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# The Minnesota State Register

Department of Administration—Print Communications Division

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**Monday 19 August 1991**  
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# State Register

## Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, state and non-state contracts, contract awards, grants, a monthly calendar of cases to be heard by the state supreme court, and announcements.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

### Printing Schedule and Submission Deadlines

Vol. 16 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
#8	Monday 5 August	Monday 12 August	Monday 19 August
#9	Monday 12 August	Monday 19 August	Monday 26 August
#10	Monday 19 August	Monday 26 August	Tuesday 3 September
#11	Monday 26 August	Friday 30 August	Monday 9 September

\*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 *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$140.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

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## NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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## Proposed Rules

Pursuant to Minn. Stat. §§ 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 Human Services

### Proposed Permanent Rules Relating to Home and Community-Based Services

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

**NOTICE IS HEREBY GIVEN** that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 256B.092, subdivision 6 and 256B.503.

All persons have 30 days or until 4:30 p.m. on September 19, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Laura Plummer, Rules and Bulletins Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-1217.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

*Minnesota Rules*, parts 9525.1800 to 9525.1930 govern the funding and administration of home and community-based services by specifying eligibility criteria for home and community-based services, and establishing procedures for the funding and administration of these services. Part 9525.2010, subpart 34 defines "supported living services for children."

The amendments will: update all references to related federal and state regulations; reorganize rule parts to provide clarification; change the terminology regarding adaptations from "minor adaptations to the home" to "adaptive modifications and equipment"; incorporate the Alternative Community-Based Services waiver by specifying criteria for eligibility and identifying services which are reimbursable under this waiver; distinguish the Mental Retardation/Related Conditions (MR/RC) and the Alternative Community-Based Services (ACS) waiver plans; replace the term "placement" with "conversion" which is a more accurate term; add a definition of "nursing facility" to clarify the ACS waiver; replace the term "client" with "person" throughout the rule parts; simplify county proposals by incorporating review of the Community Social Services Administration plan; change the limits on the number of children that may live in a foster home receiving waived services from three to four children in parts 9525.1800 to 9525.1930 as well as part 9525.2010, subpart 34; and eliminate duplication and discrepancies with staff qualifications, training, and supervision requirements contained in parts 9525.2000 to 9525.2140.

A free copy of the rule is available upon request from Laura Plummer, Rules and Bulletins Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, (612) 297-1217. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Laura Plummer, Department of Human Services upon request at the address above.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Laura Plummer, Department of Human Services upon request at the address above.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to:

Laura Plummer  
Rules and Bulletins Division  
Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55155-3816

Natalie Haas Steffen  
Commissioner

## Rules as Proposed

### 9525.1800 DEFINITIONS.

[For text of subpart 1, see M.R.]

**Subp. 1a. Adaptive modifications and equipment.** “Adaptive modifications and equipment” means one or more of the structural changes to the person’s residence or an eligible vehicle, or specialized equipment or devices. Adaptive modifications and equipment must be designed to enable the person to avoid placement in an ICF/MR by increasing the person’s mobility or protecting the person or other individuals from injury. Adaptive modifications and equipment are only reimbursable for persons with physical disabilities, sensory deficits, or behavior problems. Adaptive modifications and equipment are limited to those that have been approved by the United States Department of Health and Human Services as part of Minnesota’s alternative community services and MR/RC waiver plans.

**Subp. 1b. Alternative community services waiver plan or ACS waiver.** “Alternative community services waiver plan” or “ACS waiver” means a waiver of requirements under United States Code, title 42, sections 1396 et. seq., that allows the state to pay for home and community-based services for persons with mental retardation or related conditions who are determined by the Department of Human Services to be inappropriately placed in Medicaid-certified nursing facilities through the medical assistance program. This term includes all amendments to the waiver as approved by the United States Department of Health and Human Services.

**Subp. 2. Billing rate.** “Billing rate” means the rate billed by the provider for providing the services. The rate may be based on a day, partial day, hour, or fraction of an hour of service.

**Subp. 3. Case manager.** “Case manager” means the person designated by the county board to provide case management services as defined in ~~part 9525.1860~~ subpart 4a.

**Subp. 4.** [See repealer.]

**Subp. 4a. Case management.** “Case management” means identifying the need for, seeking out, acquiring, and coordinating services to persons with mental retardation or related conditions and monitoring the delivery of the services to persons with mental retardation or related conditions by an individual designated by the county board to provide case management services under parts 9525.0015 to 9525.0165.

[For text of subp 5, see M.R.]

**Subp. 5a. Community social services administration plan or CSSA plan.** “Community social services administration plan” or “CSSA plan” means the biennial community social services plan required of the county board by *Minnesota Statutes*, section 256E.09, subdivision 3.

**Subp. 5b. Conversion.** “Conversion” means the provision of home and community-based services to a person discharged from an ICF/MR directly into those services, resulting in decertification of an ICF/MR bed under *Minnesota Statutes*, section 252.28, subdivision 4.

**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

[For text of subp 6, see M.R.]

Subp. 7. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in *Minnesota Statutes*, section ~~256B.02~~ 256G.02, subdivision ~~3~~ 4.

Subp. 8. **Daily intervention.** "Daily intervention" means supervision, assistance, or training provided to a person in the person's residence or in the community by a provider, family member, or foster family member to help the person manage daily activities. To qualify as daily intervention the supervision, assistance, or training must be provided each day for more than 90 consecutive days.

**Subp. 8a. Day training and habilitation.** "Day training and habilitation" has the meaning given to "training and habilitation services" in part 9525.1500, subpart 36.

[For text of subs 9 and 10, see M.R.]

**Subp. 10a. Eligible vehicle.** "Eligible vehicle" means a vehicle owned by the person, the person's family, or the person's primary caregiver with whom the person resides.

[For text of subs 11 and 12, see M.R.]

Subp. 13. **Geographic region.** "Geographic region" means one of the economic development regions established by executive order of the governor ~~in accordance with~~ according to *Minnesota Statutes*, section 462.385, ~~in effect on July 1, 1984.~~

**Subp. 13a. Habilitation services.** "Habilitation services" means health and social services directed toward increasing and maintaining the physical, intellectual, emotional, and social functioning of persons with mental retardation or related conditions. Habilitation services include therapeutic activities, assistance, training, supervision, and monitoring in the areas of self-care, sensory and motor development, interpersonal skills, communication, socialization, reduction or elimination of maladaptive behavior, community living and mobility, health care, leisure and recreation, money management, and household chores. Day training and habilitation services and residential-based habilitation services are types of habilitation services.

Subp. 14. **Home and community-based services.** "Home and community-based services" means ~~the following services which are~~ provided to persons with mental retardation ~~if the services, or related conditions that~~ are authorized under United States Code, title 42, section 1396 et. seq., and ~~authorized under the waiver MR/RC and ACS waivers~~ granted by the United States Department of Health and Human Services: ~~case management, respite care, homemaker, in-home family support services, supported living arrangements for children, supported living arrangements for adults, day habilitation, and minor physical adaptations to the home, as defined in part 9525.1860; and other home and community-based services authorized under United States Code, title 42, section 1396 et seq., if approved for Minnesota by the United States Department of Health and Human Services.~~

**Subp. 14a. Homemaker services.** "Homemaker services" means general household activities and ongoing monitoring of the person's well-being provided by a homemaker who meets the standards in parts 9565.1000 to 9565.1300.

[For text of subp 15, see M.R.]

Subp. 16. [See repealer.]

Subp. 17. **Individual service plan.** "Individual service plan" has the meaning given it in ~~parts 9525.0015 to 9525.0145~~ ~~[Emergency]~~ *Minnesota Statutes*, section 256B.092, subdivision 1b.

**Subp. 17a. In-home family support services.** "In-home family support services" means residential-based habilitation services designed to enable the person to remain in the family home and may include training and counseling for the person and the person's family.

[For text of subp 18, see M.R.]

Subp. 19. [See repealer.]

**Subp. 19a. Leave days.** "Leave days" means days when a person is temporarily absent from services.

**Subp. 19b. Mental retardation or related condition or MR/RC.** "Mental retardation or related condition" or "MR/RC" has the meaning given to "mental retardation" in part 9525.0015, subpart 20, items A and B, and the meaning given to a "related condition" in *Minnesota Statutes*, section 252.27, subdivision 1a.

**Subp. 19c. Nursing facility.** "Nursing facility" means a facility licensed under *Minnesota Statutes*, chapter 144A, that is certified by the Minnesota Department of Health under title XVIII or XIX of the Social Security Act.

**Subp. 19d. Person.** "Person" means a person with mental retardation or a related condition, as defined in subpart 19b, who is receiving home and community-based services through either the MR/RC or ACS waiver plan.

Subp. 20. **Primary caregiver.** "Primary caregiver" means a person other than a member of the ~~client's~~ person's family who has primary responsibility for the assistance, supervision, or training of the ~~client~~ person in the ~~client's~~ person's residence.

[For text of subp 21, see M.R.]

**Subp. 21a. Residential-based habilitation services.** “Residential-based habilitation services” means services provided in the person’s residence and in the community, that are directed toward increasing and maintaining the person’s physical, intellectual, emotional, and social functioning. Residential-based habilitation services include therapeutic activities, assistance, counseling, training, supervision, and monitoring in the areas of self-care, sensory and motor development, interpersonal skills, communication, socialization, working, reduction or elimination of maladaptive behavior, community participation and mobility, healthcare, leisure and recreation, money management, and household chores. Supported living services and in-home family support services are residential-based habilitation services.

**Subp. 21b. Respite care.** “Respite care” means short-term supervision, assistance, and care provided to a person due to the temporary absence or need for relief of the person’s family, foster family, or primary caregiver. Respite care may include day, overnight, in-home, or out-of-home services, as needed.

**Subp. 22. Room and board costs.** “Room and board costs” means costs associated with providing food, shelter, and personal needs items for clients persons, including the directly identifiable costs of:

[For text of items A to E, see M.R.]

**Subp. 23. Screening team.** “Screening team” means the team established under *Minnesota Statutes*, section 256B.092, subdivision 7, to evaluate a person’s need for home and community-based services.

[For text of subp 24, see M.R.]

**Subp. 25. Short term.** “Short term” means a cumulative total of less than 90 24-hour days or 2,160 hours in a fiscal year. Additional hours may be authorized by the commissioner as approved in the current waiver plans.

**Subp. 26. Statewide average reimbursement rate.** “Statewide average reimbursement rate” means the dollar amount arrived at by dividing the total amount of money available under the waiver for the fiscal year by 365 days and then dividing the quotient by the department’s projection of the total number of clients persons to receive home and community-based services as stated in the waiver for that fiscal year.

**Subp. 26a. Supported living services for adults.** “Supported living services for adults” means residential-based habilitation services provided on a daily basis to adults living in a service site for up to six persons.

**Subp. 26b. Supported living services for children.** “Supported living services for children” means residential-based habilitation services provided on a daily basis to persons under 18 years of age living in a service site for up to four persons.

**Subp. 27. Title XIX home and community-based waived services for persons with mental retardation or related conditions or the MR/RC waiver plan.** “Title XIX home and community-based waived services for persons with mental retardation or related conditions” or the “MR/RC waiver plan” means the waiver of requirements under United States Code, title 42, sections 1396 et seq., which allows the state to pay for home and community-based services for persons with mental retardation or related conditions through the medical assistance program. The term includes all amendments to the waiver including any amendments made after October 14, 1985 the effective date of the last waiver plan, as approved by the United States Department of Health and Human Services under United States Code, title 42, section 1396 et. seq.

#### 9525.1810 APPLICABILITY AND EFFECT.

[For text of subpart 1, see M.R.]

**Subp. 2. Effect.** The entire application of parts 9525.1800 to 9525.1930 shall continue in effect only as long as the MR/RC or ACS waiver from the United States Department of Health and Human Services is in effect in Minnesota.

#### 9525.1820 ELIGIBILITY.

**Subpart 1. Eligibility criteria for MR/RC waiver.** A person is eligible to receive home and community-based services through the MR/RC waiver if the person meets all the criteria in items A to ~~D~~ E and if home and community-based services ~~may be~~ are provided ~~in accordance with~~ according to part 9525.1830:

A. the person is ~~eligible to receive medical assistance under Minnesota Statutes, chapter 256B or subpart 2~~ a resident of an ICF/MR or the screening team determines that the person would be placed in an ICF/MR within one year if home and community-based services were not provided;

B. the person is determined to be a person with mental retardation ~~or a related condition in accordance with~~ according to the

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definitions and procedures in parts 9525.0015 to ~~9525.0145~~ ~~[Emergency]~~ 9525.0165 or the person is determined to be a person with a related condition as defined in Minnesota Statutes, section 252.27, subdivision 1a;

C. the person is a resident of an ICF/MR or it is determined by the screening team that the person would be placed in an ICF/MR within one year if home and community-based services were not provided eligible to receive medical assistance under Minnesota Statutes, chapter 256B, or subpart 2; and

D. the screening team has determined that the person needs daily intervention; and

E. the person's individual service plan documents the need for daily intervention and specifies the services needed daily.

**Subp. 1a. Eligibility criteria for the ACS waiver.** A person is eligible to receive home and community-based services through the ACS waiver if the person meets all requirements in subpart 1, items B to E, and:

A. was admitted to a Medicaid-certified nursing facility before January 1, 1990, or amended date as approved by the Health Care and Finance Administration; and

B. is currently residing in a Medicaid-certified nursing facility, but has been determined by the screening team as requiring ICF/MR level of care.

**Subp. 2. Medical assistance eligibility for children residing with their parents.** The county board shall determine eligibility for medical assistance for a person under age 18 who resides with a parent or parents without considering parental income and resources if:

A. the person meets the criteria in subpart 1, items ~~B A~~ to ~~D E~~;

B. the person will be provided home and community-based services ~~in accordance with~~ according to part 9525.1830;

C. the person would not be eligible for medical assistance if parental income and resources were considered; and

D. the commissioner has approved in writing a county board's request to suspend for the person the deeming requirements in Code of Federal Regulations, title 42, section 436.821 ~~in accordance with~~ according to the waiver.

**Subp. 3. Beginning date.** Eligibility for medical assistance begins on the first day of the month in which the ~~client~~ person first receives home and community-based services.

### 9525.1830 PROVISION OF HOME AND COMMUNITY-BASED SERVICES.

**Subpart 1. Conditions.** The county board shall provide or arrange to provide home and community-based services to a person if the person is eligible for home and community-based services under part 9525.1820 and all the conditions in items A to F have been met:

A. the county board has determined that it can provide home and community-based services to the person within its allocation of home and community-based services money as determined under parts 9525.1890 and 9525.1910 or as authorized by the commissioner based on the limits of the approved waiver plan;

B. the screening team has recommended home and community-based services instead of ICF/MR services for the person under parts 9525.0015 to ~~9525.0145~~ ~~[Emergency]~~ 9525.0165;

[For text of items C to F, see M.R.]

[For text of subp 2, see M.R.]

### 9525.1840 PARENTAL CONTRIBUTION FEE.

**Subpart 1. Out-of-home placements.** The parent or parents of a ~~client~~ person under age 18 shall be liable for a parental contribution fee determined according to ~~Minnesota Statutes, section~~ sections 252.27, subdivision 2, and 256B.14, if the ~~client~~ person resides outside the home of the parent or parents.

**Subp. 2. In-home services.** Parents of ~~clients~~ persons under age 18 may be liable for a parental contribution fee determined according to ~~Minnesota Statutes, section~~ sections 252.27, subdivision 2, and 256B.14, if the ~~client~~ person is residing with a parent and the ~~client's~~ person's medical assistance eligibility for home and community-based services was determined without considering parental income or resources under part 9525.1820, subpart 2.

### 9525.1850 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 ~~J~~ K. The training, experience, and supervision required in items B to E only apply to persons who are employed by, or under contract with, the provider to provide services that can be billed under part 9525.1860, subpart 3, item A. Providers licensed under parts 9525.0215 to 9525.0355; 9525.1500 to 9525.1690; and 9525.2000 to 9525.2140 are exempt from items C, D, and E.

[For text of items A and B, see M.R.]

C. If no training standards have been established, the provider, employee, or subcontractor must have completed, within the last two years, at least 24 hours of documented training. The training must be in areas related to the care, supervision, or training of persons with mental retardation or related conditions including first aid, medication administration, behavior management, cardiopulmonary resuscitation, human development, and obligations under *Minnesota Statutes*, sections 626.556 and 626.557. The county board may grant a written variance to the training requirements in this item for:

- (1) a respite care provider who provides the respite care in his or her residence or in the ~~client's~~ person's residence; or
- (2) 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~~ adaptive modifications and equipment.

~~C.~~ D. 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, or supervision of persons with mental retardation or related conditions as defined in *Minnesota Statutes*, section 252.27. The county board may grant a written variance to the requirements in this item for:

- (1) a respite care provider who provides the respite care in his or her residence or in the ~~client's~~ person's residence;
- (2) a provider, employee, or subcontractor who is 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; or

(3) an employee of the provider if the employee will work under the direct on-site supervision of a qualified mental retardation professional who meets the requirements in Code of Federal Regulations, title 42, section 442.401, and who has been approved by the case manager.

This item does not apply to providers of ~~minor physical adaptations~~ adaptive modifications and equipment or homemaker services.

~~D.~~ E. The provider ensures that all home and community-based services, except homemaker services, respite care services, and ~~minor physical adaptations~~ adaptive modifications and equipment, will be provided by, or under the 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.~~ F. The provider ensures that the provider and all employees or subcontractors will complete the amount of ongoing training required in any Minnesota rules applicable to the home and community-based services to be provided. If no ongoing training is required by the applicable Minnesota rules, the provider, except a provider of ~~minor physical adaptations~~ adaptive modifications and equipment, agrees that the provider and all employees or subcontractors will complete at least 18 hours of documented ongoing training each fiscal year. To meet the requirements of this item, the ongoing training must be in a field related to the care, training, and supervision of persons with mental retardation or related conditions, and must either be identified as needed in the ~~client's~~ person's individual ~~habilitation~~ service plans or be approved by the case manager based on the needs identified in the individual service plans of the ~~clients~~ persons served by the provider. The county board may grant a written 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~~ person's residence.

~~F.~~ G. The provider ensures that the provider and all employees or subcontractors have never been convicted of a violation, or admitted violating *Minnesota Statutes*, section 626.556 or 626.557 and there is no substantial evidence that the provider, employees, or subcontractors have violated *Minnesota Statutes*, section 626.556 or 626.557.

~~G.~~ H. The provider has a legally binding contract with the host county that complies with part 9525.1870.

~~H.~~ I. The provider has been authorized in writing to provide home and community-based services for the ~~client~~ person by the county of financial responsibility.

~~I.~~ J. The provider agrees in writing to comply with United States Code, title 42, sections 1396 et seq., and regulations implementing those sections and with applicable provisions in parts ~~9500.0750 to 9500.1080, 9505.1750 to 9505.2150, 9505.2160 to 9505.2245~~ and 9525.1800 to 9525.1930.

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

#### **9525.1860 REIMBURSABLE SERVICES.**

Subpart 1. **General limits.** ~~The costs of providing the home and community-based services defined in subpart 2, provided in accordance with subparts 3 to 7, are reimbursable under the medical assistance program for as long as the waiver from the United~~

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## Proposed Rules

States Department of Health and Human Services is in effect in Minnesota. Only costs for services listed in the approved Minnesota MR/RC or ACS waiver plan shall be reimbursed under the medical assistance program.

A. Services reimbursable through the MR/RC waiver plan are:

- (1) case management;
- (2) residential habilitation services including in-home family support, supported living services for adults, and supported living services for children;
- (3) day training and habilitation, including supported employment;
- (4) homemaker services;
- (5) respite care; and
- (6) minor adaptations and equipment.

B. Services reimbursable through the ACS waiver plan are:

- (1) residential habilitation services including in-home family support, supported living services for adults, and supported living services for children;
- (2) day training and habilitation, including supported employment;
- (3) homemaker services;
- (4) respite care; and
- (5) adaptive modifications and equipment.

Subp. 2. [See repealer.]

Subp. 3. **Billing for services.** Billings submitted by the provider, except a provider of ~~minor physical adaptations~~ adaptive modifications and equipment, must be limited to time actually and reasonably spent:

A. In direct contact with the client person to assist the client person in attaining the goals and objectives specified in the client's person's individual service plan. Direct contact time includes time spent traveling to and from service sites.

B. In verbal or written contact with professionals or others regarding the client's person's progress in attaining the goals and objectives specified in the client's person's individual service plan.

C. In planning activities including attending the client's person's interdisciplinary team meetings, developing goals and objectives for the client's individual habilitation person's individual service plan, assessing and reviewing the client's person's specified goals and objectives, documenting the client's person's progress toward attaining the goals and objectives in the client's person's individual service plan and assessing the adequacy of the services related to the goals and objectives in the client's person's individual service plan.

Subp. 4. **Service limitations.** The provision of home and community-based services is limited as stated in items A to H.

A. Case management services may be provided as a single service for a period of no more than 90 days.

B. Day training and habilitation services must:

- (1) only be provided to clients persons who receive a residential-based habilitation service;
- (2) not include sheltered work or work activity services funded or certified by the Minnesota Division of Vocational Rehabilitation;
- (3) be provided at a different service site than the client's person's place of residence unless medically contraindicated, as required in *Minnesota Statutes*, section ~~256B.501~~ 252.41, subdivision 1, ~~paragraph (4) 3;~~ and
- (4) be provided by an organization that does not have a direct or indirect financial interest in the organization that provides the client's person's residential services unless the client person is residing with:
  - (a) his or her family; or
  - (b) a foster family that does not have a direct or indirect financial interest in the organization that provides the client's person's residential services.

C. Homemaker services may be provided only if:

- (1) the person regularly responsible for these activities is temporarily absent or is unable to manage the home and care for the client person; or
- (2) there is no person, other than the client person, regularly responsible for these activities and the client person is unable



to manage the home and his or her own care without ongoing monitoring or assistance. Homemaker services include meal preparation, cleaning, simple household repairs, laundry, shopping, and other routine household tasks.

D. Leave days are reimbursable for supported living arrangements services for children or supported living arrangements services for adults; ~~if the client intends to return to the service. If the person is not receiving respite care or other supported living services,~~ billings may be made for leave days ~~only~~ when the client person is:

- (1) hospitalized;
- (2) on a therapeutic an overnight trip; ~~camping trip~~; or vacation; or
- (3) home for a visit.

Leave days that are not included in the individual service plan may not be billed for without the county board's written authorization. The county board and the provider must document all leave days for which billings are made and specify the reasons the county board authorized the leave days.

E. The average dollar amount available for reimbursement for minor physical adaptations to the home adaptive modifications and equipment shall be limited to an average cost of \$3,111 per client for all clients in the county in fiscal year 1986. ~~The average cost will be increased each fiscal year based on the first quarter forecast of the projected percentage change in the annual value of the all urban consumer price index, (CPI-U) for Minneapolis-Saint Paul as published by the Bureau of Labor Statistics new series index (1967=100), from the preceding fiscal year. The CPI-U is incorporated by reference and is available from the Minitex Interlibrary Loan System. The average cost limitation applies to the entire period of time for which the waiver has been approved. 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;
- (12) shower and bathtub seats; or

(13) other minor physical adaptations authorized under United States Code, title 42, section 1396 et seq., if approved for Minnesota by the United States Department of Health and Human Services determined annually by the commissioner based on the approved waiver plan.

Minor physical adaptations Adaptive modifications and equipment must be constructed ~~in accordance with~~ or installed to meet or exceed applicable federal, state, and local building codes.

F. Home and community-based services are not reimbursable if provided to a client person while the client person is a resident of or on leave from an ICF/MR, skilled nursing facility, intermediate care facility, or a hospital. This item shall not apply to leave days authorized ~~in accordance with~~ according to item C for a client person who is hospitalized.

G. Respite care must:

- (1) be provided only for the relief of the client's person's family or foster family, or if the client person is ~~in~~ receiving a supported living arrangement service in the provider's residence, for the relief of the client's person's primary caregiver; and
- (2) be provided in a service site serving no more than six clients persons at one time.

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If there are no service sites that meet the requirements in subitem (2) available in the community to serve clients persons with multiple handicaps, the county board may grant a variance to the requirement for a period of no more than one year for each client person. When a variance is granted, the county board must submit to the commissioner a written plan documenting the need for the variance and stating the actions that will be taken to develop services within one year that meet the requirements of subitem (2).

H. Room and board costs are not allowable costs for home and community-based services except respite care provided out of the client's person's residence. All room and board costs must be directly identified on reports submitted by the provider to the county board.

Subp. 5. [See repealer.]

Subp. 5a. Other medical or related costs. The cost of other medical or related services reimbursable under the Minnesota State Medicaid Plan must not be included in the rate or rates billed by the provider or providers for reimbursement under parts 9525.1800 to 9525.1930.

Subp. 6. **Other applicable rules.** Home and community-based services must be provided as required under items A to E ~~H~~ unless a variance has been approved ~~in accordance with subpart 7~~ by the commissioner.

[For text of item A, see M.R.]

B. Day ~~habilitation and training and habilitation~~ services must be licensed by the department.

C. Supported living arrangements services for children must be provided ~~at~~ by a service site provider licensed under parts ~~9545.0010 9525.2000 to 9545.0260 9525.2140 and at a site licensed under parts 9545.0010 to 9545.0260.~~

D. Supported living arrangements for adults which are provided in services provided at a service site serving four or fewer adults must be provided by a service provider licensed under parts 9525.2000 to 9525.2140 and the residence must be licensed under parts 9555.5105 to 9555.6265. Supported living services provided at a single residence serving more than four five or six adults must be licensed under parts 9525.0210 9525.0215 to 9525.0430 9525.0355. 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 board 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 had been written to apply to services for adults.

E. Respite care provided at a service site serving more than four clients persons must be licensed under parts ~~9525.0210 9525.0215 to 9525.0430 9525.0355.~~ Respite care provided at a service site serving four or fewer clients persons under 18 years of age must be licensed under parts 9545.0010 to 9545.0260, unless otherwise authorized by the commissioner. Respite care provided at a service site serving four or fewer adults must be approved licensed 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; 9545.0190, subparts 3 and 5; and 9555.6100 to 9555.6400 and licensed under parts 9545.0010 9555.5105 to 9545.0260 9555.6265, unless otherwise authorized by the commissioner. This item shall not apply to a person who provides respite care for fewer than 30 days a year.

Subp. 7. **Licensing variances.** Requests for variances to the licensing requirements in subpart 6 must be handled ~~in accordance with according to~~ items A to C.

A. The county board may request a variance from compliance with parts 9545.0010 to 9545.0260 as required in subpart 6, item C, D, or E, for a provider who provides services to clients persons under 18 years of age if the county board determines that no providers who meet the licensing requirements are available and that granting the variance will not endanger the health, safety, or development of the clients persons. 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 clients persons.

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

The commissioner shall review the county board's variance request and notify the county board, 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 board of its right to request that the commissioner reconsider the variance request.

B. The county board may grant a written variance from compliance with parts ~~9545.0090, item A; 9545.0140; 9545.0180; 9545.0190, subparts 3 and 5; and 9555.6100~~ 9555.6105 to 9555.6400 9555.6265 as required in subpart 6, items D and E, for a

provider who provides services to adults if the county board determines that no providers who meet the licensing requirements are available and that granting the variance will not endanger the health, safety, or development of the clients persons.

C. Requests for a variance of the provisions in parts 9525.0210 9525.0215 to 9525.0430 9525.0355 must be submitted in ~~accordance with~~ according to part 9525.0250 9525.0235, subpart 13.

#### **9525.1870 PROVIDER CONTRACTS AND SUBCONTRACTS.**

Subpart 1. **Contracts.** To receive medical assistance reimbursement for home and community-based services, the provider must have a contract developed ~~in accordance with~~ according to parts 9550.0010 to 9550.0092 as proposed at *State Register*, Volume 9, Number 48, pages 2566 to 2576 (May 27, 1985), with the host county. In addition ~~to the requirements in parts 9550.0010 to 9550.0092 as proposed at~~ *State Register*, Volume 9, Number 48, pages 2566 to 2576 (May 27, 1985), the contract must contain the information in items A to F and subpart 2:

A. maximum and minimum number of clients persons to be served;

B. description of how the services will benefit the clients persons in attaining the goals in the clients' persons' individual service plans;

[For text of items C to F, see M.R.]

[For text of subs 2 to 4, see M.R.]

#### **9525.1880 COUNTY PROPOSAL AND APPROVAL OF COUNTY PROPOSAL.**

Subpart 1. **Application forms and deadlines.** To be considered for reimbursement under parts 9525.1800 to 9525.1930, county boards, singly or jointly, must submit to the commissioner an annual proposal for the provision of home and community-based services to clients persons for which the county board or county boards are financially responsible. The commissioner shall notify the county boards of the deadlines and forms for the submission of proposals for home and community-based services.

Subp. 2. **Contents of county proposal.** The proposal must be based on the needs of individually identified persons in the county and must:

~~A. State measurable program goals and objectives to be accomplished by the home and community-based services.~~

~~B.~~ identify the number of persons to whom the county board expects to provide the home and community-based services and identify, by name, recipients authorized and receiving services, individuals screened and authorized but not yet receiving services, and individuals for whom the county has received a request to receive waived services but has not yet screened. If county boards are applying jointly, each county board must identify the number of persons for which the county is financially responsible.

The ~~proposal must include the information in subitems (1) to (6) with separate listings in each category for children and adults~~ commissioner shall review the county community social services administration (CSSA) plan, the determination of need, and the redetermination of need for services for persons with developmental disabilities and may consider the county goals and objectives as part of the county proposal. The commissioner may also require the county boards to include the following information in the proposal:

~~(1) A.~~ current living arrangements;

~~(2) B.~~ current day programs;

~~(3) C.~~ level of supervision required;

~~(4) D.~~ the type of home and community-based services projected to be needed and the expected duration of the service or services;

~~(5) E.~~ the projected starting dates of the home and community-based services; and

~~(6) F.~~ the proposed service provider or providers and billing rate or rates, if known-

~~C. Describe how the county proposal complies with the county utilization targets developed by the department in accordance with the *Welsh v. Levine* consent decree.~~

~~D. Describe how the county board proposal affects the targets developed by the department on admission of children to state hospitals and discharge of children from state hospitals as required in the *Welsh v. Levine* consent decree.~~

~~E. Describe;~~

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G. a description of how the proposal limits the development of new community-based ICF/MR beds and reduces the county's use of existing ICF/MR beds in ~~state-operated ICFs/MR~~ regional treatment centers and community ICFs/MR, including any steps the county board has taken to encourage voluntary decertification of community-based ICF/MR beds-

~~F.~~ Describe, and

H. a description of the steps the county board has taken to prepare to provide home and community-based services, including efforts to integrate home and community-based services into the county board's administrative services planning system.

Subp. 3. **Review and approval of proposal.** The commissioner shall review all proposals submitted ~~in accordance with~~ according to subparts 1 and 2. The commissioner shall only approve the county proposals that meet the requirements of parts 9525.1800 to 9525.1880 and that demonstrate compliance with the goals of the department as stated in items A to D:

~~A.~~ compliance with the county utilization targets developed by the department in accordance with the *Welsh v. Levine* consent decree;

~~B.~~ reduction of the number of children in ~~state-operated ICFs/MR~~ regional treatment centers;

~~C.~~ B. limitation of the development of new community-based ICF/MR beds and reduction of the use of existing ICF/MR beds in ~~state-operated ICFs/MR and community-based ICFs/MR~~ located on regional treatment center campuses and in the community; and

~~D.~~ C. integration of home and community-based services into the county board's administrative services planning system.

If the proposal is disapproved, the commissioner shall notify the county board, in writing, of the reasons why the proposal was not approved. The county board has seven days after receipt of the written notice in which to revise the proposal and resubmit it to the commissioner.

### 9525.1890 ALLOCATION OF HOME AND COMMUNITY-BASED SERVICE MONEY.

Subpart 1. **Allocation of diversions.** To allocate home and community-based services money for diversions, the commissioner shall project the number of diversions for the county based on the average of the projected utilization of ~~state-operated~~ state regional treatment centers and community-based ICF/MR beds using historical utilization for the county; and the projected per capita utilization of ~~state-operated~~ state regional treatment centers and community-based ICF/MR beds for the county, both of which are adjusted to conform with the number of diversions projected in the waiver. The projection shall be adjusted based on the county board's actual use of allocated diversions during the previous fiscal year. If the county board uses less than the number of diversions allocated for the fiscal year, the commissioner may decrease the number of diversions projected by the commissioner for the county for the next fiscal year. The county board's allocation of money for diversions shall be based on the lesser of the number of diversions in the approved county proposal and the number of diversions projected for the county by the commissioner.

Subp. 2. **Allocation of placements conversions.** The county board's allocation of money for ~~placements conversions~~ shall be based on the number of ~~placements conversions~~ in the approved county proposal and the extent to which the ~~placements conversions~~ result in an overall reduction in the county board's historical utilization of ~~state-operated~~ state regional treatment centers and community-based ICF/MR beds.

[For text of subp 3, see M.R.]

Subp. 4. **Review of allocation; reallocation.** The commissioner shall review the projected and actual use of home and community-based services by all county boards participating in the program ~~on a quarterly basis~~ at least semiannually, and report the findings to all the county boards in the state. The commissioner may reduce the allocation to a county board if the commissioner determines, in consultation with the county board, that the initial allocation to the county board will not be used during the allocation period. The commissioner may reallocate the unused portion of the county board's initial allocation to another county board, or other county boards, in the same geographic region that plan to expand home and community-based services or provide home and community-based services for the first time. If there is not a sufficient number of projections to use the unused allocation from county boards within the geographic region, the commissioner may reallocate the remainder to another county board or other county boards in other geographic regions that plan to expand home and community-based services or provide home and community-based services for the first time.

Subp. 5. **Preference given.** The commissioner may give preference during the reallocation process and in the allocation of money for subsequent fiscal years to proposals submitted by county boards that have not previously provided home and community-based services. In allocating money for each fiscal year, the commissioner shall give priority to the continued funding of home and community-based services for ~~clients~~ persons who received home and community-based services in the previous fiscal year and continue to be eligible for home and community-based services.

Subp. 6. **Special projects.** The commissioner may reallocate or reserve available home and community-based service money to fund special projects designed to serve very dependent persons with special needs who meet the criteria in parts 9525.1820 and 9510.1050, subpart 2, items C and D ~~as proposed at *State Register*, Volume 10, Number 2, pages 57 to 65 (July 8, 1985).~~ The

reallocated or reserved money may be used to provide additional money to county boards that are unable to fund home and community-based services for very dependent persons with special needs within the statewide reimbursement rate as required in part 9525.1910, subpart 2. The commissioner shall develop procedures and criteria for allocating home and community-based program funds for each group identified as a special project under this subpart.

#### **9525.1900 AGREEMENT BETWEEN STATE AND COUNTY.**

Subpart 1. **Contents of agreement.** The county board must have a legally binding written agreement with the state ~~in order for~~ each approved waiver plan to receive home and community-based services money. The agreement must include provisions specifying that:

[For text of items A to C, see M.R.]

D. the total cost of providing home and community-based services to all ~~home and community-based service clients~~ persons will not exceed the limits in part 9525.1910 except as provided in part 9525.1890, subpart 6;

E. records will be kept ~~in accordance with~~ according to part 9525.1920 and applicable provisions of parts ~~9505.1750~~ 9505.2160 to 9505.2150 9505.2245;

F. the county board will comply with all applicable standards in parts 9525.0015 to ~~9525.0145~~ [Emergency] 9525.0165;

[For text of items G to I, see M.R.]

[For text of subp 2, see M.R.]

#### **9525.1910 COUNTY BOARD FUNDING OF HOME AND COMMUNITY-BASED SERVICES.**

[For text of subpart 1, see M.R.]

Subp. 2. **Distribution of money.** The total amount of money allocated to a county board for home and community-based services in a fiscal year shall not exceed the statewide average daily reimbursement rate multiplied by the total number of days the home and community-based services will be provided to the ~~clients~~ persons.

[For text of subp 3, see M.R.]

Subp. 4. **Cost limitations.** There is no dollar limitation on the amount of home and community-based services money that counties may authorize to be used per client person. In authorizing and billing for home and community-based services for individual ~~clients~~ persons, the county board must comply with items A to C. For county boards applying jointly, the total cost and total allocation in item A shall be the total cost and total allocation for all of the county boards represented in the proposal and the average cost in item B shall be the average cost for all ~~clients~~ persons included in the proposal.

A. The total cost of home and community-based services provided to all ~~clients~~ persons during the fiscal year must not exceed the total allocation approved for the county board, or county boards if applying jointly, for the fiscal year by the commissioner.

B. The county's average cost per day for all MR/RC home and community-based services provided to all ~~clients~~ persons must not exceed the statewide average daily reimbursement rate, except as provided for in part 9525.1890, subpart 6. The county's average cost per day for a recipient of ACS waived services may not exceed the amount allocated to the county by the commissioner for that person.

C. The cost of each service must satisfy the following criteria:

(1) the cost is ordinary, necessary, and related to ~~client~~ the person's care;

(2) the cost is for activities which are generally accepted in the field of mental retardation or related conditions and are scientifically proven to promote achievement of the goals and objectives contained in the ~~client's~~ person's individual service plan;

[For text of subitems (3) and (4), see M.R.]

[For text of subp 5, see M.R.]

#### **9525.1920 REQUIRED RECORDS AND REPORTS.**

Subpart 1. **Provider records.** The provider and any subcontractor the provider contracts with shall maintain complete program and fiscal records and supporting documentation identifying the ~~clients~~ persons served and the services and costs provided under the provider's home and community-based services contract with the county board. These records must be maintained in well-organized

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files and identified in accounts separate from other facility or program costs. The provider's and subcontractor's records shall be subject to the maintenance schedule, audit availability requirements, and other provisions in parts ~~9505.1750~~ 9505.2160 to ~~9505.2150~~ 9505.2245.

Subp. 2. **County board records.** The county board shall maintain complete fiscal records and supporting documentation identifying the ~~clients~~ recipients served and the services and costs provided under the county board's agreement with the department. If the county board provides home and community-based services in addition to case management, the county board's records must include the information required in part 9525.1870. The county board records shall be subject to the maintenance schedule, audit availability requirements, and other provisions in parts ~~9505.1750~~ 9505.2160 to ~~9505.2150~~ 9505.2245.

Subp. 3. **Availability of records.** The county board's, the provider's, and the subcontractor's financial records described in subparts 1 and 2, must be available, on request, to the commissioner and the federal Department of Health and Human Services ~~in accordance with~~ according to parts ~~9500.0750 to 9500.1080~~, ~~9505.1750~~ 9505.2160 to ~~9505.2150~~, 9505.2245 and 9525.1800 to 9525.1930.

[For text of subp 4, see M.R.]

### 9525.2010 DEFINITIONS.

[For text of subps 1 to 33, see M.R.]

Subp. 34. **Supported living services for children.** "Supported living services for children" means residential-based habilitation services provided on a daily basis to a waived services recipient under 18 years of age who resides in a service site licensed under parts 9545.0010 to 9545.0260 for up to ~~three~~ four residents.

[For text of subps 35 and 36, see M.R.]

**REPEALER.** Minnesota Rules, parts 9525.1800, subparts 4, 16, and 19; 9525.1860, subparts 2 and 5; and 9525.1930, subpart 2, are repealed.

## Department of Human Services

### Proposed Permanent Rules Relating to Reimbursement for Cost of Care of Clients in State Facilities

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

**NOTICE IS HEREBY GIVEN** that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 246.51, subdivision 2.

All persons have 30 days or until 4:30 p.m. on September 18, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Stephanie L. Schwartz  
Department of Human Services  
Rules & Bulletins Division  
444 Lafayette Road  
St. Paul, MN 55155-3816  
(612) 297-4302

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

*Minnesota Rules*, parts 9515.1000 to 9515.2600 govern the reimbursement to state facilities for the cost of care of clients. This rule affects state facilities, clients of state facilities, and responsible relatives, guardians, trustees, conservators, case managers and representative payees of clients.

