendments take effect five working days after approval by the Attorney General.

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

The purpose of the proposed temporary amendments is to clarify the requirements for reimbursement under parts 9525.1800 to 9525.1930 [Emergency].

Parts 9525.1800 to 9525.1930 [Emergency] establish procedures to fund home and community-based services through the Medical Assistance Program for eligible persons with mental retardation. The temporary amendments govern provider requirements and licensing requirements for reimbursable services and clarify contract requirements.

The Department estimates that the cost of implementing these temporary amendments will not exceed \$50,000 for local public bodies for the time period (until October 22, 1985) that the temporary amendments will be in effect.

A free copy of the proposed temporary amendments may be obtained by contacting Jane Delage at 612/297-4302.

Leonard W. Levin
Commissioner of Human Services

Emergency Rules as Proposed

9525.1850 [Emergency] PROVIDER REIMBURSEMENT.

A provider may receive medical assistance reimbursement for home and community-based services only if the provider meets the criteria in items A to E J:

A. The provider has a current license or licenses for the specific home and community-based services as required under Minnesota Statutes or Minnesota Rules or, if no license is required, has received approval from the county to provide home and community-based services;

B. The provider ensures that the provider and all employees or subcontractors meet all professional standards established in Minnesota Statutes, Minnesota Rules, and Code of Federal Regulations which apply to the services to be provided. If no standards have been established the provider, employee, or subcontractor must have completed, within the last two years, at least 24 hours of documented training subject to approval by the case manager. The training must be in areas related to the care, supervision, and training of persons with mental retardation including first aid, medication administration, behavior management, cardiopulmonary resuscitation, human development, and obligations under Minnesota Statutes, sections 626.556 and 626.557. The county may grant a variance to the training requirements in this item for a respite care provider who provides the respite care in his

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or her residence or in the client's residence or for a provider who ensures that the training will be completed within six months of the date the contract is signed. This item does not apply to providers of minor physical adaptations.

C. The provider ensures that the provider and all employees or subcontractors have at least one year of experience within the last five years in the care, training, and supervision of persons with mental retardation. The county may grant a variance to the requirements in this item for a respite care provider who provides the respite care in his or her residence or in the client's residence. This item does not apply to providers of minor physical adaptations.

D. The provider ensures that all home and community-based services, except homemaker services, respite care services, and minor physical adaptations, will be provided by, or under the general supervision of a qualified mental retardation professional who meets the requirements in Code of Federal Regulations, title 42, section 442.401 and has been approved by the case manager.

E. The provider ensures that the provider and all employees or subcontractors will meet the inservice training requirements of any Minnesota rules applicable to the home and community-based services to be provided. If no Minnesota rules apply, the provider, except a provider of minor physical adaptations, agrees that the provider and all employees or subcontractors will complete at least 18 hours of inservice training in a field related to the care, training, and supervision of persons with mental retardation each fiscal year. The county may grant a variance to the requirements in this item for a respite care provider who provides the respite care in his or her residence or in the client's residence.

F. The provider ensures that the provider and all employees or subcontractors have never been convicted of a violation, or admitted violating Minnesota Statutes, section 626.557 and there is no substantial evidence that the provider, employees, or subcontractors have violated Minnesota Statutes, section 626.557.

G. The provider has a legally binding contract with the host county which complies with part 9525.1870 [Emergency];

H. The provider has been authorized to provide home and community-based services for the client by the county of financial responsibility;

I. The provider agrees to comply with the United States Code, title 42, sections 1396 et. seq. and regulations implementing those sections and with parts 9500.0750 to 9500.1080, 9505.1750 to 9505.2150, and 9525.1800 to 9525.1930 [Emergency]; and

J. The provider is not the client's guardian or a member of the client's family. This item does not preclude the county from providing services if the client is a ward of the commissioner.

9525.1860 [Emergency] REIMBURSABLE SERVICES.

Subpart 1. General limits. The costs of providing the home and community-based services defined in subpart 2, limited provided in accordance with ~~subpart~~ subparts 3 and 4, are reimbursable under the medical assistance program for as long as the waiver from the United States Department of Health and Human Services is in effect in Minnesota.

Subp. 2. [Unchanged.]

Subp. 3. Service limitations. The provision of home and community-based services is limited as follows in items A to I.

A. to D. [Unchanged.]

E. Reimbursement for minor physical adaptations to the home shall be limited to an average cost of \$3,000 per client for all clients in the county. The average cost limitation applies to the entire period of time during which the clients receive home and community-based services. Minor physical adaptations to the home must be limited to the purchase and installation of one or more of the following:

- (1) wheelchair ramps;
- (2) handrails and grab bars;
- (3) elevated bathtubs and toilets;
- (4) widened doorways;
- (5) shatterproof windows;
- (6) blinking lights and tactile alarms as alternate warning systems;
- (7) door handle replacements;
- (8) lowered kitchen work surfaces;
- (9) modified cabinets and sinks that provide wheelchair space;
- (10) handles and hoses for showerheads;
- (11) door hinge replacements; or

(12) shower and bathtub seats.

Minor physical adaptations must be constructed in accordance with applicable state and local building codes.

F. [Unchanged.]

G. Respite care must:

(1) be provided only for the client's family or foster family, or if the client is in a supported living arrangement, for the client's primary caregiver; and

(2) be provided in a facility serving no more than six clients at one time.

H. [Unchanged.]

I. For the purposes of this part, the services in subitems (1) and (9) have the meanings given them in parts 9500.0750 to 9500.1080. ~~If any of the services named in subitems (1) to (9) are provided to a client, the cost of the services must be included in the rate billed by the provider for reimbursement under parts 9525.1800 to 9525.1930 [Emergency]. These services are not reimbursable under any other rule or rules for clients in home and community-based services:~~

- (1) psychological services;
- (2) physical therapy;
- (3) occupational therapy;
- (4) services for individuals with speech, hearing, and language disorders;
- (5) mental health center services;
- (6) rehabilitative and therapeutic services;
- (7) home health care services;
- (8) private duty nursing services; and
- (9) personal care attendant services.

The services in subitems (1) to (9) must be provided by a professional licensed or certified by the state to provide the services or by a paraprofessional supervised by a licensed or certified professional. If any of these services are provided to a client, the cost of the services must be included in the rate billed by the provider for reimbursement under parts 9525.1800 to 9525.1930 [Emergency]. These services are not reimbursable under any other rule or rules for clients in home and community-based services.

J. [Unchanged.]

Subp. 4. Other applicable rules. Home and community-based services must be provided as required under items A to G.

A. Homemaker services must be provided under parts 9565.1000 to 9565.1300.

B. Day habilitation and training services must be licensed under parts 9545.0510 to 9545.0670.

C. Supported living arrangements for children must be provided at a service site licensed under parts 9545.0010 to 9545.0260.

D. Supported living arrangements for adults which are provided in a service site serving more than four adults must be licensed under parts 9525.0210 to 9525.0430. Supported living arrangements provided at a service site for four or fewer adults must be approved under parts 9555.6100 to 9555.6400; 9545.0090, item A; 9545.0140; 9545.0180; and 9545.0190, subparts 3 and 5. In approving supported living arrangements provided at a service site for four or fewer adults, the county shall apply the criteria in parts 9545.0090, item A; 9545.0140; 9545.0180; and 9545.0190, subparts 3 and 5 as though the criteria has been written to apply to services for adults.

E. Respite care provided at a service site serving more than four clients must be licensed under parts 9525.0210 to 9525.0430. Respite care provided at a service site serving four or fewer clients under 18 years of age must be licensed under parts 9545.0010 to 9545.0260. Respite care provided at a service site serving four or fewer adults must be approved under parts 9545.0090, item A; 9545.0140; 9545.0180; 9545.0190, subparts 3 and 5; and 9555.6100 to 9555.6400. Respite care provided at a service site for four or fewer children and adults must be approved under parts 9545.0090, item A; 9545.0140; 9545.0180;

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9545.0190, subparts 3 and 5; and 9555.6100 to 9555.6400 and licensed under parts 9545.0010 to 9545.0260. This item shall not apply to a person who provides respite care for less than 30 days a year.

E. The county may request a variance from compliance with parts 9545.0010 to 9545.0260 as required in item C, D, or E, for a provider who provides services to clients under 18 years of age if the county determines that granting the variance will not endanger the health, safety, or development of the persons receiving the services. The written variance request must be submitted to the commissioner and must contain:

- (1) the sections of parts 9545.0010 to 9545.0260 with which the provider cannot comply;
- (2) the reasons why the provider cannot comply with the specified section or sections; and
- (3) the specific measures that will be taken by the provider to ensure the health, safety, or development of the persons receiving the services.

The commissioner shall grant the variance request if the commissioner determines that the variance was submitted in accordance with this item and that granting this variance will not endanger the health, safety, or development of the persons receiving the services.

The commissioner shall review the county's variance request and notify the county, in writing, within 30 days if the variance request has been granted or denied. If the variance request is denied, the notice must state the reasons why the variance request was denied and inform the county of its right to appeal.

G. The county may grant a variance from compliance with parts 9545.0090, item A; 9545.0140; and 9545.0180; 9545.0190, subparts 3 and 5; and 9555.6100 to 9555.6400 as required in items D and E, for a provider who provides services to adults if the county determines that granting the variance will not endanger the health, safety, or development of the persons receiving the services.

9525.1870 [Emergency] PROVIDER CONTRACTS AND SUBCONTRACTS.

Subpart 1. Contracts. In order for a provider to receive medical assistance reimbursement for home and community-based services, the provider must have a contract with the host county. The contract must contain at least the information in items A to ~~E~~ **M** and subpart 2:

A. to J. [Unchanged.]

K. description of program and financial records to be maintained by the provider in accordance with part 9525.1920 [Emergency]; and

L. description of inservice training to be provided under part 9525.1850 [Emergency], item E; and

M. name of the person responsible for ensuring that the provider is in compliance with the data practices in Minnesota Statutes, section 13.46, subdivision 10, paragraph (d).

Subp. 2. Required provision. ~~The Each contract and subcontract must contain the following language verbatim: "The county may withhold reimbursement to the provider if either the county of the Minnesota Department of Human Services has reasonable grounds to believe that the contract of the county with the provider or the subcontract of the provider with any subcontractor of services has been breached in any material manner or that the provider or subcontractor is taking or failing to take any action that constitutes anticipatory breach. If the breach occurs, the county may recoup any payments made for the period during which the breach occurred. The provider acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as such is an affected party under this contract and as such may recoup payments made by the county to the provider in event of breach of this contract if the county does not recoup the payments. The provider specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue the provider for any appropriate relief in law or equity, including, but not limited to rescission, damages, or specific performance of all or any part of the contract between the county and the provider. The provider specifically acknowledges that the county and the Minnesota Department of Human Services are entitled to and may recover from the provider reasonable attorney's fees and costs and disbursements associated with any action taken under this paragraph. This provision shall not be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity provision. If any contract does not contain the following provision, the provision shall be considered an implied provision of the contract.~~

"The provider acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as such is an affected party under this contract. The provider specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue the provider for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance, of all or any part of the contract between the county and the provider. The provider specifically acknowledges that the county and the Minnesota Department of Human Services are entitled to and may recover from the provider reasonable attorney's fees and costs and disbursements associated with any action taken under this paragraph that is successfully maintained. This provision shall not be construed to limit

the rights of any party to the contract or any other third party beneficiary, nor shall it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity."

Subp. 3. Subcontracts. If the provider subcontracts with another contractor the provider must:

A. to B. [Unchanged.]

C. ensure that the subcontractor meets the requirements in part 9525.1850 [Emergency]; and

D. ensure that the subcontractor performs fully the terms of the subcontract; and

E. ensure that the subcontract contains the following language verbatim: "The provider may withhold reimbursement to the subcontractor if either the county or the Minnesota Department of Human Services has reasonable grounds to believe that the subcontract of the provider with the subcontractor has been breached in any material manner that the subcontractor is taking or failing to take any action that constitutes anticipatory breach. The subcontractor acknowledges and agrees that the county and the Minnesota Department of Human Services are third-party beneficiaries, and as such are affected parties under this subcontract and as such either or both may recoup payments made by the provider to the subcontractor in event of breach of this subcontract. The subcontractor specifically acknowledges and agrees that the county and the Minnesota Department of Human Services have standing to and may take any appropriate administrative action or sue the subcontractor for any appropriate relief in law or equity, including, but not limited to rescission, damages, or specific performance for all or any part of the subcontract between the subcontractor and the provider. The subcontractor specifically acknowledges that the county and the Minnesota Department of Human Services are entitled to and may recover from the subcontractor reasonable attorney's fees and costs and disbursements associated with any action taken under this paragraph. This provision shall not be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity."

Subp. 4. [Unchanged.]

Pollution Control Agency

Proposed Rules Relating to Sewage Treatment Grants

Notice of Hearing

NOTICE IS HEREBY GIVEN that on March 18, 1985, a public hearing on proposed amendments to Minnesota Rules, Chapter 7075, will commence at 10:00 a.m. in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B-2, Roseville, Minnesota. The hearing will continue at the following times and locations:

1. Tuesday, March 19, 1985, 7:00 p.m.
Mankato State University
Room 121 Armstrong Hall
Mankato, Minnesota
2. Monday, March 25, 1985, 7:00 p.m.
Meeting Room 2
County Services Building
Laurel Street behind the Court House
Brainerd, Minnesota

The hearing will continue on additional days, if necessary, at times and places determined during the hearing.

The hearing will be conducted by Administrative Law Judge Phyllis Reha, Office of Administrative Hearings, 400 Summit Bank Building, 310 S. 4th Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7611.

Minnesota Rules Chapter 7075 (formerly WPC 34) provides for the administration of federal grant funds and state grant and loan funds for the construction of municipal sewage treatment projects. Through these construction grant programs municipalities are able to construct wastewater treatment facilities through a combination of federal, state, and local funds.

In 1984, the Legislature created a new state independent grants program to provide financial assistance to some of the many cities in Minnesota that need to construct wastewater treatment facilities. On August 16, 1984, emergency rules for administration

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of the state independent grants program were promulgated by the Agency. According to state law these rules may remain in effect for a period of 360 days. The revisions to Chapter 7075 proposed in this rulemaking proceeding will replace the emergency rules when this proceeding is complete.