The rule amendments are necessary for the rule to conform to current statutory definitions and usage: "client" replaces the terms "outpatient," "inpatient," "day care patient," "patient," and "resident;" "cost of care" now replaces "per diem" and "per capita;" and "state facility" replaces "regional treatment center" and "state nursing home." The term "person" is amended to refer to clients, conservators, legal guardians, representative payees, trustees, county financial or social workers, case managers, or attorneys. There is a new term, "services," which is defined as all services in a state facility: observation, care, treatment, diagnostic services, therapeutic services, counseling services treatment, and other related assistance.

Additional amendments in *Minnesota Rules*, part 9515.2400 replace outdated figures for the monthly household living allowance with current (fiscal year 1992) figures and require that by July 1st of each year, the Department will publish new figures by department bulletin. Lastly, amendments in *Minnesota Rules*, part 9515.2600, subpart 8 replace outdated figures for the daily payment based on ability to pay with current (fiscal year 1992) figures.

A free copy of the rule is available upon request from Stephanie L. Schwartz at the address and telephone number above. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Stephanie L. Schwartz at the address and telephone number above upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Stephanie L. Schwartz at the address above.

Natalie Haas Steffen  
Commissioner

## Rules as Proposed

### 9515.1200 DEFINITIONS.

[For text of subs 1 to 3, see M.R.]

Subp. 3a. Client. "Client" means a person receiving services at a state facility, whether or not those services require occupancy of a bed overnight. Client includes:

- A. an inpatient;
- B. a resident patient;
- C. an outpatient;
- D. a day patient;
- E. a patient; and
- F. a resident.

Subp. 4. Cost of care or per diem. "Cost of care" or "per diem" means the daily per capita cost of providing care services to state facility patients or residents, or the cost of outpatient services clients, calculated in accordance with *Minnesota Statutes*, section 246.50, subdivision 5.

[For text of subs 5 and 6, see M.R.]

Subp. 6a. Financial file. "Financial file" means financial data collected for the purpose of determining ability of the client or the responsible relative to pay the client's cost of care.

[For text of subp 7, see M.R.]

Subp. 8. Homestead. "Homestead" means the house owned and occupied by the patient or resident client as his or her dwelling place, together with the land upon which it is situated as limited by *Minnesota Statutes*, section 510.02.

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Subp. 10. [See repealer.]

[For text of subps 11 and 12, see M.R.]

Subp. 13. to 15. [See repealer.]

Subp. 16. **Person.** "Person" means a ~~patient, resident, or client~~, responsible relative, conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney.

[For text of subps 17 to 19, see M.R.]

Subp. 19a. [See repealer.]

Subp. 20. **Resource.** "Resource" means any property or benefit that is available to pay for the cost of care of the ~~patient or resident client~~.

[For text of subp 21, see M.R.]

Subp. 21a. **Services.** "Services" means all services in a state facility. The following are services:

A. observation;

B. care;

C. treatment;

D. diagnostic services;

E. therapeutic services;

F. counseling services treatment; and

G. other related assistance.

Subp. 22. **State facility.** "State facility" means a regional treatment center ~~or~~, state nursing home, or other facility, as defined by *Minnesota Statutes*, section 246.50, ~~subdivisions~~ subdivision 3 and 3a.

### 9515.1300 TIME OF DETERMINATION.

Ability to pay the cost of care shall be determined when the ~~patient or resident client~~ is admitted, when there is a change in the person's financial status, when a ~~patient, resident client~~, responsible relative, guardian, conservator, or representative payee reports a change in the financial status used in determining ability to pay, when the ~~patient or resident client~~ has been hospitalized for 120 days or more, when the ~~patient or resident client~~ is being discharged, and when the responsible relative's financial status has not been reviewed for one year.

Within the ~~six year~~ six-year period after the date of a ~~patient's or resident's~~ client's discharge from the facility, the department from time to time may, and upon request of the ~~patient or resident client~~ shall, reevaluate the ~~patient's or resident's~~ client's ability to pay any balance of the charge for cost of care.

### 9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

In all instances the ~~patient or resident client~~ shall be present at the interview to determine ability to pay unless the ~~patient or resident client~~ is a minor or the treatment staff of the state facility attests the ~~patient's or resident's~~ client's presence is medically contraindicated. When the ~~patient or resident client~~ cannot be present at the interview, the reason shall be noted in the financial file for that ~~patient or resident client~~.

The ~~patient or resident client~~ shall be the source of financial information to determine ability to pay except when the management of the ~~patient's or resident's~~ client's financial affairs is in the hands of another person. When the ~~patient or resident client~~ is not the source of financial information the reason shall be noted in the financial file for that ~~patient or resident client~~.

When the ~~patient or resident client~~ is not able to act on his or her own behalf, the person interviewed shall be the ~~patient's or resident's~~ client's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the ~~patient or resident client~~, a trustee, a representative payee, the ~~patient's or resident's~~ client's legal representative, or a county social worker.

If the ~~patient or resident client~~ is unable to pay the full cost of the ~~per diem care~~, the responsible relative shall be interviewed.

### 9515.1500 FINANCIAL INTERVIEW.

When a person is interviewed, the department shall:

[For text of item A, see M.R.]

B. provide the person with an informational pamphlet on cost of care and review with the person how the department determines the charges for the ~~patient's or resident's~~ client's cost of care;

[For text of items C to G, see M.R.]



**9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.**

A determination order and notice of rate showing the per diem cost of care, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian, conservator, or representative payee.

**9515.2200 SOURCES OF INCOME CONSIDERED.**

Subpart 1. **In general.** The ~~patient's or resident's~~ client's ability to pay shall be determined from insurance benefits, net income, and value of property owned.

Subp. 2. **Insurance benefits.** When the investigation of the ~~patient's or resident's~~ client's ability to pay discloses eligibility for insurance benefits, the ~~patient or resident~~ client shall be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. The dollar amount of this coverage need not be specified in the determination order.

When the insurance benefits pay less than the per diem cost of care, the ability of the ~~patient or resident~~ client to pay the remaining part of the per diem cost of care shall be determined from the ~~patient's or resident's~~ client's net income and nonexcluded property.

Subp. 3. **Net income.** The ~~patient's or resident's~~ client's entire net income remaining after the deductions from gross income have been made in accordance with part 9515.2300, subpart 4, except Supplemental Security Income paid under section 1611(e)(1)(E) of the Social Security Act, United States Code, title 42, section 1382(e)(1)(E), as amended through November 10, 1986, shall be available to pay the cost of care.

Subp. 4. **Property.** As long as the ~~patient or resident~~ client owns property not excluded under part 9515.2500, the ~~patient or resident~~ client shall be determined able to pay the full cost of care.

**9515.2300 NET INCOME OF PATIENT CLIENT.**

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of social security or veterans' benefits shall be treated as income during the months to which such benefits are attributable. The ~~patient~~ client shall report the lump sum to the department within ten working days.

[For text of subp 3, see M.R.]

Subp. 4. **Deductions from gross income to arrive at net income.** The following items shall be deducted from the ~~patient's or resident's~~ client's monthly gross income:

[For text of items A and B, see M.R.]

C. Child care costs paid by the ~~patient or resident~~ client and not reimbursed from any source.

D. Support payments ordered by a court and actually paid. If this deduction is taken, the individual for whom support is paid shall not be included as a member of the ~~patient's or resident's~~ client's household in determining the monthly household living allowance in part 9515.2400.

[For text of items E to J, see M.R.]

K. A personal needs and clothing allowance of the ~~inpatient~~ client in the amount determined under *Minnesota Statutes*, section 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all ~~patients or residents~~ clients in state facilities. The special personal allowance shall not exceed 50 percent of net monthly income.

L. Sixty percent of the income earned from child care in one's own home or, if the ~~patient or resident~~ client chooses, the actual itemized business expenses incurred in providing child care subject to the limitations provided in parts 9515.1200, subparts 2 and 3; and 9515.2300, subpart 4, item I.

M. ~~An~~ A client receiving inpatient services without dependents living in his or her home shall be allowed the actual cost of his or her housing and utilities in the community for the month of admission and a period of three months of continuous hospitalization subsequent to that admission. ~~An~~ A client receiving inpatient services with dependents living in his or her home shall be allowed a pro rata share of his or her household's total actual housing costs during the month of admission and for a period of three months of continuous hospitalization subsequent to that admission. This housing allowance shall be available to the client receiving inpatient services only twice in any one calendar year regardless of the number of times the ~~patient~~ client is admitted to a state ~~hospital facility~~.

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in that calendar year. ~~An~~ A client receiving outpatient services or former ~~patient or resident client~~ shall be allowed the actual cost of his or her housing and utilities.

[For text of item N, see M.R.]

### 9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

<u>Number in Household</u>	<u>Monthly Household Living Allowance</u>
1	\$ 458 <u>539</u>
2	\$ 688 <u>809</u>
3	\$ 912 <u>1,073</u>
4	\$1,146 <u>1,349</u>
5	\$1,375 <u>1,618</u>
6	\$1,604 <u>1,888</u>
over 6	\$1,604 <u>1,888</u> plus \$ 229 <u>280</u> for each additional person

The number of persons in the household of ~~an~~ a client receiving inpatient services is the number of dependents the ~~patient or resident client~~ claims. The number in the household of ~~an~~ a client receiving outpatient services or former ~~patient or resident client~~ shall be the ~~patient or resident client~~ plus the number of dependents claimed. The gross monthly income of a ~~patient's or resident's~~ client's spouse, if any, shall be deducted from the housing allowances shown above.

By July 1 of each year, the department shall adjust the monthly household living allowance to reflect the annual percentage change reported in the most recent Consumer Price Index, for all urban consumers in the Minneapolis-Saint Paul area. The Consumer Price Index shall be as published by the Bureau of Labor Statistics, United States Department of Labor. The year 1967 is the standard reference base period.

By July 1 of each year, the department shall publish the adjusted monthly household living allowance in a department bulletin.

### 9515.2500 PROPERTY OF ~~PATIENT OR RESIDENT CLIENT~~.

Subpart 1. **In general.** Property shall be available to pay for the cost of the ~~patient's or resident's~~ client's care to the extent owned by the ~~patient or resident client~~, subject to the exclusions in subparts 2 to 7.

Subp. 2. **Real property.** The value of the ~~patient's or resident's~~ client's homestead is excluded from consideration as a resource.

The value of real property owned by the ~~patient or resident client~~ which produces a net income is excluded from consideration as a resource. Real property which the ~~patient or resident client~~ is selling on a contract for deed and for which the ~~patient or resident client~~ receives payments is considered income producing property.

Subp. 3. **Personal property.** The value of the following personal property is excluded from consideration as a resource:

A. the value of personal property other than stocks, bonds, and other investment instruments which is owned by the ~~patient or resident client~~ and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

B. the cash or liquid assets for a single ~~patient or resident client~~ and the cash or liquid assets for a married couple shall be the standard for medical assistance recipients as provided in *Minnesota Statutes*, section ~~256B.06~~ 256B.056, subdivision 3, as from time to time amended;

[For text of items C to G, see M.R.]

H. manufactured home used as a home by the ~~patient or resident client~~ or the ~~patient's or resident's~~ client's dependents;

[For text of items I to K, see M.R.]

L. life insurance owned by the ~~patient or resident client~~ is the standard for medical assistance recipients as provided in *Minnesota Statutes*, section ~~256B.06~~ 256B.056, subdivision 3, as from time to time amended;

[For text of item M, see M.R.]

N. burial expenses, including a burial lot and a prepaid burial account, shall be the standard for medical assistance recipients as provided in *Minnesota Statutes*, sections ~~256B.06 to 256B.07~~ section 256B.056, subdivision 3, as from time to time amended.

Subp. 4. **Waiver of property as a resource.** The department shall waive consideration of property in excess of the exemptions when the ~~patient's or resident's~~ client's equity cannot be liquidated, the offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price.

Each case shall be referred to the department's reimbursement division central office and decided on the merits of the facts recorded in the ~~patient's or resident's~~ client's financial file to substantiate the circumstances.

The decision to waive the consideration shall be examined at least annually for changes in market value, opportunity for sale or mortgage, and other pertinent factors.

[For text of subp 5, see M.R.]

Subp. 6. **Documentation required.** When property described in subpart 5 is transferred during the period between two years prior to admission to a state facility and six years following discharge, the ~~patient, resident,~~ client or the representative shall provide documentation of the circumstances of the transfer.

Subp. 7. **Exemption.** The provisions of subparts 5 and 6 do not apply when the ~~patient or resident~~ client is not continuing to accrue charges and the full cost of care has been paid. The provisions of subparts 5 and 6 do not apply to property excluded from consideration under other provisions of parts 9515.1000 to 9515.2600.

#### **9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.**

Subpart 1. **In general.** When the ~~patient or resident~~ client is determined not to be able to pay the full cost of care, the department shall determine the ability of each responsible relative of the ~~patient or resident~~ client to pay the amount permitted by statute.

[For text of subp 2, see M.R.]

Subp. 3. **Insurance benefits.** The responsible relative shall inform the department about dependent benefits from hospital and medical insurance carried by the relative.

Dependent benefits to a ~~patient or resident~~ client shall be considered the same as the ~~patient's or resident's~~ client's insurance.

Any difference between benefits to a ~~patient or resident~~ client and others covered by the responsible relative's policy shall be verified.

The responsible relative shall complete and sign the forms necessary to verify eligibility for benefits and assign benefits to pay the cost of care of the ~~patient or resident~~ client.

The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

Subp. 4. **Liability of responsible relatives.** When the sum of the benefits described in subpart 3 and the ~~patient's or resident's~~ client's other resources pay less than the full cost of care, the ability of each responsible relative to pay shall be determined in the statutory order of liability for cost of care. When two responsible relatives have the same order of liability for cost of care, a determination shall be made for each one except that a joint determination shall be made for parents who reside in the same household.

Subp. 5. **Limitations on relative's ability to pay.** The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the following limitations:

[For text of item A, see M.R.]

B. No responsible relative who is a resident of Minnesota shall be ordered to pay more than ten percent of the cost of care for each ~~patient~~ client except that the responsible relative who has failed to provide the information, documents, and proofs which are necessary to determine ability to pay as required by part 9515.1500, items F and G may be ordered to pay the full ~~per capita~~ cost of care until such time as they are provided.

C. The department may require full payment of the full ~~per capita~~ cost of care for a ~~patient or resident~~ client whose parents or parent, spouse, guardian, or conservator do not reside in Minnesota and are financially able to pay as determined by the department.

D. Only the annual gross earnings of the spouse of a ~~patient or resident~~ client shall be used to determine the spouse's ability to pay.

[For text of items E to G, see M.R.]

Subp. 6. **Determination of relative's ability to pay.** A responsible relative who provides the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G shall have his or her ability to pay determined from the table in subpart 8. For purposes of this table, household size consists of the responsible relative and the responsible relative's dependents living in the responsible relative's household, other than the ~~patient or resident~~ client.

A responsible relative who chooses not to provide the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G may be determined liable for the full ~~per capita~~ cost of care.

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## Proposed Rules

Subp. 7. **Purpose of table.** The table in subpart 8 shall be used to determine a relative's ability to pay, as described in subpart 6. When there is a change in the per capita cost of care, the department shall revise subpart 8. Adjustments shall be made according to the following formula: at each level of annual gross earnings, daily payments equal to ten percent of the per diem cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the per diem cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the per diem cost of care for the current year; the daily payment of a responsible relative whose earnings are above these levels shall be at ten percent of the current per diem cost of care.

Subp. 8. **Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.**

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000- 11,999	.33	0								
12,000- 12,999	.45	.33	0							
13,000- 13,999	.57	.45	.33	0						
14,000- 14,999	.72	.57	.45	.33	0					
15,000- 15,999	.87	.72	.57	.45	.33	0				
16,000- 16,999	1.05	.87	.72	.57	.45	.33	0			
17,000- 17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000- 18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000- 19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000- 20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000- 21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000- 22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000- 23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000- 24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000- 25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000- 26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000- 27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000- 28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
29,000-29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000-30,999	<del>19.49</del> <u>21.01</u>	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000-31,999	<del>19.49</del> <u>26.29</u>	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000-32,999	<del>19.49</del> <u>26.29</u>	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000-33,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>22.75</u>	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000-34,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000-35,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>20.05</u>	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000-36,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000-37,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000-38,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000-39,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>22.96</u>	11.81	9.45	7.56	6.12	5.67	5.25
40,000-40,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	14.76	11.81	9.45	7.56	6.12	5.67
41,000-41,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	18.45	<del>18.45</del> <u>14.76</u>	11.81	9.45	7.56	6.12
42,000-42,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>23.06</u>	<del>19.49</del> <u>18.45</u>	14.76	11.81	9.45	7.56
43,000-43,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>23.06</u>	18.45	14.76	11.81	9.45
44,000-44,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>23.06</u>	18.45	14.76	11.81
45,000-45,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>23.06</u>	<del>19.49</del> <u>18.45</u>	14.76
46,000-46,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>23.06</u>	18.45
47,000-47,999	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>26.29</u>	<del>19.49</del> <u>23.06</u>

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## Proposed Rules

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
48,000- 48,999	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29	26.29

Subp. 9. **Maximum per diem rate.** When the annual gross earnings exceed the amount shown in the table in subpart 8, the daily payment shall be at the statutory limitation of ten percent of the per diem cost of care.

Subp. 10. **Verification of financial information.** The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return, from the United States income tax return.

The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the patient client shall be verified.

Subp. 11. **Clothing and personal needs allowance of a minor.** The parents of a patient or resident client who is an unmarried, dependent child are responsible for meeting the child's clothing and personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

**REPEALER.** Minnesota Rules, part 9515.1200, subparts 10, 13, 14, 15, and 19a, are repealed.

## Department of Labor and Industry

### Proposed Permanent Rules Relating to Occupational Safety and Health; Contested Case Procedures

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

**NOTICE IS HEREBY GIVEN** that the State Department of Labor and Industry intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, Sections 14.06, 182.657, and 182.661 which permit the agency to adopt rules and procedures necessary to implement the provisions of *Minnesota Statutes* Chapter 182.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Public comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Pam Ayers  
Department of Labor and Industry  
Third Floor, 443 Lafayette Road  
St. Paul, MN 55155-4301  
(612) 296-2992

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

The rule proposal for adoption relates to the following matters: due to a recent statutory change it is necessary to make some changes to the procedural rules relating to contestation of Occupational Safety and Health Citations. Some rules previously under the jurisdiction of the Occupational Safety and Health Review Board have been modified and proposed as new rules under the jurisdiction of the

Commissioner of Labor and Industry. Other rules already under the Commissioner's jurisdiction are amended consistent with the statutory changes. The statutory changes essentially require that the prehearing filings previously made to the Board now be made to the Commissioner.

A free copy of the rule is available upon request from Pam Ayers at the above address.

A **Statement of Need and Reasonableness** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Pam Ayers upon request.

Additionally, the rules do not require the expenditure of public monies by local public bodies and thus have no fiscal impact.

The rules have no significant impact on small business, but rather are necessary to implement statutory changes.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Pam Ayers at the above address.

Dated: 5 August 1991

John Lennes  
Commissioner

### **Rules as Proposed**

#### **5210.0020 SCOPE AND PURPOSE.**

Parts 5210.0010 to 5210.0100 set forth procedures for promulgating, modifying, or revoking occupational safety and health standards under *Minnesota Statutes*, section 182.655. The purpose of parts 5210.0010 to 5210.0100 is to provide a procedure for standards promulgation.

#### **5210.0270 CONTEST BY EMPLOYEE.**

An employee or authorized employee representative may file a written ~~notice~~ letter of contest with the ~~Occupational Safety and Health Review Board~~ commissioner contesting a citation, proposed assessment of penalty, type of violation, or the time fixed for abatement in a citation issued to an employer.

#### **5210.0400 STATUTORY AUTHORITY.**

The Minnesota Occupational Safety and Health Act of 1973 requires in part that every employer covered under the act furnish to his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees. The act also requires that employers comply with occupational safety and health standards promulgated under the act and that employees comply with standards, rules, regulations, and orders which are applicable to their own actions and conduct. The act authorizes the Department of Labor and Industry to conduct inspections and to issue citations and propose penalties for alleged violations. The act, under *Minnesota Statutes*, section 182.659, authorizes the commissioner to conduct inspections and question employers and employees in connection with research and other related activities. The act contains provisions for adjudication of violations, periods prescribed for the abatement of violations and proposed penalties ~~by the the Occupational Safety and Health Review Board~~ if contested by an employer or by an employee or authorized representative of employees, and for judicial review.

#### **5210.0415 DEFINITIONS.**

Subpart 1. Scope. For the purposes of parts 5210.0400 to 5210.0584, the following terms have the meanings given them.

Subp. 2. Administrative law judge. "Administrative law judge" means a person assigned to hear a contested case by the Office of Administrative Hearings.

Subp. 3. Citation; penalty notice. "Citation" and "penalty notice" mean the citation and notification of penalty form prescribed by the commissioner.

Subp. 4. Commissioner; board; employer; employee; authorized employee representative; affected employee; person. "Commissioner," "board," "employer," "employee," "authorized employee representative," "affected employee," and "person" have the meanings given in *Minnesota Statutes*, section 182.651.

**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

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Subp. 5. Days. “Days” means calendar days unless otherwise provided.

Subp. 6. Letter of contest. “Letter of contest” means a timely written communication by an affected employee or authorized employee representative to the commissioner contesting a citation issued against the employer including the reasons for the contest and a statement that the letter was served and posted as required by law.

Subp. 7. Notice of contest. “Notice of contest” means the notice of contest and service to affected employees form prescribed by the commissioner.

Subp. 8. Proceeding. “Proceeding” means any proceeding before the board or before an administrative law judge.

### 5210.0530 CITATIONS; NOTICES OF DE MINIMIS VIOLATIONS.

Subpart 1. Issuance. The commissioner shall review the inspection report of the ~~OSHI~~ occupational safety and health investigator. If on the basis of the report the commissioner believes that the employer has violated a requirement of *Minnesota Statutes*, section 182.653, subdivision 2, 3, or 4, or any standard or rule ~~promulgated pursuant to~~ adopted under the act ~~he~~, the commissioner shall issue to the employer either a citation or a notice of de minimis violations which have no direct or immediate relationship to safety or health. A copy of the citation and the proposed assessment of penalty shall also be issued by certified mail to the authorized representative of affected employees and, in the case of the death of an employee, to the next of kin if requested. An appropriate citation or notice of de minimis violations shall be issued even though, after being informed of alleged violation by the ~~OSHI~~ occupational safety and health investigator, the employer immediately abates or initiates steps to abate each ~~such~~ alleged violation. Any citation or notice of de minimis violations shall be issued with reasonable promptness after termination of the inspection. No citation may be issued under this part after the expiration of six months following the occurrence of any alleged violation.

Subp. 2. Contents. Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the act, standard, rule, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the act has occurred unless there is a failure to contest as provided for in the act or, if contested, unless the citation is affirmed by ~~the review board~~ an administrative law judge.

### 5210.0540 PETITIONS FOR MODIFICATION OF ABATEMENT DATE.

Subpart 1. Right to file. An employer may file a petition for modification of abatement date when ~~he~~ the employer has made a good faith effort to comply with the abatement requirements of a citation, but ~~such~~ abatement has not been completed because of factors beyond ~~his~~ the employer's reasonable control.

Subp. 2. Contents. A petition for modification of abatement date shall be in writing and shall include the following information:

A. all steps taken by the employer, and the dates of ~~such~~ the action, in an effort to achieve compliance during the prescribed abatement period;

B. the specific additional abatement time necessary in order to achieve compliance;

C. the reasons ~~such~~ additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date;

D. all available interim steps being taken to safeguard the employees against the cited hazard during the abatement period; ~~and~~

E. a certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of affected employees, ~~in accordance with~~ according to subpart 4 and a certification of the date ~~upon which~~ such the posting and service was made; ~~and~~

F. a notice to affected employees informing them of their right to object to the petition.

Subp. 3. Time to file. A petition for modification of abatement date shall be filed with the commissioner of the Department of Labor and Industry no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

Subp. 4. Posting. A copy of ~~such~~ the petition shall be posted on or before the filing date in a conspicuous place where all affected employees will have notice ~~thereof~~ of the petition or near ~~such~~ a location where the violation occurred. The petition shall remain posted for a ~~period~~ of ten days. Where affected employees are represented by an authorized representative, ~~said~~ the representative shall be served with a copy of ~~such~~ the petition.

Subp. 5. Objections. Affected employees or their representatives may file an objection in writing to ~~such~~ the petition with the commissioner. Failure to file ~~such~~ an objection within ten days of the date of posting of ~~such~~ the petition or of service upon an authorized representative shall constitute a waiver of any further right to object to ~~said~~ the petition. The objection must state the



reasons for opposing the granting of the modification date requested in the petition.

Subp. 6. **Uncontested petitions.** The commissioner or ~~his~~ a duly authorized agent shall have the authority to approve any petition for modification of abatement date filed pursuant to subparts 2 and 3. ~~Such~~ The uncontested petitions shall become final orders.

Subp. 7. **Time for approval.** The commissioner or ~~his~~ an authorized representative shall not exercise ~~his~~ approval power until the expiration of 15 days from the date the petition was served pursuant to subparts 4 and 5 by the employer.

Subp. 8. **Contested petitions.** Where any petition is objected to by the commissioner or affected employees, ~~such~~ the petition shall be processed as follows:

A. The petition, citation, and any objections shall be forwarded to ~~the board~~ an administrative law judge within three days after the expiration of the 15-day period ~~set out~~ in subpart 7.

B. ~~The board shall docket and process such~~ administrative law judge shall treat the petition in the same manner as any other contested case, except that all hearings on ~~such~~ petitions shall be handled in an expeditious fashion.

C. An employer petitioning for a modification of abatement period shall have the burden of proving that ~~such~~ the employer has made a good faith effort to comply with the abatement requirements of the citation and that abatement has not been completed because of factors beyond the employer's control.

~~D. Within ten days after the receipt of notice of the docketing by the board of any petition for modification of abatement date, each objecting party shall file a response setting forth the reasons for opposing the granting of a modification date different from that requested in the petition.~~

#### **5210.0550 POSTING OF CITATIONS.**

Subpart 1. **Employer's duty.** Upon receipt of any citation and proposed penalty under the act, the employer shall immediately post ~~such~~ the citation and proposed penalty, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employer's operations, it is not practicable to post the citation and proposed penalty at or near each place of alleged violation, ~~such~~ the citation and proposed penalty shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employers are engaged in activities which are physically dispersed, the citation and proposed penalty may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation and proposed penalty may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation and proposed penalty are not altered, defaced, or covered by other material. Notices of de minimis violations need not be posted.

Subp. 2. **Operation of posting.** Each uncontested citation and proposed penalty, or a copy thereof, shall remain posted until the violation has been abated, or for 15 days, whichever is later. The filing by the employer of a notice of ~~intention to contest~~ shall not affect his extends the employer's posting responsibility under this part ~~unless and until the review board issues a final order vacating the citation and proposed penalty contest is resolved.~~

Subp. 3. **Notice of contest.** An employer to whom a citation has been issued ~~may~~ must post a copy of the notice of contest in the same location where ~~such~~ the citation is posted ~~indicating that the citation is being contested before the review board, and such.~~ The notice of contest must remain posted until the contest is resolved. The notice may shall explain the reasons for ~~such~~ the contest. The employer may also indicate that specified steps have been taken to abate the violation.

Subp. 4. **Noncompliance.** ~~Any~~ An employer failing to comply with ~~the provisions of~~ subparts 1 and 2 shall be subject to citation and penalty ~~in accordance with the provisions of~~ according to *Minnesota Statutes*, section 182.666.

#### **5210.0560 INFORMAL CONFERENCE WITH COMMISSIONER.**

At the request of an affected employer, employee, or representative of employees, the commissioner may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of ~~intention to contest~~. Any affected party may be represented by counsel at ~~such~~ the conference. No ~~such~~ conference or request for conference shall operate as a stay of any ~~15 working day~~ 20-day period for filing a notice of ~~intention to contest~~.

### **SERVICE AND NOTICE; OTHER PREHEARING PROCEDURES**

#### **5210.0561 RECORD ADDRESS.**

The first pleading filed by a person must contain the person's name, address, and telephone number. Any change in the information

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## **Proposed Rules**

must be communicated promptly in writing to the administrative law judge or the commissioner and to all other parties and intervenors. A party or intervenor who fails to furnish the information waives the right to notice and service under parts 5210.0562 to 5210.0564.

### **5210.0562 SERVICE AND NOTICE.**

Subpart 1. Parties and intervenors. At the time of filing pleadings or other documents, a copy shall be served by the filing party or intervenor on every other party or intervenor.

Subp. 2. Representatives. Service on a party or intervenor who has appeared through a representative must be made only on the representative.

Subp. 3. Methods of service. Unless otherwise ordered, service may be made by postage-prepaid first class mail, personal delivery, or posting. Service is made at the time of mailing, personal delivery, or posting.

Subp. 4. Proof of service; filing. Service must be certified by a written statement that states the date and manner of service. The statement must be signed by the person accomplishing service, and it must be filed with the pleading or document.

Subp. 5. Posting maintained. Where posting is required by parts 5210.0562 to 5210.0564, posting must be maintained until the contest is resolved.

### **5210.0563 SERVICE AND NOTICE TO AFFECTED EMPLOYEES.**

#### Subpart 1. Notice of contest.

A. The employer shall, on or before the date a notice of contest is filed with the commissioner, post, where the citation is required to be posted, a copy of the notice of contest.

If, because of the nature of the employer's operations, it is not practicable to post the notice of contest at or near the worksite, the notice must be posted in a prominent place where it can be readily observed by all affected employees. If employees are engaged in activities that are physically dispersed, the notice must be posted at the location to which employees report each day. If employees do not primarily work at or report to a single location, the notice must be posted at the location from which the employees operate to carry out their activities. If the employer's operation at the cited worksite ceases and affected employees are no longer employed by that employer, the employer must serve a copy of the notice of contest on all affected employees either by hand delivery or by mail to the last known address.

B. If there are any affected employees who are represented by an authorized employee representative, the employer shall, on or before the date a notice of contest is filed with the commissioner, serve by first class mail or personal delivery upon the representative, a copy of the notice of contest.

C. Certification of the service and posting required by this subpart must be notarized and filed with the commissioner as provided on the notice of contest form. If the employer fails to certify service and posting, the administrative law judge may, on a motion by one of the parties or on the judge's own motion, render a default decision.

#### Subp. 2. Notice of hearing.

A. A copy of the notice of hearing to be held before an administrative law judge must be posted, within five days of receipt, at or near the place the citation is required to be posted.

B. If there are any affected employees who are represented by an authorized employee representative, the employer shall, within five days of receipt, serve by first class mail or personal delivery upon the representative, a copy of the notice of hearing.

C. Certification of the service and posting required by this subpart must be filed with the commissioner and served on the administrative law judge within five days of receipt of the notice of hearing. If the employer fails to certify service and posting, the administrative law judge may, on a motion by one of the parties or on the judge's own motion, render a default judgment.

### **5210.0564 LETTER OF CONTEST FILED BY EMPLOYEE OR REPRESENTATIVE.**

Subpart 1. By unrepresented employee among affected, represented employees. When a letter of contest is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall, on or before the date of filing the letter of contest with the commissioner, serve a copy on the authorized employee representative by mail or personal delivery and shall file certification of service with the commissioner.

Subp. 2. Notice to employer. When a letter of contest is filed by an affected employee or an authorized employee representative, a copy of the letter of contest must be provided to the employer for posting in the manner prescribed for a notice of contest in part 5210.0563, subpart 1, item A.

Subp. 3. Notice to other employee representatives. An authorized employee representative who files a letter of contest is responsible for serving any other authorized employee representative whose members are affected employees.

Subp. 4. Failure to serve notice of contest. If the parties described in subparts 1 to 3 fail to certify that the letter of contest has been posted or served as required by this part, the administrative law judge may, on a motion by one of the parties or the judge's own motion, dismiss the contest.

**5210.0565 NOTICE OF CONTEST AND CERTIFICATION OF SERVICE.**

The notice of contest form must be fully completed on a form prescribed by the commissioner and must contain substantially the following:

- A. information that identifies the employer;
- B. information that identifies the contested citation;
- C. a statement of employer and employee rights and obligations;
- D. information that identifies the specific issues being contested and the reasons for the contest;
- E. certification that the notice was served on authorized employee representatives, if any, and posted with the citation and notification of penalty; and
- F. a notarized sworn statement by the employer's representative that the information provided is accurate and truthful.

If the notice of contest form is not served and filed within the time limits established by Minnesota Statutes, section 182.661, the citation and notification of penalty become a final order of the commissioner.

**5210.0566 FILING.**

All papers must be filed with the commissioner before a case is assigned to an administrative law judge. After the case has been assigned to an administrative law judge and before the issuance of the decision, all papers must be filed with the administrative law judge at the address given in the notice informing the parties of the assignment. After issuance of the decision by the administrative law judge, all papers must be filed with the executive secretary of the board. Unless otherwise ordered, all filing may be accomplished by first class mail and is considered filed on the postmark date. All other filing is considered effected upon receipt.

**5210.0567 CONSOLIDATION.**

Cases may be consolidated on the motion of any party, or on the administrative law judge's own motion, where there are common parties, common questions of law or fact, or both, or in other circumstances as justice and the administration of the act requires.

**5210.0568 SEVERANCE.**

On its own motion, or on the motion of any party, the administrative law judge may, for good cause, order any proceeding severed with respect to some or all issues or parties.

**5210.0569 PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.**

On application by any person in a proceeding where trade secrets or other matters may be divulged, the administrative law judge shall issue orders as may be appropriate to protect the confidentiality of these matters.

**PARTIES AND REPRESENTATIVES**

**5210.0570 PARTY STATUS.**

Affected employees or an authorized employee representative may choose to participate as parties if they file notice of intent to participate at least five days before the start of the hearing. The notice of intent to participate must contain the employees' names, addresses, representatives, if any, and a statement that they are affected employees of the cited employer. The notice shall be filed with the commissioner if an administrative law judge has not yet been assigned. After an administrative law judge has been assigned, the notice shall be filed with the administrative law judge and served on all parties.

Where a notice of contest is filed by an employee or by an authorized employee representative with respect to the time fixed for abatement of a violation, the citation, the type of alleged violation, or the proposed penalty, the employer charged with the responsibility of the alleged violation may choose party status by filing a notice at least five days before the start of the hearing. The notice must contain the employer's name, address, and representative, if any. The notice shall be filed with the commissioner if an administrative law judge has not yet been assigned. After an administrative law judge has been assigned, the notice shall be filed with the administrative law judge and served on all parties.

Intervention and appearance by nonparties may be granted under part 1400.6200.

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## 5210.0571 REPRESENTATIVES OF PARTIES AND INTERVENORS.

Any party or intervenor may appear in person or through a representative. A representative of a party or intervenor shall be deemed to control all matters respecting the interest of the party or intervenor in the proceeding.

Affected employees who are represented by an authorized employee representative may appear only through the authorized employee representative.

Nothing contained in this part requires a representative to be an attorney at law.

The withdrawal of appearance of a representative may be affected by filing a written notice of withdrawal and by serving a copy of the notice on all parties and intervenors.

## PLEADINGS AND MOTIONS

### 5210.0572 FORM OF PLEADINGS.

Except as provided in parts 5210.0572 to 5210.0581, there are no specific requirements on the form of any pleading. A pleading must simply contain a caption sufficient to identify the parties according to part 5210.0575. It must also include the commissioner's and the administrative law judge's docket number, if any, a clear and plain statement of the relief that is sought, and the grounds for the relief.

Pleadings and other documents, other than exhibits, must be typewritten or otherwise be legible on 8-1/2 inches by 11 inch paper.

### 5210.0573 SIGNATURE ON PLEADINGS.

Pleadings must be signed by the party filing or by the party's representative. Signing constitutes a representation by the signer that the signer has read the document or pleading, that to the best of the signer's knowledge, information, and belief the statements made in it are true, and that it is not interposed for delay.

### 5210.0574 REFUSAL OF THE PLEADING.

The commissioner or administrative law judge may refuse to accept for filing any pleading or document that does not comply with the requirements of parts 5210.0572 and 5210.0573.

### 5210.0575 CAPTION; TITLES OF CASES.

Subpart 1. Notice of contest. Cases started by a notice of contest shall be titled:

Commissioner of Labor and Industry,

v.

(Name of contestant),

Complainant

Respondent

Subp. 2. Petition for modification of abatement date. Cases started by a petition for modification of abatement date shall be titled:

(Name of employer),

v.

Commissioner of Labor and Industry,

Petitioner

Respondent

Subp. 3. Third party interests. Cases in which a third party interest has been exercised shall be titled:

Commissioner of Labor and Industry,

v.

(Name of employer),

(Name of Authorized Employee  
Representative),

Complainant

Respondent

Authorized  
employee  
representative

Subp. 4. Placement of titles. The titles listed in subparts 1, 2, and 3 must appear at the left upper portion of the first page of any pleading or document filed, other than an exhibit.

The first page of any pleading or document, other than an exhibit, must show, at the upper right of the page, opposite the title, the docket number assigned by the commissioner, if any.

**5210.0576 EMPLOYER CONTESTS.**

Subpart 1. Complaint. The commissioner shall serve the employer with a complaint no later than 90 days after receiving the notice of contest.

The complaint must set forth all alleged violations and proposed penalties that are contested, stating with particularity:

- A. the basis for jurisdiction;
- B. the time, location, place, and circumstances of each alleged violation; and
- C. the considerations upon which the date for abatement and the proposed penalty on each alleged violation are based.

If the commissioner seeks in the complaint to amend the citation or proposed penalty, the commissioner shall set forth the reasons for amendment and shall state with particularity the change sought.

At any time in the proceedings, an employer may withdraw the notice of contest.

Subp. 2. Notice to respondent. The commissioner shall file and serve on the respondent no later than 90 days after receiving the notice of contest a notice that states the following:

- A. that the basis for the commissioner's authority to hold a hearing is Minnesota Statutes, section 182.661;
- B. that the party has a right to be represented by legal counsel in all proceedings;
- C. that the rules of the commissioner and the rules of the Office of Administrative Hearings apply to the proceedings;
- D. the name of the agency official or member of the attorney general's staff to be contacted to discuss informal disposition under part 1400.5900 or discovery under part 1400.6700, subparts 2 and 3;
- E. that the respondent has a right to a contested case hearing before an independent administrative law judge from the Office of Administrative Hearings under Minnesota Statutes, sections 14.48 to 14.62 and 182.661;
- F. that the respondent may present evidence and argument about the issues, and cross-examine witnesses;
- G. where the procedural rules may be obtained;
- H. that parties may attempt to settle the matter without a hearing; and
- I. that if the respondent wants to initiate discovery under part 1400.6700, subparts 2 and 3, before the setting of a hearing date, the respondent must file, with the commissioner, a discovery motion and the case will be transferred to the Office of Administrative Hearings for a decision on the discovery motion.

Subp. 3. Answer. Within 20 days after service of the complaint, the party against whom the complaint was issued shall file with the commissioner an answer and serve the answer on every other party.

The answer must contain a short and plain statement denying those allegations in the complaint that the party intends to contest. Any allegation not denied is deemed admitted.

Subp. 4. Failure to file. If the complaint, notice to respondent, or answer is not served or filed with the commissioner in a timely manner, one of the parties may move to dismiss the contest or complaint. The hearing on the motion shall be conducted before the administrative law judge.

**5210.0577 PETITIONS FOR MODIFICATION OF ABATEMENT DATE.**

When a petition for modification of abatement date filed under part 5210.0540 is objected to by the commissioner, affected employees, or an authorized employee representative, the petition must be processed according to items A and B.

A. The commissioner shall docket and process the petition in the same manner as any other contested case, except that all hearings on the petitions must be scheduled on an expedited basis.

B. An employer petitioning for a modification of abatement date has the burden of proving that a good faith effort has been made to comply with the abatement requirements of the citation and that abatement has not been completed because of factors beyond the employer's control.