The new state grants program is essentially parallel to the existing federal program and is subject to many of the federal grant regulations. Therefore, the majority of the proposed revisions to Chapter 7075 merely extend the existing state rules to the new state independent grants program. In addition, the proposed amendments also address several other statutory provisions to provide the following: grants awarded under the state program will cover costs associated with future growth in a municipality; cities may proceed on their projects now without a grant and be reimbursed in a future year under the state program if funds are available; supplemental grants of up to 15% of the cost are available to both federal and state grantees pursuant to requirements and procedures set forth in the proposed amendments.

Several changes to Chapter 7075 are being proposed that are not directly related to the new state grants program. Some of these proposed changes are the result of changes in federal regulations and some are the result of the Agency's experience in administering the grants program. Among the changes being proposed are the following: Advances of allowance for facilities planning and design will be easier for cities to obtain. The deadlines for submitting the required information for placement on the Municipal Project List are being moved up, and some additional information will be required. Replacement of innovative and alternative projects will under the proposed amendments be awarded more priority points than they presently are. Step 1 and Step 2 grant increases are being phased out. Grant eligible land must be purchased sooner. The methods of paying the grant awards are being changed to more closely parallel federal payment schedules. Under the proposed amendments collection systems will be fundable in certain circumstances.

The Agency also intends to expand the Municipal Needs List to add cities that have sewage treatment needs but are not presently on the Needs List. In order to insure that cities already on the Needs List maintain their present priority, the proposed amendments award extra priority points to cities already on the list.

Minnesota municipalities with sewage treatment needs that qualify for a grant under these rules will receive grants to cover 50-75% of their eligible costs. The remaining local share will have to be paid for by the municipality. But these costs will be incurred regardless of the requirements of these rules because municipalities are required to meet federal and state standards for discharges to state waters and other pollution control requirements. The grant programs administered under these rules will actually help defray the costs that would otherwise have to be borne by the municipalities.

A free copy of the proposed amendments can be obtained by contacting Peggy Hicks, Division of Water Quality, Grants Section, Minnesota Pollution Control Agency, Roseville, Minnesota, telephone (612) 296-7724.

The Agency has prepared a Statement of Need and Reasonableness that explains the Agency's rationale for the amendments being proposed. A copy of the Statement of Need and Reasonableness is available by contacting Ms. Hicks.

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

Written comments may be submitted to the administrative law judge and recorded in the hearing record for five working days after the hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. The Agency and interested persons may respond in writing within three business days after the submission period ends to any new information submitted, provided that no additional evidence may be submitted during the three-day period.

Any person may request notification of the date on which the administrative law judge's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rule was adopted and filed with the secretary of state. The notice must be given on the same day that the rule is filed. If you desire to be so notified you may so indicate at the hearing or so request of the Agency at any time prior to the filing of the rule with the secretary of state.

This proceeding is governed by Minn. Stat. §§ 14.02, 14.05-14.20, and 14.50-14.51 (1984) and by the rules of the Office of Administrative Hearing, Minn. Rules Parts 1400.0200-1400.1200. Any person who has any questions about the procedure to be followed may contact the Administrative Law Judge.

The Agency's authority to promulgate this rule is found in Minn. Stat. §§ 116.16 and 115.03, subd. 1(c)(1984).

Please be advised that the proposed amendments are subject to change as a result of the rule hearing process. The Agency urges

those who are interested to any extent in the proposed amendments, including those who support the amendments as proposed and do not want to see changes made, to participate in the hearing and make their views known.

Please be further advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five working days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1984) as any individual:

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

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

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

January 24, 1985

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7075.0100 PURPOSE.

This chapter provides for the administration of the federal construction grant program ~~and~~, the independent state construction grant ~~and~~ program, the state matching construction grant program, and the state loan program for the construction of municipal disposal systems.

7075.0200 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Act. "Act" means the Federal Water Pollution Control Act, United States Code, title 33, section 1251 et seq., ~~as amended through December 31, 1982.~~

Subp. 4. Adequate errors and omissions insurance. "Adequate errors and omissions insurance" means a policy of insurance which provides the minimum amount of coverage for the corresponding estimated project construction cost as determined from the following table, which is maintained for a minimum of two years after acceptance of the project by the grantee.

Estimated Project Construction Cost	Minimum Amount of Coverage
less than \$1,000,000	\$ 250,000
\$1,000,000 to \$2,999,999	\$ 500,000
\$3,000,000 to \$9,999,999	\$1,000,000
\$10,000,000 or over	\$2,000,000

If an engineer has more than one project, the policy must provide for the minimum coverage applicable to the highest estimated project construction cost. Requests for variances from the requirements of this ~~section~~ part are governed by part 7075.5000.

Subp. 5. to 8. [Unchanged.]

Subp. 9. Facilities plan. "Facilities plan" includes the information required by Code of Federal Regulations, title 40, section 35.2030, ~~as amended through December 31, 1982,~~ and other information as is necessary to determine whether the project is consistent with good engineering practice and capable of complying with applicable pollution control rules and standards.

Subp. 10. to 14. [Unchanged.]

Subp. 15. 90 percent compliance. "90 percent compliance" means compliance with an NPDES/SDS permit limitation or

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condition related to effluent quality at a frequency of at least 90 percent of the time during a one-year period computed on the basis of the time interval appropriate to the limitation or condition. Periods of noncompliance caused by inadequate operation and maintenance, or negligence on the part of a person, or increased flow or loading to a treatment plant are not included in the percentage computation for the purposes of this definition.

Subp. 16. Outstanding resource value water. "Outstanding resource value water" means those waters defined in part 7050.0180, subpart 2.

Subp. 17. Planning loan. "Planning loan" means a loan for Step 1 or Step 2 projects.

Subp. 17-18. Plans and specifications. "Plans and specifications" includes documents that contain the requirements under which a bidder submits a bid for performing the work and the contractual requirements and detailed requirements. The documents that comprise the plans and specifications must conform with generally accepted engineering practices, applicable state statutes and rules, and applicable requirements of Code of Federal Regulations, title 40, parts 33 and 35, as amended through December 31, 1982.

Subp. 18-19. Primary treatment plant facilities. "Primary treatment plant facilities" means a plant facilities designed to provide a level of treatment lower than that provided by a secondary treatment plant facilities.

Subp. 19-20. Secondary treat plant facilities. "Secondary treatment plant facilities" includes plants facilities designed to provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, consistent with requirements of part 7050.0210, subpart 6 and part 7055.0110, subpart 6. Plants Facilities discharging to limited resource value waters (Class 7 waters) and assigned effluent limitations based on part 7050.0210, subpart 16, item A or B or part 7055.0110, subpart 16, item A or B and that do not have a phosphorus or toxic substances effluent limitation are secondary treatment plants facilities for the purpose of this chapter.

Subp. 20-21. Step 1. "Step 1" means the preparation of all necessary preliminary engineering studies for the project.

Subp. 21-22. Step 2. "Step 2" means the preparation of construction plans and specifications for the project.

Subp. 22-23. Step 3. "Step 3" means the construction of the project.

Subp. 23-24. Step 2 + 3. "Step 2 + 3" means the preparation of construction plans and specifications for and construction of the project.

Subp. 24-25. Tertiary treatment plant facilities. "Tertiary treatment plant facilities" includes plants facilities specifically designed to achieve effluent limitations based on part 7050.0210, subpart 6 or part 7055.0110, subpart 6 for phosphorus or toxic substances and plants facilities designed to provide a level of treatment higher than that provided by a secondary treatment plant facilities.

Subp. 25-26. Treatment agreement. A "treatment agreement" is an agreement between a municipality and a major contributing industry that includes the following:

A. to E. [Unchanged.]

Subp. 26-27. Wastewater. "Wastewater" means sewage, industrial waste, and other wastes collected for treatment in a disposal system.

Subp. 27-28. Other terms and abbreviations. Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and professional usage.

7075.0400 TYPES OF PROGRAMS.

Under this chapter and Minnesota Statutes, section 116.16 et seq., the agency may disburse funds from the pollution control fund for the following:

- A. state matching grants for projects tendered a federal grant under the act;
- B. grants to reduce or eliminate the local contribution of a municipality meeting the criteria ~~set forth~~ in part 7075.0425, subpart 2;
- C. ~~grants to municipalities which would qualify for a federal grant but which desire to initiate construction of the project without a federal grant~~ independent state grants for planning and construction of municipal disposal systems; and
- D. loans for the construction of municipal disposal systems.

7075.0401 SUMMARY OF CONSTRUCTION GRANTS ~~PROGRAM~~ PROGRAMS.

The following provisions apply to the municipal construction grant programs:

- A. Federal construction grant funds and state matching construction grant funds are available for Step 2 + 3 and Step 3 projects and advances of allowance for ~~Step Steps 1 and 2~~.

B. Independent state construction grant funds are available for Steps 1, 2, 3, and 2 + 3 projects.

C. Except as provided in part 7075.0409, subpart 4, items C and D, construction grants are awarded to municipalities on a priority basis. Municipalities with the highest priorities as determined by a point system are awarded construction grants first.

D. Priorities are determined by awarding points for various disposal system projects based on the waters affected, the population affected, the type of project proposed, and extra points for qualifying projects.

E. The agency develops and maintains a municipal needs list that ranks in order of priority all municipalities within the construction ~~program~~ programs for which a need exists.

F. The agency prepares a municipal project list that lists in order of priority from the municipal needs list, the municipalities that are eligible to apply for construction grants for their projects from funds allowed to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

G. A municipality on the municipal project list must apply for a construction grant before a grant will be awarded.

7075.0402 MUNICIPAL NEEDS LIST.

Subpart 1. to 4. [Unchanged.]

Subp. 5. Removal from needs list. ~~Upon approval of a facilities plan,~~ The agency may determine that the municipality does not have a need and remove the municipality and the project from the municipal needs list.

7075.0403 PRIORITY POINTS FOR WATERS AFFECTED.

Subpart 1. Water use and point ratings. A municipality shall be awarded priority points based on the water use of the receiving water of the discharge according to the following:

	Water Use *	Point Rating
Class 1	Domestic consumption:	
	Class 1A waters	70
	Class 1B waters	65
	Class 1C waters	60
	Class 1D waters	55
Class 2	Fisheries and recreation:	
	Class 2A waters	60
	Class 2B waters	50
	Class 2C	40
Class 7	Limited Resource Value Waters	35

*The water uses are more specifically defined in parts 7050.0200 and 7050.0220 ~~and parts 7055.0100 and 7055.0120~~ and the water use of a specific water of the state is the water use established by parts ~~7050.0300 to 7050.0380 or parts 7055.0250 to 7055.0340~~ 7050.0400 to 7050.0480.

Subp. 2. and 3. [Unchanged.]

7075.0405 PRIORITY POINTS FOR TYPE OF PROJECT.

Subpart 1. Table of priority points by type of project. A municipality shall be awarded priority points based on the type of project to be constructed according to the following:

Type of Project	Priority Points
Tertiary treatment plants <u>facilities</u> :	
A. new major tertiary treatment plant <u>facilities</u>	160
B. major addition to existing tertiary treatment plant	160
C. B. dechlorination facilities	120
D. C. ancillary addition to existing tertiary treatment plant <u>facilities</u>	80
Secondary treatment plants <u>facilities</u> :	
E. D. <u>new major</u> secondary treatment plant <u>facilities</u>	150

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F. major addition to existing secondary treatment plant	150
G. E. dechlorination facilities	110
H. F. ancillary addition to existing secondary treatment plant facilities	75
Collection systems or collector sewers:	
I. G. collection system or collector sewer in other than a totally unsewered incorporated city	10
J. H. improvement of collection system or collector sewer reliability	10
Combined sewer overflow:	
K. I. control of combined sewer overflow	150
Previously funded projects:	
L. additions to proveiously funded projects	40
M. modification and replacement of innovative or alternative projects	40

Subp. 2. Description of project types. Project types are described as follows:

A. ~~New plant.~~ A new tertiary treatment plant is a plant designed to meet tertiary treatment standards for which construction was commenced after July 1, 1983. A new secondary treatment plant is a plant designed to meet secondary treatment standards for which construction was commenced after July 1, 1983. Major treatment facilities are new facilities or additions to existing facilities which improve effluent quality in order that a municipality may achieve compliance with its NPDES/SDS permit conditions. Major treatment facilities include collection systems in totally unsewered incorporated cities, major interceptor sewers, and sewer system rehabilitation. Land application systems and stabilization ponds that are proposed as an alternative to tertiary and secondary treatment plants facilities that discharge to waters of the state are considered tertiary treatment and secondary treatment for purposes of project priority. Whether a land application system or stabilization pond is a tertiary or secondary treatment system is determined as based on the effluent limitations applicable to discharges to the receiving water. Subsurface disposal systems, including septic tanks, designed to treat an average daily flow of not more than 1,000 1,200 gallons and the drainfield portion and one central septic tank to treat an average daily flow in excess of 1,000 1,200 gallons are considered secondary treatment for purposes of project priority.

B. ~~Major addition.~~ A major addition to an existing tertiary or secondary treatment plant is an addition that improves effluent quality in order that a municipality achieving less than 90 percent compliance may achieve compliance with applicable NPDES/SDS permit conditions. A major addition also includes major intercepter sewers and sewer system rehabilitation projects.

C. ~~Major intercepter sewer.~~ A major interceptor sewer is a sewer, including related lift stations, that intercepts wastewater from the final point in a collector sewer of a municipality and accomplishes one of the following:

- (1) transports the wastewater directly to a wastewater treatment facility;
- (2) transports the wastewater directly to another major interceptor sewer; or
- (3) transports the wastewater directly to the collector sewer of another municipality.

A sewer is a collector sewer and not a major interceptor sewer if the average design flow of the sewer increases by more than ten percent from wastewater connections to the sewer between its origin and its termination or if it has physical connections closer to each other than 1,000 feet. Infiltration and inflow directly to the sewer and flow from other major interceptor sewers is not included in determining whether the flow has increased by more than ten percent.

D. ~~C. Sewer system rehabilitation.~~ A sewer system rehabilitation project is a project that repairs or replaces an existing collector or interceptor sewer in order to eliminate bypasses caused by insufficient hydraulic capacity in existing separate sanitary sewers by transporting infiltration and inflow to a wastewater treatment facility or to reduce the hydraulic capacity of the wastewater treatment plant and includes flow equalization systems, relief sewers, and relief capacity sewers.

E. ~~D. Flow equalization system.~~ A flow equalization system is a containment system such as a pond, basin, or tank designed to temporarily hold wet weather flow until the flow can be transported to the wastewater treatment plant.

F. ~~E. Relief sewer.~~ A relief sewer is a sewer primarily designed to eliminate bypassing caused by insufficient hydraulic capacity in separate sewer systems by transporting infiltration or inflow to adequately sized sewers or a wastewater treatment facility for proper treatment. A sewer is a relief capacity sewer and not a relief sewer if its design flow includes more than five percent wastewater or if it has physical connections closer to each other than 1,000 feet. Storm sewer separation is not a relief sewer.

G. ~~F. Relief capacity sewer.~~ A relief capacity sewer is a new sewer designed to handle the normal flow of wastewater and to eliminate bypasses caused by insufficient hydraulic capacity in existing sewers by transporting infiltration and inflow to adequately sized sewers or to a wastewater treatment plant. A relief capacity sewer must be designed to provide future capacity for a minimum of 40 years.

H. ~~G.~~ Collection system or collector sewer. A collection system or collector sewer is a sanitary sewer, including innovative and alternative sewers carrying raw or partially treated wastewater and providing collection system reliability such as alternative power or dual pumps, that is not a major interceptor sewer, a relief sewer, or relief capacity sewer. For treatment works including subsurface disposal systems designed to treat an average daily flow in excess of ~~1,000~~ 1,200 gallons, a collection system includes devices such as grinder pumps and septic tanks that will partly treat the wastewater, as well as septic tank effluent pumps and small diameter sewers that will pump and convey the partially treated waste.

I. ~~H.~~ Dechlorination facilities. Dechlorination facilities are facilities that remove chlorine from the effluent. When a municipality receives a grant to construct facilities receiving the points assigned in subpart 1, item A or D, the facilities described in this item shall be funded concurrently.

J. ~~I.~~ Ancillary addition. An ancillary addition to an existing tertiary or secondary treatment ~~plant facilities~~ plant facilities is an addition that is not a major addition and is not dechlorination facilities such as Examples are administrative support facilities ~~and~~ or sludge handling ~~capability facilities to enable a municipality~~ to enable a municipality to comply with state disposal system permit conditions controlling sludge application to land or sludge disposal. When a municipality receives a grant to construct facilities receiving the points assigned in subpart 1, item A or D, the facilities described in this item shall be funded concurrently.

K. Addition to previously funded project. An addition to a ~~previously funded project~~ previously funded project is a project that will bring an existing disposal system that has been funded by a construction grant into compliance with the municipality's existing NPDES/SDS permit without a change in the conditions of the NPDES/SDS permit.

L. Modification and replacement of innovative or alternative projects. A ~~modification or replacement of an innovative or alternative project~~ modification or replacement of an innovative or alternative project is a project to modify or replace a project that was funded with increased grant funding in accordance with Code of Federal Regulations, title 40, section 35.2032, as amended through December 31, 1982.

Subp. 3. Special restrictions for sewer system projects. Special restrictions for sewer system projects are as follows:

A. Sewer system rehabilitation. In order for a sewer system rehabilitation project to be eligible for priority points under part 7075.0405, subpart 1, item ~~B A~~ B A or ~~F D~~ F D, the municipality must not have obtained a construction grant for treatment plant construction since February 11, 1974, and sewer system rehabilitation must be justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120, ~~as amended through December 31, 1982.~~

B. Relief capacity sewer. A relief capacity sewer is not eligible for priority points under part 7075.0405, subpart 1, item ~~B A~~ B A or ~~F D~~ F D unless the municipality has not obtained a construction grant since at least February 11, 1974, and a relief capacity sewer is justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120, ~~as amended through December 31, 1982.~~

A relief capacity sewer that qualifies as a major interceptor sewer is considered a major ~~addition to a treatment plant facilities~~ addition to a treatment plant facilities and the municipality proposing the project shall be awarded the priority points under part 7075.0405, subpart 1, item ~~B A~~ B A or ~~F D~~ F D for the entire cost of the project.

A relief capacity sewer that is not a major interceptor sewer must be divided into two components:

(1) the portion of the sewer for domestic, commercial, and industrial wastewater and normal infiltration and inflow and generally accepted peaking factors; and

(2) the portion of the sewer necessary to convey excess infiltration and inflow.

The component in subitem (2) is considered a major ~~addition to a treatment plant facilities~~ addition to a treatment plant facilities and awarded the priority points under part 7075.0405, subpart 1, item ~~B A~~ B A or ~~F D~~ F D and the component in subitem (1) is considered a collector and awarded the priority points under part 7075.0405, subpart 1, item ~~I G~~ I G.

That percentage of total sewer flow at design condition that is attributable to the component in subitem (2), multiplied by the cost of the relief capacity sewer, is fundable as a major addition. That percentage of total sewer flow at design condition that is attributable to the component in subitem (1), multiplied by the cost of the relief capacity sewer, is fundable as a collector sewer.

C. ~~Collection systems or collector sewers.~~ A municipality proposing to undertake a sewer system rehabilitation project or to construct a relief capacity sewer that does not meet the criteria specified in ~~the items A and B.~~ items A and B. must be listed as a separate project

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on the municipal needs list and awarded the priority points credited to a collection system or collector sewer under part 7075.0405, subpart 1, item ~~I G~~ or ~~J H~~.

D. ~~Combined sewer overflow~~. A project for the control of combined sewer overflow is not eligible for priority points under part 7075.0405, subpart 1, item ~~K I~~ unless the project is necessary to meet requirements of the municipality's ~~NPDES~~ NPDES/SDS permit and the act. In addition, after October 1, 1984, combined sewer overflow projects are eligible for funding and for priority points under part 7075.0405, subpart 1, item ~~K I~~ only if the governor, by July 1 prior to the federal fiscal year in which funding is sought, has set aside a portion of the state's allotment or appropriation for correction of combined sewer overflows. This set aside must not exceed 20 percent of the state's allotment for each fiscal year. In no event after October 1, 1984, may funding for combined sewer overflow projects exceed the amount set aside by the governor for these projects.

Subp. 4. [Unchanged.]

7075.0406 EXTRA POINTS.

In addition to the priority points a municipality is entitled to for its project, the following extra points shall also be awarded to a qualifying municipality:

A. ~~Existing public health hazard~~. A municipality that proposes a project that will eliminate an existing public health hazard assessed by the Minnesota Department of Health in a health advisory or commissioner's order shall be awarded 40 extra points. A municipality requesting the award of 40 extra points under this provision shall submit the following information to the agency and to the Minnesota Department of Health:

(1) to (9) [Unchanged.]

B. ~~Existing level of treatment~~. A qualifying municipality shall be awarded extra points under one of the provisions below for its existing level of treatment:

(1) ~~No treatment~~. A municipality that presently has a central ~~collection~~ sanitary sewer system serving 50 percent or more of the population but provides no treatment prior to discharge, or a municipality which collects an average daily flow exceeding one million gallons through a system without combined sewers and which has bypassed sewage more than 40 percent of the time over a period of at least two years while its plant is operating at full capacity, shall be awarded 40 extra points.

(2) ~~Failing septic system~~. A municipality with an existing ~~septic~~ no central sanitary sewer system where more than 50 percent of the existing septic systems discharge raw or partially treated sewage directly to the ground surface ~~or surface waters~~ shall be awarded 30 extra points.

(3) ~~Primary treatment~~. A municipality that presently has a central sanitary sewer system serving 50 percent or more of the population and whose present facilities are designed for only primary treatment shall be awarded 20 extra points.

(4) ~~Combined sewer overflow~~. A municipality that discharges untreated sewage as a result of combined sewer overflows shall be awarded 20 extra points.

C. ~~Watershed pollution abatement plan~~. A municipality that proposes a project that is an integral part of a watershed pollution abatement plan shall be awarded 15 extra points. A watershed pollution abatement plan is ~~a plan prepared by a watershed district or watershed management organization and approved by the Minnesota Water Resources Board and includes~~ shall include the following:

(1) ~~specific point source and nonpoint source pollution abatement strategy; and~~

(2) ~~statewide water quality management plan goals and objectives, including the best management practices;~~

(1) an indepth description of the physical environment (geology, soils, topography, and land cover), land use and development in the watershed, as well as the planned future land use and development;

(2) an inventory and in depth description of the watershed's hydrologic system, including climatic conditions (precipitation), lakes, wetlands, streams, groundwater, drainage, and conveyance systems;

(3) information on the existing and potential water quality problems in the watershed, including both point and nonpoint sources of pollution;

(4) objectives and policies, including management plans for water quality and natural resource protection;

(5) a description of the hydrologic and water quality conditions that will be sought, including a description of the opportunities for improvement;

(6) a statement on conflicts between the watershed pollution abatement plan and existing plans of local government units;
and

(7) a plan for implementation, consisting of governmental work agreements and schedules for implementing corrective actions.

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A municipality is not entitled to the 15 extra points under this provision unless the watershed district or watershed management organization has adopted specific rules to implement the watershed abatement plan and the plan has been updated in the last ten years. If a project is part of several watershed districts or management organizations, all of the watershed districts or management organizations must have satisfied the above criteria in order for the municipality to receive the extra points agency received the plan for review by April 15, and it is in approvable condition by July 1, prior to the beginning of the fiscal year for which funding is sought.

D. Outstanding resource value waters. A municipality that discharges to or has an adverse impact upon an outstanding resource value water shall be awarded ten extra points. An outstanding resource value water is Lake Superior, any water in the Boundary Waters Canoe Area Wilderness or Voyageurs National Park, and all federal and state designated wild, scenic, or recreational river segments.

E. Game fish lakes. A municipality proposing to undertake a project that will result in the elimination of a discharge to a game fish lake or the elimination of a discharge that has an adverse impact on a game fish lake shall be awarded ten extra points. A game fish lake is a lake managed for propagation of game fish species and used for fisheries and recreation. There may be occasional but not regular winter kill in a game fish lake.

F. Sanitary district. An applicant who includes planned participation in a sanitary district or other multi-municipal disposal system as part of the project shall be awarded ten extra points.

G. Existing advances of allowance. Any municipality that received an advance of allowance prior to July 1, 1983, shall be awarded 20 extra points for the project covered by the advance of allowance. A municipality listed on the municipal needs list on January 1, 1985, shall be awarded 40 extra points.

H. A municipality which does not qualify for the points awarded in item G and which is achieving less than 90 percent compliance with its NPDES/SDS permit conditions shall be awarded 20 extra points.

7075.0409 MUNICIPAL PROJECT LIST.

Subpart 1. Adoption of municipal project list. The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which state grants will be awarded from current appropriations. The municipal project list shall also list any nonproject uses of the state's allotment of federal construction grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration.

Subp. 2. Requirements for placement on list. A municipality that requests project placement on the municipal project list shall submit to the agency by July 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, an approvable facilities plan if the grant sought is a Step 2 + 3 grant and approvable plans and specifications if the grant sought is a Step 3 grant. No municipality may be listed on the municipal project list unless the municipality has submitted the necessary facilities plan or plans and specifications. meet the following requirements:

A. If the grant sought is a Step 1, 2, 2 + 3, or 3 grant, the municipality must be listed on the municipal needs list.

B. If the grant sought is a Step 2 or 2 + 3 grant, the municipality shall submit by December 1 prior to the beginning of the fiscal year for which the municipal project list is prepared:

(1) a facilities plan in conformance with part 7075.0200, subpart 9; and

(2) if the municipality is proposing to change the selected treatment method or any other major element of a previously approved facilities plan, a facilities plan addendum in conformance with part 7075.0200, subpart 9.

C. If the grant sought is a Step 3 grant, the municipality shall submit by December 1 prior to the beginning of the fiscal year for which the municipal project list is prepared:

(1) plans and specifications in conformance with part 7075.0200, subpart 18, and based on a facilities plan previously approved by the agency;

(2) if the city is proposing to change the selected treatment method or any other major element of previously approved plans and specifications, a plans and specifications addendum in conformance with part 7075.0200, subpart 18, and based on a previously approved facilities plan;

(3) a sewer service charge system comprised of a user charge system, including a proposed financial management

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system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

(4) documentation of how the public has been informed of the proposed sewer service charge system; and

(5) a sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

D. The municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, make all necessary corrections to the documents in item B if the grant sought is a Step 2 or 2 + 3 grant, or the documents in item C if the grant sought is a Step 3 grant, so as to make them approvable.

E. If the grant sought is a Step 2 + 3 or 3 grant, the municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, indicate its preferred funding source if it has one, in writing to the director.

The agency shall prepare a proposed municipal project list of municipalities on the municipal needs list that have submitted approvable facilities plan or plans and specifications in conventional order of priority until the cost of the proposed projects reaches the full allotment of federal construction grant funds available for the fiscal year. In preparing the list, the agency shall consider the percentage of the cost of the projects that will be paid for by a federal construction grant, as determined by requirements of the act and decisions of the governor under the act to uniformly reduce the federal share of grant assistance.

Subp. 3. Preparation of proposed municipal project list. The agency shall prepare a municipal project list that lists in order of priority the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

In drafting the proposed municipal project list, the agency shall consider the following factors in the order given:

A. total dollars available for obligation from each funding source;

B. eligibility of projects and portions of projects according to these parts and applicable state and federal statutes;

C. restrictions on obligations mandated by these parts and applicable state and federal statutes, including but not limited to set asides for administration of certain types of projects, and the percentage of the cost of construction that will be paid by state and federal grants; and

D. the municipalities' preference for funding sources.

Subp. 4. Procedures for drafting list. In drafting the proposed municipal project list, the agency shall list projects on the proposed list according to the following procedures:

A. The agency shall attempt to accommodate municipalities' preferences for funding sources in priority order until the costs of the projects being funded from one funding source reach the full allotment or appropriation of grant funds available from that source for the fiscal year. If a municipality expresses no preference, the agency shall determine from which source it will be funded.