**5210.0578 EMPLOYEE CONTESTS.**

Employee contests are governed by part 5210.0576. An affected employee or authorized employee representative may file a letter

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## Proposed Rules

of contest with respect to the time fixed for abatement, the citation, the type of alleged violation, or the proposed penalty. An employee may withdraw the letter of contest at any time in the proceedings.

### **5210.0579 STATEMENT OF POSITION.**

At any time before the start of the hearing before the administrative law judge, a party may file a statement of position with the commissioner about any or all issues to be heard.

### **5210.0580 RESPONSE TO MOTIONS.**

A party who is served with a motion has ten days from service of the motion to file a response.

### **5210.0581 FAILURE TO FILE.**

The failure to timely file any pleading under this chapter may, in the discretion of the commissioner or the administrative law judge, constitute a waiver of the right to further participation in the proceedings.

### **5210.0582 HEARING.**

Subpart 1. Notice of readiness for hearing. After the timely filing of an answer, a party that is prepared for hearing may file a notice of readiness for hearing with the commissioner and serve a copy on all parties. On receipt of the notice of readiness for hearing, the commissioner shall schedule a hearing before an administrative law judge.

Subp. 2. Notice of hearing and order. When the matter is ready for hearing before an administrative law judge, the commissioner shall serve a written notice of hearing and order under part 1400.5600 and all further proceedings shall be conducted under Minnesota Statutes, chapter 14.

The employer shall serve a copy of the notice of hearing and order on affected employees and authorized employee representatives under parts 5210.0562 to 5210.0564.

## SETTLEMENT; MISCELLANEOUS PROVISIONS

### **5210.0583 SETTLEMENT.**

Subpart 1. Settlement encouraged. Settlement is encouraged at any stage of the proceedings if the settlement is consistent with the provisions and objectives of the act, but negotiations shall not delay the scheduling of a hearing in the matter.

Subp. 2. Service and notice. A settlement agreement must be filed with the commissioner or administrative law judge and be served on affected employees and authorized employee representatives by the employer. Service on affected employees shall be accomplished by posting. Service on authorized employee representatives shall be accomplished by personal delivery or first class mail.

Subp. 3. Contents of settlement agreements and orders. Settlement agreements must contain:

- A. an affirmative statement that the notice of contest was served and posted under parts 5210.0562 to 5210.0564;
- B. a provision that states the date the employer served the agreement on affected employees under subpart 2;
- C. an affirmative statement that the contesting party withdraws the notice of contest; and
- D. a statement that describes how the settlement agreement affects the status of the contested citation.

Subp. 4. Proposed order. Settlement agreements submitted by the parties must be accompanied by an appropriate proposed order.

Subp. 5. Contested items. Only contested items are subject to settlement.

Subp. 6. Approval before referral for hearing. If the matter has not yet been referred for hearing before an administrative law judge, and if there are no timely objections to the agreement, a settlement agreement filed with the commissioner becomes a final order ten days after service of the agreement on affected employees.

An affected employee may file an objection to a proposed settlement with the commissioner within ten days after service of the settlement agreement on the employee. On receipt of a timely objection, the commissioner may renegotiate the settlement, refer the agreement and objection to an administrative law judge for approval despite the objection, or continue proceedings on the contested citation.

Subp. 7. Approval by administrative law judge. After a matter has been referred to an administrative law judge, all settlement agreements and orders must be approved by the judge. A settlement agreement and order shall not be approved within ten days following the service of the settlement proposal on affected employees.

An affected employee may file an objection to a proposed settlement with the administrative law judge within ten days after service of the settlement agreement on the employee. On receipt of a timely objection, the administrative law judge shall consider the objection before approving or disapproving the settlement.

**5210.0584 EXPEDITED PROCEEDING.**

On the application of any party or intervenor, or on the commissioner's own motion, the commissioner may order an expedited proceeding. When an expedited proceeding is ordered, the commissioner shall notify all parties and intervenors. The administrative law judge assigned in an expedited proceeding shall make necessary rulings concerning the time for filing pleadings and all other matters, without reference to the times set forth in these rules, and shall order daily transcripts of the hearing. The administrative law judge shall do all other things necessary to complete the proceeding in the minimum time consistent with fairness.

**5210.0810 EFFECT ON VARIANCES.**

All variances granted pursuant to this part shall have only future effect. In his discretion, the commissioner may decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employer involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the ~~Occupational Safety and Health Review Board~~ an administrative law judge until the completion of ~~such~~ the proceeding.

**5210.0860 CONTEST OF OBJECTION TO VARIANCE DENIAL BEFORE REVIEW BOARD.**

Any employer who has been denied a variance may ~~under Minnesota Statutes, section 182.664, subdivision 2~~ notify the commissioner in writing that ~~he~~ the employer intends to ~~contest such a~~ object to the variance denial ~~before the review board.~~ Such notice of intention to contest ~~The objection~~ shall be postmarked within 15 days of receipt by the employer of the variance denial. The commissioner shall, within seven days of receipt of ~~notice of contest~~ the objection, transmit the original ~~notice~~ objection to ~~the review board~~ an administrative law judge together with copies of all relevant documents ~~in accordance with~~ according to the rules of procedure prescribed by the ~~board~~ commissioner.

Any affected employee shall be given notice of ~~such~~ the application and an opportunity to participate in ~~such a~~ the hearing as required under *Minnesota Statutes*, section 182.654, subdivision 5.

**REPEALER.** *Minnesota Rules*, part 5210.0010, is repealed.

## Pollution Control Agency

### Proposed Permanent Rules Relating to Generators of Hazardous Waste

#### Notice of Intent to Adopt Rule Amendments Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA) intends to adopt rule amendments to *Minnesota Rules*, chapters 7001, 7045, and 7046 without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28 (1990). The statutory authority to adopt the rule amendments is set forth in *Minnesota Statutes*, section 116.07, subd. 4 (1990).

All persons have until 4:30 p.m. on September 20, 1991 to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1990).

Comments or written requests for a public hearing must be submitted to:

Jeanne Eggleston  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-3898  
(612/297-8371)

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## Proposed Rules

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The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rule amendments as noticed.

The proposed rule amendments govern standards for generators of hazardous waste and, if adopted, incorporate revisions to Minnesota's Hazardous Waste Rules that include requirements for the operation of and participation in Very Small Quantity Generator Hazardous Waste Collection Programs. The proposed rule amendments also include revisions to the generator disclosure requirements to allow annual issuance of licenses to all hazardous waste generators. In addition to the above proposed rule amendments, several revisions have been incorporated into this rulemaking to clarify unclear provisions and to enhance readability. This rulemaking does not include changes to hazardous waste facility or generator fees.

The proposed rule amendments are published below. In addition, one free copy of the rules is available upon request from Jeanne Eggleston at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments has been prepared and is available from Jeanne Eggleston upon request.

You are hereby advised, pursuant to *Minnesota Statutes*, section 14.115 (1990), "Small business considerations in rulemaking," that the proposed rule amendments will not have a negative impact on small businesses. The proposed amendments may positively impact small businesses by providing an opportunity for businesses that generate very small quantities of hazardous waste (less than 100 kilograms per month) to consolidate waste.

As required under *Minnesota Statutes*, section 14.11 (1990), you are hereby advised that the proposed rule amendments will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rules, must submit the written request to Jeanne Eggleston.

Charles W. Williams  
Commissioner

### Rules as Proposed

#### 7001.0520 PERMIT REQUIREMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

A. The accumulation by generators of hazardous waste on site ~~for fewer than 90 days as provided~~ within the time limits specified in part 7045.0292.

B. The disposal by farmers of hazardous ~~wastes~~ waste that have been generated by their own use of pesticides as provided in part ~~7045.0304~~ 7045.0213, subpart 2.

[For text of items C to G, see M.R.]

H. The management of hazardous waste as provided in part 7045.0120, item ~~L~~ J; 7045.0127, subpart 1; 7045.0135, subpart 5, items C and E; or 7045.0218; or 7045.0219, subpart 2.

[For text of items I to L, see M.R.]

M. Very small quantity generator hazardous waste collection programs meeting the requirements of part 7045.0320.

Subp. 3. **Permits by rule.** The owner or operator of the following facilities shall be deemed to have obtained a hazardous waste facility permit without making application for it unless the commissioner finds that the following conditions are not met:

[For text of items A to D, see M.R.]

E. Containers or tanks where generators mix characteristic hazardous waste as identified in part 7045.0131, subpart 2, with used oil if:

[For text of subitem (1), see M.R.]

(2) the generators who produce less than 1,000 kilograms per calendar month of hazardous waste meet the requirements of part ~~7045.0219~~ 7045.0102, subpart 4 3, item A C.

[For text of subs 4 to 6, see M.R.]

#### 7001.0550 CONTENTS OF PART A OF APPLICATION.

Part A of the application must contain the following information:



[For text of items A to D, see M.R.]

E. a list of the ~~wastes~~ waste designated under parts 7045.0100 to ~~7045.0141~~ 7045.0143 as hazardous to be treated, stored, or disposed of by the applicant and an estimate of the quantity of each hazardous waste to be treated, stored, or disposed of annually by the applicant;

[For text of items F to J, see M.R.]

#### **7001.0710 LAND TREATMENT DEMONSTRATION PERMITS.**

Subpart 1. **Letters of approval.** A person who desires to conduct controlled laboratory demonstrations of hazardous waste land treatment for the purpose of collecting preliminary data shall request a letter of approval from the agency.

The agency shall issue a letter of approval if the demonstration will be conducted under supervised conditions in a closed system capable of providing adequate protection to human health and the environment, and if the data obtained will not be used as the only basis for the issuance of a facility permit. The letter of approval must specify the general conditions for conducting demonstrations, the duration of approval, and the specific waste types.

The letter of approval may only provide approval for controlled laboratory demonstrations of hazardous waste treatment and does not provide exemptions from the hazardous waste management and disposal requirements of chapter 7045. Materials resulting from the demonstration that meet the criteria of parts 7045.0100 to ~~7045.0141~~ 7045.0143 must be managed as hazardous waste.

[For text of subs 2 to 6, see M.R.]

#### **7045.0020 DEFINITIONS.**

[For text of subs 1 to 6c, see M.R.]

Subp. 6d. Cathodic protection. “Cathodic protection” means the technique to prevent corrosion of metal surface by making that surface the cathode of the electrochemical cell. A tank can be cathodically protected through the application of either galvanic anodes or impressed current.

[For text of subs 7 to 9c, see M.R.]

Subp. 9d. Compatible. “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another. For a secondary containment seal, this means that the impermeability of the seal must be maintained upon contact with a stored substance. For substances, this means that two or more substances, if mixed, must not create a new hazard.

Subp. 9e. Component. “Component” means either the tank or ancillary equipment of a tank system.

[For text of subs 10 to 13a, see M.R.]

Subp. 13b. Corrosion protection. “Corrosion protection” means a method used to protect a metal tank, piping, or other components from corroding. Corrosion protection includes, but is not limited to, cathodic protection, keeping the metal of the tank from being in direct contact with other surfaces, and the application of coatings designed and maintained to prevent corrosion.

[For text of subs 14 to 30, see M.R.]

Subp. 31. Generator. “Generator” means any person, by site, whose act or process produces hazardous waste identified or listed in parts 7045.0100 to ~~7045.0141~~ 7045.0143, or whose act first causes a hazardous waste to become subject to regulation. “Generator” means all size generators including large quantity generators, small quantity generators, and very small quantity generators, unless specifically stated otherwise.

[For text of subs 32 to 37c, see M.R.]

Subp. 37d. Household hazardous waste collection site or collection site. “Household hazardous waste collection site” or “collection site” as used in part 7045.0310 has the meaning established under Minnesota Statutes, section 115A.96, subdivision 1, paragraph (c).

Subp. 37e. Household waste. “Household waste” means any material including garbage, trash, and sanitary ~~wastes~~ waste in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

[For text of subp 38, see M.R.]

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## Proposed Rules

**Subp. 38a. Impermeable.** “Impermeable” means a substance is not able to pass through the depth of a containment area.

[For text of subs 39 to 43, see M.R.]

**Subp. 43a. Indoor storage.** “Indoor storage” means storage within a permanently constructed building consisting of at least a roof and three walls permanently affixed to a masonry or other nonabsorbent floor placed on the ground.

**Subp. 43b. Industrial furnace.** “Industrial furnace” means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces, including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and such other devices as the commissioner determines qualify for inclusion based on one or more of the following factors:

[For text of items A to E, see M.R.]

**Subp. ~~43b.~~ 43c. Inground tank.** “Inground tank” means a device meeting the definition of “tank” in subpart 90 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

[For text of subs 44 to 64, see M.R.]

**Subp. 64a. Outdoor storage.** “Outdoor storage” means storage that does not meet the minimum requirements of indoor storage as defined in subpart 43a.

[For text of subs 65 to 71a, see M.R.]

**Subp. 72. Pretreatment unit.** “Pretreatment unit” means a device which:

[For text of item A, see M.R.]

B. receives and treats or stores an influent wastewater which is a hazardous waste as defined in parts 7045.0100 to ~~7045.0141~~ 7045.0143; or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0100 to ~~7045.0141~~ 7045.0143; or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0100 to ~~7045.0141~~ 7045.0143; and

[For text of item C, see M.R.]

[For text of subs 72a to 80, see M.R.]

**Subp. 80a. Secondary containment.** “Secondary containment” means a safeguard specifically designed to contain releases of hazardous waste or hazardous waste constituents from a container or a storage tank or its appurtenances.

[For text of subs 81 to 100b, see M.R.]

**Subp. 100c. Vault system.** “Vault system” means an underground, concrete or equivalent, impermeable secondary containment structure consisting of four walls, a floor, and roof used to encapsulate one or more tanks.

[For text of subs 101 to 102b, see M.R.]

**Subp. 103. Wastewater treatment unit.** “Wastewater treatment unit” means a device which:

[For text of item A, see M.R.]

B. receives and treats or stores an influent wastewater which is a hazardous waste as defined in parts 7045.0100 to ~~7045.0141~~ 7045.0143; or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0100 to ~~7045.0141~~ 7045.0143; or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in parts 7045.0100 to ~~7045.0141~~ 7045.0143; and

[For text of item C, see M.R.]

[For text of subs 104 to 109, see M.R.]

### 7045.0075 PETITIONS.

Subpart 1. **Petitions for equivalent testing or analytical methods.** Any person seeking to use a testing or analytical method other than those described in parts 7045.0100 to ~~7045.0141~~ 7045.0143, 7045.0450 to 7045.0544, or 7045.0552 to 7045.0642 may petition under these provisions. The person must demonstrate to the satisfaction of the commissioner that the proposed method is equal to or superior to the corresponding method prescribed in parts 7045.0100 to ~~7045.0141~~ 7045.0143, 7045.0450 to 7045.0544, or 7045.0552 to 7045.0642 in terms of its sensitivity, accuracy, precision, and reproducibility. Each petition must include:

[For text of items A to D, see M.R.]

E. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in parts 7045.0100 to ~~7045.0141~~ 7045.0143, 7045.0450 to 7045.0544, or 7045.0552 to 7045.0642;

[For text of items F and G, see M.R.]

[For text of subps 2 to 12, see M.R.]

#### **7045.0102 MIXTURES OF ~~WASTES~~ WASTE.**

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Mixtures of used oil and hazardous waste.** Items A ~~and B~~ to C apply to used oil that is intentionally mixed with hazardous waste.

A. Except as provided in item C, used oil mixed with a hazardous waste that exhibits any of the characteristics of part 7045.0131, subparts 2 to 7, is regulated as hazardous waste. If it is burned for energy recovery, it is regulated as a hazardous waste fuel under part 7045.0692 provided the mixture continues to exhibit any of those characteristics. If the mixture no longer exhibits any of those characteristics and is to be burned for energy recovery, it is regulated as a used oil fuel under part 7045.0695. If the mixture no longer exhibits any of those characteristics and is not burned for energy recovery, it is subject to the requirements of part 7045.0125.

[For text of item B, see M.R.]

C. A very small quantity generator may mix used oil that is generated on site and regulated as used oil fuel under part 7045.0695 with a waste that is hazardous solely for the characteristic of ignitability under part 7045.0131, subpart 2, if the following conditions are met:

(1) the ignitable waste has a flash point of 100 degrees Fahrenheit or greater, is not a metal bearing paint waste, and is not gasoline; and

(2) the concentration of ignitable waste in the used oil does not exceed ten percent by volume.

#### **7045.0120 ~~EXEMPT WASTES~~ EXEMPTIONS AND SPECIAL REQUIREMENTS.**

Subpart 1. **Exempt types of ~~wastes~~ waste.** The following ~~wastes~~ waste may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. household waste; ~~including:~~

(1) ~~collected household hazardous waste to the extent that the requirements of part 7045.0310 are met; and~~

(2) ~~collected spent or waste household batteries to the extent that the requirements of part 7045.0686 are met;~~

B. ~~sewage and any mixture of untreated sanitary sewage and other wastes that is formed by the combination of untreated sanitary sewage and one or more other wastes discharged through a sewage system to a publicly owned treatment works for treatment, except that this exemption does not include any of the individual wastes which form the composite wastewater;~~

[For text of items C to I, see M.R.]

J. ~~wastes~~ waste resulting from spills if the exemption is determined by the commissioner to be necessary to expedite the proper management of the spilled material and to prevent, abate, or control pollution as an immediate response to an emergency provided the waste is ultimately taken to a hazardous waste facility as specified in part ~~7045.0219, subpart 5, item B, subitem (8)~~ 7045.0208;

[For text of items K to O, see M.R.]

P. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided that:

[For text of subitems (1) to (3), see M.R.]

(4) ~~the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; or~~

Q. petroleum-contaminated media and debris that fail the test for the toxicity characteristic in part 7045.0131, subpart 7 (hazardous waste codes D018 to D043 only), and are subject to corrective action regulations under chapter 7150;

R. pesticides as provided in part 7045.0213, subpart 2; or

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## Proposed Rules

S. samples of hazardous waste being collected or shipped for the purpose of conducting treatability studies as provided in part 7045.0121.

Subp. 2. Special requirements. The following waste is exempt from the general requirements of this chapter if managed as specified:

A. collected household hazardous waste under part 7045.0310;

B. collected spent or waste household batteries under part 7045.0686; and

C. collected hazardous waste from very small quantity generators under part 7045.0320.

### 7045.0121 TREATABILITY STUDY EXEMPTIONS.

Subpart 1. **Applicability.** Except as provided in subpart 2, persons who generate or collect samples for the purpose of conducting treatability studies, as defined in part 7045.0020, are not subject to any requirement of parts 7045.0100 to 7045.0397, or to the notification requirements of the Resource Conservation and Recovery Act, United States Code, title 42, section 6930, ~~nor are such samples included in the quantity determinations of part 7045.0219~~ when:

[For text of items A to C, see M.R.]

Subp. 2. **Conditions of exemption.** The exemption in subpart 1 is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

[For text of items A to E, see M.R.]

F. the generator reports the information required under item E, subitem (3), in its report to the commissioner as specified in part ~~7045.0296~~ 7045.0248.

[For text of subp 3, see M.R.]

### 7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND RECLAMATION.

[For text of subpart 1, see M.R.]

Subp. 3. **Out-of-state wastes waste.** Hazardous waste from an out-of-state generator that is to be beneficially used, reused, or legitimately recycled or reclaimed by methods other than burning, is exempt from the requirements of parts ~~7045.0220~~ 7045.0221 to 7045.0255, ~~and 7045.0296~~.

[For text of subps 3a and 4, see M.R.]

Subp. 5. **Requirements for use of hazardous wastes waste as feedstock.**

[For text of item A, see M.R.]

B. ~~Generators~~ A generator of hazardous ~~wastes waste~~ for use as feedstock ~~are~~ is subject to the following generator requirements:

(1) parts 7045.0214 to 7045.0217 for waste evaluation requirements;

(2) ~~parts 7045.0220 to 7045.0249~~ part 7045.0221 for identification number requirements;

(3) ~~part 7045.0296, subpart 5~~ parts 7045.0225 to 7045.0250 for licensing and license reporting requirements;

[For text of subitems (4) and (5), see M.R.]

[For text of items C and D, see M.R.]

Subp. 6. **Requirements for reclamation of specific hazardous wastes waste.**

A. A by-product or a sludge that is hazardous only because it exhibits a characteristic of hazardous waste and is reclaimed is subject to the following requirements:

(1) ~~Generators~~ A generator of such a hazardous waste ~~are~~ is subject to ~~regulation under parts 7045.0214 to 7045.0217; 7045.0220 to 7045.0255; and 7045.0296, subpart 5. In addition, within 45 days of shipment the generator must provide the commissioner a copy of the shipping papers confirming that the waste was delivered to the designated facility as indicated in the management plan. The generator must keep records showing: the volume of such hazardous wastes stored at the beginning of the calendar year; the amount of these wastes generated during the calendar year; the amount of such waste reclaimed during the calendar year; and the amount of such hazardous wastes remaining at the end of the calendar year~~ the requirements of subpart 5, item B.

[For text of subitems (2) and (3), see M.R.]

[For text of item B, see M.R.]

Subp. 7. **Generator requirements.** Except as provided in subpart 3a, 4, 5, or 6, or part 7045.0695, ~~generators~~ a generator of hazardous waste destined for recycle ~~are~~ is subject to the requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

[For text of subps 8 to 12, see M.R.]

**7045.0135 LISTS OF HAZARDOUS WASTES.**

Subpart 1. **General.** A waste is a hazardous waste if it is listed under subparts 2 to 5 unless it has been excluded from the list under part 7045.0075, subpart 2.

The basis for listing the classes or types of ~~wastes~~ waste listed in subparts 2 to 5 is indicated by employing one or more of the following hazard codes:

[For text of items A to F, see M.R.]

The constituent which caused the agency to list the waste as a toxicity characteristic waste (E) or toxic waste (T) in subparts 2 and 3 is identified in part 7045.0139.

Each listed hazardous waste is assigned a hazardous waste number which precedes the name of the waste. This number must be used in complying with the ~~disclosure~~ license requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320 and certain record keeping and reporting requirements under parts 7045.0205 to 7045.1030, 7045.1300 to 7045.1380, and the agency's permitting procedures in chapter 7001.

~~The following hazardous wastes listed in subparts 2 and 3 are subject to the exclusion limits for acutely hazardous wastes established in part 7045.0219: Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027.~~

[For text of subps 2 and 3, see M.R.]

Subp. 4. **Discarded commercial chemical products, off specification species, containers, and spill residues.** The following materials or items are hazardous wastes when they are discarded or intended to be discarded as described in part 7045.0020, subpart 18; when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment; when they are otherwise applied to the land in lieu of their original intended use; when they are contained in products that are applied to the land in lieu of their original intended use; or when, in lieu of their original intended use, they are produced for use as, or as a component of a fuel, distributed for use as a fuel, or burned as a fuel.

[For text of items A to D, see M.R.]

E. The commercial chemical products or manufacturing chemical intermediates, or off specification commercial chemical products or manufacturing chemical intermediates referred to in items A to D and listed in subitems (1) to (17), are identified as acute hazardous wastes (H) ~~and are subject to the small quantity exclusion defined in part 7045.0219, subpart 1, items B and C.~~ The primary hazardous properties of these materials have been indicated by the letters T (toxicity), and R (reactivity). Absence of a letter indicates that the compound is listed only for acute toxicity. These wastes and their corresponding hazardous waste numbers, Chemical Abstract Service registry numbers, if available, and hazard codes are listed in subitems (1) to (17).

[For text of subitems (1) to (17), see M.R.]

F. The commercial chemical products or manufacturing chemical intermediates, or off-specification commercial chemical products referred to in items A to D, and listed in subitems (1) to (24) are identified as toxic wastes (T) unless otherwise designated ~~and are subject to the small quantity exclusion defined in part 7045.0219, subpart 1, item A.~~ The primary hazardous properties of these materials have been indicated by the letters T (toxicity), R (reactivity), I (ignitability), and C (corrosivity). Absence of a letter indicates that the compound is listed only for toxicity. These wastes and their corresponding hazardous waste numbers, Chemical Abstract Service registry numbers, if available, and hazard codes are listed as follows:

[For text of subitems (1) to (24), see M.R.]

Subp. 5. **PCB wastes.** Requirements for PCB wastes are as follows:

[For text of item A, see M.R.]

B. PCB materials or items are hazardous waste if and when they are discarded or stored prior to being discarded ~~and are subject to the small quantity generator exemption limit specified in part 7045.0219, subpart 1, item A.~~

[For text of items C to F, see M.R.]

**7045.0137 SMALL AMOUNTS OF UNRELATED CHEMICALS.**

For purposes of licensing only under parts 7045.0225 to 7045.0250, a collection of small amounts of unrelated chemicals as described in part ~~7045.0235~~ 7045.0230, subpart 4, has the hazardous waste number of MN02.

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## Proposed Rules

### 7045.0205 APPLICABILITY OF GENERATOR STANDARDS.

Subpart 1. **Applicability to generators.** Parts 7045.0205 to ~~7045.0304~~ 7045.0320 apply to generators of hazardous waste. A generator shall comply with the generator requirements applicable to generator size as determined under part 7045.0206.

Subp. 2. **Applicability to transporters.** The standards applicable to generators established in parts 7045.0205 to ~~7045.0304~~ 7045.0320 apply to transporters of hazardous waste if a transporter transports hazardous waste into Minnesota from a foreign country or mixes hazardous waste of different United States Department of Transportation shipping descriptions as provided in part 7045.0355.

Subp. 3. **Applicability to owners or operators of hazardous waste facilities.** The standards applicable to generators established in parts 7045.0205 to ~~7045.0304~~ 7045.0320 apply to owners or operators of hazardous waste treatment, storage, or disposal facilities if the a hazardous waste facility initiates a shipment of hazardous waste as provided in parts 7045.0472 and 7045.0578.

### 7045.0206 GENERATOR SIZE DETERMINATION.

**Subpart 1. Applicability.** This part applies to all generators for purposes of determining generator size.

**Subp. 2. Large quantity generator.** A generator is a large quantity generator if, in a calendar month, waste is generated in any of the following quantities:

A. greater than or equal to 1,000 kilograms of hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E;

B. greater than one kilogram of acute hazardous waste listed in part 7045.0135, subpart 2, 3, or 4, item E; or

C. greater than 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in part 7045.0135, subpart 2, 3, or 4, item E.

**Subp. 3. Small quantity generator.** A generator is a small quantity generator if, in a calendar month, waste is generated in all of the following quantities:

A. greater than 100 kilograms and less than 1,000 kilograms of hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E;

B. less than or equal to one kilogram of acute hazardous waste listed in part 7045.0135, subpart 2, 3, or 4, item E; and

C. less than or equal to 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in part 7045.0135, subpart 2, 3, or 4, item E.

**Subp. 4. Very small quantity generator.** A generator is a very small quantity generator if, in a calendar month, waste is generated in all of the following quantities:

A. less than or equal to 100 kilograms of hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E;

B. less than or equal to one kilogram of acute hazardous waste listed in part 7045.0135, subpart 2, 3, or 4, item E; and

C. less than or equal to 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in part 7045.0135, subpart 2, 3, or 4, item E.

**Subp. 5. Exempt waste for size determination.** A generator shall not include the following waste when determining the quantity of hazardous waste generated:

A. exempt waste under part 7045.0120;

B. recycled waste under part 7045.0125, subparts 4, 5, and 6;

C. used oil managed as follows:

(1) used oil that is recycled in some other manner than being burned for energy recovery; and

(2) used oil that is to be burned for energy recovery as regulated under part 7045.0695;

D. sewered waste under part 7045.0305, subpart 2, item B, subitem (2);

E. for mixtures of nonhazardous waste and hazardous waste, waste that is nonhazardous under part 7045.0102, provided that the volume of the hazardous waste before mixing is counted; and

F. spent materials that are generated, reclaimed, and subsequently reused on site, provided that the spent materials have been counted once.

**Subp. 6. Change in generator size status.** If a small quantity generator exceeds the quantity limits listed in subpart 3, the generator loses small quantity generator status and is subject to all the generator requirements of this chapter unless the generator regains small quantity generator status under item A or B.

If a very small quantity generator exceeds the quantity limits listed in subpart 4, the generator loses very small quantity generator status and is subject to the small quantity generator requirements of this chapter unless very small quantity generator status is regained under item A or C.

A. Once generator size status is lost, the generator shall not regain that status until the generator is notified in writing by the commissioner that the original generator size status has been approved. The commissioner shall only approve generator size status under this item if the generator can demonstrate to the satisfaction of the commissioner that the waste quantities that will be generated in the future will meet the limits established in subparts 3 and 4, as applicable. The generator shall make this demonstration by submitting a written statement to the commissioner requesting reclassification as a small or very small quantity generator, as applicable, and including the information necessary for the commissioner to evaluate the request. The information shall include an explanation of the circumstances that resulted in each instance of overgeneration during the past year, an explanation of the measures that the generator has taken to correct the cause of overgeneration, and other information as necessary to document that the overgeneration will not reoccur.

B. For small quantity generators, if the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 3 and the cause of the overgeneration is a spill or accidental release of a hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E; the shutdown or cleanup of some part of the generation process; or the replacement of PCB containing equipment, the generator loses small quantity generator status and is subject to all the generator requirements of this chapter. However, in any of these cases, a generator will automatically regain small quantity generator status without applying to the commissioner for approval if the generator:

- (1) resumes generation within the quantity limits in subpart 3; and
- (2) complies with the quantity limits in subpart 3 during the other 11 months of the calendar year.

A generator who cannot automatically regain small quantity generator status under this subpart may apply for reclassification under item A.

C. For very small quantity generators, if the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 4, the generator loses very small quantity generator status and is subject to the small quantity generator requirements of this chapter. However, a generator shall automatically regain very small quantity generator status without applying to the commissioner for approval if the generator:

- (1) resumes generation within the quantity limits in subpart 4; and
- (2) complies with the quantity limits in subpart 4 during the other 11 months of the calendar year.

A generator who cannot automatically regain very small quantity generator status under this subpart may apply for reclassification under item A.

**7045.0208 HAZARDOUS WASTE MANAGEMENT.**

Subpart 1. **Management by generator.** A generator must manage hazardous waste by using one of the methods described in items A to D, unless otherwise specifically exempted under this chapter.

A. The hazardous waste may be treated or disposed of at an on-site facility as provided under part 7045.0211.

B. The generator may ensure delivery to an off-site storage, treatment, or disposal facility. If located in the United States, the facility used must be permitted to accept hazardous waste under the agency's permitting procedures, have interim status under parts 7045.0552 to 7045.0642, or be authorized to manage hazardous waste by the Environmental Protection Agency or by a state with a hazardous waste management program authorized by the Environmental Protection Agency.

C. The generator may ensure delivery to a facility that:

- (1) under part 7045.0125 beneficially uses or reuses, legitimately recycles, or legitimately reclaims the waste; or
- (2) treats the waste before beneficial use or reuse, legitimate recycling, or legitimate reclamation.

D. The generator may export to a foreign country under the limitations in part 7045.0302.

Subp. 2. **Relinquishing control.** A generator must not relinquish control of a hazardous waste if:

A. the generator has reason to believe that the hazardous waste will not be properly managed; or

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## Proposed Rules

B. the transporter or the treatment, storage, or disposal facility is not exempt under this chapter and has not:

(1) received an identification number from a state with a hazardous waste program authorized by the Environmental Protection Agency pursuant to Code of Federal Regulations, title 40, part 271; or

(2) received an identification number from the Environmental Protection Agency.

Subp. 3. Effect on liability. Nothing in subpart 1 or 2 is intended to restrict, enlarge, or affect, in any way, any liability the generator may have to correct the mismanagement of the hazardous waste or pay for damages or alleviate any pollution caused by the mismanagement of the hazardous waste.

### **7045.0211 REQUIREMENTS FOR GENERATORS WITH ON-SITE FACILITIES.**

Subpart 1. Waste procedures. A generator who treats, stores, or disposes of hazardous wastes on-site waste on site which have been produced on-site on site must only comply with the following parts with respect to that waste: this chapter and chapter 7001, as applicable.

A. parts 7045.0214 to 7045.0217 for determining whether he has a hazardous waste;

B. parts 7045.0220 to 7045.0255 for obtaining an identification number;

C. parts 7045.0220 to 7045.0255 for submitting a disclosure;

D. part 7045.0292 for accumulation time;

E. part 7045.0294, subparts 3 and 4 for record keeping;

F. part 7045.0300 for additional reporting; and

G. if applicable, part 7045.0304 for farmers.

Subp. 2. and 3. [See repealer.]

### **7045.0212 IMPORTERS OF HAZARDOUS WASTE.**

Any person who imports hazardous waste into the state of Minnesota from a source outside the United States must comply with the standards applicable to generators established in parts 7045.0205 to 7045.0304 7045.0320.

### **7045.0213 FARMERS; PESTICIDES.**

Subpart 1. General applicability. A farmer who generates waste pesticides which are hazardous waste and who complies must comply with all of the requirements of part 7045.0304 is not required with respect to those pesticides, to comply with other standards applicable to generators established in parts 7045.0205 to 7045.0304 7045.0320 except as provided in subpart 2.

Subp. 2. Special conditions. A farmer who generates waste pesticides which are hazardous waste and who triple rinses each emptied pesticide container and disposes of the pesticide residues on the farmer's farm in a manner consistent with the disposal instructions on the pesticide label is not required with respect to those pesticides to comply with other standards in parts 7045.0205 to 7045.0320 or to comply with parts 7045.0450 to 7045.1380, or to obtain a hazardous waste facility permit, provided that:

A. the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

B. the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

C. in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

### **7045.0225 GENERATOR LICENSE.**

Subpart 1. Applicability. A person who generates hazardous waste must obtain a hazardous waste generator license for each individual generation site. The procedures for application and issuance are described in parts 7045.0225 to 7045.0250. The fees associated with the license are set forth in parts 7046.0031 to 7046.0070.

Subp. 2. Posting. A generator must prominently display the hazardous waste generator license in a public area at the licensed site.

### **7045.0230 CONTENT OF DISCLOSURE INITIAL LICENSE APPLICATION.**

Subpart 1. Information required. Each disclosure An application must be on a form provided by the commissioner and must include the following information:

A. a list of all hazardous wastes generated, their corresponding hazardous waste numbers from parts 7045.0131 and 7045.0135 and the source or process from which the disclosed wastes are generated;

[For text of items B to F, see M.R.]



G. a copy of the contingency plan prepared pursuant to part 7045.0292, subpart 1, item H<sub>1</sub> and a certification stating that the contingency plan is being maintained for currency of information on-site and is available for staff review;

H. a management plan for each hazardous waste produced that includes the following information relating to the management of the hazardous waste:

[For text of subitems (1) to (6), see M.R.]

(7) the method(s) of treatment and/or disposal proposed for each hazardous waste; and

I. any other information that the generator deems important.

Subp. 3. [See repealer.]

Subp. 4. Laboratory waste. A person who produces a waste from a laboratory or pilot plant that is a mixture of small amounts of unrelated but compatible chemicals such that the description of any sample or set of samples is not representative of the total waste is exempt from subpart 1, items C, D, and F.

#### **7045.0240 SUBMISSION SUBMITTAL OF A DISCLOSURE TO THE COMMISSIONER LICENSE APPLICATION.**

Subpart 1. and 2. [See repealer.]

Subp. 3. License application submittal. Each generator who is producing hazardous waste in Minnesota must submit a license application to the commissioner within 30 days of first producing a hazardous waste. The generator must at all times manage the waste in full compliance with parts 7045.0205 to 7045.0320. The generator must not treat, dispose of, or relinquish the waste until at least 30 days after the application is submitted to the commissioner. In the period between 30 days after the generator's license application submittal and the commissioner's license approval and issuance under part 7045.0245, the generator may treat, dispose of, and relinquish the hazardous waste as provided in parts 7045.0205 to 7045.0320 until written response to the generator's license application is received under part 7045.0245. After the commissioner acts on the license application, the generator must manage the waste according to the license conditions and the requirements of this chapter or the generator must cease producing the waste if the license application is denied.

A generator who has disclosed the generator's waste under this chapter before October 1, 1991, need not submit a license application under this part. A license will be issued by the commissioner after the submittal and approval of the generator's next scheduled report and payment of generator fees under chapter 7046.

Subp. 4. Prohibition on generation. A generator who is denied a generator license or who fails to submit a timely application for a generator license shall immediately stop generating the hazardous waste until a license is obtained.

#### **7045.0243 TERM AND CONDITIONS OF LICENSE.**

Subpart 1. Term of license. A hazardous waste generator license is issued for the following terms:

A. for large quantity generators and small quantity generators, the term is not to exceed one year, except that the initial license issuance may be for a term of up to 18 months; and

B. for very small quantity generators, the term is not to exceed two years.

Subp. 2. Special conditions. Each license will contain conditions necessary for the licensee to achieve compliance with applicable Minnesota or federal statutes or rules, including each of the applicable requirements in parts 7045.0205 to 7045.0320, and any conditions that the commissioner determines to be necessary to protect human health and the environment.

Subp. 3. General conditions. Each license must include the general conditions described in items A to J and the commissioner shall incorporate these conditions into all licenses either expressly or by specific reference to this part.

A. The commissioner's issuance of a license does not release the licensee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the license.

B. The commissioner's issuance of a license does not prevent the future adoption by the agency of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of this chapter, standards, or orders against the licensee.

C. The commissioner's issuance of a license does not obligate the agency to enforce local laws, rules, or plans beyond that authorized by *Minnesota Statutes*.

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## Proposed Rules

D. The licensee may not knowingly make a false or misleading statement, representation, or certification in a record, report, or other document required to be submitted to the agency or to the commissioner by the license or this chapter. The licensee must immediately upon discovery report to the commissioner an error or omission in these records, reports, or other documents.

E. When authorized by Minnesota Statutes, sections 115.04; 115B.17, subdivision 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the licensee to enter at reasonable times upon the property of the licensee to examine and copy books, papers, records, or memoranda pertaining to the activity covered by the license; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the activity covered by the license.

F. If the licensee discovers, through any means, including notification by the commissioner, that noncompliance with a condition of the license has occurred, the licensee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance. The licensee must then correct the noncompliance within 24 hours after discovery or, if the licensee demonstrates that correction is not possible within 24 hours, at the earliest practical time as agreed to by the commissioner.

G. If the licensee begins generation of a hazardous waste that was not included on the license application and is therefore not authorized under the existing license, the licensee must submit an amended application providing information required in part 7045.0230 within 30 days of first producing that hazardous waste. The licensee may continue generation and the commissioner will review the amended application under the process provided in part 7045.0240.

H. If the licensee changes management of a hazardous waste during the term of the license, the licensee must report the change in the next report required under part 7045.0248.

I. The license is not transferable. If the owner or operator to whom the license has been issued changes, the new owner or operator must apply for a new license not later than 30 days after the change.

J. The license authorizes the licensee to perform the activities described in the license under the conditions of the license. In issuing the license, the state and agency assume no responsibility for damage to persons, property, or the environment caused by the activities of the licensee in the conduct of its actions, including those activities authorized under the license. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

### **7045.0245 LICENSE APPROVAL OF DISCLOSURES AND ISSUANCE.**

After receiving the disclosure, Subpart 1. Review and approval. The commissioner shall conduct a review of the submitted information license application and shall:

- A. issue an approval of the disclosure and management plan or plans approve the hazardous waste generator license application;
- B. require the submission of additional information or management plans or both to make the disclosure license application complete and approvable; or
- C. require changes in the management of the disclosed hazardous waste or wastes to make the disclosure license application approvable; or
- D. deny approval of license application within 45 days of the last submittal of information by the license applicant.

Subp. 2. License issuance. The commissioner will issue a hazardous waste generator license upon approval of the application under subpart 1 and payment in full of generator fees required under chapter 7046.

### **7045.0247 LICENSE REISSUANCE AND CONTINUATION OF EXPIRED LICENSE.**

Subpart 1. License reissuance. The commissioner will reissue the license after receipt, review, and approval of the license reissuance application and report required under part 7045.0248 and payment in full of generator fees required under chapter 7046.