B. The agency shall then list projects in priority order, funding those projects from the remaining funding source, until the costs of the projects reach the full allotment or appropriation of grant funds available for the fiscal year. Projects ineligible under the remaining funding source must be considered for placement on the following fiscal year's municipal project list.

C. The agency shall then list on the municipal project list in priority order those projects on the municipal needs list with priority rankings lower than those selected under items A and B, but which have been identified by the commissioner of energy and economic development by July 1 as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

D. The agency may list projects which will receive Step 1 and 2 grants and advances of allowance in such a manner as to permit funding to proceed in an orderly fashion to fully utilize all allocated and appropriated funds.

Subp. 5. Reimbursement project list. The agency shall prepare a reimbursement project list that lists those municipalities that are willing to proceed with projects and are willing to be reimbursed in a subsequent year conditioned upon appropriation of sufficient money for that year. No municipality may be listed on the reimbursement project list unless the municipality has requested placement on the list and has complied with part 7075.0409, subpart 2, items A, C, and D. The total cost of these reimbursement projects may not exceed the amount of the expected independent state grant appropriation for the next year. Reimbursement projects must be listed

in the same order of priority as they appear on the municipal needs list. A reimbursement project may appear on both the reimbursement project list and the reserve project list.

7075.0410 RESERVE PROJECT LIST.

A reserve project list shall be developed by the agency concurrent with the adoption of the municipal project list.

The reserve project list shall contain a list of municipalities whose projects are eligible for funding from ~~grants~~ funds made available when a municipality's application for a grant is rejected pursuant to part 7075.0415.

Municipalities shall be listed on the reserve project list in the same order of priority as municipalities were listed on the municipal project list.

7075.0411 PROJECT ELIGIBILITY.

Subpart 1. Steps eligible. Federal grants and state matching grants shall be awarded only for Step 2 + 3 and Step 3 projects. Advances of allowance for Step 1 and 2 projects may also be provided from federal funds. Independent state grants may be awarded for Step 1, Step 2, Step 2 + 3, and Step 3 projects.

Subp. 2. General eligibility. No project is eligible for a federal grant or a state matching grant unless it is eligible for funding under the act and applicable federal regulations. No project is eligible for an independent state grant unless it is eligible under this chapter and applicable state statutes.

Subp. 3. Initiation of construction. A municipality is not eligible for a federal grant or a state matching grant if construction on the project has been initiated prior to the award of the grant.

A municipality may be eligible for an independent state grant after initiation of construction, provided that:

A. the municipality was listed on the reimbursement project list in the fiscal year construction began;

B. the municipality submitted a complete grant application to the agency within 90 days after adoption of the reimbursement project list; and

C. the municipality obtained written permission from the agency to advertise for bids and initiate construction before those steps were taken.

Subp. 3. 4. Cost-effectiveness. A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

7075.0413 PUBLIC PARTICIPATION.

Subpart 1. Needs and project lists. The agency shall prepare a proposed municipal needs list ~~and~~, a proposed municipal project list, a proposed reserve project list, and a proposed reimbursement project list, and make them available to the public at least 45 days before adoption. The agency shall mail a free copy of the proposed lists to an interested person upon request.

Subp. 2. [Unchanged.]

Subp. 3. Notice. The agency shall give affected municipalities at least 45 days notice of the agency board meeting at which the proposed municipal needs list ~~and~~, the proposed municipal project list, the proposed reserve project list, and the proposed reimbursement project list will be acted upon.

Subp. 4. [Unchanged.]

7075.0414 GRANT APPLICATIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Agency notification. The agency shall notify in writing each municipality on the municipal project list ~~and~~, each municipality on the reserve project list, and each municipality on the reimbursement project list of its placement on the appropriate list. No municipality shall submit a construction grant application unless the municipality has been notified by the agency that it is on the municipal project list, the reserve project list, or the reimbursement project list.

Subp. 4. Additional information for Step 1 grant. A municipality that applies for a Step 1 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

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A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application, grant offer, and other related grant documents.

B. A plan of study outlining the scope of work which will lead to an approvable facilities plan.

C. A schedule for completion of the facilities plan.

D. An engineer's certificate of adequate errors and omissions insurance.

E. If more than one municipality is involved in the grant application, the resolutions required in items A; G, subitems (1) to (3); and H must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an agreement indicating their intent to participate in joint treatment, outlining each municipality's responsibilities during planning and setting forth the cost-sharing methodology.

F. An opinion from the municipality's attorney that the municipality has the legal authority to construct, assess, operate, maintain, and replace the wastewater treatment facilities.

G. Unsewered municipalities shall also submit the following:

(1) a resolution by the governing body of the municipality resolving not to proceed with further planning beyond a phase 1 needs determination until the agency has approved phase 1 and concurs that further planning is justified;

(2) a resolution by the governing body of the municipality acknowledging that they are willing to pay the local share of the project costs;

(3) a resolution by the governing body of the municipality resolving that the sewage collection system will be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded and the municipality does not already have a collection system; and

(4) the municipality's proposal for funding the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

H. A resolution of the governing body of the municipality stating that the municipality will maintain records of costs incurred for facilities planning.

I. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

Subp. 5. Additional information for Step 2 or Step 2 + 3 grant. A municipality that applies for a Step 2 or Step 2 + 3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application and, grant offer, and other related grant documents.

B. Updated cost estimates for Step 3 project work in a format provided by the agency.

C. A resolution by the governing body of the municipality resolving that the sewage collection system will, at the appropriate time, be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

D. and E. [Unchanged.]

F. Amendments to the facilities plan If the municipality will be receiving state funds, a council resolution stating that the municipality will maintain records of costs incurred for Step 2 work.

G. A treatment agreement for each major contributing industry to be used in determining the design basis of that will discharge wastewater to the new or upgraded system.

H. to J. [Unchanged.]

K. Schedule for completion of all Step 2 work.

L. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

Subp. 5. 6. Additional information for Step 3 grant. A municipality that applies for a Step 3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

A. Addendums to the plans and specifications for the treatment works or other project to be funded A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application, grant offer, and other related grant documents.

B. A sewer service charge system comprised of a user charge system, including a proposed financial management system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

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The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

~~C.~~ Documentation of how the public has been informed of the proposed sewer service charge system.

~~D.~~ A sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

~~E.~~ A preliminary plan of operation of the treatment works.

~~F. C.~~ A proposal for startup/performance certification of the treatment works, plus the costs for developing an operation and maintenance manual and a procedure for startup, a final plan of operation, and for startup/performance certification of the treatment works.

~~G. D.~~ A wage rate determination information sheet, as provided by the agency.

~~H. E.~~ A signature and resignation number of the consulting engineer accompanying the following certification statement:

The treatment works described in this grant application have been designed with full knowledge of the effluent limitations required by the Minnesota Pollution Control Agency as set forth in NPDES Permit No. _____ dated _____. It is my judgement and carefully considered opinion that these treatment works are capable of consistently producing the required effluent quality, provided that the facility is operated in conformance with the approved operation and maintenance manual and that the volume and characteristics of raw wastewater are within the limits of "Design Data" stated on page . . . of the plans as follows:

~~I. F.~~ A proposed engineering contract that provides for the consulting engineer or the engineer's agent to be present onsite during the hours of construction for purposes of inspection, although the inspector does not have to be a resident of the municipality, and to submit written reports to the agency on request describing the type of construction inspected and the time involved in inspection after construction commences.

~~J. G.~~ An engineer's certificate of adequate errors and omissions insurance.

~~K. H.~~ A treatment agreement with each major contributing industry to be used in determining the design basis of that will discharge wastewater to the new or upgraded system.

~~L. I.~~ A cost breakdown for all project work to be funded by the grant, including separation of eligible and ineligible items, in a format provided by the agency.

~~M. J.~~ Documentation of the municipality's source of funding to cover the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

~~N. K.~~ If more than one municipality is involved in the grant application, an executed intermunicipal agreement that sets forth the terms and conditions of joint treatment and the cost sharing methodology.

~~O.~~ Assurance that the municipality has, or will have within 90 days after authorization to bid, full rights to all necessary land to allow construction and operation of the facilities during the useful life of the facilities.

~~L.~~ A comprehensive legal opinion identifying that the grantee has sufficient legal vested interest in all sites, easements, and/or rights-of-way to ensure immediate construction and undisturbed utilization for the estimated life of the facilities.

~~P. M.~~ Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

Subp. ~~6.~~ 7. Requirements prior to authorization to seek construction bids. A municipality that has received a Step 2 + 3 grant shall submit, and receive agency approval of, the same information required of a Step 3 grant applicant in subpart 6, items B to M and part 7075.0409, subpart 2, items C and D, before the municipality may receive authorization to seek bids for construction of the project.

Subp. ~~7.~~ 8. Three copies. Construction grant application forms and attachments must be submitted in triplicate to the agency.

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7075.0416 APPROVAL OF GRANT APPLICATIONS.

The agency shall approve grant applications that are not rejected for one or more of the reasons specified in part 7075.0415.

The director shall certify to the EPA each approved federal grant application.

7005.0417 TENDER OF ~~GRANT~~ FEDERAL GRANTS AND STATE MATCHING GRANTS.

The state may not tender a federal grant until the EPA has determined the eligibility of the municipality for which a grant application has been certified to EPA.

After the EPA has determined the eligibility of the application and tendered a federal grant, the agency shall make a similar grant offer to the municipality in an amount not less than that required by federal law and regulation as a condition for the grant of federal funds or in an amount not less than that allowed by state statutes where not required by federal law.

7075.0419 ADVANCES OF ALLOWANCE.

Subpart 1. Allotment reserve. The agency shall reserve a reasonable portion of its annual federal allotment for advances to municipalities for Step 1 and Step 2 work. The amount reserved shall not exceed ten percent of the state state's federal allotment for a fiscal year.

Subp. 2. Advance of allowance. A municipality on the municipal needs list with a population in the service area of less than 3,500 25,000 people is eligible to apply for an advance of allowance. The application shall be submitted by July 1 prior to the beginning of the federal fiscal year for which the municipal project list will be prepared within 60 days after the date on which the agency informs the city in writing of its intent to offer an advance.

Subp. 3. Information required for advance of allowance. A municipality applying for an advance of allowance shall submit the following information to the agency:

- A. ~~council resolution requesting the advance;~~
- b. ~~certification that funds are not available from other sources;~~
- C. ~~estimate of construction costs of the project with supporting documentation;~~
- D. ~~per capita income;~~
- E. ~~municipal bonded debt;~~
- F. ~~adjusted assessed value of the municipality; and~~
- G. ~~council resolution certifying that the municipality cannot afford to do the work with its own resources.~~
- A. for a Step 1 advance, the information required in part 7075.0414, subpart 4, items A to G and I;
- B. for a Step 2 advance, the information required in part 7075.0414, subpart 5, items A to E and G to L.

Subp. 3a. Submittal of facilities plan. In order to receive a Step 2 advance, a municipality shall comply with part 7075.0409, subpart 2, items A, B, and D. The facilities plan must be approved before the advance will be awarded.

Subp. 4. Amount of advance. The amount to be allowed as an advance of allowance shall be that amount determined by EPA.

Subp. 5. One advance limit. A municipality is entitled to an one Step 1 advance on one occasion only and one Step 2 advance of allowance.

Subp. 6. Reduction of Step 3 grant. A municipality that receives an advance of allowance shall have its Step 3 not receive a construction grant reduced by an amount equal to for work paid for by the advance of allowance.

Subp. 7. ~~Reimbursement for advance~~ Payments. A municipality that receives an advance of allowance but does not subsequently receive a Step 3 grant for the project shall reimburse the state the amount of the advance unless the project is constructed with other funds. The agency shall pay an advance of allowance in accordance with the procedures and requirements in part 7075.0431. The agency may seek to recover funds tendered or disbursed if the municipality does not make satisfactory progress in submitting an approvable facilities plan or plans and specifications within the time frame specified in the allowance award agreement. If satisfactory progress is not made in submitting approvable plans and specifications, the agency reserves the right not to list the project on the next municipal project list.

Subp. 8. ~~Order of award for advance.~~ If more municipalities apply for an advance of allowance than can be awarded from the amount reserved for that purpose, the money available must be awarded to the qualifying municipalities in order of their placement on the municipal needs list.

7075.0420 GRANT AMENDMENTS.

Subpart 1. [Unchanged.]

Subp. 1a. Limitation of Step 1 and 2 grant increases. For grants awarded before May 12, 1982, the agency shall not, after December 31, 1985, award grant increases for Step 1, Step 2, or the Step 2 portion of Step 2 + 3 grants.

Subp. 2. Approval of Step 3 and the Step 3 portion of Step 2 + 3 grant increase increases. The agency may approve a Step 3 and the Step 3 portion of a Step 2 + 3 grant increase when a municipality has solicited contracts that exceed the cost estimated in the application. The agency shall approve the grant amendment if funds are available and the costs are eligible and reasonable. After the grant has been amended to reflect the as-bid costs have been determined, only cost overruns caused by unanticipated site conditions shall be eligible for funding through grant amendments, and the grant amendment shall be limited to two percent of the as-bid costs.

Subp. 3. [Unchanged.]

7075.0423 RETAINED PAYMENTS.

The agency may withhold Step 3 grant payments and may request the EPA to withhold grant payments if the director determines that a project does not substantially conform to approved plans and specifications, or there has been a major breach of a condition in the grant agreement, or the municipality has failed to comply with the applicable requirements in part 7075.0422 parts 7075.0429 to 7075.0432. If funds are withheld pursuant to this part, and the condition causing the withholding has been corrected, then all retained funds shall be released to the municipality, unless otherwise agreed to by the director and the municipality.

7075.0425 STATE GRANTS LOCAL SHARE.

Subpart 1. Projects for which federal money is available. The agency may tender a grant of state funds to a municipality that would otherwise qualify for a federal grant but desires to initiate construction of a project without a federal grant if enough funds are in the pollution control fund to cover state matching grants for those projects on the municipal projects list for which federal grants are available.

Subp. 2. Local share. The agency may tender a grant of state funds to a municipality for what would otherwise be the local share of the cost if:

A. the municipality has applied for a state grant to cover the local share by July 1 of prior to the fiscal year for which the grant is requested;

B. the municipality is unable to finance the local share and attain a minimal point rating of 40 under the criteria of part 7075.2200 qualifies for the maximum percentage according to the criteria in part 7075.0428, subpart 4;

C. application is made and approval received from the agency prior to the initiation of construction; and

D. the public health of the state and the prevention, control, and abatement of water pollution require the construction of the project.

7075.2000 APPLICATION FOR CONSTRUCTION LOAN PROGRAM.

Subpart 1. [Unchanged.]

Subp. 2. Attachments for planning loan. The planning loan application form shall be supported by the following attachments:

A. to E. [Unchanged.]

Subp. 3. Other evidence of support Attachments for construction loan. The construction loan application form shall be supported by:

A. The attachments of subpart 2, items A, B, and D and the items of part 7075.0414, subpart 5 6. The director for just cause may waive or defer the submission of any items required pursuant to part 7075.0414, subpart 5 6 if the items are EPA requirements.

B. [Unchanged.]

Subp. 4. and 5. [Unchanged.]

7075.2200 CRITERIA FOR DETERMINING LOAN PRIORITY.

Subpart 1. Order of priority for planning loan applications. The determination of the order of priority for planning loan applications shall comply with the criteria set forth in parts 7075.0403 to 7075.0406. Rating points shall be awarded to a municipality by summing up the applicable rating percentage points for the project from the tables 1, 2, and 3 in subparts 2 to 4 relative to per capita

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project cost, the ratio of municipal bonded debt to adjusted assessed values of municipalities, and per capita buying income in part 7075.0428, subpart 4, items A, B, and C.

Subp. 2. to 4. [See Repealer.]

Subp. 5. [Unchanged.]

Rules as Proposed (all new material)

7075.0428 GRANT AMOUNTS.

Subpart 1. State matching grants. For projects tendered on or after October 1, 1984, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for up to an additional 15 percent of the eligible cost if construction of the treatment works would otherwise impose a significant financial hardship on the municipality.

Subp. 2. Independent state grants. The agency may award independent state grants as follows:

A. The agency may award Step 1 and Step 2 independent state grants to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. The agency may award Step 2 + 3 and Step 3 independent state grants to municipalities to pay for 50 percent of the eligible cost of construction, or, if the agency requires and the municipality is constructing advanced treatment, 65 percent of the eligible cost of construction. If construction of a treatment works would otherwise impose a significant financial hardship on a municipality, the agency may award an independent state grant to pay for up to an additional 15 percent of the eligible cost of construction, or if the agency requires and the municipality is constructing advance treatment, an additional ten percent of the eligible cost of construction.

Subp. 3. Local share. Except as provided in part 7075.0425, in no event may a municipality that obtains a state matching grant or independent state grant be responsible for less than 25 percent of the eligible cost of the project.

Subp. 4. Significant financial hardship. The amount of a state matching grant awarded to a municipality after October 1, 1984, and the amount of a supplemental independent state grant awarded to a municipality depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

A. The agency shall award a state matching grant or independent state grant for up to five percent of the eligible cost of construction based on the municipality's per connection capital cost after bidding compared with the median per connection capital cost for all projects which accepted bids under the programs during the two years ending July 1 prior to adoption of the municipal project list on which the municipality appears. The percentage of the eligible cost to be paid for by the grant based on per connection capital cost is determined by the following table.

$\frac{\text{Municipality Per Connection Cost}}{\text{Median Per Connection Cost of Projects Bid During Previous Two Years}} \times 100$	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0
80 - 89	1.5
90 - 99	2.0
100 - 119	2.5
120 - 139	3.0
140 - 159	3.5
160 - 179	4.0
180 - 199	4.5
200 or more	5.0

B. The agency shall award a state matching grant or independent state grant for up to five percent of the eligible cost of construction based on the municipality's median household income compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

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Municipality Median Household Income \times 100 \div State
Median Nonmetropolitan Household Income

Percentage of
Cost Funded

100 - 104	0.5
95 - 100	1.0
90 - 94	1.5
85 - 89	2.0
80 - 84	2.5
75 - 79	3.0
70 - 74	3.5
65 - 69	4.0
60 - 64	4.5
less than 60	5.0

C. The agency shall award a state matching grant or independent state grant for up to five percent of the eligible cost of construction based on the municipality's per capita adjusted assessed valuation compared with the state median per capita adjusted assessed valuation. Per capita adjusted assessed valuation must be determined from the latest data available from the Department of Revenue at the time of the grant award. The percentage of the eligible cost to be paid for by the grant based on the per capita adjusted assessed valuation is determined by the following table.

Municipality Per Capita Adjusted Assessed Valuation \times 100
 \div State Median Per Capita Adjusted Assessed Valuation

Percentage of
Cost Funded

105 - 109	0.5
100 - 104	1.0
95 - 99	1.5
90 - 94	2.0
85 - 89	2.5
80 - 84	3.0
75 - 79	3.5
70 - 74	4.0
65 - 69	4.5
less than 65	5.0

7075.0429 PAYMENT OF STATE MATCHING GRANTS.

Subpart 1. Step 1 matching grants. The agency shall pay 50 percent of a Step 1 state matching grant when an adequate facilities plan has been received by the director. The remaining 50 percent of the Step 1 state matching grant shall be paid when the agency approves the facilities plan and after final payment has been paid by the Environmental Protection Agency.

Subp. 2. Step 2 matching grants for federal grants awarded before May 12, 1982. The agency shall pay 50 percent of a Step 2 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications, a user charge system, and a preliminary plan of operation have been received by the director. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency approves of the plans and specifications, the user charge system, and the preliminary plan of operation, and after final payment has been paid by the Environmental Protection Agency.

Subp. 3. Step 2 portion of Step 2 + 3 matching grants for federal grants awarded before May 12, 1982. The agency shall pay 50 percent of the Step 2 portion of a Step 2 + 3 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications, a user charge system, and a preliminary plan of operation have been received by the director. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency has given authorization to bid and after final payment has been paid by the Environmental Protection Agency. The agency shall pay for eligible land costs when the municipality submits proof of purchase, if the municipality received the agency's advance approval to purchase the land.

Subp. 4. Step 2 portion of Step 2 + 3 matching grants for federal grants awarded after May 12, 1982. The agency shall pay 50 percent of the Step 2 portion of a Step 2 + 3 state matching grant awarded after May 12, 1982, when the plans and specifications

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are 50 percent complete, and the municipality has submitted a payment request certifying that at least 50 percent of the work on the plans and specifications are complete. The agency shall pay the remaining 50 percent of the Step 2 portion of the grant when a payment request indicating the amount of costs incurred for Step 2, the final invoice, and canceled check as proof of payment, have been submitted, the Environmental Protection Agency has paid the federal grant, and the municipality has awarded all subcontracts for construction and purchased all eligible land. The agency shall pay for eligible land costs when the municipality submits proof of purchase, provided the municipality received the agency's advance approval to purchase the land.

Subp. 5. Step 3 matching grant. A municipality may request periodic payments of a Step 3 state matching grant up to 50 percent of the total grant. The request for payment shall be submitted to the agency in writing. With each payment request the municipality shall submit a summary of all architectural and engineering costs expended to date in the format required in submitting the original grant application.

The agency shall make a final grant payment for the remaining 50 percent of the grant after the agency has completed a final inspection of the treatment works and the municipality has:

- A. submitted to the agency a request for the payment;
- B. provided evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate;
- C. adopted the sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
- D. adopted a sewer service charge system with updated cost revisions;
- E. submitted a certification by the contractor that the project was built according to the plans and specifications;
- F. submitted a copy of the as-built specifications;
- G. certified that the municipality is complying with the approved operation and maintenance manual for the treatment works;
- H. complied with the municipality's NPDES/SDS permit for the treatment works;
- I. put the treatment plant into operation and is operating the treatment plant efficiently;
- J. received final payment of the federal grant;
- K. received agency approval of a revised operation and maintenance manual;
- L. received agency approval of the final plan of operations;
- M. if the federal grant was awarded before December 29, 1981, submitted a start-up report;
- N. if the federal grant was awarded on or after December 29, 1981, received agency approval of a start-up evaluation report, including certification by the municipality that the facilities meet the project performance standards; and
- O., received agency approval of the final small, minority, and women's business enterprise report, which includes canceled checks or lien waivers as proof of payment.

Subp. 6. Step 3 portion of Step 2 + 3 matching grant. The agency shall pay the Step 3 portion of a Step 2 + 3 grant in accordance with the procedures and requirements in subpart 5.

Subp. 7. Step 3 matching grant with allowance. The agency shall pay 50 percent of the estimated allowance for facilities planning and design immediately after the grant is awarded provided the municipality submits a payment request. The agency shall pay the final payment of the allowance when the municipality has awarded all subcontracts for construction, purchased all eligible land, and submitted a payment request, including a copy of the final invoice and canceled check as proof of payment, and the EPA has paid the federal allowance.

The agency shall pay the Step 3 grant in accordance with the procedures and requirements in subpart 5.

7075.0430 PAYMENT OF INDEPENDENT STATE GRANTS.

Subpart 1. Step 1 grants for sewerred communities. The agency shall pay Step 1 grants for sewerred communities in accordance with the following schedule:

- A. 25 percent of the grant when the facilities plan is 50 percent complete, as certified by the municipality;
- B. up to 50 percent of the grant when the facilities plan is received by the director; and
- C. the balance of the grant when the facilities plan has been approved by the agency, and the municipality has submitted a final payment request and a copy of the final invoice and canceled check as proof of payment.

Subp. 2. Step 1 grants for unsewered communities. The agency shall pay Step 1 grants for unsewered communities in accordance with the following schedule:

A. Twenty-five percent of the grant when the agency determines that the municipality needs to do additional planning for sewage treatment. If the agency determines that the municipality does not need to do additional planning, this payment will constitute final payment.

B. Up to 50 percent of the grant when the facilities plan is received by the director.

C. The balance of the grant when the facilities plan has been approved by the agency, and the municipality has submitted the final payment request and a copy of the final invoice and canceled check as proof of payment.

Subp. 3. Step 2 grants. The agency shall pay Step 2 grants in accordance with the following schedule:

A. 25 percent of the grant when the plans and specifications are 50 percent complete, as certified by the municipality;

B. up to 50 percent of the grant when adequate plans and specifications, a user charge system, and a preliminary plan of operation are received by the director; and

C. the balance of the grant when the plans and specifications, the user charge system, and the preliminary plan of operation have been approved by the agency, and the municipality has submitted the final payment request and a copy of the final invoice and canceled check as proof of payment.

Subp. 4. Step 2 portion of Step 2 + 3 grants. The agency shall pay the Step 2 portion of a Step 2 + 3 grant in accordance with the procedures and requirements in part 7075.0429, subpart 4, except that no federal payment will be required. The agency shall not make the final 50 percent payment until the municipality has submitted a copy of the final invoice and canceled check as proof of payment.

Subp. 5. Step 3 portion of Step 2 + 3 grant. The agency shall pay the Step 3 portion of a Step 2 + 3 grant in accordance with the following schedule:

A. A municipality may request in writing periodic payments of the Step 3 portion of a Step 2 + 3 grant up to 50 percent of the total grant. With each payment request the municipality shall submit a summary of all architectural and engineering costs expended to date in the format required in submitting the original grant application.

B. The agency shall make periodic payments of the amount encompassing 51 to 80 percent of the Step 3 portion of the Step 2 + 3 grant when the municipality submits the information required in item A and has completed the following:

- (1) received agency approval of the final plan of operation;
- (2) provided evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate;
- (3) adopted a sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
- (4) adopted a sewer service charge system with updated cost revisions;
- (5) submitted an approvable final operation and maintenance manual; and
- (6) submitted a small, minority, and women's business progress report.

C. The agency shall make a final payment for the remaining 20 percent of the grant after the agency has completed a final inspection of the facilities and the municipality has completed the tasks for the earlier payments and performed the following:

- (1) submitted a certification by the contractor that the project was built according to the plans and specifications;
- (2) submitted a copy of the as-built specifications;
- (3) certified that the municipality is complying with the approved operation and maintenance manual for the treatment works;
- (4) complied with the municipality's NPDES/SDS permit for the treatment works;
- (5) put the treatment plant into operation and is operating the treatment plant efficiently;
- (6) received agency approval of a revised operation and maintenance manual;
- (7) received agency approval of a start-up evaluation report, including certification by the municipality that the facilities meet the project performance standards;

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(8) received agency approval of the final small, minority, and women's business enterprise report, which includes canceled checks or lien waivers as proof of payment; and

(9) submitted a final payment request and a copy of the final invoice and canceled check as proof of payment.

Subp. 6. Step 3 grants. The agency shall make periodic payments of a Step 3 grant in accordance with the procedures and requirements in subpart 5.

Subp. 7. Step 3 grant with allowance. The agency shall pay 50 percent of the estimated allowance for facilities planning and design immediately after the grant is awarded provided the municipality has submitted a payment request indicating the amount of costs incurred for facilities planning and design. The agency shall pay the final payment of the allowance when the municipality has awarded all subcontractors for construction, purchased all eligible land, and submitted a payment request and a copy of the final invoice and canceled check as proof of payment.

The agency shall make periodic payments of the Step 3 grant in accordance with the procedures and requirements in subpart 5.

7075.0431 PAYMENT OF ADVANCES OF ALLOWANCE.

Subpart 1. Sewered communities. The agency shall pay Step 1 advances of allowance for sewered communities upon submittal of a payment request by the municipality.

Subp. 2. Unsewered communities. The agency shall pay Step 1 advances of allowance for unsewered communities in accordance with the following schedule:

A. Twenty-five percent of the allowance upon submittal of a payment request by the municipality. If the agency determines that the municipality does not need to do additional planning for wastewater treatment, this will constitute final payment.

B. The remaining 75 percent shall be paid by the agency when the agency determines that the municipality needs to do additional planning for wastewater treatment and the municipality has submitted a payment request.

Subp. 3. Step 2 advances of allowance. The agency shall pay Step 2 advances of allowance upon submittal of a payment request by the municipality.