Subp. 2. Continuation of expired license. A generator who holds an expired license may continue to conduct the licensed activity according to the terms and conditions of the expired license until the commissioner takes final action on the reissuance application if the commissioner determines that items A to D are true.

- A. The licensee has submitted the application and report required under part 7045.0248 no later than 30 days after receipt of license reissuance application.
- B. The licensee responds to requests by the commissioner for additional report information within 14 days of receiving the written or verbal request.
- C. The licensee is in compliance with the terms and conditions of the expired license.
- D. The licensee has made payment in full of generator fees required under chapter 7046.

**7045.0248 LICENSE REISSUANCE APPLICATION AND REPORT.**

Subpart 1. **Applicability.** A licensed generator must submit a license reissuance application and report to the commissioner on forms provided by the commissioner. A generator must submit the application and report at least 30 days before the expiration date of the generator license. The application and report must contain the following information for each hazardous waste produced during the preceding calendar year:

A. the generator's name, address, and identification number;

B. the calendar year covered by the report;

C. the name of the hazardous waste, the hazardous waste number or numbers, and the United States Department of Transportation hazard class;

D. the amount of each hazardous waste produced;

E. the names and identification numbers of the transporters used to transport shipments to facilities within the United States;

F. the names and addresses of the hazardous waste facilities used in the United States, their identification numbers, the method of treatment or disposal, or both, and, as applicable:

(1) the numbers of the hazardous waste facility licenses issued by the agency for those facilities located in Minnesota;

(2) the addresses of those facilities located outside Minnesota;

(3) the name of the wastewater treatment works to which a sewer hazardous waste was discharged; and

(4) the national pollution discharge elimination system or state disposal license number for discharge to land and waters of the state;

G. a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

H. a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent the information is available before 1984; and

I. the following certification signed by the generator or authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I also certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree that I have determined to be economically practicable and I have selected the method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and environment."

Subp. 2. **Recycled waste.** A generator of waste that is recycled according to part 7045.0125, and is exempt from the requirements of parts 7045.0261 and 7045.0265, must include as part of the report required under subpart 1:

A. evidence that the waste was recycled as indicated in the management plan; and

B. evidence that a continuing market exists for the waste.

Subp. 3. **Exported waste.** Reporting for exports of hazardous waste is not required under this part. Export reporting requirements are set out in part 7045.0302, subpart 6.

Subp. 4. **Approval of application.** License reissuance applications shall be subject to the commissioner's review and approval procedures under part 7045.0245, subpart 1.

**7045.0250 LICENSE REVOCATION.**

Subpart 1. **Justifications to revoke.** The following constitute justification for the commissioner to revoke a license:

A. existence at the licensed site of unresolved noncompliance with applicable state and federal pollution statutes or rules or a condition of the license, and failure of the licensee to undertake a schedule of compliance to resolve the noncompliance;

B. licensee failure to disclose fully the facts relevant to issuance of the license or submits false or misleading information to the commissioner; and

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C. licensee failure to pay a penalty owed under Minnesota Statutes, section 116.072.

Subp. 2. Procedure. The commissioner must give a written 30-day notice to the licensee of the commissioner's intent to revoke the hazardous waste generator license. Included in the notice must be specific justification for the revocation as described under subpart 1.

Subp. 3. Reinstatement. The licensee may apply to the commissioner for license reinstatement by providing written documentation that the justifications for revocation have been remedied. The commissioner will review the request within 30 calendar days and deny or approve the request in writing. A reinstatement is for the remaining term of the license. Generator fees under chapter 7046 will not be refunded for the period that the license is revoked nor will the fees be credited towards a subsequent fee cycle.

Subp. 4. Revocation without reissuance. The commissioner shall give notice to the licensee of a proposal to revoke a license without reissuance. The notice must state that within 30 days of the receipt of the notice the licensee may request that a contested case hearing be held on the proposed action. If the licensee requests a contested case hearing, the agency shall hold the hearing in accordance with the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8402.

### 7045.0255 ONE-TIME DISPOSAL REQUIREMENTS.

Except for persons who are generators under part 7045.0205, subparts 2 and 3, A person having hazardous waste subject to regulation under these parts this chapter who is only a hazardous waste generator for the one-time disposal of hazardous waste which is not currently being produced, must comply with this chapter except parts 7045.0205, subpart 3; 7045.0211; 7045.0212; 7045.0292; and 7045.0296. This kind of hazardous waste generator is exempt from parts 7045.0220 to 7045.0249 except that the generator must obtain an identification number and a management plan must be submitted to the commissioner for approval on the forms as provided in items A and B.

A. The generator is exempt from parts 7045.0225 to 7045.0250, license and license reporting, except that the generator must submit a management plan meeting the requirements of part 7045.0230, subpart 1, item H, for approval by the commissioner of forms provided by the commissioner.

B. For accumulation requirements, the generator is exempt from the large quantity generator requirements of part 7045.0292. The generator must meet requirements applicable to small quantity generators in part 7045.0292, subparts 5, 9, 10, and 11.

### 7045.0261 MANIFEST DOCUMENT; GENERAL REQUIREMENTS.

[For text of subpart 1, see M.R.]

Subp. 1a. Exemptions. A generator may transport without a manifest as described in item A or B.

A. A very small quantity generator may transport the generator's own hazardous waste without a manifest if transportation is via the generator's own vehicle and if that transportation is to a very small quantity generator hazardous waste collection program under part 7045.0320.

B. A small quantity generator may use an alternate manifest system as provided under part 7045.0075, subpart 5.

[For text of subs 2 to 6, see M.R.]

**Subp. 7. Manifest information.** The Minnesota manifest is based on the Uniform National Manifest that is required under United States Department of Transportation and United States Environmental Protection Agency regulations, as contained in Code of Federal Regulations, title 40, part 262, and Code of Federal Regulations, title 49, part 172. Manifest information requirements include those required by United States Department of Transportation and United States Environmental Protection Agency regulations and consist of the numbered items on the manifest set forth in the Appendix to Code of Federal Regulations, title 40, part 262. Additional state information requirements consist of the telephone number of the designated facility and the hazardous waste numbers specified in parts 7045.0100 to ~~7045.0141~~ 7045.0143 for each hazardous waste specified on the manifest. Manifests must include the information specified in this subpart and in the instructions on the manifest.

[For text of subs 8 to 10, see M.R.]

### 7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit Large quantity generator.** A large quantity generator may accumulate hazardous waste ~~on-site~~ on site without a permit or without having interim status if:

A. all accumulated hazardous waste is, within 90 days of the accumulation start date, shipped off-site to a designated facility or placed in an on-site facility either of which has interim status under parts 7045.0552 to 7045.0642 or has a hazardous waste facility permit issued by the agency; or has a hazardous waste facility permit issued by a state with a hazardous waste program authorized by the Environmental Protection Agency pursuant to Code of Federal Regulations, title 40, part 271 (1983); or has a hazardous waste facility permit issued by the Environmental Protection Agency treated on site or shipped off site in compliance with part 7045.0208;

[For text of items B to E, see M.R.]

F. containers in outdoor storage areas which that hold free liquids are placed on a ~~curbed~~ containment surface which that is impermeable to the wastes stored and, if outside, is curbed;

[For text of item G, see M.R.]

H. the requirements of parts 7045.0558, 7045.0562, subparts 1 and 2, and 7045.0566 to 7045.0576 are fulfilled regarding personnel training, ignitable, reactive, or incompatible waste, preparedness, and prevention, and contingency planning; and

[For text of item I, see M.R.]

Subp. 2. **Starting date.** A generator's accumulation starting date begins when the generator initiates accumulation in a container or tank, except as provided in subpart 6 for very small quantity generators, subpart 7 for acute hazardous waste, and subpart 8, item B, subitem (3), for satellite accumulation.

Subp. 3. and 4. [See repealer.]

**Subp. 5. Small quantity generator.** A small quantity generator may accumulate hazardous waste on site without a permit or without having interim status if:

A. all accumulated hazardous waste is, within 180 days of the accumulation start date, treated on site or shipped off site in compliance with part 7045.0208;

B. the quantity of waste accumulated on site never exceeds 3,000 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E;

C. the generator meets the requirements of subpart 1, items C to G and I;

D. the generator meets the requirements of parts 7045.0566, relating to preparedness and prevention, and 7045.0568, relating to the arrangements with local authorities for emergencies; and

E. the generator complies with the following requirements:

(1) the waste must be placed in containers that meet the standards of part 7045.0270, subpart 4, and are managed according to part 7045.0626; or in tanks, provided the generator complies with the requirements of part 7045.0629;

(2) the generator must ensure that there is available at all times at least one employee, identified as the emergency coordinator, responsible for coordinating all emergency response measures provided in subitem (5); the emergency coordinator must be either on the generator's premises or available to respond to an emergency by reaching the premises within a short period of time;

(3) the generator must post the following information next to the telephone on the premises: the name and telephone number of the emergency coordinator, the location of fire extinguishers and spill control material, the fire alarm, if present, and the telephone number of the fire department, unless there is a direct alarm;

(4) the generator must ensure and document that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies; and

(5) the emergency coordinator or a designee must respond to any emergencies that arise. Appropriate responses include: in the event of a fire, call the fire department or try to extinguish the fire by using a fire extinguisher; in the event of a spill, contain the flow of hazardous waste to the extent possible and as soon as practicable, clean up the hazardous waste and any contaminated materials or soils; in the event of a fire, explosion, or other release that could threaten human health outside the premises or when the generator has knowledge that a spill has reached surface water, the generator must immediately comply with part 7045.0275, subparts 2 and 3, and notify the National Response Center using its 24-hour toll free number (800) 424-8802 and provide the name, address, identification number of the generator, date, time, type of incident, and the estimated quantity and disposition of any recovered materials.

**Subp. 6. Very small quantity generator.** A very small quantity generator may accumulate waste on site indefinitely until 1,000 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E, is accumulated. From the date the 1,000 kilogram limit is reached (accumulation start date), the entire quantity of waste must, within 180 days of accumulation start date, be treated on site or shipped off site in compliance with part 7045.0208. A very small quantity generator accumulating waste under this subpart must meet the requirements of subpart 5, except for items B and E, subitems (2) to (5).

**Subp. 7. Acute hazardous waste accumulation.** A small quantity generator or a very small quantity generator who generates waste listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E, may accumulate that waste on site indefinitely

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until one kilogram of acute hazardous waste or 100 kilograms of residue, contaminated soil, water, or other debris resulting from the cleanup of a spill of an acute hazardous waste into or on any land or water, is accumulated. From the date the applicable limit is reached (accumulation start date), the entire quantity of waste must be treated on site or shipped off site in compliance with part 7045.0208. A generator accumulating wastes under this subpart must meet the requirements in items A and B.

A. For the period preceding the accumulation start date, the generator must comply with subpart 5, items C to E.

B. For the period following the accumulation start date, the generator must comply with subpart 1.

Subp. 8. Satellite accumulation. Items A to C apply to all generators of hazardous waste.

A. A generator may, without a permit or interim status and without complying with subparts 1 to 7, as applicable, accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in part 7045.0135, subpart 4, item E, in containers located at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste, provided the generator complies with items B and C.

B. The generator must:

(1) comply with part 7045.0626;

(2) clearly label each container with the words "Hazardous Waste" and a description that clearly identifies its contents to employees and emergency personnel; and

(3) clearly label each container with the earliest of either the date on which the container became full or the date on which the volume limits prescribed in item A are reached.

C. A generator of any size who accumulates either hazardous waste or acutely hazardous waste listed in part 7045.0135, subpart 4, item E, in excess of the amounts listed in item A at or near any point of generation must, with respect to the amount of excess waste, comply within three days with subparts 1 to 7, as applicable. During the three-day period for compliance, the generator must continue to comply with item B.

Subp. 9. Transportation time extension. If waste accumulated under subparts 5 and 6 must be transported 200 miles or more to a facility, the generator may store the waste for an additional 90 days beyond the established limits. In this event, the generator must maintain evidence on site that arrangements have been made for the transport of the waste to the facility and, if requested, show the evidence to the commissioner.

Subp. 10. Time extension. One extension may be granted for up to 30 days by the commissioner if hazardous waste must remain on site for longer than the maximum allowable time under subparts 1 to 9, as applicable, due to unforeseen, temporary, and uncontrollable circumstances.

Subp. 11. Accumulation requiring a permit. No person shall accumulate hazardous waste beyond the maximum allowable time under subparts 1 to 10 without a hazardous waste facility permit. A generator who accumulates hazardous waste for more than the maximum allowable time is an operator of a storage facility and is subject to the requirements of parts 7045.0450 to 7045.0642 and the agency's permitting procedures in chapter 7001.

### **7045.0294 RECORD KEEPING.**

Subpart 1. Manifests. A generator must keep a copy of each manifest signed in accordance with according to part 7045.0265, subpart 1, for three years or until he the generator receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

Subp. 1a. Alternate manifests. Record keeping requirements under the alternate manifest system provided in part 7045.0075, subpart 5, include:

A. a generator must maintain a copy of the reclamation and transport agreement during the term of the agreement and for a period of at least three years after termination or expiration of the agreement; and

B. for each shipment of waste using an alternate manifest, a generator must submit a completed copy of that alternate manifest to the commissioner within five working days of the transporter's acceptance of the waste shipment.

Subp. 2. Reports. A generator must keep a copy of the disclosure license application, each annual report, and each exception report for a period of at least three years from the due date of the report.

Subp. 2a. Container inspection reports. A generator must keep a copy of each weekly container inspection report required for generator accumulation under part 7045.0292 for a period of at least three years from the date of the inspection. Part 7045.0292 references part 7045.0626 as a requirement for all size generators.

[For text of subps 3 and 4, see M.R.]

Subp. 5. Location of records. The records required in subparts 1 to 3 must be located at the licensed site. The records must be easily available for agency inspection.

**7045.0298 EXCEPTION REPORTING.**

Subpart 1. **When applicable.** A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and the owner or operator of the designated facility to determine the status of the hazardous waste. A generator must submit an exception report to the commissioner if ~~he~~ the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

Subp. 2. **Content of report.** The exception report must include:

[For text of item A, see M.R.]

B. a cover letter signed by the generator or ~~his~~ the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

**7045.0300 ADDITIONAL REPORTING.**

The commissioner, when necessary to determine compliance with the requirements of this chapter, may require generators to furnish additional reports concerning the quantities and disposition of ~~wastes~~ waste identified or listed in parts 7045.0100 to ~~7045.0144~~ 7045.0143.

**7045.0305 STANDARDS FOR GENERATORS WHO SEWER HAZARDOUS WASTE.**

Subpart 1. Applicability. This part applies to generators who discharge their own hazardous waste to a sanitary sewer.

Subp. 2. Generator size determination. A generator who sewers hazardous waste shall determine the generator size according to items A and B.

A. For hazardous waste discharged to a sewer system not owned or operated by a publicly owned treatment works, the generator shall include quantities of pretreated and nonpretreated waste in the generator size determination.

B. For hazardous waste discharged to a sewer system owned or operated by a publicly owned treatment works, the generator shall include quantities of waste in the generator size determination as described in subitems (1) to (3):

(1) the volume of an untreated hazardous waste shall be included;

(2) the volume of a hazardous waste that has been pretreated provided that an 80 percent reduction of the quantity of the hazardous waste constituent mass is achieved before sewerage shall not be included if the following requirements are met:

(a) the discharge is under agreement with the publicly owned treatment works;

(b) the generator has the commissioner's approval under the licensing provisions of parts 7045.0225 to 7045.0250; and

(c) the generator has met the conditions of part 7001.0520; and

(3) the volume of a pretreated hazardous waste not meeting the conditions of subitem (2) will be included.

Subp. 3. Management. A generator shall comply with the requirements of this chapter applicable to the generator size except a generator whose quantity determination is zero because the conditions of subpart 2, item B, subitem (2), are met will be classified as a very small quantity generator and shall meet the requirements of this chapter that apply to very small quantity generators.

**7045.0310 SPECIAL REQUIREMENTS FOR WASTE COLLECTED AS RESULT OF HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PROGRAM.**

[For text of subpart 1, see M.R.]

Subp. 2. **Notification.** An operator who intends to establish or operate all or part of a household hazardous waste management program shall ensure that the information required in items A to ~~K~~ J is submitted to the commissioner at least 30 days before initiating the household hazardous waste management program. ~~This notification is not required for collection sites for which a permit is required under part 7001.0520.~~

The notification shall provide a complete description of the program including, as applicable:

[For text of items A to H, see M.R.]

I. a description of the safety and emergency procedures established for the program; and

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J. any other information necessary to describe all aspects of the program; and

~~K.~~ the name and address of all waste transporters and the facilities which will treat or dispose of the waste.

Operators who submit a notification and subsequently change any aspect of the program as described in the notification must submit, within 30 days of making the change, an amended notification to the commissioner fully describing the program changes.

Subp. 3. **Management requirements.** An operator who establishes or operates all or part of a household hazardous waste management program shall ensure that collected waste is managed in compliance with the hazardous waste generator requirements must comply with the standards applicable to large quantity generators established in parts 7045.0205 to ~~7045.0304~~ 7045.0320, except as modified in items A to H ~~G~~.

A. The operator need not comply with the ~~disclosure and management plan license and license reporting~~ requirements of parts ~~7045.0220, 7045.0230, and 7045.0240~~ 7045.0225 to 7045.0249 7045.0250.

B. ~~The operator need not obtain a generator identification number as required in part 7045.0221, unless or until~~ If the operator transports or offers for transport household hazardous waste for off-site treatment, storage, or disposal at a permitted hazardous waste facility, the operator must obtain a generator identification number as required in part 7045.0221.

C. ~~The operator need not meet the personnel training, preparedness, prevention, and contingency planning requirements of part 7045.0292, subpart 1, item H.~~

~~D.~~ The operator may only transport or offer for transport household hazardous waste for off-site activities to a facility that either has a hazardous waste permit or a collection site that has obtained the commissioner's approval under subpart 6.

E. If the operator transports or offers for transport household hazardous waste for off-site activities at a facility collection site that has obtained the commissioner's approval under subpart 6, the operator:

(1) may, in lieu of a manifest, prepare and use a shipping paper containing all the information required on a manifest in part 7045.0261, excluding the identification number, to comply with the requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320;

(2) may, ~~in lieu of designating a facility or alternate facility as required in part 7045.0261, subpart 2,~~ designate a facility approved under an alternate collection site which meets the requirements of subpart 6 or an alternate facility and must indicate the alternate collection site or facility on the shipping paper prepared under subitem (1); and

(3) must ~~either designate another facility approved under subpart 6 or~~ instruct the transporter to return the waste, if the transporter is unable to deliver the household hazardous waste to the facility or collection site designated on the shipping paper; ~~and~~

~~(4) need not comply with the waste management requirements of part 7045.0275, subpart 1.~~

F. If the operator intends to store household hazardous waste for more than 90 days after the accumulation start date ~~as provided in part 7045.0292~~, the operator must obtain the approval of the commissioner as set out in subpart 6, but no facility permit is required unless the operator ~~treats~~ intends to perform treatment procedures other than those specified in subpart 7 or disposes of the waste ~~on-site on site~~.

G. The operator need not comply with the record keeping requirements of part 7045.0294, subparts 2 and 3.

~~H. The operator need not comply with the annual reporting requirements of part 7045.0296.~~

Subp. 4. [See repealer.]

Subp. 5. **Transportation requirements.** An operator or other persons who transport waste collected as a result of a household hazardous waste management program shall transport collected waste in compliance with the requirements in items A to ~~E~~ D.

A. A transporter may not accept household hazardous waste from any operator who establishes or operates all or part of a household hazardous waste management program unless the waste is accompanied by either a manifest signed by the generator according to parts 7045.0205 to ~~7045.0304~~ 7045.0320 or a shipping paper prepared according to subpart 3, item E, subitem (1).

B. If the ~~designated facility to which the household hazardous waste is destined has~~ for a hazardous waste facility ~~permit~~, the transporter shall comply with all of the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397.

C. If the ~~designated facility to which the household hazardous waste is destined is~~ for a facility collection site that has obtained approval from the commissioner under subpart 6, the transporter shall comply with the hazardous waste transporter requirements in parts 7045.0351 to ~~7045.0395~~ 7045.0397, except:

[For text of subitems (1) and (2), see M.R.]

[For text of item D, see M.R.]

Subp. 6. **Storage of collected wastes.** An operator who accepts household hazardous waste from another collection site or stores household hazardous waste for more than 90 days must comply with the requirements of items A to E.

A. No operator may accept household hazardous waste from another collection site or store household hazardous waste for



more than 90 days after the accumulation start date as provided in part 7045.0292, without the approval of the commissioner. ~~A operator may request approval from the commissioner to store household hazardous waste for more than 90 days.~~

B. An operator intending to accept household hazardous waste from another collection site or store household hazardous waste for more than 90 days must submit a request for approval to the commissioner at least 30 days before initiating a household hazardous waste program. The commissioner shall approve the request if the commissioner determines that, based on the information contained in the request, the storage and management practices employed at the storage facility will appropriately protect human health and the environment from any adverse effects associated with the household hazardous waste.

C. If the commissioner approves a request, the operator shall manage the waste in compliance with the applicable standards in part parts 7045.0526 and 7045.0528 for the use and management of containers, ~~but no hazardous waste facility permit is required unless the operator treats or disposes of the waste on-site and tanks.~~

D. If the commissioner does not approve a request, the operator must transport or arrange to transport the household hazardous waste for off-site activities at a facility that either has a hazardous waste permit or a collection site that has obtained the commissioner's approval under this subpart. Operators who store household hazardous waste for more than 90 days without the commissioner's approval are in violation of this chapter.

[For text of item E, see M.R.]

Subp. 7. **Treatment.** Operators conducting treatment of collected household hazardous wastes are subject to the requirements of items A to C.

[For text of item A, see M.R.]

B. Treatment methods which do not require approval of the commissioner are bulking of:

- (1) paints;
- (2) solvents;
- (3) motor oil; and
- (4) antifreeze.

While bulking is being done, the personnel training and safety procedures ~~required in subpart 4~~ must specifically address how this activity will be conducted.

C. All other methods of waste treatment must be identified in the notification required under subpart 2 and the commissioner's approval obtained for those specific activities before any of those activities are begun. In addition to the information required in subpart 2, the notification must provide the following information:

- (1) the name of the person appointed to direct and oversee the treatment process; and
- (2) ~~a statement that individuals conducting treatment must have performed the specific treatment procedure at least once prior to performing that treatment procedure at a household hazardous waste collection site;~~
- ~~(3) a detailed description of the treatment activity and an explanation of how human health and the environment will be protected; and~~
- (4) evidence of liability insurance.

#### **7045.0320 VERY SMALL QUANTITY GENERATOR HAZARDOUS WASTE COLLECTION PROGRAMS.**

Subpart 1. Applicability. This part provides the requirements for the management and transportation of waste collected as part of a very small quantity generator hazardous waste collection program.

Subp. 2. Definitions. When used in this part, the terms in items A to D have the meanings given them.

A. "Collection program" means a program licensed under this part to accept, collect, transport, store, or treat hazardous waste from very small quantity generators.

B. "Collection site" means a site established as part of a collection program under this part.

C. "Program operator" means a person or persons who establish a collection program and arrange for the acceptance, collection, transportation, storage, and treatment of collected hazardous waste from very small quantity generators.

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## Proposed Rules

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D. "Site operator" means a person or persons who operate a collection site.

Subp. 3. Program license. A program operator must apply for and obtain a collection program license from the commissioner before accepting any waste. The program operator must renew the license annually.

Subp. 4. License application. The license application must provide a complete description of the program including, as applicable:

A. the name, address, and telephone number of persons establishing the program;

B. the name, address, and telephone number of persons operating the program, if different than item A;

C. the location of all collection sites, designating central facilities and satellite facilities;

D. the duration and operating hours of the program;

E. the intended program service area;

F. a description of the application process for very small quantity generators;

G. the anticipated types and amounts of waste to be collected, stored, treated, transported, and disposed of;

H. a description of how the waste is to be collected, analyzed, stored, treated, transported, and disposed of;

I. except as provided in item J, if treatment of collected waste is applied for under this license, the following additional information must be submitted for each method of waste treatment proposed:

(1) the name of the person appointed to direct and oversee the treatment process;

(2) a detailed description of the treatment activity and an explanation of how human health and the environment will be protected; and

(3) evidence of compliance with part 7045.0210 addressing financial responsibility;

J. the bulking of paints, solvents, motor oil, and antifreeze does not require submittal of the additional information under item I but must be addressed under items G and H;

K. the amount of time the site operator intends to store collected waste at individual collection sites;

L. a description of the physical structures to be used to collect and store collected waste;

M. a description of personnel safety training;

N. a description of the safety and emergency procedures established;

O. the name and address of all hazardous waste transporters to be used; and

P. the name and address of all facilities which will treat or dispose of the waste.

Subp. 5. Changes to license conditions. A program operator may change the conditions of management or operation during the time period for which the license is valid, except for treatment changes approved under subpart 4, item I, which require the commissioner's written approval before the operator may implement the treatment changes. If the program operator changes any of the conditions of management or operation during the life of the license, the operator shall report the changes in the next annual report.

Subp. 6. License issuance and reissuance. After receiving the license application or annual report, as applicable, the commissioner will conduct a review of the submitted information and will:

A. issue or reissue, as applicable, a collection program license;

B. request in writing the submittal of additional information to make the license application or annual report, as applicable, complete and approvable;

C. request in writing facility operational or waste management changes to make the application or annual report, as applicable, approvable; or

D. deny approval of license application within 45 days of last submittal of information by license applicant.

Subp. 7. Reporting requirements. A program operator must meet the reporting requirements applicable to large quantity generators established in part 7045.0248.

In addition, the site operator must keep a written operating record at the collection site and available for inspection that contains the following information for each collection:

A. the generator name and identification number as required under part 7045.0221;

B. the name of the hazardous waste or wastes, the hazardous waste number or numbers, and the United States Department of Transportation hazard class;

- C. the amount of each hazardous waste collected;
- D. the date the waste was received at the collection site; and
- E. the date the waste was shipped from the collection site.

**Subp. 8. Management requirements.** A person or persons involved in management of hazardous waste from very small quantity generators as part of a collection program shall comply with the requirements of items A to E.

A. The program operator must comply with the standards applicable to large quantity generators established in parts 7045.0205 to 7045.0320 with respect to collected hazardous waste except as modified in this part.

B. The license and reporting requirements of parts 7045.0225 to 7045.0250 are replaced by the requirements of subparts 3 to 7.

C. A site operator may accumulate hazardous waste on site without a permit or without interim status if the site operator complies with the accumulation time limits and management requirements provided in part 7045.0292. The site operator is a generator whose size shall be determine by applying part 7045.0206. The site operator shall comply with the requirements applicable to a generator of the appropriate size.

D. The site operator may only transport or offer for transport collected waste for off-site activities to a facility that either has a hazardous waste permit or a collection site that has obtained the commissioner's approval under the licensing provisions of this part.

E. If the site operator transports or offers for transport collected waste for off-site activities at a collection site that has obtained the commissioner's approval, the operator:

(1) may, in lieu of a manifest, prepare and use a shipping paper containing all the information required on a manifest in part 7045.0261, excluding the identification number, to comply with the requirements of parts 7045.0261 to 7045.0265;

(2) may designate an alternate collection site that has obtained the commissioner's approval or an alternate facility and must indicate the alternate collection site or facility on the shipping paper prepared under subitem (1); and

(3) must instruct the transporter to return the waste, if the transporter is unable to deliver the collected waste to the facility or collection site designated on the shipping paper.

**Subp. 9. Transport requirements.** A person or persons who transport waste collected as a result of a collection program licensed under this part shall transport collected waste in compliance with the requirements in items A to D.

A. A transporter may not accept collected waste from a program operator or a site operator unless the waste is accompanied by either a manifest signed by the program operator or a shipping paper prepared according to subpart 8, item E, subitem (1).

B. If the collected waste is destined for a hazardous waste facility, the transporter shall comply with all of the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397.

C. If the collected waste is destined for a collection site that has obtained approval from the commissioner under the licensing provisions of this part, the transporter shall comply with the hazardous waste transporter requirements in parts 7045.0351 to 7045.0397, except:

(1) a transporter identification number under part 7045.0361 is not required; and

(2) a shipping paper prepared according to subpart 8, item E, subitem (1), may be used, in lieu of a manifest, to comply with the manifest requirements of parts 7045.0351 to 7045.0395.

D. An operator who transports waste for hire in Minnesota must obtain for-hire operating authority from the Minnesota Transportation Regulation Board as required by *Minnesota Statutes*, chapter 221.

**Subp. 10. Generators who operate collection programs.** A generator who is also a program operator must comply with the applicable provisions of parts 7045.0205 to 7045.0320 as they apply to the generator's hazardous waste. A generator who operates a collection program must maintain separate records for the collected waste and waste generated by the generator.

#### **7045.0351 APPLICABILITY AND EXEMPTIONS.**

Subpart 1. **Applicability.** The provisions of parts 7045.0355 to 7045.0391 establish standards that apply to persons transporting hazardous waste that originates or terminates within the state of Minnesota if the transportation requires a manifest under parts

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7045.0205 to ~~7045.0304~~ 7045.0320. Parts 7045.0395 and 7045.0397 apply to the transportation of all hazardous waste within the state of Minnesota.

[For text of subp 2, see M.R.]

### 7045.0375 THE MANIFEST SYSTEM; GENERAL REQUIREMENTS.

Subpart 1. **Acceptance of shipment.** A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed by the generator according to parts 7045.0205 to ~~7045.0304~~ 7045.0320. In the case of exports, a transporter may not accept waste:

[For text of items A and B, see M.R.]

[For text of subps 2 and 3, see M.R.]

### 7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. **General requirements.** Parts 7045.0450 to 7045.0544 apply to owners and operators of all facilities ~~which that~~ treat, store, or dispose of hazardous waste except as specifically provided otherwise in this part or in parts 7045.0100 to ~~7045.0304~~ 7045.0320.

Parts 7045.0450 to 7045.0544 apply to the owners or operators of publicly owned treatment works ~~which that~~ treat, store, or dispose of hazardous waste only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures.

Parts 7045.0450 to 7045.0544 apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act of 1972, United States Code, title 16, sections 1431 to 1434, as amended through December 31, 1982, and United States Code, title 33, section 1401, as amended through December 31, 1982, only to the extent they are included in a permit-by-rule granted under the agency's permitting procedures. Parts 7045.0450 to 7045.0544 apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

Parts 7045.0450 to 7045.0544 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

[For text of subp 2, see M.R.]

Subp. 3. **Exemptions.** Parts 7045.0450 to 7045.0544 do not apply to the following:

[For text of items A and B, see M.R.]

C. a farmer disposing of waste pesticides from ~~his~~ the farmer's own use in compliance with part ~~7045.0304~~ 7045.0213, subpart 2;

[For text of items D to J, see M.R.]

### 7045.0458 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** Waste analysis procedures are ~~as follows:~~ listed in items A to D.

[For text of item A, see M.R.]

B. The analysis may include data developed under parts 7045.0100 to ~~7045.0144~~ 7045.0143 and existing published or documented data on the hazardous waste or on hazardous waste generated from similar processes, including data obtained from the generator.

[For text of items C and D, see M.R.]

[For text of subp 2, see M.R.]

### 7045.0472 FACILITY SHIPPING REQUIREMENTS.

When a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

### 7045.0488 CLOSURE ACTIVITIES.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Disposal or decontamination of equipment, structures, and soils.** During the partial and final closure periods, all contaminated facility equipment, structures, and soils must be properly disposed of or decontaminated unless otherwise specified in part 7045.0528, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; or 7045.0538, subpart 7, or under the authority of part 7045.0539, subparts 2 and 4. By removing any hazardous ~~wastes~~ waste or hazardous waste constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste ~~in accordance with~~ according to all applicable requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

[For text of subp 4, see M.R.]

**7045.0526 USE AND MANAGEMENT OF CONTAINERS.**

[For text of subs 1 to 5, see M.R.]

Subp. 6. **Containment.** Requirements for containment systems are as follows: described in items A to E.

A. Container storage areas must have a containment system that is capable of collecting and holding spills, leaks, and precipitation. The containment system must:

(1) have a base floor underlying the containers ~~which that~~ is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed impermeable;

(2) have a base which floor that is sloped, or be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or in some other manner are protected from contact with accumulated liquids; and

[For text of subitem (3), see M.R.]

[For text of item B, see M.R.]

C. Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system. If the collected material is a hazardous waste as defined in parts 7045.0100 to ~~7045.0144~~ 7045.0143, it must be managed as a hazardous waste ~~in accordance with~~ according to all applicable requirements of parts 7045.0205 to 7045.1030. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of the federal Water Pollution Control Act Amendments of 1972, United States Code, title 33, section 1342, as amended, through June 30, 1983.

[For text of items D and E, see M.R.]

[For text of subs 7 and 8, see M.R.]

Subp. 9. **Closure.** At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, ~~bases~~ floors, and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed. At closure and throughout the operating period, unless the owner or operator can demonstrate that the waste removed from the containment system is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with all applicable requirements of parts 7045.0205 to 7045.1030.

**7045.0532 SURFACE IMPOUNDMENTS.**

[For text of subs 1 to 6, see M.R.]

Subp. 7. **Closure and postclosure care.** The requirements of closure and postclosure care are as follows:

A. At closure, the owner or operator shall:

(1) remove or decontaminate all waste residues, contaminated containment system components including liners, contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless they are shown to not be hazardous ~~in accordance with~~ according to parts 7045.0100 to ~~7045.0144~~ 7045.0143; or

[For text of subitem (2), see M.R.]

[For text of items B to E, see M.R.]

[For text of subs 8 to 10, see M.R.]

**7045.0534 WASTE PILES.**

[For text of subs 1 to 6, see M.R.]

Subp. 7. **Closure and postclosure care.** Closure and postclosure requirements are as follows:

A. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components including liners, contaminated subsoils, and structures and equipment contaminated with waste and leachate; and manage them as hazardous waste unless they are shown to not be hazardous ~~in accordance with~~ according to parts 7045.0100 to ~~7045.0144~~ 7045.0143.

[For text of items B to D, see M.R.]

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[For text of subps 8 to 10, see M.R.]

### 7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

[For text of subps 1 to 2, see M.R.]

Subp. 3. **Exemptions.** The requirements of parts 7045.0522 to 7045.0642 do not apply to:

[For text of items A to C, see M.R.]

D. A farmer disposing of waste pesticides from ~~his~~ the farmer's own use in compliance with part ~~7045.0304~~ 7045.0213, subpart 2.

[For text of items E to J, see M.R.]

[For text of subp 4, see M.R.]

### 7045.0564 WASTE ANALYSIS REQUIREMENTS.

Subpart 1. **Waste analysis.** The analysis must comply with the ~~following~~ requirements: in items A to D.

[For text of item A, see M.R.]

B. The analysis may include data developed under parts 7045.0100 to ~~7045.0141~~ 7045.0143, and existing published or documented data on the hazardous waste or on hazardous waste generated from similar processes, including data obtained from the generator.

[For text of items C and D, see M.R.]

[For text of subp 2, see M.R.]

### 7045.0578 FACILITY SHIPMENT REQUIREMENTS.

Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

### 7045.0596 CLOSURE ACTIVITIES.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Disposal or decontamination of equipment, structures, and soils.** During the partial and final closure periods, all contaminated facility equipment, structures, and soils must be properly disposed of or decontaminated, unless otherwise specified in part 7045.0628, subpart 9; 7045.0630, subpart 6; 7045.0632, subpart 7; 7045.0634, subpart 6; or 7045.0638, subpart 4. By removing any hazardous wastes or hazardous constituents during partial or final closure, the owner or operator may become a generator of hazardous waste and must handle that waste ~~in accordance with~~ according to all applicable requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

[For text of subp 4, see M.R.]

### 7045.0629 REQUIREMENTS FOR SMALL QUANTITY GENERATORS THAT ACCUMULATE HAZARDOUS WASTE IN TANKS.

Subpart 1. **Scope.** The requirements of this part apply to small and very small quantity generators that accumulate hazardous waste in tanks, and do not ~~accumulate over 3,000 kilograms on site at any time~~ exceed accumulation amounts as provided in part ~~7045.0219~~ 7045.0292.

[For text of subps 2 to 6, see M.R.]

### 7045.0655 GENERAL FACILITY STANDARDS.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Closure.** At closure, the owner or operator of an elementary neutralization unit, pretreatment unit, or wastewater treatment unit shall remove all hazardous waste and hazardous waste residues from the unit.

At closure, the owner or operator of a combustion waste facility shall analyze the waste present in the facility ~~in accordance with~~ according to parts 7045.0100 to ~~7045.0141~~ 7045.0143 and shall submit the waste analysis results and proposed closure methods to the commissioner. Based on the waste analysis and proposed closure methods, the agency shall determine which closure standards from parts 7045.0450 to 7045.0544, if any, apply to the facility.

Subp. 7. **Treated wastes.** Treated waste generated by an elementary neutralization unit, pretreatment unit, or wastewater treatment unit is subject to regulation under parts 7045.0100 to ~~7045.0304~~ 7045.0320.

### 7045.0665 USE CONSTITUTING DISPOSAL.

[For text of subps 1 and 1a, see M.R.]

Subp. 2. **Standards applicable to generators of wastes used in a manner that constitutes disposal.** Generators of wastes that are used in a manner that constitutes disposal are subject to the requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

[For text of subps 3 and 4, see M.R.]

**7045.0675 RECYCLABLE HAZARDOUS WASTE UTILIZED USED FOR PRECIOUS METAL RECOVERY.**

[For text of subpart 1, see M.R.]

Subp. 2. **Requirements for generators.** Generators of recyclable hazardous waste regulated under this part are subject to the requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320.

[For text of subps 3 and 4, see M.R.]

**7045.0685 SPENT LEAD-ACID BATTERIES BEING RECLAIMED.**

Subpart 1. **Scope.** The requirements of this part apply to persons who generate, transport, collect, store, or reclaim spent lead-acid batteries that are recyclable. Except as provided in subpart 2, persons who generate, transport, or collect spent batteries, or who store spent batteries but do not reclaim them, are not subject to regulation under parts 7045.0205 to 7045.0685 and chapter 7001 for ~~such~~ the generation, transportation, and storage of spent batteries. For the purpose of this part, indoor storage is storage within a permanently constructed building consisting of at least a roof and three walls permanently affixed to a masonry or other ~~composition~~ nonabsorbent floor placed on the ground.

[For text of subps 2 and 3, see M.R.]

**7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.**

Subpart 1. **Scope.** This part applies to hazardous wastes that are burned for energy recovery in a boiler or industrial furnace that is not regulated by the thermal treatment standards in part 7045.0542 or 7045.0640, except:

[For text of items A to C, see M.R.]

D. Mixtures of used oil and waste that is hazardous solely for the characteristic of ignitability in part 7045.0131, subpart 2, provided the waste is generated by a person who in a calendar month generates ~~less no more~~ less no more than 100 kilograms of hazardous waste. This mixture is regulated as provided in part ~~7045.0219~~ 7045.0102, subpart ~~6~~ 3. If the waste is generated by a person who in a calendar month generates ~~at least more than~~ at least more than 100 kilograms of hazardous waste, part 7045.0102, subpart 3, item A, applies.

[For text of item E, see M.R.]

[For text of subp 2, see M.R.]

Subp. 3. **Standards applicable to generators of hazardous waste fuel.** Generators of hazardous waste that is used as a fuel or used to produce a fuel are subject to parts 7045.0205 to ~~7045.0304~~ 7045.0320. Generators who market hazardous waste fuel to a burner are also subject to subpart 5. Generators who are burners are also subject to subpart 6.

[For text of subp 4, see M.R.]

Subp. 5. **Standards applicable to marketers of hazardous waste fuel.** Marketers are subject to the requirements in items A to F

[For text of items A and B, see M.R.]