7075.0432 GENERAL REQUIREMENTS.

Subpart 1. EPA payment. The agency shall not make any payments of a state matching grant until the Environmental Protection Agency has paid the corresponding federal grant payment.

Subp. 2. Reduction in state grant payments. For all state grants, including allowances, if the actual costs are less than the amount on which the grant was based, the agency shall reduce the grant proportionately.

Subp. 3. Payment request. The agency shall not make any grant payments unless the municipality submits a written payment request.

REPEALER. Minnesota Rules, parts 7075.0422; and 7075.2200, subparts 2, 3, and 4, are repealed.

Pollution Control Agency Solid and Hazardous Waste Division

Proposed Rules Relating to Low Level Radioactive Waste Generator Fees

Notice of Intent to Adopt Rules Without A Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. § 16A.128 (1984), Minn. Rules Parts 7042.0010 through 7042.0060, Low-Level Radioactive Waste Generator Fee Rules. In accordance with Minn. Stat. § 16A.128 (1984), the Agency will follow the procedure for non-controversial rules set out in Minn. Stat. §§ 14.22 to 14.28 (1984), with the exception that no public hearing will be held in the event that twenty-five or more requests for hearing are received.

The proposed rule amendments are authorized by Minn. Stat. § 116C.834 (1984). The proposed rules are published below. One free copy of the rules is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon by the Agency to support the proposed rules.

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Copies of the Statement of Need and Reasonableness and of the proposed rules are available and may be obtained by contacting:

Melba Hensel
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-7776

Interested persons have until 4:30 p.m. on March 13, 1985, to submit comments on the proposed rules. Comments should be submitted to Melba Hensel at the address stated above. The proposed rules may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed rules.

Upon adoption of the rules by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Melba Hensel at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small business considerations in rulemaking," that the proposed rules may have an impact on some small businesses in Minnesota. There may be some small businesses who ship 100 cubic feet or more but less than 1,000 cubic feet of low-level radioactive waste per year to a facility for disposal. These small businesses would be subject to a fee of \$100 per year.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. §10A.01, subd. 11 (1984) as any individual:

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

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

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Thomas J. Kalitowski
Executive Director

Rules as Proposed (all new material)

7042.0010 SCOPE OF RULES.

Parts 7042.0020 to 7042.0060 levy fees on the generators of low-level radioactive waste as required by Minnesota Statutes, section 116C.834.

7042.0020 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 7042.0010 to 7042.0060 have the meanings given them in this part.

Subp. 2. Agency. "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. Compact. "Compact" means the Midwest Interstate Low-Level Radioactive Waste Compact as provided by Minnesota Statutes, section 116C.831.

Subp. 4. Director. "Director" means the executive director of the agency.

Subp. 5. Disposal. "Disposal" means the isolation of low-level radioactive waste from the biosphere in a permanent facility designed for that purpose.

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Subp. 6. Facility. "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

Subp. 7. Generator. "Generator" means any person who produces or possesses low-level radioactive waste in the course of, or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity, and who, to the extent required by law, is licensed by the United States Nuclear Regulatory Commission or is a state party to the compact, to produce or possess such waste. "Generator" does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes.

Subp. 8. Low-level radioactive waste or waste. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in United States Code, title 42, section 2014(e)(2).

Subp. 9. Person. "Person" means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of the individual, corporation, business enterprise, or legal entity.

Subp. 10. Storage. "Storage" means the temporary holding of low-level radioactive waste for treatment or prior to treatment or disposal.

Subp. 11. Treatment. "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics or composition of any low-level radioactive waste in order to render the low-level radioactive waste safer for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

7042.0030 LOW-LEVEL RADIOACTIVE WASTE GENERATOR FEES.

Subpart 1. Basis of fees. The fees paid are based upon volume of waste shipped for disposal during the previous calendar year. Data on the volume of waste shipped shall be provided to the director with payment as described in part 7042.0040.

Subp. 2. Amount of fees. A generator of low-level radioactive waste is subject to the following fees:

A. A generator who ships 1,000 cubic feet or more of low-level radioactive waste per year to a facility for disposal is subject to a fee of 85 cents per cubic foot of low-level radioactive waste shipped per year.

B. A generator who ships at least 100 cubic feet but less than 1,000 cubic feet of low-level radioactive waste per year to a facility for disposal is subject to a fee of \$100 per year.

7042.0040 PAYMENT OF FEES.

A generator must submit to the director the fees and appropriate documentation of the volume of waste shipped no later than June 10 of each year. Fees for wastes shipped in calendar year 1984 are payable by June 10, 1985. Checks shall be made payable to the state treasurer.

7042.0050 EXEMPTIONS.

Low-level radioactive waste generated as a result of a spill or accident and sealed sources which are returned to a vendor or manufacturer are not subject to the fees in parts 7042.0030 and 7042.0040.

7042.0060 PENALTY PROVISIONS.

If the generator fails to pay the generator fee by the due date, a penalty will be assessed. The penalty is five percent of the fee due for each month or fraction of month that the fee payment is late.

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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 Energy and Economic Development

Adopted Emergency Rules Governing Energy Financial Assistance

The rules proposed and published at *State Register*, Volume 9, Number 19, pages 967-979, November 5, 1984 (9 S.R. 967) are adopted with the following modifications:

Emergency Rules as Adopted

8300.4011 [Emergency] DEFINITIONS.

Subp. 9. Project. "Project" means that which is funded or secured or is proposed to be funded or secured by energy financial assistance.

8300.4012 [Emergency] PROCEDURES FOR ENERGY FINANCIAL ASSISTANCE APPLICATIONS.

Subp. 2. Contents. An application must contain at a minimum the following information:

A. a written history of the business ~~entity~~;

D. A marketing plan that describes:

(1) the industry the business entity is in;

(2) the industry outlook for the next three to five years; ~~and~~

(3) the major characteristics of the industry, names, locations, products or services provided;

(4) the duration and conditions of the applicant's contracts currently in the plan, place; and

(5) the percentage of annual sales volume for each major customer over the previous three years.

H. Certification that the employer does not discriminate in employment in a manner contrary to applicable federal or state laws and regulations.

Subp. 3. Business plan. As part of the application, the applicant shall submit to the commissioner a comprehensive business plan. The business plan must include, but is not limited to, the following:

A. a management summary of the plan including:

(7) form of and purpose for the financial assistance; ~~and~~

(8) business goals; and

(9) purpose of undertaking the project;

8300.4013 [Emergency] COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR CERTIFICATIONS.

Subpart 1. Collateral requirements. The authority shall require collateral in accordance with generally accepted commercial lending practices as it deems necessary to protect the interests of the authority in the energy financial assistance. At a minimum, the collateral will take one or more of the following forms:

E. guarantees or other assurances of repayment of affiliates of the applicant or other interested parties with respect to the project;

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F. guarantees or other assurances of repayment of shareholders or partners who have 20 percent or more ownership in the applicant; ~~and~~

G. bond insurance or other credit enhancements; and

H. assignments of leases or rents on property or equipment.

8300.4014 [Emergency] PROCEDURES FOR APPLICATION PROCESSING.

Subp. 5. Ineligible project or applicant. The commissioner shall notify the applicant in writing if the applicant or the project is ineligible. The applicant has 30 days from the date of the commissioner's notification to amend the application.

Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project ~~and~~ or applicant are ineligible. If the project and applicant are eligible, the commissioner shall review the amended application for economic feasibility under subpart 6.

Subp. 6. Economic feasibility review. The commissioner shall review the application in accordance with generally accepted commercial lending practices, including the use of the standards as printed in the most current annually updated version of the Annual Statement Studies, issued by Robert Morris Associates, Philadelphia, PA.

The commissioner shall obtain any other credit information when available from private credit rating agencies including, but not limited to, Standard & Poors and Dun & Bradstreet. In accordance with generally accepted commercial lending practices, the commissioner may check personal references.

The commissioner shall determine if the applicant can generate sufficient cash flow and maintain a sound financial condition.

The commissioner shall determine if there is sufficient collateral for the energy financial assistance.

Submission of the application by the commissioner to the authority at a board meeting is conclusive evidence that the commissioner has made the determinations required pursuant to this subpart.

Subp. 8. Authority evaluation procedure. Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval. If the authority disapproves the application, the commissioner shall so notify the applicant. If the authority approves the energy financial assistance, it shall pass a preliminary or a final resolution giving approval to the project to be financed and stating in either the preliminary or final resolution or combination of both the name of the owner, a brief description of the project, the maximum amount of ~~the energy financial assistance bonds to be issued or the maximum amount of the loan to be made or the maximum amount of the loan to be guaranteed or insured, whichever is applicable,~~ and other provisions as the authority in its sole discretion deems advisable for prudent financial management of authority energy financial assistance. The commissioner shall notify the applicant of the authority's approval and provide the applicant with a copy of the resolution passed. If the energy ~~energy~~ financial assistance is funded by bonds, then passage of a preliminary and a final resolution as provided in subpart 9 are required before energy financial assistance is approved. Throughout this process if the authority does not extend energy financial assistance, the authority shall remain without liability to the applicant.

Subp. 9. Funding of energy financial assistance by bonds. If the authority intends to fund the energy financial assistance by issuing bonds, the authority shall first pass a preliminary resolution. The preliminary resolution ~~does will~~ not obligate the authority to issue bonds or to fund energy financial assistance, but will only ~~constitutes~~ constitute an expression of current intention of the authority to issue bonds or to fund the energy financial assistance. If the authority subsequently determines that there are no adverse changes in the ~~financial~~ conditions or key personnel of the applicant, market conditions, with availability of bond issuance authority, and other financial conditions that the authority deems necessary and the authority decides in accordance with generally accepted commercial lending practices to fund the financial assistance, the authority shall pass a final resolution that authorizes the issuance and sale of bonds to fund the energy financial assistance. The final resolution must specify the terms and conditions under which bonds will be issued. The preliminary resolution may contain a time limit with respect to the issuance of the bonds, may be revoked or amended by the authority at any time prior to the final resolution of the authority without liability to the authority, and may impose any conditions or requirements that the authority deems desirable. The commissioner shall notify the applicant of the authority's approval and provide the applicant with a copy of the resolution passed. Throughout this process, if the authority does not extend energy financial assistance, the authority shall remain without liability to the applicant.

8300.4023 [Emergency] ELIGIBLE LOANS FOR ENERGY DEVELOPMENT LOAN PROGRAM.

Subp. 3. Equity requirements. The maximum loan percentage of authorized project cost is 80 percent for equipment and 90 percent for other authorized costs. Instead of an equity contribution, the authority shall accept adequate security, collateral, or guarantees sufficient to insure the repayment of the financial assistance. The authority may accept letters of credit or other credit enhancements as part of the equity contribution by the applicant.

Subp. 4. Maximum term. The maximum term of an energy loan may not exceed the average useful life of the real property, or 80 percent of the useful life of equipment or machinery or ~~24~~ 31 years, whichever is less.

Subp. 5. Security requirements. Energy financial assistance, either for real property or equipment, must be secured ~~as follows with the best available security, including one or more of the following:~~

C. other security as determined by the commissioner to have a value at least equal to the principal amount to be financed by the authority less the value, as determined by the authority, of the security provided in items A and B, ~~which if any.~~ The other security shall be in the form and kind satisfactory to the authority and may consist of some or all of the following:

(2) a senior, junior, or parity lien on assets of certain owners, officers, and affiliated persons of the applicant (including sole proprietors and their spouses, partners and their spouses, and major shareholders of corporate officers and their spouses); or

~~D.~~ (3) a guarantee of owners, officers, and affiliated persons of the applicant (including sole proprietors and their spouses, partners and their spouses, and major shareholders of corporate officers and their spouses), or other related entities such as subsidiaries or parent corporations of the applicant; or

~~E.~~ (4) additional forms of security, if necessary to strengthen the authority's collateral position on the financial assistance; and

~~F.~~ D. in addition to or in substitution for any of the items A to E C, any guarantee or any other form of collateral or security as required by either insurers or other providers of collateral or security of the bonds, other than the authority or as required by the authority in accordance with generally accepted lending practices.

Subp. 6. Findings of public purpose. The authority shall review and consider approval of an application for an energy loan on the basis of effectuating the purposes of the act, including determinations regarding the following:

A. that the project will be economically feasible in that the borrower reasonably can be expected to maintain a sound financial condition and to retire the principal and pay the interest on the loan anticipated to be made, in accordance with the terms of the loan agreement;

B. ~~that with respect to a resource recovery project~~ the project will be cost-effective in accordance with part 8300.4011 [Emergency], subpart 5;

8300.4024 [Emergency] ENERGY LOANS FUNDED BY BONDS.

Subp. 3. Debt service reserve fund. In conjunction with each amount of financial assistance it extends, the authority shall establish and fund a debt service reserve fund sufficient to cover approximately 12 month's debt service or such lesser amount to insure tax exempt status of interest on the bonds if the bonds are intended to be tax exempt. The reserve must be funded through the proceeds of the bonds to be issued and sold in conjunction with each particular amount of financial assistance extended. The interest earned on the debt service reserve fund must accrue to the benefit of the applicant except to the extent necessary to insure tax exempt status of interest on bonds if the bonds are intended to be tax exempt. This amount must be applied to offset the principal and interest payments on an annual basis or to redeem bonds prior to maturity provided that the financial assistance is current. Instead of a debt service reserve fund the authority shall accept other adequate security or guarantees to ensure repayment of the bonds in accordance with generally accepted commercial lending practices.

Subp. 4. Final resolution. After the authority passes a preliminary resolution, it may pass a final resolution that authorizes the issuance and sale of bonds to fund the financial assistance to the applicant, as discussed in part 8300.4014 [Emergency], subpart 9. The final resolution for an application under the program depends, in part, upon a determination that there are no adverse changes in the financial condition or key personnel of the applicant, market conditions, availability of bond issuance authority, if applicable, and other ~~financial~~ conditions in accordance with generally accepted commercial lending practices that the authority deems necessary.

Upon passage of the final resolution, the authority shall commence to issue bonds in accordance with market conditions and the other legal conditions that govern the issuance of its bonds and notes. This issuance must be in accordance with the contents of any insurance contracts, agreements with lenders providing letters of credit, or other forms of financial assistance and other terms and conditions necessary to effectuate a bond sale. Funds will not be disbursed at the loan closing until it has been determined that there are no adverse changes in the ~~financial~~ condition in accordance with generally accepted commercial lending practices or key personnel of the business entity applying for the financial assistance. After the bonds are issued and sold, there will be a loan closing where the funds are transferred and documents are signed in accordance with the terms of the final resolution and the respective documents.

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8300.4031 [Emergency] DEFINITIONS.

Subp. 4. Default. "Default" means the failure of the borrower to make a scheduled payment of principal and interest within 60 days of the date it is due or the breach by the borrower for more than 60 days after mailing of written notice of breach to the borrower by the lender of any material covenant in the note, loan agreement, or in any instrument securing the loan which the lender determines constitutes an adverse change in the borrower's ability to repay the insured energy loan.

8300.4033 [Emergency] SUBMISSION OF APPLICATIONS FOR ENERGY LOAN INSURANCE.

Subp. 3. Rejection of application. If the lender's application for insurance is incomplete, the commissioner shall notify the financial institution and the borrower in writing according to part 8300.4014 [Emergency], subpart 3. If either the borrower or the financial institution applying for insurance is ineligible for any reason, the commissioner shall follow the procedures in part 8300.4014 [Emergency]. If the commissioner determines that the qualified energy project proposed in the application for an energy loan is either technically or economically infeasible, the commissioner shall notify both the borrower and the financial institution in writing of the commissioner's decision to reject the application. If the application is rejected, the borrower or the financial institution may, within 30 days after written notification by the commissioner, requires request that the commissioner submits the rejected application to the authority for review at the next regularly schedule meeting of the authority for which the agenda has not been established.

If so submitted, the authority approves shall evaluate the application at its board meeting; ~~the application will be treated in~~ accordance with part 8300.4014 [Emergency], subpart 4.

Subp. 4. Authority evaluation procedure. Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval. The authority shall review and consider approval of the application on the basis of effectuating the purposes of the act, including determinations regarding the following:

D. that the qualified energy project will tend to facilitate a reliable supply of energy to Minnesota's households, business establishments ~~of~~, or municipalities, tend to diminish Minnesota's dependence on imported energy sources, or serve some other energy related public purpose;

8300.4034 [Emergency] PARTICIPATING LENDERS.

Subpart 1. Eligibility. In order to be eligible to receive energy financial assistance in the form of energy loan insurance from the energy loan insurance fund, a duly authorized officer of the financial institution seeking the assistance in conjunction with an energy loan must first sign a participating lender's agreement on the form prescribed by the commissioner that sets forth the terms and conditions under which an energy loan is to be made and specifies procedures to be followed in the case of a default by the borrower. The participating lender's agreement must require the financial institution seeking designation as a participating lender, and the authority to conform to the following conditions:

A. The insured portion of any energy loans insured by the authority shall not exceed ~~\$2.5 million~~ \$2,500,000 and the maximum term of any energy loan shall not exceed the average useful life of the improvement or 21 years, whichever is less.

F. Security must be obtained for the full amount of the loan and must be prorated between the financial institution and the authority;

N. The authority shall not insure any loan that carries an interest rate of more than three points above the lender's prime interest rate for variable rate loans or ~~two more than~~ three points above the interest rate of a full-faith-and-credit obligation of the United States government of comparable maturity for a fixed-rate term loan.

8400.4035 [Emergency] PROCEDURES UPON DEFAULT.

The authority and participating lenders shall follow the following procedures in the event of a default:

A. In the event of a default by the borrower on the insured loan, the participating lender shall file with the commissioner, on ~~form~~ forms supplied by the commissioner, all claims for occurred losses within one year of the date of default.

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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 Energy and Economic Development Community Development Division

Notice Pertaining to the 1985 Small Cities Development Program

The Department of Energy and Economic, Community Development Division, in accordance with the Housing and Community Development Act of 1974, as amended, hereby gives notice on the 1985 Small Cities Development Program's proposed distribution of funds; proposed use of funds for activities that will benefit persons of low and moderate income; and plans of the State of Minnesota for minimizing displacement of persons as a result of activities assisted with Small Cities Development Program funds.

1. Proposed Distribution of Funds.

The U.S. Department of Housing and Urban Development has notified the Department of Energy and Economic Development, Community Development Division, that it will receive an allocation of \$21,806,000 for the 1985 Small Cities Development Program. Of this amount, \$536,120 will be reserved by the Department for administration of the grant program and \$21,269,880 will be available for grants to eligible communities. Under the administrative rules for this program, 10 MCAR §§ 1.500-1.565, 15 percent, or \$3,190,482, will be reserved for economic development grants; 30 percent, or \$6,380,964, will be reserved for single-purpose housing or public facilities grants; and 55 percent, or \$11,698,434, will be reserved for comprehensive grants.

If funds are returned to the Department of Energy and Economic Development, Community Development Division, following the closeout of the 1985 competitive grants or as a result of resolving audits of those grants, the funds will be retained by the Department and be made available during the next competitive funding cycle. If funds are returned following the closeout of 1985 economic development grants or as a result of resolving audits of those grants, the funds will be made available by the Department for economic development grants.

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

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

- a) Benefit low and moderate income persons;
- b) Prevent or eliminate slums and blight; or
- c) Alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs.

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

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

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

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

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also means the involuntary movement, except temporary relocation, of a household from a dwelling unit necessitated by CDBG assisted code enforcement."

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

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

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

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

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

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

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

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

Budget revisions necessary to these efforts will be encouraged.

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

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

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

Department of Health Emergency Medical Services

Emergency Medical Services Licensure Application—F-M Ambulance Service Inc., Fargo ND

As of February 11, 1985 a complete application for scheduled advanced life support transportation service by air was submitted by F-M Ambulance Service, Inc. to operate a base of operation at Hector Airport, Fargo, North Dakota to provide intra-state and/or inter-state transportation service.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health publish the notice in the *State Register* at the applicant's expense.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to Min-Dak Health Systems Agency, 632 Center Avenue, Moorhead, Minnesota 56560. Attention: Michael Pattee, Executive Director, 218/233-4070. The comments must reach the Health Systems Agency before March 13, 1985 or be submitted at the public hearing.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to the applicant.

Department of Health Emergency Medical Services

Emergency Medical Services Licensure Application—Life Star Ambulance System, Winona

As of February 11, 1985 a complete application for a advanced life support transportation service was submitted by Life Star Ambulance Systems to operate a base of operation at 703 West 4th Street, Winona, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health publish the notice in the *State Register* at the applicants expense.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the State Health Planning Agency, Room 100, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, Attention: John Dilley, 612/296-2407. The comments must reach the Health Planning Agency before March 13, 1985 or be submitted at the public hearing.

After a public hearing has been held, the Health Planning Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Planning Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to the applicant.

Department of Human Services Income Maintenance Bureau Assistance Payments Division

Outside Opinion Sought Concerning Proposed Rules Governing the General Assistance Program

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate permanent rules governing the General Assistance Program including applications for

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assistance, eligibility requirements, real and personal property, income, assistance standards, grant calculation, payment provisions, client responsibilities, ineligibility and disqualification, rights of applicants and recipients, support from financially responsible persons, wrongfully obtained assistance, emergency general assistance, special grant provisions, and interim assistance.

Once the permanent rules are promulgated, they will replace Parts 9500.0500 to 9500.0610, 9555.3400 to 9555.3409, 9555.3410 to 9555.3412 [Emergency], 9555.3415 [Emergency], and 9555.1317 [Emergency]

The promulgation of permanent rules is authorized by Minnesota Statutes, sections 256D.01, subdivision 1b., 256D.111, subdivision 5, and 256D.41.

The Minnesota Department of Human Services requests information and comments concerning the subject of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing.

Written statements should be addressed to:

John Anderson
Rulemaking Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Oral statements of information and comment will be received over the telephone at (612) 297-1489 between the hours of 9:00 a.m. and 4:00 p.m.

All statements of information and comment shall be accepted until further notice. Any written material received by the Minnesota Department of Human Services shall become a part of the rule file in the event that the rules are promulgated.

State Retirement System Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, February 15, 1985, at 8:30 a.m., in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Transportation

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

Notice is hereby given that the County Board of Stearns County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for replacing Bridge No. 194 on CSAH 65 over the Burlington Northern with Bridge No. 73538 and approach grading.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9910 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit a design speed of 30 instead of the required 40 miles per hour.

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

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

January 29, 1985

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Austin for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of Austin has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on CSAH 23 from 4th Avenue Southwest to a point 800 feet South.

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The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit a street width of 54 feet with a 10-foot median instead of the required 60 feet with a 4-foot median.

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

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

January 30, 1985

Richard P. Braun
Commissioner of Transportation

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

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

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 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
99-730-28358, 5849	Sales Invoice	Charitable Gambling Control Board	Minneapolis	Contact buyer
26-073-17253	Photographic Equipment	St. Cloud State University	St. Cloud	Contact buyer
79-050-16139	Materials for Building Improvements		Various	Contact buyer
Contract	Apple Microcomputer Systems	Educational Ins. in MN	Same	Contact buyer
Sch. 113-G	Lease/Purchase of Cars	Administration—Central Motor Pool	St. Paul	Contact buyer
07-700-33108	Purchase of Microfilm Reader/Printer & Reader	Public Safety	St. Paul	Contact buyer
27-157-42611	Carpeting & Installation	Inver Hills Community College	Inver Grove Heights	Contact buyer
79-050-16135	Discriminator Modules	Transportation	St. Paul	Contact buyer
07-100-33350, 5846	MN Motorcycle, Moped, Motorbike Manual	Public Safety	St. Paul	Contact buyer
29-000-37406, 5834	1985 Moose Hunt Information Booklet		St. Paul	Contact buyer
Contract	Driver License Mailing Envelope	Public Safety	St. Paul	Contact buyer
07-700-33339				
29-002-10402	Addendum #1 All Terrain Vehicles		Various	Contact buyer

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Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-100-03294 etc.	Brass Sieves	Transportation	Various	Contact buyer
79-000-46020	Traffic Signal Bases		St. Paul	Contact buyer
21-200-09229, 5718	Program Profiles	Economic Security	St. Paul	Contact buyer
78-830-07305	Purchase of Photocopy Machine	MN Correctional Facility		Contact buyer
Various	Meat & Meat Products for the Month of March, 1985.	Various	Various	Contact buyer
Contract	Kitchen Supplies	Various	Various	25,000.-30,000.
21-200-09217	Clean & Recoat Towers	Economic Security	St. Paul	Contact buyer
79-000-46488	35mm Film	Transportation	St. Paul	Contact buyer
29-000-37414, 5898	Regular Snowmobile Decals	Natural Resources	St. Paul	Contact buyer
26-074-09874, 5793	Winona State University General Catalog 1985-87	Winona State University	Winona	Contact buyer
79-000-46125, etc.	Industrial Tractors	Transportation	Various	Contact buyer
79-000-46464	Cable	Transportation	Roseville	Contact buyer
29-004-06062	Aircraft Engine Replacement	Natural Resources—Enforcement	New Ulm	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Corrections Minnesota Correctional Facility Oak Park Heights

Request for Proposals for Consulting Services for Management Training

This is a Request for Proposal to provide consulting services to the Minnesota Correctional Facility—Oak Park Heights. Consultant will develop and provide management training to approximately 50 correctional facility managers and supervisors. The contract period will be March 1, 1985 through June 30, 1985. The estimated amount of contract should not exceed \$8,000. Information on project scope, objectives and tasks can be requested from Fred Holbeck, Associate Warden/Operations at (612) 779-1487. Proposals must be submitted by 4:30 p.m., February 22, 1985 to Mr. Holbeck.

Department of Economic Security Office of Budget and Management

Request for Proposals for Minnesota Community Action Data System (MCADS) Support Services

The Office of Budget and Management of the Department of Economic Security is seeking a qualified computer programmer or firm to provide technical assistance and system maintenance for MCADS users.

A copy of the Request for Proposals is available upon request. Inquiries and requests should be directed to:

Larry Simmons
Minnesota Department of Economic Security
Office of Budget and Management
Grants Management Unit
690 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 296-6066

The contract to be awarded is to be between \$110,000 and \$115,000. Proposals must be received by the Department of Economic Security, Office of Budget and Management—Grants Management Unit, no later than 4 p.m. on February 25, 1985.

Department of Energy and Economic Development Energy Division

Availability of Community Energy Council Grant Funds

Pursuant to Minnesota Rules 4160.5100-4160.5900 the Department of Energy and Economic Development announces that it is accepting applications for community energy council grants from cities and counties, individually, collectively, or through the exercise of joint powers agreements. The maximum amount of a grant to an individual applicant is \$15,000. The maximum amount of a grant to joint application is \$15,000 for the first applicant and \$12,000 for each additional applicant to a maximum of \$50,000. All grants require a ten percent local match.

Funds are available as follows:

1) Legislative appropriation of \$16,830 and Palo Pinto Second Stage Refund of \$1813. Funds are available from these sources to support a variety of local energy programs in different energy use sectors.

2) Amoco Second Stage Refund of \$66,000. To qualify for a grant from this source, applicants must propose a transportation energy conservation program from the following list:

- a. Public transit or ride share promotions
- b. Car care clinics
- c. Driver education for energy efficient driving habits
- d. Bike and hike days
- e. Traffic flow synchronization
- f. Other transportation energy conservation projects.

Applicants may also propose additional projects introduced above in 1) and detailed in the program rules.

Applications must be received no later than 4:30 p.m. on March 14, 1985, at the address given below.

Application forms, program rules and other information can be obtained by contacting:

Mark Schoenbaum
Department of Energy and
Economic Development
900 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 297-3602

Department of Human Services Health Care Programs Division

Availability of Administrative Contract for the Prepaid Medicaid Project

As a part of the Department of Human Services Prepaid Medicaid Demonstration Project, Dakota County intends to issue a contract for the purpose of administrative assistance. The contractor's role will be to analyze encounter data from the Medicaid Health Plans; to collect and analyze the data from the mental health umbrella agency; to provide cost and utilization analysis and recommendations; to do claims processing, including bill payment and coordination of benefits; and to provide actuarial and financial assistance in the development of the mental health umbrella agency.