C. If a marketer is a generator, or becomes a generator by initiating a shipment of hazardous waste fuel, the marketer must comply with parts 7045.0205 to ~~7045.0304~~ 7045.0320. If the marketer operates a facility, the marketer must comply with parts 7045.0450 to 7045.0534. If the marketer is operating a facility under interim status, the marketer must comply with parts 7045.0552 to 7045.0632. If the marketer stores hazardous waste, the marketer must comply with the agency's permitting procedures in chapter 7001 for storage of hazardous waste.

[For text of items D and E, see M.R.]

F. In addition to the applicable record keeping requirements of parts 7045.0205 to ~~7045.0304~~ 7045.0320, 7045.0450 to 7045.0534, and 7045.0552 to 7045.0632, a marketer must keep a copy of each certification notice received or sent for three years from the date the marketer last engaged in a hazardous waste fuel marketing transaction with the person who sent or received the certification notice.

Subp. 6. **Standards applicable to burners of hazardous waste fuel.** Owners and operators of industrial furnaces and boilers identified in subpart 2, item B, that burn hazardous fuel are subject to the requirements in items A to F

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[For text of items A to C, see M.R.]

D. Generators who accumulate hazardous waste fuel before burning ~~on-site~~ on site within the accumulation time period allowed in part 7045.0292 must comply with that part. Small quantity generators who accumulate hazardous waste fuel before burning ~~on-site~~ on site within the accumulation time period allowed in part ~~7045.0219~~ 7045.0292 must comply with that part. Burning by the generator of a hazardous waste that is a sludge or is or contains a waste listed in part 7045.0135 for reasons other than ignitability or is or contains a waste that is toxic under part 7045.0131, subpart 6, is subject to the additional requirements of item E, subitem (2).

[For text of items E and F, see M.R.]

### 7045.1020 EFFECT OF AGENCY APPROVAL OF COUNTY ORDINANCE.

If a county has adopted a hazardous waste ordinance that is approved in writing by the agency:

A. Each generator who produces a hazardous waste within the county ~~shall submit~~ must obtain a disclosure generator license and annual ~~must submit~~ reports to the county as required by the county ordinance in lieu of submission to the agency unless specifically requested in writing by the commissioner to submit a copy of the ~~disclosure~~ license application or annual report to the commissioner; and

[For text of item B, see M.R.]

### 7045.1030 COUNTY ACTIONS.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Reporting.** A county shall submit to the commissioner, upon request, a copy of any ~~disclosure information submitted under parts 7045.0225 to 7045.0250, license and license reporting requirements, manifest, annual report, exception report, or other document that has been submitted to the county in lieu of submission to the agency pursuant to part 7045.1020. A county shall submit to the commissioner, upon request but not to exceed semi-annually, summary data based on the documents cited in this subpart.~~

Subp. 4. [See repealer.]

### 7045.1300 LAND DISPOSAL RESTRICTIONS; APPLICABILITY AND EXEMPTIONS.

[For text of subpart 1, see M.R.]

Subp. 2. **Exemptions.** Prohibited wastes may continue to be land disposed under the following conditions:

[For text of items A to C, see M.R.]

D. if ~~very small quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one kilogram acute hazardous waste per month,~~ as defined in part ~~7045.0219~~ 7045.0206; and

E. if a farmer is disposing of waste pesticides in accordance with part ~~7045.0304~~ 7045.0213, subpart 2.

### 7046.0031 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1. **Basis of fees.** The agency shall charge nonmetropolitan area generator fees that are based on the ~~annual license application and licensing~~ reports submitted by generators; ~~disclosures,~~ and other appropriate information available to the agency.

[For text of subs 2 and 3, see M.R.]

Subp. 4. **Annual fees.** An annual fee is the sum of the waste generation volume fees and the base fee. Nonmetropolitan area generators shall submit annual fees as ~~follows; described in items A and B.~~

[For text of item A, see M.R.]

B. A base fee must be paid by all nonmetropolitan area generators as follows:

(1) a ~~nonmetropolitan area large quantity generator who does not qualify as a small quantity generator in part 7045.0219~~ must pay a base fee of \$350;

(2) a ~~nonmetropolitan area generator, who qualifies as a small quantity generator in part 7045.0219 and is not a small quantity generator as described in subitem (3),~~ must pay a base fee of \$105; and

(3) a ~~nonmetropolitan area generator, who qualifies as a very small quantity generator in part 7045.0219 and generates less than 100 kilograms of hazardous waste per calendar month,~~ must pay a base fee of \$35.

Subp. 5. **Follow-up action fee.** A nonmetropolitan area generator is subject to payment of a follow-up action fee if the generator fails to respond within 30 days of receipt of a certified letter from the commissioner concerning the generator's noncompliance with ~~part 7045.0240 requiring submission of a disclosure, part 7045.0216 requiring submission of an evaluation report; or part 7045.0296 requiring submission of an annual report parts 7045.0225 to 7045.0250, license and license reporting requirements.~~ The agency shall charge a follow-up action fee only if the commissioner's follow-up action involves sending the generator one or more additional certified letters or causing an authorized representative of the agency to make an inspection for the purpose of obtaining the required information.



The fee for each follow-up certified letter, not to include the initial certified letter, is \$25. The fee for each follow-up inspection is \$200.

[For text of subs 6 and 7, see M.R.]

#### **7046.0050 GENERATOR FEE EXEMPTIONS.**

[For text of sub 3, see M.R.]

Subp. 4. **Certain nonmetro area generators.** Small quantity nonmetropolitan area generators whose sole hazardous wastes are degreasing or drycleaning solvent related wastes reclaimed ~~off-site~~ off site under a maintenance agreement, lead acid batteries, gasoline tank bottoms, and scrap metal are not subject to annual fees for those calendar years for which they ~~submit accurate disclosures~~ obtain a license under ~~part 7045.0240~~ parts 7045.0225 to 7045.0250, but rather are subject to a flat annual fee of \$25. For the purposes of this part, a maintenance agreement is a written agreement acceptable to the commissioner between a generator and a transporter and a reclaimer under which waste is removed from the generator's site on a regularly scheduled basis for reclamation by distillation.

If a small quantity nonmetropolitan area generator, who qualifies for this exemption, fails to submit the annual report by March 1 under part ~~7045.0296~~ 7045.0248, the generator shall pay a full annual fee. If the generator is also subject to retroactive fees, the retroactive fees must be based on the flat annual fee of \$25.

[For text of sub 5, see M.R.]

Subp. 6. Waste collected as a result of a very small quantity generator hazardous waste collection program. An operator of a very small quantity generator hazardous waste collection program is exempt from generator fees for waste collected under part 7045.0320.

An operator who is also a generator is not exempt from generator fees for the waste that the operator generates separate from the waste that the operator collects from other generators.

A very small quantity generator participating in a collection program under part 7045.0320 is not exempt from generator fees.

**REPEALER.** Minnesota Rules, parts 7045.0211, subparts 2 and 3; 7045.0219; 7045.0220; 7045.0230, subpart 3; 7045.0235; 7045.0240, subparts 1 and 2; 7045.0249; 7045.0275, subpart 1; 7045.0290; 7045.0292, subparts 3 and 4; 7045.0296; 7045.0304; 7045.0310, subpart 4; and 7045.1030, subpart 4, are repealed.

## **Pollution Control Agency**

### **Water Quality Division**

#### **Proposed Permanent Rules Relating to Individual On-Site Wastewater Treatment Grants Program**

##### **Notice of Intent to Adopt Rule Amendments Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA) intends to adopt rule amendments to *Minnesota Rules*, chapter 7077 without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28 (1990). The statutory authority to adopt the rule amendments is set forth in *Minnesota Statutes*, section 116.18 subd. 3c (1990).

All persons have until 4:30 p.m. on September 20, 1991 to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must state his or her name and address, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1990).

Comments or written requests for a public hearing must be submitted to Scott R. Thompson, Minnesota Pollution Control Agency, Water Quality Division/APS, 520 Lafayette Road, St. Paul, Minnesota 55155-3898 (612) 296-7223.

**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

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

The proposed rule amendments, if adopted, will make the Individual On-site Wastewater Treatment System Grants Program more effective and more responsive to the needs of local governments that receive grant funds. The proposed rules are published below. One free copy of the rules is available upon request from Mr. Thompson at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments has been prepared and is available from Mr. Thompson upon request.

You are hereby advised, pursuant to *Minnesota Statutes* sec. 14.11 (1990), "Special notice of rulemaking," that the proposed rules will not require the expenditure of public monies by local units of government unless a local unit elects to participate in the program; and the proposed rules will not have any direct adverse effects on agricultural lands in the state.

You are also advised, pursuant to 14.115 (1990), "Small business considerations in rulemaking," that the proposed rules will have no direct adverse effects on small businesses in the state.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule as adopted, must submit a written request to Mr. Thompson.

Charles W. Williams  
Commissioner

### Rules as Proposed

#### 7077.0705 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7077.0700 to 7077.0765, the following terms have the meanings given them.

Subp. 2. **Abatement notice.** "Abatement notice" means an official document issued by the municipality to the owner of an individual or cluster on-site wastewater treatment system stating that the owner is in violation of the municipality's ordinance that adopts the requirements of chapter 7080. The abatement notice must include a citation to the ordinance alleged to have been violated.

Subp. 2a. **Application cycle.** "Application cycle" means the development of an on-site funding list and the acceptance, review, and approval of written applications for individual on-site wastewater treatment system grant funds.

Subp. 5a. **Cluster on-site wastewater treatment system or cluster system.** "Cluster on-site wastewater treatment system" or "cluster system" means a wastewater treatment system, or part of a system, that uses subsurface soil treatment and disposal to serve two or more dwellings or other establishments. Only cluster systems that serve five or fewer dwellings or other establishments are eligible for grant assistance.

Subp. 6. **Construction cost.** "Construction cost" means the cost of the materials, labor, overhead, and profit necessary for installation, construction, and repair of an individual on-site wastewater treatment system established by a contract between a system owner and a system installer.

Subp. 7. **Designer.** "Designer" means a person who designs individual on-site wastewater treatment systems that conform to chapter 7080, and has received agency approval under part 7077.0720.

[For text of subp 8, see M.R.]

Subp. 9. **Failed system.** "Failed system" means a wastewater treatment system that does not conform to chapter 7080 and has been issued an abatement notice by the ~~municipality's inspector~~ municipality.

Subp. 10. **Individual on-site wastewater treatment system or individual system.** "Individual on-site wastewater treatment system" or "individual system" means a wastewater treatment system, or part of a system, serving one or two dwellings dwelling or other establishments establishment, that uses subsurface soil treatment and disposal.

Subp. 11. **Inspector.** "Inspector" means a person employed by or under contract to the municipality who inspects individual on-site wastewater treatment systems for conformance with the ordinance that adopts the requirements of chapter 7080, and has received agency approval under part 7077.0720.

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs individual on-site wastewater treatment systems according to chapter 7080, and has received agency approval under part 7077.0720.

[For text of subp 12a, see M.R.]

Subp. 13. **Median household income.** "Median household income" means the income data named "median household income" from the most recent decennial census of the United States or the median household income calculated by the municipality and approved by the commissioner for alternative planning areas.

[For text of subs 14 to 16, see M.R.]

**Subp. 16a. Planning area.** “Planning area” means an area of contiguous dwellings or other establishments. A planning area is the entire geographic area within a municipality’s jurisdiction unless the commissioner approves an alternative area.

**Subp. 16b. Provisional certification.** “Provisional certification” means an apprenticeship status given to persons that have participated in the state individual sewage treatment system certification program and passed the certification examination, but lack the experience required for full certification.

[For text of subp 17, see M.R.]

**Subp. 17a. Site evaluation costs.** “Site evaluation costs” means the expenses associated with a site evaluation, which include the cost of a site evaluator, soil borings, percolation tests, and the determination of topographical features.

**Subp. 18. Site evaluator.** “Site evaluator” means a person who investigates soils and site characteristics; does to determine suitability, limitations, soil borings or percolation tests type, and sizing requirements for use in designing individual on-site wastewater treatment systems that conform to chapter 7080, and has received agency approval under part 7077.0720.

**Subp. 18a. System design costs.** “System design costs” means the expenses charged by a designer to complete the necessary calculations for system size, location, materials, and other items necessary to develop a bed, trench, or mound wastewater treatment system design that conforms to chapter 7080.

**Subp. 19. Trench or bed system.** “Trench or bed system” means an individual a wastewater treatment system employing a building sewer, sewage tank, and the soil treatment system consisting of trenches or a seepage bed constructed below the original soil surface.

#### **7077.0710 ELIGIBILITY.**

**Subpart 1. Municipality Eligibility to participate.** A municipality applying for Only municipalities, as defined under part 7077.0105, subpart 24, are eligible to participate in the individual system owners must meet the following conditions to be eligible for a grant: on-site wastewater treatment systems grants program.

A. be authorized by its governing body to assume responsibility for the grant application and related documents for owners of individual on-site wastewater treatment systems who are in its jurisdiction and included in the planning area under part 7077.0715; subpart 2;

B. have developed and adopted a wastewater treatment plan under part 7077.0715;

C. have enacted and be enforcing an ordinance that adopts the requirements of chapter 7080, Individual Sewage Treatment Systems Standards; and

D. have enacted an ordinance that establishes a maintenance plan for the individual on-site wastewater treatment systems in its jurisdiction-

**Subp. 2. Individual system Eligibility of individual and cluster systems.** The For an individual systems or cluster system to be replaced or upgraded eligible to be included in the a municipality’s grant application and to receive grant funds it must meet the following conditions:

A. be a failed system;

B. have been constructed before January 1, 1977;

C. not be serving a seasonal residence; and

D. not have been constructed with state or federal water pollution control funds; and

E. be located within the project planning area.

**Subp. 3. Previous funding Eligibility of funded areas.** Individual On-site wastewater treatment systems located in geographic areas that were included in planning areas of projects previously funded with state or federal water pollution control funds are not eligible for funding under this part program.

**Subp. 4. Eligibility of alternative planning area.** The commissioner shall evaluate any written municipal proposal for a project planning area that is less than the municipality’s entire geographic jurisdiction. The commissioner’s evaluation of the proposal shall be based on housing density, water quality impact, and public health impact. Separate dwellings or other establishments that are not part of a contiguous area shall not be approved as or part of a planning area.

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## Proposed Rules

Subp. 5. Eligibility to submit a request to be placed on the on-site funding list. The commissioner shall only accept requests to place projects on the on-site funding list under part 7077.0713 from municipalities that:

- A. have authorization from their governing bodies to assume the responsibility for the proposed grant projects and the associated official documents; and
- B. have planning areas that have been approved by the commissioner.

Subp. 6. Eligibility to submit grant application. The authority shall accept grant applications only from municipalities that have:

- A. successfully submitted requests to be placed on the on-site funding list;
- B. been classified as fundable on the on-site funding list; and
- C. received written notification from the commissioner to submit applications.

### **7077.0713 ON-SITE FUNDING LIST.**

Subpart 1. On-site funding list. An on-site funding list shall be compiled by the commissioner before each grant application period. The list shall be used to determine which municipalities are eligible to apply for individual on-site wastewater treatment system grant funds.

Subp. 2. Requirements for placement on the on-site funding list. To be placed on the on-site funding list a municipality must meet the requirements of part 7077.0710, subpart 5, and either item A, B, or C, as appropriate.

A. A municipality with a project proposal must submit a written request for the project to be placed on the on-site funding list to the commissioner during a submittal period announced by a notice in the *State Register*. The notice shall include submittal deadlines and conditions. The placement request must be made on forms provided by the agency and must include:

(1) a resolution of the governing body of the municipality that designates the municipality as the responsible party for the on-site funding list placement request and future grant application, authorizes the filing of the request and future application, and designates the municipal official authorized to sign the request, future application, and related documents;

(2) a map of the municipal jurisdiction or approved alternative planning area;

(3) a preliminary list that identifies the addresses of the on-site wastewater treatment systems that are suspected to be failed and that meet the eligibility requirements under part 7077.0710, subpart 2;

(4) median household income data or alternative median household income data that includes income data and computation methodology for municipalities and planning areas not included in the decennial census;

(5) the municipality's estimated date of site evaluation, design, and construction for all eligible systems; and

(6) a copy of a draft ordinance for adopting the requirements of chapter 7080 and establishing a maintenance plan for the individual on-site wastewater treatment systems within the jurisdiction of the municipality.

B. A municipality with a project that has been awarded a partial grant under part 7077.0735, subpart 2, shall submit a written request for the remaining grant fund entitlement to the commissioner by the published placement-request submittal deadline described under item A.

C. A municipality eligible for a grant increase amendment under part 7077.0735, subpart 4, item A, shall submit a written request for the grant increase to the commissioner by the published placement-request submittal deadline described under item A.

Subp. 3. Incomplete requests. Municipalities that submit placement requests that do not include the information required in subpart 2 or that are not postmarked by the published deadline shall not be placed on the on-site funding list.

Subp. 4. Priority ranking. Priority ranking of projects will be based on the median household income approved by the commissioner for the project planning area. Ranking on the on-site funding list shall be determined as described in items A to C:

A. Partial award projects shall be ranked before other grant increase amendments and project proposals. Partial award projects shall be ranked with the lowest median household income receiving the highest priority.

B. Grant increase amendments other than for partial awards shall be ranked after the lowest priority partial award project on the on-site funding list and before project proposals. These grant increases shall be ranked with the lowest median household income receiving the highest priority.

C. Project proposals shall be ranked after the lowest priority grant increase amendment project on the on-site funding list. Project proposals shall be ranked with the lowest median household income receiving the highest priority.

Subp. 5. Determination of fundable range. To determine the fundable range on the on-site funding list, the commissioner shall subtract the estimated grant amount or calculated grant increase for each project, in order of decreased priority, from the amount available in the individual on-site wastewater treatment system grant fund. The projects classified as fundable are those that have

their estimated or calculated project costs subtracted before the grant fund amount is depleted or diminished to an amount too small to complete the majority of the project next in priority on the on-site funding list.

Subp. 6. Determination of projects eligible to submit applications. Only municipalities with projects classified as fundable on the on-site funding list are eligible to submit applications.

Subp. 7. Exclusion from fundable range. Projects not classified as fundable on the on-site funding list must resubmit the documents required under subpart 2 during a subsequent placement request period.

Subp. 8. Commissioner notification. The commissioner shall notify each municipality of the on-site funding list priority for its project.

#### **7077.0720 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT PERSONNEL.**

Subpart 1. **General requirement.** For the purposes of parts 7077.0700 to 7077.0765, inspectors, site evaluators, designers, and installers who inspect, evaluate sites for, design, and install ~~individual~~ on-site wastewater treatment systems under those parts must be approved by the commissioner under subpart 2 or 3.

Subp. 2. **First alternate approval criteria.** A person referred to in subpart 1 will be approved by the commissioner if the person is fully certified by the agency through the individual sewage treatment systems certification program administered by the agency in cooperation with the Individual Sewage Treatment Systems Advisory Committee established under part 7080.0100. Approval is automatic upon submittal of certification number. Provisional certification does not fulfill this approval criteria.

Subp. 3. **Second alternate approval criteria.** A person referred to in subpart 1 may apply for approval under this subpart by submitting an application provided by the commissioner upon request. An applicant will be approved by the commissioner if the applicant meets the requirements of items A and B.

[For text of item A, see M.R.]

B. An applicant must document experience by completing the following requirements:

(1) An inspector must submit a list of ~~individual~~ on-site wastewater treatment systems inspected by the applicant in the past three years. The inspector must certify that a minimum of 30 systems, or parts of systems, listed conform with the criteria in chapter 7080.

(2) A site evaluator must submit a list of ~~individual~~ on-site wastewater treatment systems for which the evaluator has conducted site evaluations in the past three years. The site evaluator must certify that a minimum of 20 sites for the systems listed were evaluated according to the criteria in chapter 7080.

(3) A designer must submit a list of ~~individual~~ on-site wastewater treatment systems designed by the applicant in the past three years. The designer must certify that a minimum of 20 systems listed were designed according to the criteria in chapter 7080.

(4) An installer must submit a list of ~~individual~~ on-site wastewater treatment systems constructed or repaired by the applicant in the past three years. The installer must certify that a minimum of ten systems listed were constructed or repaired according to the criteria in chapter 7080.

[For text of subs 4 and 5, see M.R.]

#### **7077.0725 GRANT APPLICATION.**

Subpart 1. **Notice of taking applications Eligibility.** ~~The commissioner will request the authority to publish in the State Register a notice that applications for individual on-site wastewater treatment grants will be accepted by the authority~~ No municipality shall submit an individual on-site wastewater treatment system grant application unless it meets the eligibility requirements of part 7077.0710, subpart 6. The written notification from the commissioner shall include application closing date will be established submittal conditions and deadlines. No municipality is eligible for a grant unless a complete grant application has been submitted to the authority and has been certified by the commissioner, and will be no less than 120 days after the publication date. A complete application includes all the documents required under subpart 2.

Subp. 2. **Application requirements.** The municipality must apply for a grant on a form provided by the commissioner or the authority. The municipality must submit to the authority the following information with the application:

A. a resolution of the governing body of the municipality that designates the municipality as the responsible party for the grant application and related documents, authorizes the filing of the application, and designates the municipal official authorized to sign the application and related documents;

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## Proposed Rules

B. the wastewater treatment plan prepared under part 7077.0715; adopted by the municipality's governing body that identifies wastewater treatment needs, proposes long-term solutions for a planning area, and includes:

(1) a planning area survey prepared by an inspector that identifies all systems in the planning area as failed systems or systems in compliance with chapter 7080;

(2) site evaluations, including soil investigations, soil borings, and percolation tests for the failed systems identified in subitem (1) prepared by a site evaluator and a determination if it is feasible to replace or upgrade the failed systems on-site made by a system designer;

(3) a summary of the proposed systems that includes sizing, location, and design, prepared by a designer using data from the site evaluations prepared under subitem (2);

(4) a list of the failed individual on-site wastewater treatment systems, including addresses and names of property owners, that meet the eligibility requirements under part 7077.0710, subpart 2, and copies of the abatement notices;

(5) an analysis of the overall wastewater treatment needs in the planning area including a proposal for addressing the remaining wastewater treatment needs in the planning area not covered in subitem (4), including specific actions to be taken and a proposed timetable for addressing the wastewater treatment needs;

(6) documentation of approval of the project inspector, site evaluator or site evaluators, designer, and installer under part 7077.0720; and

(7) a certification of adoption of the wastewater treatment plan from the municipality's governing body;

C. B. a copy of the enacted ordinance that adopts the requirements of chapter 7080, individual sewage treatment system standards, and establishes a maintenance plan for the on-site wastewater treatment systems in the municipal jurisdiction and certification that the ordinance is being enforced;

D. a copy of the ordinance establishing a maintenance plan under part 7077.0710, item D;

E. alternative median household income data under part 7077.0710, item E, for municipalities and planning areas not included in the decennial census;

F. C. signed statements of compliance with the eligibility requirements under part 7077.0710, subpart 2, items B to E, from the individual system owners stating that their system meets the following conditions:

(1) the system to be replaced or upgraded was constructed before January 1, 1977;

(2) the system to be replaced or upgraded was not constructed with funds from state or federal water pollution control funds; and

(3) the system to be replaced or upgraded does not serve a seasonal residence;

D. the amount of grant funding requested for site evaluation, system design, and construction and a certification stating that only eligible costs have been requested;

G. E. the municipality's estimated date for the completion of all construction and final request for payment for the grant eligible systems; and

H. F. a statement from the municipality that it has an inspector on staff or under contract for services, including documentation of approval under part 7077.0720; and

G. an assurance from the municipality that states that all owners of dwellings or other establishments planned to be connected to a cluster system agree to be part of the system, to participate in the construction projects, and to participate in and finance future operation, maintenance, and replacement of the system.

[For text of subp 3, see M.R.]

**Subp. 4. Application closing date.** The application deadline shall not be less than 150 days after the placement request submittal deadline identified under part 7077.0713, subpart 2, item A. The commissioner shall send written notification of the application deadline to municipalities that are eligible to submit grant applications. The application must be postmarked by the notified specified application closing date deadline.

**Subp. 5. Incomplete applications.** Municipalities that submit applications that do not include the information required in subparts postmarked by the application deadline that require additional information to be considered complete under subpart 2 and 3 or that are not submitted by, have 45 days from the application closing date are deadline to submit the information needed to make the application approvable. If an application is not completed within this 45 days, the municipality is ineligible for funding. The Ineligible municipalities may reapply in a later must wait to reapply until the on-site funding list placement requirements have been met and the project has been classified as fundable under part 7077.0713 during a subsequent application period cycle.

Subp. 6. Three copies. Individual on-site wastewater treatment system grant application forms and attachments must be submitted in triplicate to the authority. At least one set of forms and attachments must contain original signatures.

Subp. 7. Application approval. The commissioner shall review and approve grant applications from municipalities that meet the requirements under this part.

#### **7077.0730 ELIGIBLE COSTS.**

Subpart 1. **Eligible costs.** Only the actual site evaluation, system design, and construction costs of upgrading or replacing failed individual or cluster on-site wastewater treatment systems that have been identified under part 7077.0715 7077.0725, subpart 3 2, item D A, subitem (4), are eligible. Upgraded or replacement systems must be a trench, bed, or mound design and serve five or fewer dwellings or other establishments to be eligible for grant participation. Only the costs associated with one system shall be eligible for each dwelling or other establishment.

Subp. 2. **Ineligible costs.** All nonconstruction costs including planning, engineering and design, site evaluation and soil investigation, inspection, and administrative, land, and easement costs are ineligible. Planning and engineering costs, other than for site evaluation and system design, are also ineligible.

Subp. 3. [See repealer.]

Subp. 4. **Costs incurred before grant award.** An owner may incur costs before the award of the grant and retain eligibility for reimbursement of eligible costs if the following conditions are met:

A. the municipality has developed and adopted a wastewater treatment plan as described in part 7077.0715 before construction costs are incurred by the owner of the individual system;

B. the owner's system is specifically identified on the municipality's wastewater treatment plan as required under part 7077.0725, subpart 2, item A, that was approved by the municipality and the commissioner before construction costs are incurred; and

C. the municipality submits a complete and timely application, during the first noticed application period under part 7077.0725, subpart 1, following the adoption of the

B. all work has been done by personnel approved under part 7077.0720, and according to chapter 7080 and the approved wastewater treatment plan.

#### **7077.0735 AMOUNT OF GRANT AWARD.**

Subpart 1. **Grant amount.** The amount of the grant to be awarded will be the sum of items A and B:

A. 50 percent of the actual eligible construction costs eligible under part 7077.0730 up to a maximum grant amount of \$2,500 per household dwelling or other establishment for a trench or bed system and \$3,750 per household dwelling or other establishment for a mound system; and

B. 50 percent of the site evaluation and system design costs eligible under part 7077.0730 up to a maximum amount of \$150 per dwelling or other establishment.

Subp. 2. **Partial awards.** A municipality that receives only a part of the grant to which it is entitled, due to the limitation of funding, will be entitled to receive a grant amendment in the next year or years, if individual on-site wastewater treatment systems grant funding is available, until the full amount of the grant is awarded. If a municipality accepts a partial grant it must identify which project elements will be completed with the grant as part of the grant agreement.

Subp. 3. Funds not allocated. Individual on-site wastewater treatment system grant funds that are not allocated for a fundable project, that are refused by a municipality, or that are denied award by the commissioner or authority shall remain in the grant fund for distribution during the next application cycle.

Subp. 4. Amendments. Grant amendments shall be made as described in items A and B:

A. Grant increase amendments shall only be made to fulfill the original grant entitlement for municipalities that receive partial awards as described under subpart 2, to reimburse the eligible cost for failed on-site treatment systems in a project planning area that were not identified on the on-site funding list placement request, and to reimburse site evaluation and system design costs eligible under subpart 1, item B, for municipalities that received individual on-site wastewater treatment system grant awards before July 1, 1991. Grant increases shall be made during an application cycle when on-site funds are available and the grant increase has been classified as fundable on the corresponding on-site funding list.

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## Proposed Rules

B. Grant decrease amendments shall be made upon project completion to reduce the grant to correspond with the amount of incurred, grant eligible costs.

### 7077.0745 CERTIFICATION OF AWARD.

Subpart 1. Funding list Certification to authority. The commissioner will prepare a list of municipalities eligible to receive grant funding certify each individual on-site wastewater treatment system grant application approved under this program part 7077.0725, subpart 7, and grant amendment approved under part 7077.0735, subpart 4, to the authority for award. Grant eligible costs, award amounts, and eligible budget periods will be determined at the time of certification.

Subps. 2 and 3. [See repealer.]

### 7077.0750 PAYMENT CONDITIONS.

Payment of the grant is contingent on complying with the following conditions:

[For text of items A to C, see M.R.]

D. The upgrade or replacement to the existing system must meet the standards under chapter 7080 and must be completed in accordance with the approved wastewater treatment plan.

E. Costs on the payment request have been incurred and are eligible under part 7077.0730.

### 7077.0755 PAYMENTS.

[For text of subpart 1, see M.R.]

Subp. 2. **Schedule of payments.** Payments may be requested monthly as construction on individual and cluster systems is completed and approved by the inspector.

Subp. 3. **Documentation.** Before payment of any part of the grant is made, the municipality must submit copies of the following documents for each individual certify to the agency that the payment conditions under part 7077.0750 have been fulfilled and invoices that document incurred site evaluation, system design, and construction costs for each upgraded or replaced on-site system: will be kept on file for state audit purposes.

A. invoices documenting incurred construction costs;

B. documentation that the system was designed by a designer using data from a site evaluator;

C. documentation that the system was upgraded or replaced by an installer; and

D. documentation that the system was inspected and approved by the municipality's inspector.

[For text of subp 4, see M.R.]

### 7077.0760 TERMINATION OF GRANT.

Failure of the municipality to comply with the construction schedule contained in the grant agreement or parts 7077.0700 to 7077.0765 constitutes grounds for the commissioner to recommend that the authority terminate the grant.

### 7077.0765 SUBSEQUENT GRANTS.

A municipality awarded a grant from the individual on-site wastewater treatment systems grants program is not eligible for additional funding under the program established by the 1972 Federal Water Pollution Control Act amendments or the state independent grants program, including the individual on-site wastewater treatment systems grants program, unless the municipality is applying for a project that serves a planning area that was not included, under part ~~7077.0715~~ 7077.0725, subpart 2, item A, in the awarded grant.

**REPEALER.** Minnesota Rules, parts 7077.0715; 7077.0730, subpart 3; 7077.0740; and 7077.0745, subparts 2 and 3, are repealed.

## Department of Public Service

### Proposed Permanent Rules Relating to Energy Information Reporting by Electrical Utilities

#### Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Public Service (Department) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing, *Minnesota Statutes*, sections 14.22 to 14.28 (1990). The Department's statutory authority to adopt the rules is set forth in *Minnesota Statutes* 216C.10.

All interested persons shall have until 4:30 p.m. on September 18, 1991 to submit comment in support of or in opposition to the



proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held, unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portions of the proposed rules addressed, the reason for the request, and any change proposed.

If a public hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes*, sections 14.131 to 14.20 (1990). **PLEASE NOTE that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on September 19, 1991, in accordance with the notice of public hearing of these same rules published below in this State Register.** To verify whether a hearing will be held, please call Melinda Reyes on September 18, 1991 during the regular business hours at the telephone number listed below.

Comments or written requests for a public hearing should be submitted to:

Melinda Reyes  
Minnesota Department of Public Service  
900 American Center Bldg.  
150 E. Kellogg Blvd.  
St. Paul, MN 55101  
(612) 296-9325

The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

The proposed amendments to the rules, if adopted, will streamline the reporting process and bring reporting requirements in line with current data collection. The changes will include the deletion of information requirements that the Department believes are too burdensome to the electric utilities, natural gas utilities, interstate gas pipeline, and prime petroleum suppliers and petroleum pipeline companies based on the limited value of the information to the Department. Other deletions will also be made because certain information requirements are no longer necessary for the department to adequately fulfill its legislatively mandated energy data collection, analysis, and forecasting responsibilities.

The proposed rules are published below. One free copy of the rules may be obtained from the Department by writing or calling Melinda Reyes at the address or telephone number listed above.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and may be obtained from the Department by writing or calling Melinda Reyes at the address or telephone number listed above.

You are hereby advised pursuant to *Minnesota Statutes*, section 14.115, "Small business considerations in rulemaking," that the proposed amendment to the rules will have no negative effect on small business, as the amendments will reduce and simplify the reporting requirements for all those affected by the rules, including small businesses.

The adoption of the proposed rules will not involve any fee adjustments. Therefore, *Minnesota Statutes*, section 16A.128 (1990) is not applicable to this rulemaking process.

The adoption of the proposed rules will not require the expenditure of public money by local public bodies or have a direct impact on agricultural land. Therefore, *Minnesota Statutes* section 14.11 (1990) is not applicable to this rulemaking process.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule as adopted, must submit a written request to Melinda Reyes at the above address.

Dated: 29 July 1991

Krista L. Sanda  
Commissioner

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

## Proposed Rules

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### Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Public Service (Department) will hold a public hearing in the above-entitled matter at State Office Building, Room 346, 100 Constitution Ave., St. Paul, MN 55155, commencing at 9:30 a.m., and continuing until all interested or affected persons have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted to the presiding Administrative Law Judge, as hereinafter indicated, without appearing at the hearing.

**PLEASE NOTE, however, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published above in this *State Register*.** To verify whether a hearing will be held, please call Melinda Reyes on September 18, 1991 during the regular business hours at (612) 296-9325.

The matter will be held before Administrative Law Judge Allen E. Giles, Office of Administrative Hearings, 5th Fl., Flour Exchange Bldg., 310 4th Ave. S., Minneapolis, MN 55415, (612) 349-2543. The rule hearing procedure is governed by *Minnesota Statutes* sections 14.131 to 14.20 (1990) and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1990). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The proposed amendments to the rules, if adopted, will streamline the reporting process and bring reporting requirements in line with current data collection. The changes will include the deletion of information requirements that the Department believes are too burdensome to the electric utilities, natural gas utilities, interstate gas pipeline, and prime petroleum suppliers and petroleum pipeline companies based on the limited value of the information to the Department. Other deletions will also be made because certain information requirements are no longer necessary for the department to adequately fulfill its legislatively mandated energy data collection, analysis, and forecasting responsibilities.

The Department's statutory authority to adopt the rules is set forth in *Minnesota Statutes* 216C.10. The proposed rules are published below. One free copy of the rules may be obtained from the Department by contacting:

Melinda Reyes  
Minnesota Department of Public Service  
900 American Center Bldg.  
150 E. Kellogg Blvd.  
St. Paul, MN 55101  
(612) 296-9325

**NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS** is now available for review at the department and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rules in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the Department and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period. Any written material or responses submitted must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date.

The Department requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to Melinda Reyes at the Department address stated above.

The proposed rules may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rules.

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Department 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 indicate so 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 rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

You are hereby advised pursuant to *Minnesota Statutes*, section 14.115, "Small business considerations in rulemaking," that the proposed amendment to the rules will have no negative effect on small business, as the amendments will reduce and simplify the reporting requirements for all those affected by the rules, including small businesses.

The adoption of the proposed rules will not involve any fee adjustments. Therefore, *Minnesota Statutes*, section 16A.128 is not applicable to this rulemaking process.

The adoption of the proposed rules will not require the expenditure of public money by local public bodies or have a direct impact on agricultural land. Therefore, *Minnesota Statutes* section 14.11 (1990) is not applicable to this rulemaking process.

Please be advised that lobbyists must register with the state Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520, telephone (612) 296-5148.

Dated: 29 July 1991

Krista L. Sanda  
Commissioner

### Rules as Proposed

#### 7610.0100 DEFINITIONS.

[For text of subs 1 and 2, see M.R.]

Subp. 3. [See repealer.]

[For text of subs 4 to 8, see M.R.]

Subp. 8a. Department. "Department" means the Minnesota Department of Public Service.

Subp. 9. [See repealer.]

[For text of subp 10, see M.R.]

Subp. 10a. Interruptible load. "Interruptible load" means the amount of electric power made available under agreements permitting curtailment or cessation of delivery by the supplier.

[For text of subp 11, see M.R.]

Subp. 12. and 13. [See repealer.]

[For text of subs 14 to 17, see M.R.]

Subp. 18. **Municipal power agency.** "Municipal power agency" means a municipal corporation incorporated pursuant to under *Minnesota Statutes*, sections 453.51 to 453.62. For purposes of these parts, a municipal power agency may elect to supply in aggregate the data required by these parts for its members. ~~All~~ Data submitted in ~~such~~ this fashion ~~shall~~ must be in the format specified by the ~~director~~ commissioner.

[For text of subs 19 to 26, see M.R.]

Subp. 26a. Schedule L purchase. "Schedule L purchase" means the amount of interruptible load replacement energy that is planned to be purchased for the purpose of serving interruptible load.

[For text of subs 27 to 35, see M.R.]

#### 7610.0110 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of parts 7610.0100 to 7610.0700 is to implement the forecasting, statistical, and informational reporting requirements of *Minnesota Statutes*, sections 216C.17 and 216C.18. ~~These~~ Parts 7610.0100 to 7610.0700 are adopted pursuant to the powers of the commissioner conferred by *Minnesota Statutes*, section 216C.10, clause ~~(a)~~ (1), and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors, and to determine the level of statewide and service area energy needs.

Subp. 2. **Scope.** Each electric utility serving the state of Minnesota shall submit the information required by ~~these~~ parts 7610.0100 to 7610.0700 to the commissioner in the form specified by ~~him~~ the commissioner.

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### 7610.0130 ANNUAL REPORTING DATES.

Subpart 1. **Annual.** Except as provided by the commissioner, each generating and transmission utility Utilities listed under part 7610.0300 shall file with the commissioner the information required by parts 7610.0120, 7610.0170, and 7610.0200 7610.0100 to 7610.0600 7610.0700 by July 1 of each year. All other electric utilities shall file only the information required by parts 7610.0120, 7610.0170, and 7610.0600, items B to J, by July 1 of each year. For good cause shown, the department may grant a utility an extension from the deadline following receipt of a written request from the utility.

Except as provided by the commissioner, each distribution only utility shall file with the commissioner only the information required by parts 7610.0120, 7610.0170, and 7610.0600 by July 1 of each year.

Subp. 2. and 3. [See repealer.]

### 7610.0170 FEDERAL REPORTS FILED BY UTILITIES.

Each A utility shall identify to the commissioner all the forms and reports that it regularly files with the Federal Power Energy Regulatory Commission, the United States Department of Energy, the Rural Electrification Administration, and other federal agencies. Upon request of the commissioner, each a utility shall make copies of any such the forms or reports available to the commissioner.

### 7610.0300 WHO MUST FILE.

The following utilities must file an extended forecast the information required by parts 7610.0100 to 7610.0700: Northern States Power Company, Minnesota Power, Otter Tail Power Company, Interstate Power Company, Minnkota Power Cooperative, Cooperative Power Association, United Power Association and Dairyland Power Cooperative, and the Southern Minnesota Municipal Power Agency. Data that is compiled within the same calendar year for either an extended forecast or a certificate of need application may be substituted interchangeably to satisfy those portions of both sets of rules that have identical data requirements. In such For these cases, references to the material substituted and a copy of the appropriate reference material shall must be submitted to meet the reporting requirements.

### 7610.0310 CONTENT OF EXTENDED HISTORICAL DATA AND FORECAST.

The following data shall must be provided:

A. the annual electrical consumption by ultimate consumers and number of customers at year's end within the utility's system and for its Minnesota service area only for the past calendar year, the present calendar year, and the subsequent 14 years, for each of the following categories:

- (1) farm, excluding irrigation and drainage pumping ( which for reporting purposes, any means a tract of land used primarily for agricultural purposes);
- (2), including irrigation and drainage pumping;
- (3) (2) nonfarm residential (, including electricity supplied through a single meter for both residential and commercial uses reported according to its principal use and apartment buildings reported as residential even if not separately metered);
- (4) (3) commercial (, including wholesale and retail trade; communications industries; public and private office buildings, banks, and dormitories; insurance, real estate, and rental agencies; hotels and motels; personal business and auto repair services; medical and educational facilities; governmental units, excluding military bases; warehouses other than manufacturer owned; and electric, gas, water, and water pumping other than pumping for irrigation, and other utilities);
- (5) mining;
- (6) (4) industrial (and mining, including all manufacturing industries, construction operations, and petroleum refineries), except that mining must be reported as a separate category if annual sales are greater than 1,000 gigawatt hours;
- (7) (5) street and highway lighting;
- (8) electrified transportation (including energy supplied for the propulsion of vehicles, but not energy supplied for office buildings, depots, signal lights, or other associated facilities that shall be reported as commercial or industrial);
- (9) (6) other (ultimate consumers, including municipal water pumping facilities, oil and gas pipeline pumping facilities, military camps and bases, and all other consumers not reported in subitems (1) to (8)) (5); and
- (10) (7) the sum of subitems (1) to (9) (6);

B. the annual system consumption and generation data for the last year, the present year, and the 14 subsequent years for each of the following categories:

- (1) annual total electrical consumption in megawatt hours by ultimate consumers within the utility's Minnesota service area;

(2) annual total electrical consumption in megawatt hours by the utility's ultimate consumers outside its Minnesota service area;

(3) the number of megawatt hours the utility has received or expects to receive from other systems for sale to its ultimate consumers or to other utilities;

(4) the number of megawatt hours the utility has delivered or expects to deliver to other systems for resale;

(5) total annual net generation of electrical energy by the utility in megawatt hours;

(6) electrical energy loss in megawatt hours due to transmission line and substation losses; and

(7) total semiannual electrical consumption by the utility's ultimate consumers during May through October and November through April;

C. an estimate of the demand for power by ultimate consumers in the utility's system for each of the categories listed in item A at the time of the last annual system peak demand;

D. the utility's system peak demand by month for the last calendar year;

D E. the utility's seasonal firm purchases and seasonal firm sales for each utility involved in each transaction for the last year, the present year, and the 14 subsequent years;

E F. the utility's seasonal participation purchases and participation sales for each utility involved in each transaction for the last year, the present year, and the 14 subsequent years;

F G. for the summer season and for the winter season of the last year, the present year, and the 14 subsequent years, the load and generation capacity data requested in subitems (1) to (13), including ~~all~~ anticipated purchases, sales, capacity retirements, and capacity additions, including those that may depend upon certificates of need not yet issued:

(1) seasonal maximum demand;

(2) schedule L purchase at the time of seasonal system demand;

(3) seasonal system demand;

~~(2)~~ (4) annual system demand;

~~(3)~~ total seasonal (5) firm purchases - total;

~~(4)~~ total seasonal (6) firm sales - total;

~~(5)~~ (7) seasonal adjusted net demand  $\zeta$ , which is subitem ~~(4)~~ (3) minus subitem ~~(3)~~ (5) plus subitem ~~(4)~~ (6);

~~(6)~~ (8) annual adjusted net demand  $\zeta$ , which is subitem ~~(2)~~ (4) minus subitem ~~(3)~~ (5) plus subitem ~~(4)~~ (6);

~~(7)~~ (9) net generating capacity capability;

~~(8)~~ total (10) participation purchases - total;

~~(9)~~ total (11) participation sales - total;

~~(10)~~ (12) adjusted net capability  $\zeta$ , which is subitem ~~(7)~~ (9) plus subitem ~~(8)~~ (10) minus subitem ~~(9)~~ (11);

~~(11)~~ (13) net reserve capacity obligation;

~~(12)~~ (14) total firm capacity obligation  $\zeta$ , which is subitem ~~(5)~~ (7) plus subitem ~~(11)~~ (13); and

~~(13)~~ (15) surplus or deficit (-) capacity  $\zeta$ , which is subitem ~~(11)~~ (12) minus subitem ~~(13)~~ (14);

G H. for the present calendar year and the subsequent 14 years, ~~each utility shall provide~~ a list in megawatts of proposed additions and retirements in generating capability; and

H I. the utility's method of determining its system reserve margin and the appropriateness of the margin.

**7610.0315 FORECASTS USING ALTERNATIVE SECTOR DEFINITIONS.**

Utilities required to provide forecasts by category of consumption under part 7610.0310, item A, may request in writing that the department accept alternative definitions for one or more of the categories defined in part 7610.0310, item A. A utility must provide the alternative definition or definitions in writing. This must be filed with each subsequent forecast following approval by the

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department. If the department concludes that a previously accepted alternative definition is no longer acceptable, the department must inform the utility in writing at least six months before the reporting date for the next annual forecast.

### 7610.0320 FORECAST DOCUMENTATION.

Subpart 1. **Forecast methodology.** ~~Each~~ An applicant may use the forecast methodology that yields the most useful results for its system. However, the applicant shall detail in written form the forecast methodology employed to obtain the forecasts provided under parts ~~7610.0200~~ 7610.0300 to ~~7610.0340~~ 7610.0315, including:

[For text of items A to G, see M.R.]

[For text of subps 2 to 5, see M.R.]

### 7610.0400 PRESENT FACILITIES.

~~Each~~ A utility required to report under part ~~7610.0130, subpart 1, item A~~ 7610.0300 shall provide the following information ~~with regard to~~ on each power plant serving or capable of serving its Minnesota service area as of January 1 of the current year:

[For text of item A, see M.R.]

~~B. its location and address~~ the statutory or home rule charter city or town and the county in which the plant is located;

[For text of items C and D, see M.R.]

~~E. the annual heat rate of the plant if coal is a fuel source, the average Btu content of the coal;~~

[For text of items F and G, see M.R.]

~~H. the type of unit and name plate megawatt rating~~ for each unit of generating equipment in the plant; and

~~I. if available, for all~~ base load plants provide the capacity factor, operating availability, and forced outage rate.

### 7610.0410 FUTURE FACILITY ADDITIONS.

~~Each~~ A utility required to report under part ~~7610.0130, subpart 1, item A~~ 7610.0300 shall estimate the additional power plants or additions to existing plants necessary to provide for the energy growth predicted by the forecasts in parts ~~7610.0200~~ 7610.0300 to 7610.0320. ~~Each~~ A utility shall supply the following information about each additional plant or addition:

[For text of items A to E, see M.R.]

~~F. the estimated type and amount of fuel to be used to operate the plant on an annual basis under conditions set forth in item E; and~~

~~G. the estimated heat rate of the plant; and~~

~~H. the type of unit or units proposed for the plant.~~

### 7610.0420 FUTURE FACILITY RETIREMENTS.

~~Each~~ A utility required to report under part ~~7610.0130, subpart 1, item A~~ 7610.0300 shall list ~~any~~ the planned facility retirements that will take place within the next 15 years. ~~Each~~ The utility shall provide the following information about ~~each~~ a facility retirement: the location and type of the plant; the forecasted retirement date; and the plant's actual summer and winter capacity.

### 7610.0600 OTHER INFORMATION REPORTED ANNUALLY.

~~Each~~ A utility shall provide the following information for the last calendar year:

~~A. a table and a graphed curve~~ of the demand in megawatts by hour over a 24-hour period for:

(1) the 24-hour period during the summer season when the megawatt demand on the system was the greatest; and

(2) the 24-hour period during the winter season when the megawatt demand on the system was the greatest;

~~B. the names, addresses, and the kilowatt hours of electricity consumed by customers of the utility who annually consume over 600,000 kilowatt~~ 10,000 megawatt hours;

~~C. the names and addresses of the utility's suppliers of primary fuels, providing for each supplier of primary fuels the type of fuel purchased;~~

~~D. a detailed map, on which the scale is indicated~~ shown, of the utility's Minnesota service area, identifying power plants, principal substations, and transmission lines over 200 kilovolts, identified by voltage;

~~E D.~~ a listing of the purchases and sales for resales the utility had with other utilities, including the ~~name~~ names of ~~any such utility~~ the other utilities and megawatt hours purchased or sold for resale during the last year;

~~F E.~~ its present rate schedules as of June 1 of the present year;

~~G~~ E. a copy of ~~whichever~~ of the following reports it files report form EIA-861 filed with either the Energy Information Administration of the United States Department of Energy or the United States Department of Agriculture;

~~(1) F.P.C. Form Number 12; or~~

~~(2) G. for rural electric cooperatives,~~ part D. of the financial and statistical report to the United States Department of Agriculture;

H. for distribution only utilities that are not members of the MWPSG, the total megawatts of generation capacity, the megawatt hours generated on an emergency standby basis and during the last calendar year, the amount of fuel used to generate such the electricity, and the average Btu content of the coal used for electric generation;

[For text of item I, see M.R.]

J. its deliveries to ultimate consumers and revenues for the last calendar year broken down by categories determined by the director (this item is not applicable to electric utilities completing part 7610.0310, item A) commissioner.

**7610.0700 QUARTERLY REPORTS OF ENERGY DELIVERED TO ULTIMATE CONSUMERS.**

Subpart 1. **Content.** Beginning in the year 1976 all Utilities, except municipal utilities with sales of under 20,000,000 kilowatt with sales to ultimate consumers of over 2,000 gigawatt hours annually, shall report quarterly the kilowatt hours delivered each month during the preceding quarter to ultimate consumers, broken down by customer class/geographic area combination: total sales and number of customers by customer class, within Minnesota and outside of Minnesota, for each quarter of the previous year.

~~A. Geographic areas will be defined by the customer's county.~~

~~B. Customer class will be defined by standard industrial classification (SIC) codes with extensions for more detailed breakdown of households and governmental units, listed in the Standard Industrial Classification Manual, 1987 edition, published by the federal Office of Management and Budget, Executive Office of the President, Washington D.C., as amended and supplemented from time to time. This manual, with future amendments and supplements to it, is incorporated by reference and is available through the Minitex interlibrary loan system and at the Minnesota State Law Library, 117 University Avenue, Saint Paul, MN. The manual is not subject to frequent change.~~

~~C. In each customer class/geographic area combination the utility shall report the number of customers and the total kilowatt hours consumed.~~

Subp. 2. [See repealer.]

**7610.0800 DEFINITIONS.**

Subpart 1. **Scope.** For purposes of these rules parts 7610.0800 to 7610.1230, the following definitions shall apply.

Subp. 2. [See repealer.]

[For text of subps 3 to 5, see M.R.]

Subp. 6. [See repealer.]

[For text of subp 7, see M.R.]

Subp. 7a. Department. "Department" means the Minnesota Department of Public Service.

[For text of subps 8 to 15, see M.R.]

Subp. 16. **Large energy facility.** "Large energy facility" means any pipeline for transporting natural or synthetic gas at pressure in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota, any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural gas or synthetic gas, or any underground gas storage facility requiring a permit pursuant to Minnesota Statutes, section 84.57 103I.681, subdivision 1, paragraph (a).

[For text of subps 17 to 24, see M.R.]

**7610.0810 PURPOSE AND SCOPE.**

Subpart 1. **Purpose.** The purpose of parts 7610.0800 to ~~7610.1210~~ 7610.1230 is to implement the forecasting, statistical, and informational reporting requirements of Minnesota Statutes, sections 216C.17 and 216C.18. These parts are adopted pursuant to under the powers of the commissioner conferred by Minnesota Statutes, section 216C.10, paragraph clause (a), and are designed to identify emerging energy trends based on supply and demand, conservation, and public health and safety factors, and to determine the level of statewide and service area energy needs.

**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

[For text of subp 2, see M.R.]

### 7610.0820 ANNUAL REPORTING DATES.

Subpart 1. Gas utilities. ~~Except as provided by the commissioner or in these parts, each~~ A utility and interstate gas pipeline company shall file with the commissioner the information required by parts 7610.0850; 7610.0860 to 7610.1110, and 7610.1210 by November 1, 1977, and to 7610.1230 by July 1 of each year thereafter. For good cause shown, the department may grant a utility an extension from the deadline following receipt of a written request from the utility.

Subp. 2. and 3. [See repealer.]

### 7610.0840 FEDERAL OR STATE DATA SUBSTITUTION FOR ENERGY AGENCY DATA REQUIREMENTS.

Upon written request by ~~any~~ a utility, the commissioner may allow it to substitute data provided to the federal government or another state agency in ~~lieu~~ place of data required by ~~these~~ parts 7610.0800 to 7610.1230 if the data required by both agencies is substantially the same.

### 7610.0850 REGISTRATION.

~~Each~~ A gas utility serving ultimate consumers and ~~each~~ an interstate gas pipeline company serving ~~any~~ a utility in Minnesota must file a registration statement with the commissioner. ~~Any~~ A utility or interstate pipeline company that ~~commences~~ begins operation in the state ~~after June 1, 1975~~, shall file a registration statement with the commissioner within 30 days after ~~commencing~~ beginning operation. ~~Each~~ The registration statement ~~shall~~ must be on forms issued by the commissioner and available from the ~~agency and shall~~ department. ~~The registration statement must~~ contain the name and headquarters address of the utility or interstate pipeline company, the names and addresses of ~~all~~ officers of the utility or interstate pipeline company, and the name, address, and telephone number of a person who may be contacted for information about the utility or interstate pipeline company.

### 7610.0860 FEDERAL REPORTS FILED BY GAS UTILITIES AND INTERSTATE GAS: UTILITY, PIPELINE COMPANIES COMPANY.

~~Each~~ A utility and interstate pipeline company shall identify to the commissioner ~~all~~ the forms and reports pertaining to gas supply and demand that it regularly filed with the Federal ~~Power~~ Energy Regulatory Commission, ~~the federal Bureau of Mines Department of Energy~~, and other federal agencies. Upon request of the commissioner, ~~any~~ a utility or pipeline company shall make copies of any forms or reports available to the commissioner.

### 7610.0910 CONTENT OF ANNUAL REPORT OVERALL SUPPLY AND DEMAND.

The basic forecast and current data shall contain the following data and forecasts for ~~each year cited in part 7610.0900~~ the last calendar year, the present year, and the subsequent five years:

- A. annual sales to ultimate consumers within the utility's Minnesota service area;
- B. other deliveries of gas to commercial consumers in Minnesota;
- C. other deliveries of gas to industrial consumers in Minnesota;
- D. the annual volume of gas delivered or expected to be delivered to other utilities for resale;
- ~~€~~ E. the annual volume of gas used in the operation of the utility within its Minnesota service area;
- ~~Đ~~ F. the annual volume of gas used in the utility's Minnesota service area but unaccounted for in items A to ~~€~~ E;
- ~~€~~ G. the total annual gas consumption, for all purposes, in the utility's Minnesota service area ~~€, with total consumption equals items A plus B plus C plus D equals item E~~ equaling the sum of items A to F, excluding gas held in storage at year's end;
- ~~F~~ H. the total annual volume of substitute natural gas provided by the utility to supplement the utility's supply of natural gas for use in its Minnesota service area;
- ~~G~~ I. the total annual volume of liquefied natural gas supply withdrawn from storage by the utility for use in its Minnesota service area;
- ~~H~~ J. the total volume of natural gas withdrawn from underground storage by the utility for use in its Minnesota service area;
- ~~I~~ K. the total annual volume of gas received or estimated to be received from the interstate pipeline company for use in its Minnesota service area;
- ~~J~~ L. the design-day maximum gas demand volume for the utility's Minnesota service area firm customers;
- ~~K~~ M. the maximum winter peak-day volume of gas sent out or expected to be sent out in the utility's Minnesota service area;
- ~~L~~ N. the design-day availability of each type of gas and the maximum one-day volume of gas ~~such~~ the supplies will provide;
- ~~M~~ O. the amount of substitute natural gas the utility can produce from the feedstock it will have in storage at the beginning of the winter heating season for use in its Minnesota service area;



N P. the amount of liquid natural gas the utility will have for use in storage at the beginning of the winter heating season for use in its Minnesota service area;

O Q. the amount of natural gas the utility will have in underground storage for use at the beginning of the winter heating season; and

P R. the type and amount of fuel used or to be used in Minnesota to produce substitute natural gas; and

Q. the actual historic data and a forecast of direct sales to ultimate customers and the number of such customers in each of the following categories:

- (1) residential firm;
- (2) commercial firm customers who use less than 200 MCF on peak day;
- (3) commercial firm customers who use 200 MCF or greater on peak day;
- (4) commercial interruptible;
- (5) industrial firm customers who use less than 200 MCF on peak day;
- (6) industrial firm customers who use 200 MCF or greater on peak day;
- (7) industrial interruptible;
- (8) other consumers firm;
- (9) other consumers interruptible;
- (10) own company use;
- (11) unaccounted for gas;
- (12) gas delivered to other utilities for sale; and
- (13) total annual gas consumed in Minnesota (total of subitems (1) to (12) should equal item E).

#### **7610.0914 SALES BY CUSTOMER CATEGORY.**

Subpart 1. Sales of 3,000,000 Mcf or more. Utilities with annual Minnesota sales during the last calendar year of 3,000,000 Mcf or greater shall provide historic and forecast data on sales to ultimate customers and the number of customers during the last calendar year, the present year, and the subsequent first through the fifth, tenth, and 15th years for:

- A. residential firm sales;
- B. commercial firm sales;
- C. commercial interruptible sales;
- D. industrial firm sales;
- E. industrial interruptible sales; and
- F. total annual gas consumed in Minnesota, which is the sum of items A to E.

Subp. 2. Sales of less than 3,000,000 Mcf. Utilities with annual Minnesota sales during the last calendar year of less than 3,000,000 Mcf shall provide data on sales to ultimate customers and the number of customers for the categories listed in subpart 1, items A to F, for the last calendar year only.

#### **7610.0920 LAST CALENDAR YEAR HISTORICAL DATA.**

For the last calendar year, historical data ~~shall~~ must be supplied. For each other reporting year, the forecasts ~~shall~~ must be made using the utility's or pipeline company's best estimate for each of the items requested. ~~The agency recognizes five to 15 year forecasts can be difficult to calculate and subject to considerable error, but~~ Utilities ~~shall~~ must prepare these forecasts to the best of their ability and knowledge. ~~The forecasts shall be based on those assumptions and factors that the reporting utility deems considers most likely to occur. The assumptions and factors used in deriving the forecasts shall must be stated in writing. Each The utility shall evaluate the size of the estimating error, given the conditions and factors used in the estimate. Each The utility shall comment on possible deviations from the forecast and what factors might create such changes those deviations. Any A utility required to file an extended~~

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## Proposed Rules

a forecast pursuant to parts 7610.1000 and documentation under part 7610.1010 need not file forecast documentation required in this part.

### 7610.1000 WHO MUST FILE PEAK-DAY FORECAST.

The following utilities must file an extended forecast with documentation: Minnesota Gas Company, North Central Public Service Company, Northern States Power Company, and Peoples Natural Gas Company. Each Utilities with annual Minnesota sales of more than 10,000,000 Mcf during the last calendar year must file a peak-day consumption forecast. A utility required to file its extended a forecast pursuant to under this part shall identify or estimate the demand for gas by ultimate consumer categories listed in part 7610.0910, item Q, on the peak sendout day for each of the reporting years cited in part 7610.0900, during the last calendar year, the current year, and the subsequent five years for the following categories of demand:

- A. residential firm sales;
- B. commercial industrial firm sales;
- C. commercial industrial interruptible sales;
- D. other deliveries to ultimate customers;
- E. own company gas;
- F. gas unaccounted for;
- G. gas delivered to other utilities for sale;
- H. total peak-day gas consumed in Minnesota; and
- I. total peak-day consumption in Minnesota.

### 7610.1010 FORECAST DOCUMENTATION.

Subpart 1. **Forecast methodology.** Each A utility may use whatever forecast methodology it believes is most appropriate for its Minnesota service area. However, those utilities required under parts 7610.0900 to 7610.1010 to file forecasts utilities with annual Minnesota sales of more than 10,000,000 Mcf during the last calendar year shall describe the forecast methodology employed by providing the following documentation:

[For text of items A to G, see M.R.]

[For text of subps 2 to 4, see M.R.]

### 7610.1130 OTHER INFORMATION TO BE REPORTED BY GAS UTILITIES.

Subpart 1. **General data.** Gas utilities must also report:

A. an annual load curve for the last calendar year consisting of a single graph and accompanying data table indicating the total monthly consumption of gas during the last calendar year in the following classifications:

- (1) residential firm;
- (2) commercial industrial firm;
- (3) ~~small volume~~ commercial industrial interruptible;
- (4) ~~large volume~~ interruptible;
- ~~(5)~~ electric generation;
- (5) other deliveries to ultimate consumers;
- (6) gas to storage;
- (7) other dispositions and losses; and
- (8) level of contract demand;

B. any additional municipalities or geographic areas outside the utility's current service area which that it expects to serve and the year when service will begin;

C. a list of customers who will be curtailed or completely phased out in the five years following the year of filing; the total number of customers and total sales during the last calendar year to:

- (1) firm commercial industrial customers that use more than 200 Mcf on peak day; and
- (2) interruptible commercial industrial customers that use more than 200 Mcf on peak day;

[For text of items D and E, see M.R.]

Subp. 2. ~~Customers and addresses~~ **Customer information.** For the last calendar year, a utility shall provide a list of customers and their addresses:

~~A.~~ who have gas requirements in excess of 200 Mcf on their peak day each year. For ~~each~~ a customer so identified, the utility shall list:

- (1) A. annual actual sales;
- (2) B. annual estimated curtailment;
- (3) C. annual estimated requirements ~~(, which should equal the sum of subitems (1) items A and (2) should equal subitem~~
- (3)) B.;
- (4) D. alternative fuel used; and
- (5) E. curtailment priority rank.

~~B. Who are small volume interruptible users. For each small volume interruptible user identify the volume of gas consumed during the last calendar year and the curtailment priority rank.~~

~~C. Who are firm customers and consume 6,000 MCF or greater annually. For each customer so identified list the volume of gas consumed during the last calendar year and the curtailment priority rank.~~

#### **7610.1200 BASIC FORECAST AND CURRENT STATISTICS FOR INTERSTATE GAS PIPELINE COMPANIES.**

[For text of subpart 1, see M.R.]

Subp. 2. **Contents of report.** The basic forecast and current data report ~~shall~~ must contain the following data for each year cited in subpart 1:

- A. the annual sales and deliveries to Minnesota gas utility distribution companies for resale;
- B. the annual sales and deliveries to ultimate consumers in Minnesota, excluding sales and deliveries that are transported in part by Minnesota distribution utilities; and
- C. the maximum one-day amount of gas that must be provided to the Minnesota service area to meet contractual obligations to the gas utilities served.

Subp. 3. **Basis of forecasts.** In meeting the requirements of subpart 1, historical data for the last calendar year ~~shall~~ must be supplied.

For each other reporting year, the forecasts ~~shall~~ must be made using the interstate pipeline company's best estimate for each of the items. ~~The agency recognizes that five to 15 year forecasts can be difficult to calculate and subject to considerable error, but Interstate pipeline companies should~~ must prepare these forecasts to the best of their ability and knowledge. ~~The forecasts shall be based on those assumptions and factors that the reporting utility deems considers most likely to occur. The assumptions and factors used in deriving the forecasts shall be stated in writing. Each An~~ interstate pipeline company shall evaluate the size of estimating error possible given the conditions and factors used in the estimate. ~~Each A~~ utility company shall comment on possible deviation from the forecast and what factors might create ~~such changes~~ the deviation.

#### **7610.1210 MAP OF PRESENT FACILITIES.**

Each An interstate pipeline company shall provide the following information with regard to existing facilities serving its Minnesota service area as of January 1 of the current year:

- ~~A. The name and geographic location of all underground storage facilities owned, operated, or leased by the interstate pipeline company in Minnesota. For each facility include:~~
  - (1) the total storage capacity in MCF of the facility minus the required reserves of gas;
  - (2) the actual volume of gas in storage in MCF at the beginning of the winter heating season, not including required reserves of gas;
  - (3) the maximum single day withdrawal capacity of the facility in MCF; and
  - (4) the anticipated facility retirement date.

**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

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B. The name and geographic location of all liquefied natural gas facilities owned, operated, or leased by the interstate pipeline company in Minnesota. For each facility include:

- (1) the total storage capacity of the facility in MCF of natural gas minus required reserves;
- (2) the actual volume of natural gas in MCF in storage at the beginning of the winter heating season minus the required reserves;
- (3) the maximum single day withdrawal capacity in MCF of natural gas; and
- (4) the anticipated facility retirement date.

C. The name and geographic location of all substitute natural gas facilities owned, operated, or leased by the interstate pipeline company in Minnesota. For each facility include:

- (1) the maximum storage capacity of the facility in MCF of converted substitute natural gas;
- (2) the maximum volume in storage in converted MCF of substitute natural gas at the beginning of the winter heating season;
- (3) the maximum single day withdrawal capacity of the facility in MCF that can be injected into the pipeline;
- (4) the anticipated date of facility retirement; and
- (5) the type of fuel to be converted to substitute natural gas.

D. a map, on which the general scale is indicated shown, of the utility's Minnesota service area identifying distribution utility companies served, underground natural gas storage facilities, underground liquid natural gas facilities, substitute natural gas facilities, major transmission lines, and interconnection with other interstate pipeline companies.

### 7610.1220 MAP OF FUTURE FACILITY REQUIREMENTS FACILITIES.

Each An interstate pipeline company shall estimate the additional facilities or additions to existing facilities necessary to meet the level of gas consumption predicted in its forecast in part 7610.1200. Each interstate pipeline company shall supply the following information regarding its own planned or projected operations or facilities:

A. The name and geographic location of all new underground natural gas storage facilities or additions to existing facilities. For each facility include:

- (1) the anticipated year and month the facility will be in operation;
- (2) the estimated storage capacity in MCF of the new facility minus necessary reserves of gas;
- (3) the estimated actual storage in MCF that will be available for usage at the beginning of each heating season, not including necessary reserves of gas; and
- (4) the maximum single day withdrawal capacity of the proposed facility.

B. The name and geographic location of all new underground liquefied natural gas storage facilities or additions to existing facilities. For each facility include:

- (1) the anticipated year and month the facility will be ready for operation;
- (2) the estimated storage capacity in converted MCF of natural gas of the new facility minus any necessary reserves that must be kept in storage;
- (3) the estimated actual storage in converted MCF of natural gas that will be available at the beginning of each heating season when the facility is in operation, not including necessary reserves that must be kept in storage; and
- (4) the maximum single day withdrawal capacity of the proposed facility in converted MCF of natural gas;

C. The name and geographic location of all new substitute natural gas facilities or additions to existing facilities. For each facility include:

- (1) the type of fuel which is to be converted into substitute natural gas;
- (2) the month and year in which the plant is predicted to begin operation;
- (3) the theoretical storage capability of the facility in MCF of converted substitute natural gas;
- (4) the estimated actual storage in converted MCF of substitute natural gas that will be available at the beginning of each heating season not including required reserves; and
- (5) the maximum daily volume of substitute natural gas in MCF that will be available to be withdrawn from the facility and injected into the pipeline.

~~D. Based on your 15 year forecast,~~ provide a Minnesota service area map identifying future transmission lines, natural gas storage facilities, liquefied natural gas storage facilities, substitute natural gas storage facilities, ~~any~~ additional distribution utility companies to be served, and ~~any~~ additional interconnections with other interstate natural gas pipeline companies.

**7610.1230 DISPOSITION OF GAS BY INTERSTATE PIPELINE COMPANIES.**

Each interstate pipeline company shall file a copy of its annual ~~FPC forms~~ FERC form 2 and 16 with the agency department.

**7610.1300 DEFINITIONS.**

[For text of subpart 1, see M.R.]

Subp. 2. [See repealer.]

[For text of subp 3, see M.R.]

Subp. 4. [See repealer.]

[For text of subp 5, see M.R.]

Subp. 5a. Department. “Department” means the Minnesota Department of Public Service.

[For text of subs 6 to 17, see M.R.]

**7610.1330 ANNUAL REPORTING DATES.**

Subpart 1. Prime petroleum suppliers supplier, pipeline company. ~~Except as provided by the commissioner, each~~ A prime petroleum supplier and pipeline company shall file with the commissioner or its trade association, as applicable, the information required by parts ~~7610.1350, 7610.1370 to 7610.1510, and 7610.1610~~ 7610.1300 to 7610.1500 by July 1 of each reporting year. For good cause shown, the department may grant a prime petroleum supplier an extension from the deadline following receipt of a written request from the company. ~~Except as provided by the commissioner, each prime petroleum supplier shall file with the commissioner the information required by part 7610.1600 on a quarterly basis as follows:~~

~~A. Information for the period of January 1 to March 31 shall be filed by April 30.~~

~~B. Information for the period of April 1 to June 30 shall be filed by July 31.~~

~~C. Information for the period of July 1 to September 30 shall be filed by October 31.~~

~~D. Information for the period of October 1 to December 31 shall be filed by January 31 of the following year.~~

Subp. 2. and 3. [See repealer.]

**7610.1360 REGISTRATION.**

~~Each prime petroleum supplier and petroleum pipeline company operating in Minnesota must file a registration statement with the commissioner by July 1, 1975. Any~~ A prime petroleum supplier or petroleum pipeline company that commences begins operations in the state after June 1, 1975, shall file a registration statement with the ~~director~~ commissioner within 30 days after ~~commencing~~ beginning operation. ~~Each~~ The registration statement shall must be on forms issued by the commissioner and shall ~~be~~ The registration statement must contain the name and ~~headquarter~~ headquarters address of the prime petroleum supplier or petroleum pipeline company, the names and addresses of ~~all~~ officers of the supplier or company, and the name, address, and telephone number of a person who may be contacted for information about the prime petroleum supplier or petroleum pipeline company.

**7610.1380 HISTORICAL SUPPLY DATA.**

Each prime petroleum supplier shall submit annually to the commissioner the annual supply of motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane, and total petroleum products that the supplier provides or will provide to its Minnesota service area. This data must be submitted for the last calendar year only.

**7610.1400 ANNUAL FORECASTS.**

Each prime petroleum supplier ~~shall~~ that operates a refinery located in Minnesota or an adjacent state must submit annually to the commissioner five-, ten-, and 15-year forecasts of petroleum supply and demand within crude inputs and production at its Minnesota service area refinery.

**7610.1410 CONTENT OF FORECASTS.**

The energy forecast required under part 7610.1400 ~~shall~~ must contain the following data for each reporting year:

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## Proposed Rules

A. the annual supply of motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane, and total petroleum products that the supplier provides or will provide to its Minnesota service area; and

B. ~~the annual demand for motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane, and total petroleum products if sufficient product were available to meet all demands within the supplier's Minnesota service area; and~~

~~C. the annual volume of crude oil in number of barrels available to the supplier's refineries located in Minnesota refinery.~~

### 7610.1420 REPORTING YEARS.

The data required in part 7610.1410 shall be supplied for the following years:

- A. the last calendar year;
- B. the present calendar year;
- C. the year five years after the present calendar year;
- D. the year ten years after the present calendar year; and
- E. the year 15 years after the present calendar year.

~~In 1975, data shall also be supplied for the calendar year 1973.~~

### 7610.1430 CRITERIA FOR FORECAST.

For the last calendar year ~~and for the year 1973~~, historical data ~~shall~~ must be supplied. If recorded figures are not available, estimates ~~shall~~ must be used and ~~shall~~ be identified as such estimates. For each other reporting year, the forecast ~~shall~~ must be made using the supplier's best estimates of the amount of each petroleum product that will be supplied ~~or consumed~~. These estimates ~~shall~~ must be based on the factors that the supplier ~~deems~~ considers most likely to occur in its Minnesota service area. The data for each reporting year ~~shall~~ must be calculated by applying these factors to the data for the last calendar year for which actual data required in part 7610.1410 is available. ~~The assumptions and factors used in arriving at the forecast shall be stated in writing. Each prime petroleum supplier shall evaluate the size of the estimating error given the conditions and factors used in the estimate. Each prime petroleum supplier shall comment on probable deviations from the forecast.~~

### 7610.1500 PRESENT FACILITIES.

~~Each~~ A prime petroleum supplier or pipeline company shall provide to the commissioner the following information ~~with regard to any on~~ facilities which that it owns in Minnesota as of January 1 of the current year:

#### A. ~~refineries:~~

- ~~(1) the name of the refinery;~~
- ~~(2) the location and address;~~
- ~~(3) the year constructed;~~
- ~~(4) average barrels per day production; and~~
- ~~(5) present maximum barrel per day production capacity;~~

#### ~~B. for storage tanks at any one site in excess of 1,000,000 gallons:~~

- ~~(1) the location and address of the site;~~
- ~~(2) the total storage capacity for the site; and~~
- ~~(3) the total storage capacity for the site by product stored; and~~

#### ~~C. B. pipelines:~~

- ~~(1) a geographical description of the pipeline a map depicting the location of pipelines from its their origin to its their termination in Minnesota;~~
- ~~(2) the diameter of the pipeline;~~
- ~~(3) whether it is a crude or refined product pipeline; and~~
- ~~(4) the maximum volume in barrels that can be delivered through the pipeline in a single day.~~

**REPEALER.** Minnesota Rules, parts 7610.0100, subparts 3, 9, 12, and 13; 7610.0130, subparts 2 and 3; 7610.0200; 7610.0210; 7610.0220; 7610.0700, subpart 2; 7610.0800, subpart 2; 7610.0820, subparts 2 and 3; 7610.0900; 7610.1120; 7610.1300, subparts 2 and 4; 7610.1330, subparts 2 and 3; 7610.1510; 7610.1520; 7610.1600; and 7610.1610, are repealed.

### TERM CHANGES.

Subpart 1. Agency to department. The term "department" or similar form of that term will be substituted for "agency" or similar

form of that term wherever it appears in Minnesota Rules, parts 7610.0140; 7610.0160; 7610.0830; 7610.1340; and 7610.1600, subpart 3.

Subp. 2. Gender-neutral terms. Appropriate terms that are gender-neutral will be substituted for "him," "he," and "his" where they appear in Minnesota Rules, parts 7610.0110, subpart 2; 7610.0810, subpart 2; 7610.1300, subpart 12; and 7610.1320.

## Public Utilities Commission

### Proposed Permanent Rules Relating to Telephone Company Filing Requirements

#### Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-Five or More Persons Request a Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Public Utilities Commission (Commission) intends to adopt the above-entitled rules without a public hearing following the procedures for adopting rules without a public hearing set forth in the Administrative Procedure Act, *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The Commission's authority to adopt the rules is set forth in *Minnesota Statutes* §§ 216A.05, 237.06, 237.07, 237.075, 237.10, and 237.57 to 237.64 (1990).

All persons have until 4:30 p.m. September 18, 1991, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. **Please Use Docket No. P-999/R-84-648 on all Correspondence.**

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

If a public hearing is required, the Commission will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1990). **Please note that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on Wednesday, September 25, 1991, and, if necessary, Thursday, September 26, 1991, in accordance with the Notice of Public Hearing of these same rules published in this *State Register* and mailed to persons registered with the commission.** To verify whether a hearing will be held, please call the Commission between September 19, 1991, and September 24, 1991 at (612) 296-7124.

Comments or written requests for a public hearing must be submitted to:

Alanna Moravetz  
Minnesota Public Utilities Commission  
780 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 296-2357

The proposed rules may be modified if the modifications are supported by data and views submitted to the Commission and do not result in a substantial change in the proposed rule as noticed.

The proposed rules, if adopted, will describe the filing requirements for telephone companies under the jurisdiction of the Commission for tariffs and price lists, new service offerings, rate changes, competitive services, and incentive plans. The proposed rules are published below. One free copy of the rules is available upon request from the Commission by contacting the Commission's receptionist, Kris Kline, at the above address or by calling (612) 296-7124.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Commission by contacting the Commission's receptionist, Kris Kline, at the above address or by calling (612) 296-7124.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1990), "small business considerations in rulemaking," that the proposed rules may affect small business. The small businesses that may be affected are the small independent, cooperative, and municipal telephone companies that are regulated by the Commission.

**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

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The adoption of these rules by the Commission will not require the expenditure of public money by local public bodies or have a direct impact on agricultural land. Therefore, *Minnesota Statutes* § 14.11 (1990) is not applicable to this rulemaking proceeding.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule submitted to the Attorney General, must submit a written request to Alanna Moravetz at the above address.

Richard R. Lancaster  
Executive Secretary

### **Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that the Minnesota Public Utilities Commission (Commission) will hold a public hearing in the above-entitled matter in the Commission's Large Hearing Room, 780 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN, commencing at 9:00 a.m. on Wednesday, September 25, 1991, and, if necessary, Thursday, September 26, 1991, and continuing until all interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted to the presiding Administrative Law Judge, as hereinafter indicated, without appearing at the hearing.

**Please note, however, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the Notice of Intent to Adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the commission.** To verify whether a hearing will be held, please call the Commission between September 19, 1991, and September 24, 1991, at (612) 296-7124.

The matter will be heard before Administrative Law Judge Bruce C. Campbell, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 341-7602. The rule hearing procedure is governed by *Minnesota Statutes* sections 14.131 to 14.20 (1990) and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1991). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed rules governing Telephone Filing Requirements, *Minnesota Rules*, parts 7810.8100 to 7810.8940. The proposed rules are authorized by *Minnesota Statutes* sections 216A.05, 237.06, 237.07, 237.075, 237.10 and 237.57 to 237.64 (1990). The proposed rules are published below. One free copy of the rules is available on request by contacting:

Kris Kline  
Minnesota Public Utilities Commission  
780 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 296-7124

**NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS** is now available for review at the Commission offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Commission anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Commission offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rules in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the Commission and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

The Commission requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to Alanna Moravetz at the Commission address stated above.

The proposed rules may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rules.



Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Commission 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 request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules are adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Commission at any time prior to the filing of the rules with the Secretary of State.

You are hereby advised, pursuant to *Minnesota Statutes* section 14.115 (1990), "small business considerations in rulemaking," that the proposed rules may have some effect on small business. The small businesses that may be affected are the small independent, cooperative, and municipal telephone companies that are regulated by the Commission.

The adoption of these rule amendments by the Commission will not require expenditure of public monies by local public bodies or have a direct impact on agricultural land. Therefore, *Minnesota Statutes* section 14.11 (1990) is inapplicable to this rulemaking proceeding.

Please be advised that *Minnesota Statutes* ch. 10A (1990) 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 *Minnesota Statutes* section 10A.01, subd. 11 (1990) as an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual or association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

Richard R. Lancaster  
Executive Secretary

## Rules as Proposed (all new material)

### FILING REQUIREMENTS

#### 7810.8100 PURPOSE.

The purpose of parts 7810.8100 to 7810.8940 is to describe the filing requirements for telephone companies under the jurisdiction of the commission for:

- A. tariffs, price lists, and new service offerings under *Minnesota Statutes*, sections 237.06 and 237.07;
- B. rate changes including general rate changes under *Minnesota Statutes*, section 237.075; miscellaneous tariff changes under *Minnesota Statutes*, section 237.63; and emerging competitive service rate changes proposed under *Minnesota Statutes*, section 237.60;
- C. competitive services under *Minnesota Statutes*, sections 237.59, 237.62, and 237.625; and
- D. incentive plans under *Minnesota Statutes*, section 237.625.

#### 7810.8200 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7810.8100 to 7810.8940 have the meanings given them in this part.

Subp. 2. **Attorney general's office.** "Attorney general's office" means the Residential and Small Business Utilities Division of the Office of the Attorney General.

Subp. 3. **Average.** "Average," when used in conjunction with rate base, means a 13-month average or an average of 12 monthly averages or a simple average of the beginning and ending data for a 12-month period when monthly data are not available.

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Subp. 4. **Capital structure.** "Capital structure" means the total capitalization of the telephone company, such as outstanding common stock, paid-in surplus in excess of par value, retained earnings, preferred stock, long-term debt, and short-term debt.

Subp. 5. **Competitive service.** "Competitive service" means a service classified by *Minnesota Statutes*, section 237.59, subdivision 1, as subject to emerging competition or classified by commission order as subject to effective or emerging competition.