The County shall issue a Request for Proposal (RFP) to all interested parties. Proposals will be accepted through February 28, 1985. The contract period will be from April 15, 1985 to June 30, 1986.

Proposals and inquiries should be directed to:

Jerry Krueger
Director, Dakota County Human Services
Economic Assistance Division
357 9th Avenue North
S. St. Paul, MN 55075
612-457-0618

Itasca County Solid Waste Division

Request for Proposal for a Solid Waste Incineration Feasibility Study

The Itasca County Board of Commissioners is seeking proposals to examine the financial, technical and environmental feasibility of establishing a multi-fuel incinerator capable of burning solid waste and recovering the energy to be utilized by Blandin Wood Products Company in its manufacturing process.

The estimated cost of the study should not exceed \$50,000. For formal *Request For Proposal* documents, interested parties should contact:

Lee Engstrom
Itasca County Engineer
Courthouse
Grand Rapids, MN 55744

Proposals must be submitted no later than 4:30 P.M., February 25, 1985.

Request for Proposal

1. Statement of Issue

Itasca County is interested in evaluating the incineration of its solid waste as an alternative to continued landfilling. Currently, approximately seventy-six tons of solid waste are generated daily in Itasca County. Earlier study has identified the Blandin Wood Products Company as the most viable potential customer for the energy derived from solid waste incineration. Blandin's total estimated natural gas use is presently approximately one billion B.T.U./Day.

This *Request for Proposal* does not obligate Itasca County to complete the project and the right is reserved to cancel the solicitation if it is considered to be in the County's best interest.

2. Professional Credentials

Firms submitting proposals should be knowledgeable in solid waste management and supply a comprehensive list of clients for whom similar refuse disposal projects have been undertaken. The professional credentials of the project leader and each person working on the project shall be required.

3. Content of Proposal

Responses to this request should include descriptive information regarding the content of the proposed feasibility study, including:

- A. The use of solid waste and other fiber fuels as a fuel source in the context of replacing the use of natural gas at the Blandin Wood Products Company.
 - B. The technology or technologies that are suitable for incinerating solid waste at the Blandin Wood Products Company.
 - C. The approximate costs associated with constructing and operating the facility or facilities described in 3.B. above.
 - D. The administrative and institutional implications of constructing and operating a solid waste incinerator in Itasca County, including ownership and financing considerations.
 - E. The regulatory framework relating to constructing and operating a solid waste incinerator in Itasca County.
 - F. The estimated time schedule for completion of the feasibility study and the proposed work program for carrying out the study.
- The cost of this study is not to exceed \$50,000. It is the County's intent to select the firm which is best qualified to perform the study. The final contract price will be negotiated prior to entering into the contract for completion of the study. There will be no compensation provided for submitting proposals in response to this request.

Metropolitan Waste Control Commission

Public Notice for Prequalifications for the Preparation of a Facility Planning Study and Two Project Designs

Notice is hereby given that the Metropolitan Waste Control Commission is soliciting prequalifications for the preparation of a facility planning study for the Empire Plant Improvements and Expansion and for the preparation of project designs for the Savage and Middle Beltline Interceptors.

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees, and the demonstratable experience of the firm.

The prequalifications should include information on the firm's programs for compliance with equal employment opportunities, affirmative action and utilization of minority firms. The prequalifications will be used by the Commission as a mechanism for selecting a firm to prepare the facility planning study for the Empire Plant Improvements and Expansion and for the preparation of plans and specifications for the Savage and Middle Beltline Interceptors.

Firms not currently on the Commission's prequalification list should submit a letter stating their interest in one or more projects and one copy of its prequalifications. Firms presently on the Commission's prequalification list need only to submit a letter stating their interest in one or more projects and the necessary information, if any, to update their prior prequalification.

Please submit letters with prequalification or updated information within two weeks of this notice to the Chief Administrator at the Metropolitan Waste Control Commission, 350 Metro Square Building, St. Paul, Minnesota 55101. Inquiries regarding the solicitation should be directed to Mr. Ray Payne, Acting Director of Engineering, at 612-222-8423.

By Order of the
Metropolitan Waste Control Commission,
Mr. Louis J. Breimhurst
Chief Administrator

Department of Public Safety Driver and Vehicle Services Division

Proposed Bid for Design of Graphic ReflectORIZED Sheeting for Steel License Plates

- 1) Design is to include the "Explore Minnesota" theme and refer to the "10,000 lakes."
- 2) Design must be prominent but not interfere with the legibility of the letters and numerals of the license plate.
- 3) Design must allow room for validating stickers. (Lower left and right hand corners)
- 4) Design must not distort when license plates are embossed.
- 5) Design must be limited to three(3) colors.
- 6) Design subject to approval of Department of Public Safety.
- 7) Final design must be submitted within 30 days of awarding of bid.
- 8) Maximum amount of this contract will be \$20,000.00.
- 9) Deadline for submission of proposals is 4:30 p.m., February 25, 1985.

Contact person is: Ms. Virginia Lockman
Department of Public Safety
161 Transportation Building
St. Paul, MN 55155
Telephone: (612) 296-3204

Waste Management Board

Request for Proposals to Re-evaluate Hazardous Waste Considered by the Minnesota Waste Management Board to Be "Untreatable"

This Request for Proposal does not obligate the State to complete the project and the State reserves the right to cancel the solicitation.

I. Introduction

The Minnesota Waste Management Board (WMB) is a state agency responsible for developing policies and plans to improve the management of Minnesota's hazardous waste. A major WMB study, required under Minnesota Statutes section 115A.24, is now under way to assess the need for a hazardous waste disposal facility in Minnesota. One section of that study will examine hazard-

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ous waste generation data and estimate the amounts of waste that cannot be further treated and will require disposal in a hazardous waste disposal facility.

The statute says the following regarding the study:

"In preparing the estimate, the board may identify need for disposal only to the extent that the board has determined that there are no feasible and prudent alternatives, including waste reduction, separation, pretreatment, processing, and resource recovery, which would minimize adverse impact upon air, water, land and all other natural resources. Economic considerations alone may not justify an estimate of need for disposal nor the rejection of alternatives. Alternatives that are speculative and conjectural are not feasible and prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste disposal."

During 1983 and 1984 the Board prepared several documents which estimated hazardous waste generation and estimated wastes which would require disposal. These documents, the Hazardous Waste Management Report and draft Hazardous Waste Management Plan were based, in part, on studies prepared by Roy F. Weston, Inc.

The WMB requests proposals from firms to re-evaluate the wastes that these reports stated would require disposal in a hazardous waste disposal facility without prior treatment or with only stabilization prior to disposal. The WMB also requests that residuals from several different hazardous waste treatment technologies identified in this proposal be evaluated to determine their suitability for disposal.

II. Proposal Tasks and Products

Task A. Identification and Evaluation of Wastes Requiring Disposal

1. Background Information

a. Chapter 6 of the December 1983 *Hazardous Waste Management Report* (prepared by the WMB). Pay close attention to those wastes that are assigned to disposal or stabilization without prior treatment and to treatment residuals which require disposal.

b. Chapter E and F of the February 1984 draft *Hazardous Waste Management Plan* (prepared by the WMB). Pay close attention to the wastes that are not treated prior to disposal and the descriptions of wastes requiring disposal, including treatment residuals.

c. February 1984 draft *Certificate of Need* (prepared by the WMB). Pay close attention to the wastes which cannot be treated prior to disposal or stabilization and to treatment residuals.

d. Report prepared by Roy F. Weston, Inc. (March 25, 1983—Adjusted 4/11/83) on *Waste Distribution and Selection of Micronetworks for Hazardous Waste Management in Minnesota*. Pay close attention to the UCD coded wastes that are assigned to disposal or stabilization without prior treatment.

e. WMB summary of the UCD codes that are considered "untreatable" (wastes assigned directly to disposal or stabilization).

f. Implications of land disposal restrictions in the Oct. 1984 RCRA reauthorizations bill (PL 98-616 or report 98-1133).

g. Minnesota's hazardous waste rules (Minnesota Rules, Chapter 7045).

2. Based on information obtained from the background documents, consider the following types of wastes:

a. "Untreatable" wastes (wastes assigned directly to disposal or stabilization) as identified in the Waste Management Board documents in 1.

b. Residuals from treatment to include:

i. incinerator ash

ii. sludge from aqueous treatment facilities

iii. sludge from metal recovery facilities

iv. still bottoms from solvent recovery

v. other treatment residuals as listed in Table 2, page 21-22 of the draft *Certificate of Need*.

3. For each type of waste identified in 2 above, which can:

a. be treated or treated further? (except stabilization)

b. be stabilized and rendered non-hazardous?

c. be stabilized and still be hazardous (although reduced hazard?)

- d. not be treated further (untreatable)
- 4. For each point under 3 above please describe the:
 - a. type of treatment or stabilization method used
 - b. percentage of waste managed by that method
 - c. cost of the method
 - d. for stabilization techniques also include the quantity of material added to the wastes, in percentage terms
 - e. for those wastes which cannot be treated further (untreatable) include the reasons why the waste cannot be treated

Product A. A report summarizing the results of Task A, specifically including identification of the types of hazardous waste and percentage of each waste type that would require disposal.

Task B. Hazard Potential of Wastes Requiring Disposal

For the wastes identified in Task A that would still require *long-term disposal* at some type of hazardous waste management facility; (for example, landfill, long-term above ground storage) describe the:

- 1. Physical and chemical nature of the waste.
- 2. Nature and extent of the hazard they pose, generally and in long-term containment. The hazards should be defined in terms a lay person can understand. The hazards should be ranked according to their degree-of-hazard when compared to other types of hazardous and non-hazardous wastes.

Product B. A report describing the physical and chemical nature of the wastes requiring disposal as well as a description of the nature and extent of the hazard they may pose.

Task C. Industries Generating "Untreatable" Hazardous Wastes

For the wastes determined to have no feasible and prudent treatment method and which must be disposed *without prior* treatment (stabilization is *not* considered treatment here) please describe the industries (by 4 digit SIC) that generate those wastes.

Product C. A report identifying the industries which generate wastes that are "untreatable."

III. Project Timeline

Project to start by April 1, 1985. Draft reports are due by June 1, 1985 with the final reports due by June 30, 1985.

IV. Budget

The proposed work tasks have a budget of approximately \$15,000. Cost must be specifically identified by task.

V. Submission of Proposals

Five copies of the proposal must be received at the Waste Management Board on or before 4:30, Friday, March 1, 1985. Proposals should be sent to David Cera at the address indicated below.

VI. Waste Management Board Contact

Responses and questions regarding this Request for Proposal should be directed to:

David Cera, Brett Smith or Sharon Decker at the:
Minnesota Waste Management Board
7323—58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

SUPREME COURT

Decisions Filed Friday, February 1, 1985

Compiled by Wayne O. Tschimperle, Clerk

C8-84-143 State of Wisconsin, ex rel. Lorraine Southwell, Petitioner, v. Michael W. Chamberland, Appellant. Court of Appeals.

Under both federal and state law, a custodial parent's removal of a child from the state without a court order and without permission of the noncustodial parent who has been awarded visitation rights, and the custodial parent's concealment of the child's loca-

SUPREME COURT

tion, does not relieve the noncustodial parent from the payment of child support arrearages that accrued during the period of concealment.

When the recipient of public assistance assigns rights of child support, including accrued arrearages, to a sister state, as required by federal and state law, the sister state, as assignee, is not limited to the amount of public assistance it expended for the minor child alone, but is controlled by the amount specified in the court order which covers the assigned support rights.

Affirmed in part, reversed in part. Scott, J.

C1-83-1110 State of Minnesota v. Richard D. Carr, Appellant. Hennepin County.

District court did not err in denying motion to suppress on Fourth Amendment grounds, in any of its other evidentiary rulings at defendant's trial, or in departing durationally from the presumptive sentence for offense of receiving stolen property.

Affirmed. Kelley, J.

C0-84-1996 In the Matter of the Application for Discipline of Frederick D. Kraemer, an Attorney at Law of the State of Minnesota. Supreme Court.

Disbarred. Per Curiam.

TAX COURT

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

State of Minnesota Tax Court County of Hennepin Regular Division

Jeffrey B. Fadden, Appellant, v. Commissioner of Revenue, Appellee, Docket No. 3926

Findings of Fact, Conclusions of Law and Order for Judgment Dated January 29, 1985

The above-entitled matter was heard by the Minnesota Tax Court, Judge Carl A. Jensen presiding, at the courtrooms of the Tax Court in St. Paul, Minnesota, on October 8, 1984.

Jeffrey B. Fadden, appellant, appeared on his own behalf.

Neil F. Scott, Special Assistant Attorney General, appeared on behalf of appellee.

Briefs were subsequently filed by both parties.

Syllabus

Payments made by an employer to an employee constitute taxable income under the income tax laws of the State of Minnesota regardless of any action of the employee.

Findings of Fact

1. The appellant herein is a cash-basis calendar year taxpayer and resident of the State of Minnesota. The taxable year at issue herein is 1981.

2. During the entire year 1981, appellant Jeffrey B. Fadden (hereinafter "Fadden") was employed by Northwest Airlines, Inc. By reason of this employment, Fadden was paid by Northwest Airlines, Inc. a total of \$37,444.75 in compensation during the taxable year 1981.

3. During the entire year 1981, Fadden was clearly an employee of Northwest Airlines, Inc. This employment relationship was proven by Fadden's own testimony, by the compensation paid to him, by the issuance of W-2 forms, and by the fact that he was subject to all the controls and entitled to all the employee benefits (e.g., vacation, pension benefits, etc.) as all other employees of Northwest Airlines, Inc.

4. Fadden made various claims that the income received from his employer was not subject to Minnesota Income Tax. Most of these claims appeared to be based on the same facts that appeared in the case of *Jeffrey and Arliss Fadden v. Commissioner of Revenue*, Docket No. 3521 (September 28, 1983), relating to income tax for the year 1980. That case was subsequently affirmed by the Minnesota Supreme Court. The appellant has advanced some additional arguments and cited additional law but the facts appear to be basically the same.

Conclusions of Law

1. The Commissioner's Order of assessment for additional taxes for the year 1981 is hereby affirmed.

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

January 29, 1985

By the Court,
Carl A. Jensen, Judge
Minnesota Tax Court

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