Subp. 6. **Cost increase rate change.** "Cost increase rate change" means a miscellaneous tariff change under *Minnesota Statutes*, section 237.63, subdivision 3, to increase the rate for a particular noncompetitive service on grounds that the actual costs of providing that particular service have increased. A cost increase rate change must be a cost change related to a particular service rather than a general overall increase applicable to most of the company's services, and an actual change in costs must have occurred rather than the discovery of a change in costs as a result of conducting a new cost study.

Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Effective competition.** "Effective competition" exists when the commission determines that the criteria of *Minnesota Statutes*, section 237.59, subdivision 5, paragraphs (a) and (b), have been satisfied for a service.

Subp. 9. **Embedded cost.** "Embedded cost" means the weighted average cost of outstanding issues of long-term debt, short-term debt, and preferred stock in the capital structure, expressed as a sum of percentages. The sum of percentages is determined by multiplying the cost of each issue of long-term debt, short-term debt, or preferred stock by the ratio of the amount of that issue to the total amount of long-term debt, short-term debt, or preferred stock, respectively.

Subp. 10. **Emerging competition.** "Emerging competition" exists for services listed in *Minnesota Statutes*, section 237.59, subdivision 1. Emerging competition also exists when the commission determines that the criteria of *Minnesota Statutes*, section 237.59, subdivision 5, paragraphs (a) and (c), have been satisfied.

Subp. 11. **Final rates.** "Final rates" means permanent rates ordered into effect by the commission under *Minnesota Statutes*, sections 237.075 and 237.081.

Subp. 12. **Fiscal year.** "Fiscal year" means the telephone company's accounting period of 12 successive calendar months. Fiscal year may be a calendar year beginning January 1 and ending December 31.

Subp. 13. **General rate change.** "General rate change" means a change in rates for which the telephone company's gross revenue requirement must be determined to evaluate the reasonableness of the change in rates under *Minnesota Statutes*, sections 237.075 and 237.081.

Subp. 14. **Individually priced service.** "Individually priced service" means a telephone service or service element priced on a unique or individual basis under *Minnesota Statutes*, sections 237.07 and 237.071.

Subp. 15. **Interim rates.** "Interim rates" means temporary rates ordered into effect by the commission under *Minnesota Statutes*, section 237.075, subdivision 3.

Subp. 16. **Jurisdictional.** "Jurisdictional" refers to those Minnesota operations of a telephone company that are subject to regulation by the commission under *Minnesota Statutes*, chapters 216, 216A, and 237.

Subp. 17. **Language change.** "Language change" means a miscellaneous tariff change under *Minnesota Statutes*, section 237.63, subdivision 2, or a price list change under *Minnesota Statutes*, section 237.60, paragraph (c), that changes the language describing the rate, price, term, or condition of a service that does not substantially alter the application of the tariff or price list.

Subp. 18. **Minnesota company.** "Minnesota company" refers to the Minnesota combined interstate and intrastate operations of a telephone company.

Subp. 19. **Miscellaneous tariff change.** "Miscellaneous tariff change" means a tariff change under *Minnesota Statutes*, section 237.63, which does not require a determination of the company's gross revenue requirement to evaluate the reasonableness of the proposed tariff change.

Subp. 20. **Noncompetitive service.** "Noncompetitive service" means a service not classified by *Minnesota Statutes*, section 237.59, subdivision 1, as subject to emerging competition or classified by commission order as subject to effective or emerging competition.

Subp. 21. **Present rates.** "Present rates" means the current commission-approved rates.

Subp. 22. **Previous fiscal year.** "Previous fiscal year" means the company's most recently completed fiscal year as of the filing date that has an ending date before the end of the proposed test year.

Subp. 23. **Price list.** "Price list" means a schedule filed with the commission and the department under *Minnesota Statutes*, section 237.07, and part 7810.8400, showing the company's rates, regulations, classifications of services, and practices observed for services subject to emerging competition.

Subp. 24. **Rate.** "Rate" means the amount of compensation, price, charge, toll, rental, or classification observed, charged, or collected for a service or element of service; and the rules, regulations, and practices that are subject to regulation by the commission under *Minnesota Statutes*, chapters 216, 216A, and 237.

Subp. 25. **Rate change or change in rates.** "Rate change" or "change in rates" means a change in the amount or the elimination of compensation, price, charge, toll, rental, or classification observed, charged, or collected for a service or element of service; a change in the rules, regulations, or practices; or the withdrawal of schedules incorporating those rates that are subject to regulation by the commission under *Minnesota Statutes*, chapters 216, 216A, and 237.

Subp. 26. **Rate element.** "Rate element" means a telephone service or component of telephone service for which there is a separate rate.

Subp. 27. **Tariff.** "Tariff" means a schedule filed with the department under *Minnesota Statutes*, section 237.07, and part 7810.8400, showing the company's rates, regulations, classifications of services, and practices observed for noncompetitive services.

Subp. 28. **Telephone company or company.** "Telephone company" or "company" means a telephone company as defined in *Minnesota Statutes*, section 237.01, subdivision 2.

Subp. 29. **Test year.** "Test year" means the period of 12 successive months used for evaluating a need for a change in rates.

Subp. 30. **Total company.** "Total company" means the interstate and intrastate telephone operations of a company in the states in which the company as a legal entity is entitled to operate.

Subp. 31. **Weighted cost of capital.** "Weighted cost of capital" means the total cost of capital, expressed as a sum of percentages, each of which is determined by multiplying each component's cost in the capital structure by the ratio of the amount of that component to the total capitalization of the telephone company.

#### **7810.8300 SCOPE.**

Parts 7810.8100 to 7810.8940 apply to telephone companies regulated by the commission under *Minnesota Statutes*, chapters 216, 216A, and 237, and their regulated services.

### **TARIFFS, PRICE LISTS, NEW SERVICES**

#### **7810.8400 TARIFFS AND PRICE LISTS.**

Subpart 1. **Tariffs and price lists.** A telephone company shall keep on file with the department its tariffs and price lists showing specific rates, tolls, rentals, and other charges for the services offered by it either alone or jointly and concurrently with other telephone companies. The tariffs or price lists must also include the regulations, classifications, practices, and limitations on liability of the telephone company. The tariffs and price lists must:

A. identify separately each telephone service and state the classifications, rates, charges, tolls, rules, regulations, and practices applicable to each service;

B. identify whether the service classification is subject to emerging competition;

C. for individually priced noncompetitive services, describe each service and include a statement that prices are determined on a contractual basis; and

D. for individually priced emerging competitive services, describe each service and the conditions that relate to each service.

Subp. 2. **Individually priced services.** A telephone company shall file with the department and the commission its:

A. contracts for individually priced noncompetitive services that are not subject to specific tariff provisions; and

B. statements of charges for individually priced emerging competitive services.

For purposes of this subpart, "statement of charges" means the unique customer identifier such as a letter of the alphabet or a number, but not the customer's name, the compensation received, a description of the services provided, and the duration of the service period for individually priced services.

Subp. 3. **Proposed rates.** Proposed rates, whether final or interim pending suspension and investigation by the commission, must be filed as new or revised pages to the tariff book or price list on file with the department and show the proposed effective dates. New or revised tariff or price list pages must be in a format consistent with the currently filed tariff or price list to allow comparison with the currently filed tariff or price list. A revised tariff or price list page must contain the revision number and the page number it is revising.

Subp. 4. **Charges per unit.** Rates for services must show the applicable charges in dollars and cents per unit.

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Subp. 5. **Tariffs and price lists no longer in effect.** Tariffs and price lists remain in effect until superseded by tariffs and price lists subsequently filed, canceled, or withdrawn under the procedures in parts 7810.8100 to 7810.8940 or as ordered by the commission.

### **7810.8500 NEW SERVICE OFFERINGS.**

A telephone company shall file the following information with the department and the commission for each new service offering. The information must:

- A. identify and describe separately each new telephone service and state separately the rates applicable to each;
- B. include new or revised pages to the tariff book or price list, be in a format consistent with the currently filed tariff or price list, and a revised page must contain the revision number and the page number it is revising;
- C. include information explaining the estimated impact on the company's revenues and expenses for noncompetitive services as a result of the new service offering; and
- D. include an incremental cost study for new emerging competitive services.

### **GENERAL RATE CHANGES**

#### **7810.8600 NOTICE.**

A notice of a general rate change must include:

- A. a petition for a general rate change as prescribed in part 7810.8605;
- B. the tariff and price list information as prescribed in part 7810.8400, subpart 1;
- C. a list of the tariff and price list page numbers not affected by the proposed change;
- D. the informational requirements in parts 7810.8610 to 7810.8690;
- E. a proposed written notice of the proposed change in rates to the governing body of each municipality and county in the area affected and a list of those municipalities and counties; and
- F. a proposed customer notice for interim rates and proposed final rates.

#### **7810.8605 PETITION.**

A general rate change petition must include:

- A. the legal name, address, and telephone number of the company and its designated contact person;
- B. the name, address, and telephone number of the attorney if the company will be represented by an attorney;
- C. the date of the filing, which is the date the commission receives the company's filing or the date designated by the company, whichever is later, and the proposed effective date of the proposed change in rates;
- D. a statement of the purpose of the change in rates and a description of the proposed change in rates;
- E. the signature and title of the telephone company officer or company representative authorizing the proposal;
- F. the statutory authority, including subdivisions or paragraphs, for the proposed change;
- G. an identification of the test year proposed by the telephone company with justification for the selection of the proposed test year;
- H. the effect of the proposed changes in rates expressed both as the total dollar change and the percentage change in the total jurisdictional revenue in the test year;
- I. the effect of the proposed changes in rates expressed both as the total dollar change and the percentage change in the jurisdictional revenue in the test year for major categories of services for which the company is proposing a rate change; and
- J. a jurisdictional financial summary schedule that complies with part 7810.8620, subpart 1.

#### **7810.8610 EXPERT TESTIMONY AND SUPPORTING EXHIBITS.**

A general rate change notice must include expert testimony and exhibits in support of the telephone company's proposed general rate change. The testimony and exhibits must be presented by telephone company personnel or other expert witnesses as considered appropriate by the company. The company's chief executive officer or other company officer shall provide expert testimony in support of the proposed general rate change. Expert testimony must contain statements of fact, expert opinion, and explanations of the supporting exhibits. The expert testimony of a witness must be written in question and answer format. The preparer of the expert testimony or the person under whose supervision it was prepared must be identified. Each page of the expert testimony must be numbered sequentially. Each line of the expert testimony must also be numbered sequentially beginning with line one on each new page. Supporting exhibits must be consistent with the information required by parts 7810.6200 to 7810.6400 and 7810.8610 to 7810.8650. The company shall identify expert witnesses responsible for the information required by parts 7810.8610 to 7810.8650.

**7810.8615 TEST YEAR.**

Subpart 1. **General requirement; test period defined.** A general rate change notice must include test year data used to establish proposed final rates for the test period. The telephone company shall submit testimony explaining why the test year is appropriate to the test period. The telephone company shall show whether it proposes a historical or projected test year.

For purposes of this part, "test period" means the period during which the rates based on the test year data are in effect.

Subp. 2. **Historical test year.** The proposed test year is a historical test year if the filed data include:

A. at least nine months of actual, historical jurisdictional test year data; and

B. a notice of the company's intention to update the data to 12 months of actual, historical jurisdictional test year data if less than 12 months of actual, historical jurisdictional data is provided.

The company shall file the data once and no later than 100 days after the original general rate change notice is filed.

Either an average or year-end rate base may be used. If a year-end rate base is selected, a year-end capital structure must be shown and the operating income statement must be adjusted to reflect known and measurable changes. If an average rate base is selected, an average capital structure or a year-end capital structure may be shown.

Subp. 3. **Projected test year.** The proposed test year is a projected test year if the filed data include fewer than nine months of actual, historical jurisdictional data. A projected test year must start no later than the date the general rate change notice is filed.

For a projected test year, an average rate base and average capital structure must be used. An operating income statement must not be adjusted to a year-end level but may reflect known and measurable changes during the projected test year. The telephone company's average rate base and operating income statement for a projected test year must be based on the construction and operating budgets approved by the telephone company's officials, including approved changes, for the period encompassed by the projected test year.

**7810.8620 JURISDICTIONAL FINANCIAL SUMMARY SCHEDULE.**

Subpart 1. **Test year data.** A general rate change notice must include a financial summary schedule for the test year. The financial summary schedule must be a one-page summary showing:

- A. the proposed rate base amount;
- B. the proposed rate of return;
- C. the proposed net operating income requirement;
- D. the net operating income under present rates; and
- E. the calculation of:
  - (1) the net operating income deficiency;
  - (2) the gross revenue deficiency;
  - (3) the gross revenue from present rates; and
  - (4) the gross revenue requirement.

Subp. 2. **Previous fiscal year data.** A general rate change notice must include a financial summary schedule for the previous fiscal year. The financial summary schedule of the previous fiscal year must be a one-page summary showing:

- A. the actual unadjusted average rate base consisting of the same components as the proposed test year rate base;
- B. the earned rate of return;
- C. the net operating income requirement;
- D. the unadjusted net operating income; and
- E. the calculation of:
  - (1) the net operating income deficiency;
  - (2) the gross revenue deficiency;
  - (3) the gross revenue from present rates; and

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(4) the gross revenue requirement.

The operating income requirement must be calculated with the weighted cost of capital for the previous fiscal year as calculated in part 7810.8640, subpart 1, item B.

### 7810.8625 RATE BASE SCHEDULES.

Subpart 1. **Summary schedule.** A general rate change notice must include summary schedules containing:

A. the proposed jurisdictional rate base by major rate base component such as:

- (1) telephone plant in service, less accumulated depreciation reserve to show net investment in telephone plant in service;
- (2) cash working capital;
- (3) plant held for future use;
- (4) short-term telephone plant under construction;
- (5) materials and supplies; and

(6) deductions for capital not supplied by investors, such as accumulated deferred income taxes, pre-1971 unamortized investment tax credits, and customer deposits; and

B. the unadjusted average jurisdictional rate base amounts for the previous fiscal year, for each major component.

Subp. 2. **Comparing rate base amounts.** A general rate change notice must include the following comparison schedules by detailed rate base component:

A. a schedule showing unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional rate base amounts for the test year;

B. a schedule showing unadjusted jurisdictional amounts; Minnesota state borderline adjustments, if any; company proposed jurisdictional adjustments; and proposed jurisdictional rate base amounts for the test year; and

C. a schedule showing unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional rate base amounts for the previous fiscal year.

Subp. 3. **Adjustments.** A general rate change notice must include schedules listing the proposed adjustments included in subpart 2. The schedules must reflect the title and amount of each proposed adjustment and show the rate base components affected by the adjustment.

Subp. 4. **Interstate and jurisdictional factors.** A general rate change notice must include a schedule by rate base component, showing the separation factors used in separating the jurisdictional amounts for the test year and the previous fiscal year from the unadjusted Minnesota company rate base amounts.

Subp. 5. **Competitive and noncompetitive services.** If a telephone company notifies the commission in writing under *Minnesota Statutes*, section 237.58, subdivision 1, of its decision to be subject to *Minnesota Statutes*, section 237.62, a general rate change notice must include a schedule that demonstrates the calculation of the rate base used by the company to calculate its revenue requirement according to *Minnesota Statutes*, section 237.62, subdivision 1 or 1a.

Subp. 6. **Assumptions and approaches.** If a projected test year is proposed, a general rate change notice must include a summary schedule, by major rate base component, of the assumptions made and approaches used in determining Minnesota company and jurisdictional average rate base for the test year.

### 7810.8630 OPERATING INCOME SCHEDULES.

Subpart 1. **Categories; other filing requirements.** Operating income schedules must be included in each general rate change notice and must specify revenues, expenses, and taxes according to the categories shown in items A to D.

A. The schedules must show operating revenues in categories such as local network services, network access services, long-distance network services, and miscellaneous. Similar revenue categories are found in the Uniform System of Accounts Revised, Code of Federal Regulations, title 47, part 32, as amended through June 1, 1990.

B. The schedules must show operating expenses in categories such as network support, general support, central office switching, central office transmission, information origination or termination, cable and wire facilities, network operations, customer services, executive and planning, and general and administrative. Similar expense categories are found in the Uniform System of Accounts Revised, Code of Federal Regulations, title 47, part 32, as amended through June 1, 1990. Operating expenses for the categories of depreciation, amortization, pension, and employee benefits must be shown in a separate supporting schedule.

C. The schedules must show operating taxes specifying current and deferred federal and state income taxes, net investment tax credits, property taxes, gross receipt taxes, and other operating taxes as applicable.

D. The schedules must show nonoperating expenses that show the related taxes for which the company seeks reimbursement.

Subp. 2. **Summary schedules.** A general rate change notice must include operating income summary schedules showing the proposed jurisdictional operating income statement for the test year under present rates and the unadjusted jurisdictional operating income statement for the previous fiscal year.

Subp. 3. **Comparing operating income amounts.** A general rate change notice must include the following comparison schedules by detailed operating income statement component:

A. a schedule showing unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional operating income statement amounts for the test year;

B. a schedule showing unadjusted jurisdictional amounts; Minnesota state borderline adjustments, if any; company proposed jurisdictional adjustments; and proposed jurisdictional operating income statement amounts for the test year under present rates; and

C. a schedule showing unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional operating income statement amounts for the previous fiscal year.

Subp. 4. **Adjustments.** A general rate change notice must include operating income schedules listing the proposed adjustments included in subpart 3. The schedules must reflect the title and amount of each proposed adjustment and show the operating income statement components affected by the adjustment.

Subp. 5. **Interstate and jurisdictional separation factors.** A general rate change notice must include a schedule by operating income statement element, showing the separation factors used in separating the jurisdictional amounts for the test year and previous fiscal year from the unadjusted Minnesota company operating income amounts.

Subp. 6. **Competitive and noncompetitive services.** If a telephone company notifies the commission in writing under *Minnesota Statutes*, section 237.58, subdivision 1, of its decision to be subject to *Minnesota Statutes*, section 237.62, a general rate change notice shall include a schedule that demonstrates the operating income used by the company to calculate its revenue requirement according to *Minnesota Statutes*, section 237.62, subdivision 1 or 1a.

Subp. 7. **Gross receipts tax expense.** A general rate change notice must include an operating income schedule showing the computation of Minnesota company and jurisdictional gross receipts tax expense for the test year and the previous fiscal year.

Subp. 8. **Computation of taxes.** Unless a telephone company is tax exempt, a general rate change notice must include an operating income schedule for the test year and previous fiscal year showing the computation of unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional current and deferred federal and state income taxes and net investment tax credits.

Subp. 9. **Tax rates detailed.** Unless a telephone company is tax exempt, a general rate change notice must include a detailed schedule showing the development of the combined federal and state tax rates used for the tax computation under subpart 8.

Subp. 10. **Assumptions and approaches.** If a projected test year is proposed, a general rate change notice must include a schedule summarizing the assumptions made and the approaches used in projecting each major element of the Minnesota company and jurisdictional operating income statement for the test year.

#### **7810.8635 SUPPLEMENTAL FINANCIAL INFORMATION.**

Subpart 1. **General requirement.** A general rate change notice must include the supplemental financial information described in subparts 2 to 8.

Subp. 2. **Workpapers.** The company shall file workpapers that show how the test year rate base and income statement components and adjustments have been determined. The workpapers must include:

A. supporting data and calculations showing the development of the unadjusted jurisdictional test year amounts for the rate base and operating income statement;

B. supporting data and calculations showing the development of each test year adjustment and the proposed jurisdictional test year amounts for the rate base and operating income statement;

C. supporting calculations showing the development of the revenue requirement under *Minnesota Statutes*, section 237.62, subdivision 1 or 1a, including a detailed description of the methods used to prepare cost studies, to separate costs, and to make the appropriate allocations.

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The workpapers described in items A to C must be filed with the commission, the department, and the attorney general's office, in quantities established by the agencies, and supplied to other parties on request.

**Subp. 3. Advertising.** The company shall file a schedule describing advertising categories and showing the Minnesota company and jurisdictional dollar amounts of advertising expense during the test year for each category in which the telephone company seeks reimbursement. For each category, the telephone company shall also provide sample ads. The company shall not seek reimbursement for institutional advertising under *Minnesota Statutes*, section 237.075, subdivision 7. Institutional advertising expenses are costs incurred by a telephone company to promote good will for the telephone company or improve the company's public image.

**Subp. 4. Dues.** The company shall file a schedule listing dues by organization that the telephone company seeks to recover showing the Minnesota company and the corresponding jurisdictional dollar amount of dues for the test year.

**Subp. 5. Charitable contributions.** The company shall file a schedule of charitable contributions made or to be made by the telephone company during the test year for which the company seeks reimbursement. The schedule must show the recipient, the Minnesota company amount, the jurisdictional amount, and the amount for which the telephone company seeks reimbursement. The company shall also provide testimony and evidence that the contribution is prudent and complies with *Minnesota Statutes*, section 290.21, subdivision 3. Charitable contributions include in-kind contributions such as donated employee time and other noncash contributions.

**Subp. 6. Schedules.** A telephone company shall file:

- A. a schedule showing the development of the gross revenue conversion factor; and
- B. its annual report to stockholders and the consolidated parent corporation's annual report to stockholders for the latest available fiscal year.

For purposes of this subpart, "gross revenue conversion factor" means the multiplier used to calculate gross revenue required to generate an additional dollar of net operating income before interest and after taxes.

**Subp. 7. Jurisdictional information.** If the telephone company has services or activities that are regulated by the commission, but have been deregulated by the Federal Communications Commission, the company shall identify and explain the impact of those revenues, expenses, and investments for those services and activities on the jurisdictional rate base and operating income statement for the proposed test year.

**Subp. 8. Affiliated interest transactions.** The telephone company shall file a schedule showing amounts of affiliated interest transactions for the previous fiscal year and the test year. The schedule must show:

- A. the total amount of affiliated interest transactions for each affiliate for total company and Minnesota jurisdiction;
- B. the total jurisdictional amount of recurring transactions for each affiliate along with a description of the recurring transactions and the method used to value the transactions; and
- C. a list and description of nonrecurring transactions greater than one-half percent of gross jurisdictional revenue totaled by affiliate.

Affiliated transactions must be recorded and valued according to the Uniform System of Accounts Revised, Code of Federal Regulations, title 47, part 32, as amended through June 1, 1990, which is adopted by reference.

For purposes of this subpart, "affiliated interest transaction" means a contract or arrangement providing for managerial, supervisory, construction, engineering, accounting, legal, or financial services; buying, selling, leasing, or exchanging property or a right or thing; or providing a service, property, right, or thing to an affiliated interest as defined in *Minnesota Statutes*, section 216B.48, subdivision 1.

### 7810.8640 RATE OF RETURN, COST OF CAPITAL SCHEDULES.

**Subpart 1. Showing calculations.** Schedules of rate of return and cost of capital must be filed with a general rate change notice and show the calculation of:

- A. the proposed weighted cost of capital based on the proposed test year capital structure and proposed costs of short-term debt, long-term debt, preferred stock, and common equity; and
- B. the weighted cost of capital based on the actual capital structure; the actual embedded costs of short-term debt, long-term debt, and preferred stock for the previous fiscal year; and, the rate of return on equity authorized by the commission in the telephone company's last general rate change proceeding.

**Subp. 2. Supporting schedules.** A general rate change notice must include schedules that:

- A. list outstanding issues and show the calculation of embedded costs of long-term debt and preferred stock for the test year and the previous fiscal year; and



B. show the calculation of and assumptions used to derive the amount and cost of short-term debt for the test year and the previous fiscal year.

Subp. 3. **Historical test year cost of capital schedule.** If a historical test year is proposed and the proposed test year capital structure or embedded costs of debt and preferred stock differ from the actuals for the test year, a general rate change notice must include a schedule showing adjustments used to arrive at the proposed capital structure or embedded costs of debt and preferred stock.

Subp. 4. **Projected test year cost of capital schedule.** If a projected test year is proposed, a general rate change notice must include a schedule summarizing the assumptions made and approaches used in developing the proposed average capital structure for the test year and the proposed costs of the components of that capital structure.

Subp. 5. **Consolidated and unconsolidated parent corporation schedules.** A general rate change notice must include schedules showing the capital structure, weighted cost of capital, and costs of short-term debt, long-term debt, preferred stock, and common equity of the consolidated parent corporation and the unconsolidated parent corporation for both the test year and the previous fiscal year separately.

Subp. 6. **Embedded costs outstanding for part of year.** Long-term debt, short-term debt, or preferred stock outstanding for part of a year must be reflected if an average capital structure is used.

#### **7810.8645 RATE STRUCTURE AND RATE DESIGN INFORMATION.**

Subpart 1. **General requirement.** The information about rate structure and design in subparts 2 and 3 must be filed with each general rate change notice.

Subp. 2. **Rate design, allocation schedules, and test year data.** A general rate change notice must include a schedule showing the test year revenue-producing units, present rates, proposed rates, present revenue, and proposed revenue for each existing and proposed rate element of all services. The schedule must include subtotals for each major category of revenue, such as local network service, network access, long-distance network service, and extended area service.

Subp. 3. **Supporting workpapers.** A general rate change notice must include an embedded direct cost study and an incremental cost study for each proposed rate change for those services that generate revenues in excess of the greater of either \$100,000 or one-tenth of one percent of the company's annual gross revenue for the test year period. The embedded direct cost study and incremental cost study must identify the procedures and underlying reasons for cost and revenue allocations. The company shall explain why the proposed method is appropriate for ratemaking purposes.

The workpapers must be filed with the commission, the department, and the attorney general's office, in quantities established by the agencies, and supplied to other parties on request.

#### **7810.8650 ADDITIONAL INFORMATION.**

Subpart 1. **General requirement.** The additional information described in subparts 2 and 3 must be filed with each general rate change notice.

Subp. 2. **Information as ordered.** The company shall file information required by the commission's most recent general rate change or other applicable orders for that company.

Subp. 3. **Additional information.** On or after review of a telephone company's notice of a change in rates or tariff and within a reasonable time as it may determine, the commission may require a company to provide additional information to supplement the information required by parts 7810.8610 to 7810.8650. A telephone company may include in its filing additional information not required by parts 7810.8100 to 7810.8940.

### **INTERIM RATE CHANGES**

#### **7810.8655 NOTICE.**

An interim rate change notice must include:

- A. an interim rate petition as prescribed in part 7810.8660;
- B. tariff and price list information as prescribed in part 7810.8400, subpart 2;
- C. the informational requirements in parts 7810.8665 to 7810.8690; and
- D. supporting workpapers showing the development of the interim rate exhibits and proposed interim rates.

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### 7810.8660 PETITION.

An interim rate petition must include:

- A. the legal name, address, and telephone number of the company and its designated contact person;
- B. the name, address, and telephone number of the attorney if the company will be represented by an attorney;
- C. the date of the filing, which is the date the commission receives the company's filing or the date designated by the company, whichever is later, and the proposed effective date of the proposed interim rate change;
- D. the statutory authority, including subdivisions or paragraphs, for the proposed interim rate change;
- E. a statement of the purpose of the change in rates and a description of the proposed change in rates;
- F. the signature and title of the telephone company officer or company representative authorizing the proposal;
- G. an identification of the test year proposed by the telephone company with justification for the selection of the proposed test year;
- H. the effect of the proposed interim rate change expressed both as the total dollar change and the percentage change in the total jurisdictional revenue in the test year;
- I. the effect of the proposed interim changes in rates expressed both as the total dollar change and the percentage change in the jurisdictional revenue in the test year for major categories of services for which the company is proposing a rate change; and
- J. a jurisdictional financial summary schedule that complies with part 7810.8685.

### 7810.8665 EXPERT TESTIMONY AND SUPPORTING EXHIBITS.

A notice of proposed interim rates must include exhibits, written statements of fact, expert opinion, and explanations of the exhibits in support of the telephone company's proposed interim rates. The written statements, opinions, and explanations must be in either a question and answer format or a descriptive narrative, and must identify the preparer or the person under whose supervision they were prepared. Interim rate notices and supporting exhibits must comply with *Minnesota Statutes*, section 237.075, subdivision 3, and parts 7810.6200 to 7810.6400.

### 7810.8670 RATE BASE SCHEDULES.

Subpart 1. **Schedule.** The interim rate exhibits must include a schedule showing the development of the proposed jurisdictional rate base for interim rates that has incorporated the applicable rate base adjustments or components allowed or required by the commission in the telephone company's most recent general rate change proceedings.

Subp. 2. **Written explanation.** An accompanying written explanation must cite each rate base issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the telephone company has made for the issues cited from the commission order. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

Subp. 3. **Comparison schedule and explanation.** A schedule comparing the following amounts must be included:

- A. the rate base approved by the commission in the telephone company's most recent general rate change proceeding;
- B. the corresponding rate base for the most recent fiscal year for which actual data are available before the test year; and
- C. the proposed test year rate base for interim rates.

The company shall explain significant changes in dollar amounts for each comparison.

### 7810.8675 OPERATING INCOME SCHEDULE.

Subpart 1. **Schedule.** The interim rate exhibits must include a schedule showing the development of the proposed jurisdictional operating income statement under present rates that reflects that the test year interim operating income statement has incorporated the applicable operating income statement adjustments or components allowed or required by the commission in the telephone company's most recent general rate change proceeding.

Subp. 2. **Written explanation.** An accompanying written explanation must also cite each operating income statement issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the telephone company has made for each issue. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

Subp. 3. **Comparison schedule and explanation.** A schedule must be included comparing the following amounts:

- A. the operating income statement under rates approved by the commission in the telephone company's most recent general rate change proceeding;

B. the corresponding operating income statement for the most recent fiscal year for which actual data is available before the test year; and

C. the proposed test year operating income statement for interim rates.

The company shall explain significant changes in dollar amounts for each comparison.

#### **7810.8680 CAPITAL STRUCTURE AND RATE OF RETURN.**

The interim rate exhibits must include a schedule showing the capital structure and rate of return calculation approved by the commission in the telephone company's most recent general rate change proceeding. The interim rate of return calculation must be based on the proposed test year capital structure and test year capital costs, except that the company must use the cost of equity that was allowed by the commission in the company's most recent general rate change proceeding or the company's proposed return on equity, whichever is lower. The schedule must include an explanation of the changes in dollar amounts of the telephone company's most recent general rate change proceeding capital structure and the proposed test year capital structure.

#### **7810.8685 JURISDICTIONAL FINANCIAL SUMMARY SCHEDULE.**

An interim rate change petition must include a financial summary schedule for the test year. The financial summary schedule must be a one-page summary showing:

- A. the proposed interim rate base amount;
- B. the proposed interim rate of return;
- C. the proposed interim net operating income requirement;
- D. the interim net operating income under present rates; and
- E. the calculation of:
  - (1) the interim net operating income deficiency;
  - (2) the interim gross revenue deficiency;
  - (3) the interim gross revenue from present rates; and
  - (4) the interim gross revenue requirement.

#### **7810.8690 RATE DESIGN.**

The interim rate exhibits must include a schedule showing the test year revenue-producing unit, present rate, proposed interim rate, present revenue, and proposed interim revenue for each existing and proposed interim rate element of each service. The schedule must include subtotals for each major category of revenue such as local network service, network access, long-distance network service, and extended area service.

The telephone company shall provide a written explanation of proposed interim rates that are not the result of increasing the existing rate by the average percentage increase in interim revenues. The explanation must show exigent circumstances or existence of competing products or services offered by a nonregulated competitor.

### **OTHER RATE OR TARIFF CHANGES**

#### **7810.8700 OTHER RATE CHANGE NOTICE.**

A notice for a rate change other than a general rate change must include:

- A. a petition as prescribed in part 7810.8705;
- B. tariff and price list information prescribed in part 7810.8400; and
- C. the informational requirements in the applicable part of parts 7810.8710 to 7810.8760.

#### **7810.8705 OTHER RATE CHANGE PETITION.**

A petition for a change in rates other than a general rate change must include:

- A. the legal name, address, and telephone number of the company and its designated contact person;
- B. the name, address, and telephone number of the attorney if the company will be represented by an attorney;

**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

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C. the date of the filing, which is the date the commission receives the company's filing or the date designated by the company, whichever is later, and the proposed effective date of the proposed change in rates;

D. the statutory authority, including subdivisions or paragraphs, for the proposed change and a statement that the proposed change is for example a miscellaneous tariff change such as a cost increase rate change or an emerging competitive service rate decrease;

E. a statement of the purpose of the change in rates and a description of the proposed change in rates; and

F. the signature and title of the telephone company officer or company representative authorizing the proposal.

### **7810.8710 MISCELLANEOUS TARIFF CHANGE.**

In addition to the notice requirements in part 7810.8700, a notice for a miscellaneous tariff change under *Minnesota Statutes*, section 237.63, must include:

A. a statement of the proposed change in rates;

B. statements of fact, expert opinions, substantiating documents, and exhibits supporting the change requested;

C. the date when the new rates will go into effect;

D. a statement that explains with particularity how the tariff will be changed and why;

E. whether the proposed change is a rate increase or a decrease;

F. the annual revenue impact; and

G. the impact on affected customers.

### **7810.8715 NONCOMPETITIVE SERVICE; LANGUAGE CHANGE.**

In addition to the notice requirements of part 7810.8700, a notice for a language change under *Minnesota Statutes*, section 237.63, subdivision 2, must include an explanation of why the proposed change does not substantially alter the application of the tariff.

### **7810.8720 NONCOMPETITIVE SERVICE; COST INCREASE.**

In addition to the notice requirements in part 7810.8700, a notice for a cost increase rate change under *Minnesota Statutes*, section 237.63, subdivision 3, must include:

A. data demonstrating that an actual change in costs for the service has occurred since the last proceeding under *Minnesota Statutes*, section 237.075; and

B. the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed change.

### **7810.8725 NONCOMPETITIVE SERVICE; RATE REDUCTION.**

In addition to the notice requirements of part 7810.8700, a notice for a rate reduction under *Minnesota Statutes*, section 237.63, subdivision 4, must include data showing the relationship between proposed rates and the costs of providing the service.

For purposes of this part, "rate reduction" means a miscellaneous tariff change under *Minnesota Statutes*, section 237.63, subdivision 4, to reduce the rates for one or more noncompetitive services.

### **7810.8730 NONCOMPETITIVE SERVICE; SIGNIFICANT CHANGE IN CONDITION OF SERVICE.**

In addition to the notice requirements in part 7810.8700, a notice for a significant change in condition of service under *Minnesota Statutes*, section 237.63, subdivision 4a, must include information demonstrating that the application of the tariff is substantially changed but that the rate is not changed.

For purposes of this part, "significant change in condition of service" means a miscellaneous tariff change under *Minnesota Statutes*, section 237.63, subdivision 4a, to change the terms or conditions of service in a way that substantially alters the application of the tariff. Significant change in condition of service does not include a rate change.

### **7810.8735 INDIVIDUALLY PRICED NONCOMPETITIVE SERVICE.**

In addition to the notice requirements in part 7810.8700, a notice for individually priced noncompetitive service under *Minnesota Statutes*, sections 237.07 and 237.071, must include:

A. data demonstrating that differences in the cost of providing a service or service element justifies a different rate for a particular customer or group of customers;

B. an identification of the affected customer or customer groups; and

C. the estimated revenue impact on the company.

**EMERGING COMPETITIVE SERVICES****7810.8740 RATE INCREASE OR DECREASE.**

In addition to the notice requirements in part 7810.8700, a notice for a rate increase under *Minnesota Statutes*, section 237.60, subdivision 2, paragraph (b), and a rate decrease under *Minnesota Statutes*, section 237.60, subdivision 2, paragraph (a), must include:

- A. a statement concerning whether the proposed change is an increase or decrease;
- B. an incremental cost-of-service study demonstrating that the proposed rate is above incremental cost;
- C. a copy of the notice to customers for a rate increase; and
- D. the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed price list change.

**7810.8745 LANGUAGE CHANGE.**

In addition to the notice requirements in part 7810.8700, a notice for a language change under *Minnesota Statutes*, section 237.60, subdivision 2, paragraph (c), must include an explanation on why the proposed change does not substantially alter the application of the price list.

**7810.8750 SUBSTANTIAL CHANGE IN APPLICATION OF PRICE LIST.**

In addition to the notice requirements in part 7810.8700, a notice for a substantial change in application of price list under *Minnesota Statutes*, section 237.60, subdivision 2, paragraph (d), must include:

- A. information demonstrating that the application of the price list is substantially changed but that the rate is not changed; and
- B. the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed price list change.

**7810.8755 NEW PRICING PLAN.**

In addition to the notice requirements in part 7810.8700, a notice for a new pricing plan under *Minnesota Statutes*, section 237.60, subdivision 2, paragraph (e), must include:

- A. an identification of the rate elements being combined;
- B. an explanation of the change in the definition of the rate elements;
- C. the increases and decreases in price for the rate elements; and
- D. the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed price list change.

**7810.8760 INDIVIDUALLY PRICED EMERGING COMPETITIVE SERVICE.**

In addition to the notice requirements in part 7810.8700, a notice for individually priced emerging competitive service under *Minnesota Statutes*, sections 237.07 and 237.071, must include:

- A. data demonstrating that a uniform price should not be required because of market conditions or costs differences;
- B. an identification of the affected customer or customer groups; and
- C. the estimated revenue impact on the company.

**COMPETITIVE SERVICES****7810.8800 ELECTION.**

Subpart 1. **Conditions for election.** If a telephone company elects to have its services subject to regulation as competitive services, it must file with the commission a written notice of its decision under *Minnesota Statutes*, section 237.58.

Subp. 2. **Notice requirements.** A notice of election must be in letter form, addressed to the executive secretary of the commission, and must include a list of the services provided or to be provided by the telephone company as subject to competition together with the price lists used in providing the services. Revised tariff pages reflecting changes as a result of the classification as competitive services must be included in the notice. The price lists and tariff pages must conform to part 7810.8400.

Subp. 3. **Service of notice.** A copy of the notice of election must be served on the department and the attorney general's office.

**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.

## RECLASSIFICATION

### 7810.8805 SERVICE SUBJECT TO EMERGING COMPETITION.

Subpart 1. **General requirement to file petition.** A petition to classify a noncompetitive service as subject to emerging competition must be filed under this part.

Subp. 2. **Petition information.** A petition to have a service classified as subject to emerging competition must include:

A. a list of known alternative providers of the service available to the company's customers, the providers' affiliations with other providers, and their sizes, if known;

B. the extent to which services are available from alternative providers in the relevant market, including identification of barriers to entry or exit from the market for the service;

C. the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;

D. an estimate of the company's current market share;

E. an assessment of the ability of the market to hold prices close to cost and other economic measures of market power;

F. an assessment of the necessity of the service to the well-being of the customer;

G. a request either for an expedited hearing or a contested case hearing;

H. a statement addressing the need for and means of providing notice to affected customers;

I. an assessment of whether alternative services are available to over 20 percent of the company's customers for that service; and

J. if required by *Minnesota Statutes*, section 237.07, a proposed price list for the service containing the rates, tolls, and charges for the service together with the rules, regulations, and classifications used in providing that service.

Subp. 3. **Service of petition.** A copy of the petition must be served on the department, the attorney general's office, and any other person designated by the commission.

### 7810.8810 SERVICE SUBJECT TO EFFECTIVE COMPETITION.

Subpart 1. **General requirement to file petition.** A petition to classify a service as subject to effective competition must be filed under this part.

Subp. 2. **Petition information.** A petition to classify a service as subject to effective competition must include the requirements of part 7810.8805, subpart 2, items A to H, and in addition must include:

A. a list of the schedules to be canceled or withdrawn if the commission grants the petition; and

B. an assessment of whether alternative services are available to over 50 percent of the company's customers for that service.

Subp. 3. **Service of petition.** A copy of the petition must be served on the department, the attorney general's office, and any other person designated by the commission.

### 7810.8815 NONCOMPETITIVE SERVICE.

Subpart 1. **Reclassification authority and initiation.** A service of a telephone company that has been classified as subject to emerging competition or effective competition will keep its competitive classification until the commission, on its own motion, or on complaint, reclassifies the service as noncompetitive or subject to emerging competition.

Subp. 2. **Information from complainant.** A person who files a complaint requesting reinstatement of regulation for a particular service shall file either:

A. an explanation of why the competitive market for the service has failed so that rate regulation is necessary to protect the consumers applying the criteria in *Minnesota Statutes*, section 237.59, subdivision 5, and a discussion of the alternatives to rate regulation and the benefits versus the burdens of rate regulation; or

B. information that unreasonable discrimination has occurred among different areas of the state.

Subp. 3. **Information from company.** If the proceeding to reclassify is initiated by the commission on its own motion, or when the complaint is filed by the department or the attorney general's office, the company shall file in its answer either:

A. the information listed in part 7810.8805, subpart 2, items A to F and I, if the service is classified as subject to emerging competition; or

B. the information listed in part 7810.8810, subpart 2, if the service is classified as subject to effective competition.

**INCENTIVE PLANS****7810.8900 REQUIREMENTS, GENERALLY.**

Subpart 1. **Petition for approval.** A telephone company that elects to be subject to regulation under *Minnesota Statutes*, section 237.58, may file a petition with the commission for approval of an incentive plan under *Minnesota Statutes*, section 237.625.

Subp. 2. **Scope.** The filing requirements of this part and parts 7810.8905 to 7810.8940 are minimum requirements. A telephone company may file, and the commission may consider, additional information to determine whether to approve, reject, or change a proposed incentive plan and to determine whether the commission has substantial reason to believe that existing rates are inappropriate.

**7810.8905 PETITION.**

An incentive plan petition must include:

- A. the legal name, address, and telephone number of the company and its designated contact person;
- B. if the company will be represented by an attorney, the name, address, and telephone number of the attorney;
- C. the date of the filing, which is the date the commission receives the company's filing or the date designated by the company, whichever is later;
- D. the proposed effective date of the incentive plan;
- E. the proposed duration of the incentive plan;
- F. the signature and title of the company officer or representative authorizing the petition;
- G. a brief narrative explaining why a general rate change proceeding is or is not appropriate;
- H. an explanation of whether and, if so, how the proposed incentive plan will benefit the company's customers;
- I. an explanation of how the proposed incentive plan will allow the company to maintain or improve the quality of its service;
- J. the proposed notice of the proposed incentive plan to the company's customers; and
- K. the informational requirements in parts 7810.8910 to 7810.8940.

**7810.8910 RATE BASE SCHEDULES.**

Subpart 1. **Comparison schedule.** The incentive plan petition must include a schedule comparing the following jurisdictional amounts:

- A. the rate base approved by the commission in the company's most recent general rate change proceeding; and
- B. the corresponding rate base for the most recent fiscal year. The corresponding rate base must incorporate the applicable rate base adjustments and components allowed or required by the commission in the company's most recent general rate change proceeding.

Subp. 2. **Explanation.** An accompanying written explanation must cite each rate base issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the company has made for each issue. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

The company shall explain significant changes in dollar amounts for the comparison schedule.

**7810.8915 OPERATING INCOME STATEMENT.**

The incentive plan petition must include a schedule comparing the following jurisdictional amounts:

- A. the operating income statement approved by the commission in the company's most recent general rate change proceeding; and
- B. the corresponding operating income statement for the most recent fiscal year. The corresponding operating income statement must incorporate the applicable operating income statement adjustments and components allowed or required by the commission in the company's most recent general rate change proceeding.

An accompanying written explanation must cite each operating income statement issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the company has made for each issue. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

The company shall explain significant changes in dollar amounts for the comparison schedule.

**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

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### **7810.8920 RATE OF RETURN.**

The incentive plan petition must include a schedule comparing the following amounts:

- A. the rate of return approved by the commission in the company's most recent general rate change proceeding, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the return on common equity;
- B. the realized rate of return for the most recent fiscal year, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the realized return on common equity; and
- C. the required rate of return for the most recent fiscal year, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the required return on common equity. The company shall explain how it developed the required rate of return.

The company shall explain significant changes in dollar amounts and costs included in the comparison schedule.

### **7810.8925 REVENUE DEFICIENCY OR SURPLUS.**

The incentive plan petition must include a schedule comparing the revenue deficiency or surplus amounts calculated by using the following:

- A. the rate base, operating income statement, and rate of return approved by the commission in the company's most recent general rate change proceeding;
- B. the corresponding rate base, operating income statement, and realized rate of return for the most recent fiscal year; and
- C. the corresponding rate base, operating income statement, and required rate of return for the most recent fiscal year.

### **7810.8930 FINANCIAL MARKET SCHEDULE.**

The incentive plan petition must include a schedule showing 12 months of prime interest rates, or 12 months of treasury bill rates, or other financial market indicators, during the following periods:

- A. the test year used as the basis for determining the company's revenue requirements in the most recent general rate change proceeding; and
- B. the company's most recent fiscal year.

### **7810.8935 OPERATING EFFICIENCY.**

The incentive plan petition must include the following:

- A. an explanation of how the proposed incentive plan will provide an incentive to the company to improve its operating efficiency;
- B. a projection of which operations the company expects to become more efficient as a result of the proposed incentive plan; and
- C. an explanation of why the operations identified in item B cannot be improved without the proposed incentive plan.

### **7810.8940 SHARED EARNINGS.**

The incentive plan petition must include the terms and conditions of the company's proposal to share its increased earnings with its customers. The petition must also include:

- A. an explanation of how increased earnings will be shared;
- B. a statement showing whether increased earnings will be shared by giving customers credits against bills or by lowering rates;
- C. an assessment of the risks borne by the company and those borne by its customers;
- D. an explanation of how increased earnings will be measured by the company and periodically reported to the commission; and
- E. a description of proposed pass-through of cost increases and decreases.

## State Retirement System

### Proposed Permanent Rules Relating to Election of Board Members

#### Notice of Intent to Adopt a Rule Without a Public Hearing in the Matter of the Proposed Adoption of the Rule of the Board of Directors of the Minnesota State Retirement System

NOTICE IS HEREBY GIVEN that the Board of Directors of the Minnesota State Retirement System intends to adopt the above-



entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 352.03, subd. 4.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Paul L. Groschen  
Executive Director  
Minnesota State Retirement System  
529 Jackson Street  
St. Paul, MN 55101

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

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

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota State Retirement System upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Paul L. Groschen, Minnesota State Retirement System.

Dated: 1 August 1991

Paul L. Groschen  
Executive Director

### Rules as Proposed

#### 7900.0200 STATE EMPLOYEE MEMBER.

Subpart 1. **Biennial election.** The procedure for the biennial election of the four state employee members of the board of directors as provided in *Minnesota Statutes*, section 352.03, and laws amendatory thereof, shall be as in subparts 2 to 5.

Subp. 2. **Nominations.** Any employee covered by the system who desires to be a candidate for membership on the board of directors shall file a nominating petition signed by ten employees covered by the system with the executive director of the system not later than October 1 of each odd-numbered year. A candidate may not withdraw his candidacy after October 15. If the employees whose names are ~~thus~~ filed are eligible for election or reelection as members of the board of directors as provided by *Minnesota Statutes*, section 352.03, and laws amendatory thereof, their names and the names of the department in which they are employed shall be printed upon the ballots sent to employees covered by the system as provided in subparts 2 and 4. The name of any employee covered by the system may be written in on the ballot provided for that purpose.

Subp. 3. **Election materials.** Between ~~December~~ January 26 of each ~~odd-numbered~~ even-numbered year and the following ~~January~~ February 5 inclusive, the executive director shall send by mail, express, or regular messenger service notices of election to be held, ballots, and envelopes to the respective heads of departments and state agencies having employees who are covered by the system.

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## Proposed Rules

The heads of departments and state agencies shall deliver or cause to be delivered to each ~~such~~ employee who receives salary or wages from which deductions are made for the system on the department's or agency's payroll abstract covering the last full pay period ending in December of the preceding year a notice of election that two members are to be elected to the board of directors, each ~~such~~ notice to be accompanied by a ballot and two envelopes. Department heads shall also mail ~~such~~ election material to their employees on approved leave of absence or seasonal layoff during the last full pay period in December of the preceding year and shall certify to the executive director the names of the employees to whom ballots were mailed. The Minnesota State Retirement System shall reimburse the departments for the cost of the postage for ~~such~~ the mailing. ~~Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to such employees as required.~~

Subp. 4. **Voting.** Each employee participating in the election shall place the ballots, not exceeding two, imprinted with the names of the candidates of ~~his~~ the employee's choice, or shall write or indicate by appropriate mark on the blank ballot provided for that purpose the names, not exceeding a vote for a total of two candidates, of any state employees covered by the system for whom ~~he~~ the employee wishes to vote for directors, place the ballots in the envelope marked "ballots" (upon which there shall be no writing except the printed word "ballots" and the words "insert ballots and seal" on the flap); thereafter seal and place in the envelope, likewise sealed, addressed to: Tellers, Minnesota State Retirement System, at its office in St. Paul, Minnesota ~~55104~~ 55107.

The employee shall ~~write his or her print or type the employee's name, department, and home address, and social security or place the label provided that contains an election authorization number in the upper left-hand corner of the envelope addressed to said tellers, and return it to the office of the system not later than February March 1, in each even-numbered year. If the employee so elects, he or she~~ the employee may place the tellers' envelope in another envelope and mail or deliver this to the retirement system. Ballots in envelopes postmarked any time up to midnight on ~~February March 1~~ February March 1 of each even-numbered year shall be counted, as shall ballots in envelopes received at the office of the system by messenger service up to the close of office hours on ~~February March 1~~ February March 1 of each even-numbered year, or, if ~~February March 1~~ February March 1 falls on a Saturday or Sunday, postmarked any time up to midnight or received up to the close of office hours on the following Monday of each even-numbered year, provided instructions ~~hereinbefore~~ prescribed have been complied with. Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to the employees as required.

Subp. 5. **Verification.** The name and ~~social security election authorization~~ election authorization number in the upper left-hand corner of envelopes addressed to the tellers shall be checked against ~~the department a computerized representation of payroll abstract or facsimile listing (the abstract abstracts covering the last full pay period ending in December) and a certified listing of those on seasonal layoff or leave of absence, and if the name of the employee on the envelope is found on such payroll abstract or facsimile listing and deductions are taken for the retirement fund which are not deductions in error from the salary of an employee not covered by the system, or if the employee is on approved leave of absence or seasonal layoff during the pay period, the envelope and abstract or facsimile listing shall be noted as "found eligible," and if the name of the employee does not appear thereon, the envelope shall be marked noted as "not found eligible."~~ The envelopes noted as "found eligible" shall be placed in one container and those ~~marked noted as "not found eligible"~~ marked noted as "not found eligible" in another. At ~~eight o'clock in the forenoon 8:00 a.m.~~ 8:00 a.m. on the third Thursday in ~~February March~~ February March in even-numbered years, three tellers appointed by the board of directors shall meet and verify the notations on the sealed envelopes addressed to the tellers who shall then remove and set aside the sealed ballot envelopes of those employees verified as eligible to vote.

Subp. 6. **Tabulation.** After the verification required in subpart 5 is completed, the small envelopes containing the ballots shall be opened and ballots tabulated by the tellers. The two candidates receiving the highest number of votes shall be the elected members of the board of directors for ~~a term~~ terms of four years as provided by *Minnesota Statutes*, section 352.03, subdivision 1, ~~and laws amendatory thereof.~~

### **7900.0300 HIGHWAY PATROLMEN'S STATE PATROL FUND MEMBER.**

~~As provided in Minnesota Statutes, section 352B.29, the Members of the highway patrolmen's state patrol retirement fund shall elect one of their membership to serve as a member of the board of directors. The election of such a board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200. The term of the first highway patrolmen's state patrol fund member so elected shall terminate begins on the first Monday in March 1978 May after the member's election. Such Members shall serve for a term of four years and until the successor is elected and has qualified.~~

### **7900.0400 RETIRED STATE EMPLOYEE MEMBER.**

Subpart 1. **Exceptions from election procedure.** As provided in *Minnesota Statutes*, section 352.03, retired state employees shall elect one retired state employee to serve as a member of the board of directors. The election of ~~such a~~ board member shall be separate and distinct but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200, except as in subparts 2 to 5.

Subp. 2. **Eligibility.** Retired employees who are eligible for election to the board and eligible to vote for a candidate for the board shall be any persons receiving an annuity from Minnesota State Retirement System as of January 1 of each even-numbered year.

Subp. 3. **Notice of election.** Between July 1 and August 15, of each odd-numbered year the director shall mail a notice of election to all eligible retired employees giving them notice of election and instructions for becoming a candidate for membership on the board.

Subp. 4. **Candidates.** Any eligible retired employee who desires to be a candidate for membership on the board of directors must submit a nominating petition, signed by ten or more eligible retired employees, to the executive director of the system not later than October 1 in each odd-numbered year. If the retired employees whose names are ~~thus~~ filed are eligible to election as members of the board of directors their names shall be printed in alphabetical order upon the ballots sent to retired employees as hereinafter provided.

No nominee may withdraw ~~his~~ candidacy after October 10. The name of any eligible retired employee of the system may be written in on the ballot in the space provided for that purpose.

Subp. 5. **Voting.** In ~~January~~ February of each even-numbered year, the executive director shall mail ballots and envelopes to the retired employees eligible to vote. The election material shall be mailed to the last address given to the system by the retired employee ~~for the mailing of the annuity checks~~ unless the retired employee notifies the system in writing by November 1 of a different address to be used for this purpose. The name and ~~social security~~ election authorization number in the upper left-hand corner of the envelopes addressed to the tellers shall be checked against ~~the annuity abstract or facsimile listing covering~~ the annuity payments for January of each even-numbered year.

#### **7900.0410 CORRECTIONAL EMPLOYEE PLAN MEMBER.**

Covered employees of the correctional employees plan shall elect one of their members to serve as a member of the board of directors. The election of the board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure prescribed in part 7900.0200. The term of the correctional employee shall begin on the first Monday in May after the employee's election. Members shall serve a term of four years and until the successor is elected and has qualified.

## **Adopted Rules**

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

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

## **Department of Human Services**

### **Adopted Permanent Rules Relating to Chemical Dependency Care for Public Assistance Clients and the Consolidated Chemical Dependency Treatment Fund**

The rules proposed and published at *State Register*, Volume 15, Number 42, pages 2257-2262, April 15, 1991 (15 SR 2257) are adopted with the following modifications:

#### **Rules as Adopted**

##### **9530.6655 APPEALS.**

Subp. 4. **Considerations in ~~denial of granting or denying additional services~~ appeals.** ~~The recommendations of an appeals referee and the decision of the commissioner on denial of additional services appeals~~ county or the prepaid health plan shall take into consideration the following factors in determining whether to grant or deny additional services:

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

## Adopted Rules

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### 9530.7000 DEFINITIONS.

Subp. 9a. **Custodial parent.** "Custodial parent" means a birth or adoptive parent ~~with whom~~ who has physical custody or joint physical custody as defined in *Minnesota Statutes*, section 518.003, subdivision 3, paragraph (c) or (d) of a minor child ~~resides~~ at the time of assessment.

### 9530.7021 PAYMENT AGREEMENTS.

When the local agency, the client, and the vendor agree that the vendor will accept payment from a third-party payment source ~~agrees to pay~~ for an eligible client's treatment, the local agency, the client, and the vendor ~~may shall~~ enter into a third-party payment agreement. The agreement must stipulate that the vendor will accept, as payment in full for services provided the client, the amount the third-party payor is obligated to pay for services provided the client plus the amount of any fee owed by the client as determined under part 9530.7022. The agreement must be executed in a form prescribed by the commissioner and is not effective unless an authorized representative of each of the three parties has signed it. The local agency ~~must shall~~ maintain a record of third-party payment agreements into which the local agency has entered.

The vendor ~~must shall~~ notify the local agency as soon as possible and not less than one business day before discharging a client whose treatment is covered by a payment agreement under this part if the discharge is caused by disruption of the third-party payment.

### 9530.7031 VENDOR'S DUTY TO COLLECT CLIENT FEES.

A vendor ~~must shall~~ collect client fees according to the requirements of items A to G.

A. A vendor of category III or category IV rehabilitation services shall determine the fee for each client who has no responsible relative and who is not the custodial parent of a minor child. The fee ~~shall must~~ be determined monthly according to part 9530.7024 for each month the client receives rehabilitation services from the vendor.

C. A client's failure to pay a fee under this part ~~shall be~~ is cause for discharge from a vendor's rehabilitation program only if the discharge is in accordance with the vendor's discharge and transfer policy specified in part 9530.4300, subpart 5. However, clients committed according to *Minnesota Statutes*, chapter 253B, shall be discharged only according to *Minnesota Statutes*, chapter 253B.

## Withdrawn Rules

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### Bureau of Mediation Services

#### Notice of Order Withdrawing Rule in the Matter of the Proposed Adoption of Rules of the State Bureau of Mediation Services Relating to Arbitrations

**NOTICE IS HEREBY GIVEN** that the Minnesota Bureau of Mediation Services has withdrawn the **Proposed Rules Relating to Arbitrations**, *Minnesota Rules* 5510.0510, subpart 4, and 5510.2930, subpart 1. Those rules appeared at 15 S.R. 1352, Monday 10 December 1990.

Persons having questions about this matter may contact Carol Clifford at the Minnesota Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, Minnesota 55108, telephone (612) 649-5423.

Dated: 19 August 1991

Peter Obermeyer  
Commissioner

## Executive Orders

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### Executive Department

#### Emergency Executive Order 91-15: Providing for Emergency Assistance to Officials in Winona County, Minnesota

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

WHEREAS, the Sheriff of Winona County, Minnesota has requested assistance in preserving life,

protecting property and providing clean drinking water for the residents of Stockton, Minnesota as a result of serious damage caused by flash flooding conditions in the county;

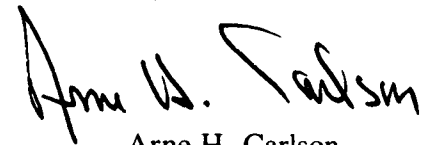
**WHEREAS**, it is necessary for the preservation of life, the protection of property, and the need to provide safe drinking water to the residents of Winona County that the State provide assistance to county and local officials;

**NOW, THEREFORE**, I hereby order that:

1. The Adjutant General of Minnesota order to state active duty on or after July 22, 1991, in the service of the State, such elements and equipment of the military forces of the State as necessary to preserve life, protect property and provide safe drinking water for the residents of Stockton, Winona County, Minnesota.
2. The cost of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in *Minnesota Statutes 1990*, Sections 192.49, Subdivisions 1; 192.51 and 192.52.

Pursuant to *Minnesota Statutes 1990*, Section 4.035, subd. 2, this Order shall be effective July 22, 1991 and shall remain in effect until such date as elements of the military forces of the State are no longer required or until rescinded by proper authority.

**IN TESTIMONY WHEREOF**, I have set my hand this twenty-second day of July, 1991.



Arne H. Carlson  
Governor

Filed According to Law:

Joan Anderson Growe  
Secretary of State

Dated: 26 July 1991

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## Revenue Notices

Effective July 1, 1991, the Department of Revenue has authority to issue revenue notices. A revenue notice is a policy statement made by the department that provides interpretation, details, or supplementary information concerning the application of law or rules. This authority was provided by the Legislature in *1991 Session Laws Chapter 291, article 21, section 6* and will be codified at *Minnesota Statutes section 270.0604*.

### Department of Revenue

#### Revenue Notice #91-9: Implementation of Tax on 900 Pay-Per-Call Services

The 1991 tax bill imposed a tax at the rate of 7.5 percent on the gross earnings of a billing agency that resulted from providing billing and collection services for charges generated by 900 pay-per-call phone services. The law provides that the tax is effective for

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## Revenue Notices

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calls placed to 900 information services after August 31, 1991. The tax is to be administered as a gross earnings tax under *Minnesota Statutes*, Chapter 295 when the billing agency is a telephone company, and as a sales tax under *Minnesota Statutes*, Chapter 297A when the billing agency is not a telephone company.

When the billing agency is a telephone company, the Department will administer *Minnesota Statutes* § 295.367 as a gross earnings tax of 7.5 percent on the gross earnings of the telephone company received from the 900 information provider for the services of billing and collecting the charges generated by calls placed to the 900 service. The tax shall be imposed on those billing and collection gross earnings generated by calls placed to 900 services after August 31, 1991, but no tax shall be due on billing and collection gross earnings resulting from billing and collection services performed after December 31, 1991, since the telephone gross earnings tax imposed under *Minnesota Statutes*, Chapter 295 is repealed effective for calendar year 1992.

When the billing agency is not a telephone company, the Department will administer *Minnesota Statutes* § 295.367 as a base expansion to the sales tax under *Minnesota Statutes*, Chapter 297A. The billing agency will be required to collect a sales tax at the rate of 7.5 percent on the gross receipts that the billing agent received from 900 information services for billing and collection services related to the 900 service. The sales tax on these services should be filed on sales tax form, ST-1.

Dated: 19 August 1991

## Official Notices

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Pursuant to the provisions of *Minnesota Statutes* § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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### Minnesota Comprehensive Health Association

#### Notice of Meeting of Public Policy and Legislative Committee

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association (MCHA) Public Policy and Legislative Committee will be held on Wednesday, August 28, 1991 at 9:00 a.m. at Minnesota Comprehensive Health Association, 5775 Wayzata Boulevard, Suite 910, Minneapolis.

For additional information please call Lynn Gruber at (612) 593-9609.

### Minnesota Comprehensive Health Association

#### Notice of Meetings of Proposal Review Committee

**NOTICE IS HEREBY GIVEN** that three (3) meetings of the Minnesota Comprehensive Health Association (MCHA) Proposal Review Committee will be held as follows:

1. **Thursday, August 22, 1991** at 10:00 a.m. at Group Health, Inc., Board Room, 2829 University Avenue SE, Minneapolis, Minnesota.
2. **Monday, August 26, 1991** at 3:00 p.m. at Group Health, Inc., Board Room, 2829 University Avenue SE, Minneapolis, Minnesota.
3. **Tuesday, September 3, 1991** at 8:00 a.m. at Group Health, Inc., Board Room, 2829 University Avenue SE, Minneapolis, Minnesota.

For additional information please call Lynn Gruber at (612) 593-9609.

### Minnesota Comprehensive Health Association

#### Notice of Meeting of Enrollee Appeal Committee

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association (MCHA) Enrollee Appeal Committee will be held on Thursday, August 29, 1991 at 11:00 a.m. at Minnesota Comprehensive Health Association, 5775 Wayzata Boulevard, Suite 910, Minneapolis, Minnesota. Pursuant to Minnesota State Law this meeting may be closed to the public at enrollee's request.

For additional information please call Lynn Gruber at (612) 593-9609.

## Department of Education

### Notice of Opportunity for Public Comment on State Plan for Early Childhood: Special Education

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Education, Unique Learner Needs Section seeks public comment on the State Plan for Early Childhood Special Education. Copies of the State Plan are available by contacting:

Christi Hansen  
Minnesota Department of Education  
831 Capitol Square  
550 Cedar Street  
St. Paul, MN 55101

Written comments must be received no later than October 18, 1991. For further information contact Robyn Widley at 612/296-5007.

## Department of Health

### Health Care Delivery Systems Division

### Notice of Intention to Solicit Outside Opinion for Amendment of Rules Relating to Physician Assistant Registration

**NOTICE IS HEREBY GIVEN** that the Department of Health is seeking information or opinions from sources outside of the agency in preparing to amend the Physician Assistant registration rules (*Minnesota Rules*, Parts 5600.2600 through 5600.2665). *Minnesota Statutes*, section 214.13, subdivision 3 provides the authority for these rule amendments.

It is anticipated that the proposed rules will contain technical and substantive changes associated with the scope of practice, supervision requirements, and physician/physician assistant agreements. Additional subject areas will be addressed as need is indicated.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Annette C. Spencer  
Health Care Delivery Systems Division  
Department of Health  
P.O. Box 9441  
717 Delaware Street S.E.  
Minneapolis, MN 55440  
Telephone: (612) 623-5131

All statements of information and comment shall be accepted until formal rulemaking notice for adoption of the rules is published. Any written materials received by the Department of Health shall be made part of the rulemaking record.

## Department of Human Services

### Division for Persons with Developmental Disabilities

### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendment of *Minnesota Rules*, parts 9525.0900 to 9525.1020 Governing Grants for Providing Semi-Independent Living Services to Persons with Mental Retardation

**NOTICE IS HEREBY GIVEN** that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing grants for providing semi-independent living services (SILS). The adoption of the rule is authorized by *Minnesota Statutes*, section 252.275, which permits the agency to adopt emergency and permanent rules governing allocation, reimbursement, and compliance.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Laura Plummer  
Department of Human Services

## Official Notices

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Rules and Bulletins Division  
444 Lafayette Road  
St. Paul, MN 55155-3816

Oral statements will be received during regular business hours over the telephone at (612) 297-1217 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 12 August 1991

Laura Plummer  
Department of Human Services  
Rules and Bulletins Division

## Department of Human Services

### Health Care Division

#### Notice of Meeting of Advisory Committee on Organ and Tissue Transplants

The Advisory Committee on Organ and Tissue Transplants will meet on Tuesday, September 10, 1991 at 2:00 p.m. in room 2A and B of the Department of Human Services office building, 444 Lafayette Road, St. Paul, MN.

## Department of Human Services

### Long Term Care Management Division

#### Amended Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Alternative Care Program Which Serves 180-Day Eligible Clients

**NOTICE IS HEREBY GIVEN** that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of amendments to the rules governing the Alternative Care Program. The adoption of these amendments is authorized by *Minnesota Statutes*, § 256B.0913, subdivision 4(e), 12 & 13, which requires the commissioner to establish criteria for determining what persons, who would be eligible for medical assistance without a spend-down, are eligible for the Alternative Care Program and when services to a client must be terminated for failure to pay client premiums. The statute also gives the commissioner authority to establish procedures for submittal and approval of a biennial county plan for the administration of the alternative care program and coordination with other planning processes for the older adult.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Kathy McDonough  
Rules and Bulletins Division  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55155-3816

Oral statements will be received during regular business hours over the telephone at (612) 297-4997 by Kathy McDonough and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Kathy McDonough  
Rules and Bulletins Division



## State Law Library

### Notice of Law Library Filing Fees

Pursuant to *Minnesota Statutes* 134A.10, the following law library fees are published. Civil fees include probate matters. Criminal conviction includes felonies, gross misdemeanors, and misdemeanors **except** as noted. These fees were effective July 1, 1991.

<u>County</u>	<u>Civil</u>	<u>Conciliation</u>	<u>Criminal Conviction</u>	<u>Petty Misdemeanor</u>	<u>Notes:</u>
Aitkin	10	5	10	5	\$5 on Misdemeanors.
Chisago	10	5	10	5	\$5 on Probate, Misdemeanors.
Redwood	6	6	5	5	Not on ordinance violations.
St. Louis	10	5	2	2	
Swift	10	10	10	10	

## Bureau of Mediation Services

### Notice of Acceptance of Applications for Placement on the Bureau Arbitrator Roster

**NOTICE IS HEREBY GIVEN** that the Bureau of Mediation Services is now accepting applications for placement on the Bureau Arbitrator Roster pursuant to *Minnesota Statutes* 179.02, subd. 4; *Minnesota Statutes* 179A.04, subd. 3(k); and *Minnesota Rules* parts 5530.0100 to 5530.1300.

Persons interested in applying for placement on this roster may secure an application form and applicable rules by requesting them from:

Carol S. Clifford  
 Bureau of Mediation Services  
 1380 Energy Lane, Suite Two  
 St. Paul, MN 55108-5253  
 (612) 649-5423

Applications will be accepted until October 1, 1991.

Dated: 19 August 1991

Peter E. Obermeyer  
 Commissioner

## Department of Public Safety

### State Patrol Division

### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Payment of Speeding Violation Fines with a Credit Card

**NOTICE IS HEREBY GIVEN** that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing payment of speeding violation fines with a credit card. *Minnesota Statutes*, section 169.983, authorizes an officer to allow an out-of-state speeding violator to plead guilty to the violation upon issuance of the citation and to pay the fine to the officer with a credit card. The adoption of the rules is authorized by section 169.983, which states: "The commissioner shall adopt rules to implement this section . . ."

The State Department of Public Safety requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written statements should be addressed to:

Dennis Lazenberry, Assistant Chief  
 State Patrol  
 107 Transportation Building  
 395 John Ireland Boulevard  
 St. Paul, Minnesota 55155

## Official Notices

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Oral statements will be received during regular business hours over the telephone at (612) 296-3080 and in person at the above address.

All statements of information and opinions will be accepted until further notice is published in the *State Register* that the Department intends to adopt or to withdraw the rules. Any written material received by the State Department of Public Safety will become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rules are adopted.

Dated: 5 August 1991

Ralph Church, Commissioner  
Department of Public Safety

## Office of the Secretary of State

### Notice of Vacancies in Multi-Member Agencies

**NOTICE IS HEREBY GIVEN** to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is September 10, 1991.

#### **Task Force on Education and Employment Transitions**

407 Gallery Bldg., 17 W. Exchange St., St. Paul 55102. 612-296-4202

*Laws of 1991*, Chpt. 265, Art. 8

**APPOINTING AUTHORITY:** State Council on Vocational Technical Education. **COMPENSATION:** Expenses.

**VACANCY:** Nine members: see the description of this new task force.

The task force shall develop a statement plan for implementing programs for education and employment transitions.

The task force includes ten members appointed by the State Council on Vocational Technical Education to represent the interests of education, labor, business, agriculture, trade associations, local service units, private industry councils, and appropriate community groups.

The task force shall provide an interim report describing its progress to the legislature by February 15, 1992. The task force shall report its plan and recommendations to the legislature by January 15, 1993.

## Board of Social Work

### Notice of Change of Meeting Date

The regular meeting date of the Minnesota Board of Social Work scheduled for October 18, 1991 (*State Register*, Vol. 15, No. 36, March 4, 1991, p. 1931) has been changed to **October 25, 1991**.

## Department of Transportation

### Program Management Division

### Office of Motor Carrier Safety and Compliance

### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Relating to Tank Motor Vehicles; Variances

**NOTICE IS HEREBY GIVEN** that the State of Minnesota, Department of Transportation, is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing the issuance of variances from regulations adopted under *Minnesota Statutes*, section 221.033, subdivision 1 and contained in Code of Federal Regulations, Title 49, part 180. The adoption of the rule is authorized by *Minnesota Statutes*, section 221.033, subdivision 4, which permits the agency to adopt rules to provide a procedure for the granting of such variances and which requires the agency to establish inspection, testing, and registration requirements to ensure the safety of cargo tanks operated under a variance.

The State Department of Transportation requests information and opinions concerning the subject matter of the rule. Interested

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## Professional, Technical & Consulting Contracts

persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Ward Briggs  
Office of Motor Carrier Safety and Compliance  
151 Livestock Exchange Building  
100 Stockyard Road  
South St. Paul, MN 55075

Oral statements will be received during regular business hours over the telephone at (612) 297-7656 and in person at the above address.

All statements of information and opinions shall be accepted until October 1, 1991. Any written material received by the State Department of Transportation shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event the rule is adopted.

Dated: 6 August 1991

John H. Riley, Commissioner  
Department of Transportation

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## Professional, Technical & Consulting Contracts

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. Certain quasi-state agencies are exempted from some of the provisions of this statute.

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### Department of Administration

#### Print Communications Division

#### Request for Proposals for Professional and Technical Services

The Department of Administration, Print Communications Division, is required to print a variety of public and state information products.

Lack of state capability in this area, a large workload and the need to meet deadlines require the Print Communications Division to contract with outside entities for professional, technical and creative services, as needed.

This request for proposal does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

#### I. Scope of Contract

The contract covers consultation, creation, production and delivery of various creative services, as assigned. Vendor provides staff, materials, production facilities and equipment, pick-up and delivery, as requested.

#### II. Contract Tasks

Vendor must have the capability to provide the following creative services:

- Creative consultation and concept development.
- Graphic design and layout.
- Photography (black and white and color, and studio and location).
- Photograph retouching (air brush).
- Illustration.
- Graph, chart and table design and artwork.
- Typesetting.
- Keylining.

## Professional, Technical & Consulting Contracts

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- Desktop Publishing.
- Display art.
- Calligraphy.

Respondent may propose additional tasks or activities that substantially improve the capabilities of the vendor.

### III. Contract Costs

The cost of each individual contract will average between \$25,000-\$100,000. There will be multiple contracts awarded.

### IV. Project Completion Date

Assignments within the scope of the project will be made on an as-needed basis. The contract will run from October 1, 1991, to September 30, 1993, with the option to renew up to 3 years.

### V. Proposal Contents

The proposal must, at a minimum:

- Identify and describe the services to be provided by the respondent.
- Outline the respondent's background and experience including local, state and federal government work, if any, and identify the personnel who will conduct the project, their training and their work experience. (No change in personnel assigned to the project will be permitted without the approval of the Division's Prepress Supervisor.)
- Include a detailed list of costs and turnaround times for each of the services listed under "II. Contract Tasks." This information will be a scheduling and management tool as well as the basis for invoicing.
- A brief portfolio must accompany all proposals.

### VI. Submissions of Proposals

All proposals must be sent or delivered to and received by:

Jane Rosso, Printing Manager  
Print Communications Division  
Department of Administration  
117 University Avenue, Room 128A  
St. Paul, Minnesota 55155

All proposals must be time-stamped by the Division not later than 4:30 p.m. September 6, 1991. Late proposals will not be accepted.

Two copies of the proposal are to be sealed in the mailing envelopes or packages with the respondent's name and address clearly written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

**VII. All proposals received by the deadline** will be evaluated by the representatives of the Department of Administration, Print Communications Division. After evaluation, several will be selected, a complete portfolio will be reviewed and an interview conducted. Factors upon which proposals will be judged include, but are not limited to, the following:

- Cost detail and turnaround time.
- Qualifications of both the company and the personnel. The experience of project personnel will be given greater weight than that of the firm.

Evaluation and selection will be completed by September 20, 1991. The State will make multiple awards from this request for proposal.

### VIII. Department Contacts

Prospective respondents who have questions regarding this request for proposal may call or write:

Mary Michaels  
Print Communications Division  
Department of Administration  
117 University Avenue, Room 128A  
St. Paul, Minnesota 55155  
(612) 296-2403

This is the only employee authorized to answer questions regarding this proposal.

### IX. Human Rights Certificate of Compliance

All responders having more than 20 full-time employees at any time during the previous 12 months shall have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. **Your proposal will not be accepted unless it includes one of the following:**

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

## Department of Human Services

### Request for Technical Consultant for the Medicare Revenue Enhancement Program

The Minnesota Department of Human Services is requesting the services of a consultant to provide training and advice to department staff for the purpose of appealing denied Medicare benefits on behalf of Medical Assistance recipients.

Experience in preparing briefs and arguments, and appearing at Administrative Law Judge Hearings at the Social Security Administration, Office of Hearings and Appeal, for the purpose of appealing Medicare benefits preferred.

The consultant contract will be for a period of August 1, 1991, or execution of the contract, through December 31, 1991.

Interested persons should submit a résumé to:

Julie Elhard, Medicare Coordinator Benefit Recovery Section—Medicare	444 Lafayette Road St. Paul, MN 55155-3850
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## Department of Human Services

### Chemical Dependency Program Division

### Request for Proposals to Conduct an Assessment of the Federal Medicaid Waiver for the Minnesota Chemical Dependency Treatment Fund

#### I. Introduction

The Minnesota Department of Human Services, Chemical Dependency Program Division (CDPD), is soliciting proposals from qualified consultants to conduct an assessment of the federal Medicaid waiver for the Minnesota Consolidated Chemical Dependency Treatment Fund.

The Health Care Financing Administration (HCFA) of the U.S. Department of Health and Human Services has waived certain limitations concerning requirements for Medicaid recipients in Minnesota so that those recipients can participate in the State's Consolidated Chemical Dependency Treatment Fund (CCDTF). The CCDTF pays for chemical dependency (CD) treatment and receives some reimbursement from Medicaid.

The Medicaid waiver requires that the State of Minnesota arrange for an independent assessment of the cost-effectiveness of the waiver and its impact on recipient access to care of adequate quality. The purpose of this request for proposals is to accomplish this independent assessment. A copy of the full Request for Proposals may be obtained by contacting the CDPD.

#### II. Qualifications of Respondents

Respondents must be able to demonstrate experience and expertise in secondary data analysis, computer programming and processing, and preparation of professional reports of a publishable quality. Experience in fiscal analysis and knowledge of chemical dependency and health care programs is desirable.

#### III. Scope of the Project

The project will be initiated upon selection of a proposal and finalizing a contract. The project must be completed and a report submitted to CDPD by February 14, 1992.

The proposed study will be based primarily on secondary data analysis. The Department of Human Services operates several automated information systems which can be used to evaluate the impact of the HCFA waiver. These systems include a reimbursement system for Minnesota counties, Indian reservations, and CD service providers which allows the State to make payments to providers and monitor client placements. Data from the CDPD's Drug and Alcohol Abuse Normative Evaluation System (DAANES) also will be available.

## Professional, Technical & Consulting Contracts

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The secondary analysis will address the issues of whether there have been cost savings due to the waiver, whether Medical Assistance (MA) recipients have had the same access to care as other clients, and whether the quality of the care received has been comparable to that of non-MA clients.

### IV. Proposal Contents

- A. A description of the respondent's background and experience in performing this type of a project;
- B. A description of the methodology to be used and tasks to be performed in meeting the objectives of the project;
- C. A timetable and budget for the project;
- D. A description of the respondent's computing resources, including statistical packages available for the project;
- E. Résumés/qualifications of staff who will be assigned to the project; and
- F. Assurances that the respondent will comply with state and federal laws and regulations on data privacy.

Proposals are to be submitted on the CDPD's Grant Application Form, which will be sent to those requesting a copy of the full RFP. All responses must be received by September 16, 1991.

### V. Selection Criteria

- A. Proposed methodology for achieving the project's objectives, including a clear plan of action for each activity, and documentation of all resources and expertise to be used;
- B. Demonstrated understanding of the project's objectives;
- C. Qualifications and experience of the person(s) assigned to complete the analysis and report;
- D. Cost of the proposed project; and
- E. Proposed timetable.

**For a copy of the full request for proposals and grant application form contact:**

Dorrie Hennagir  
Chemical Dependency Program Division  
444 Lafayette Road  
St. Paul, MN 55155-3823  
612/296-4617

## Department of Human Services

### Health Care Programs Division

### Notice of Request for Proposal for Prepaid Health Plans

The Department of Human Services is seeking proposals from prepaid health plans to provide health care services to the Medical Assistance (MA) population in Ramsey County eligible for enrollment in the Prepaid Medical Assistance Program (PMAP). The MA population groups required to enroll in PMAP include the Aid to Families with Dependent Children (AFDC), AFDC-related, needy children, and aged eligibility groups. PMAP has been operational in Hennepin, Dakota, and Itasca Counties for over five years. During this time, PMAP has proven to be a cost effective alternative to the fee-for-service system while insuring access to quality care.

The expansion of the PMAP Program into Ramsey county will begin on July 1, 1992. The enrollment process will occur gradually over a one year period, with full enrollment expected to be completed by July 1, 1993.

Prepaid health plans must be organized to provide all MA covered services and must be able to accept financial risk. Capitation rates will be set by the department in consultation with an independent actuary. Contracts will be awarded based on: (1) capacity and geographic accessibility of service delivery sites; (2) ability to comply with service delivery standards appropriate to the demographic characteristics of the population to be enrolled; (3) financial and risk capability; and (4) ability to meet quality assurance, complaint and appeal and reporting requirements. The commissioner reserves the right to reject any proposal.

The formal request for proposal which contains detailed specifications may be obtained by writing or contacting:

Rick Chiat  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55155-3854  
Phone: 612/296-1481

The deadline for submitting a proposal is 4:30 p.m., October 18, 1991.

## Department of Human Services

### Long Term Care Management Division

#### Notice of Request for Proposals for the Development of Respite Care and Caregiver Support Projects

The Long Term Care Management Division of the Department of Human Services is soliciting proposals from qualified applicants to develop Respite Care and Caregiver Support Projects in Minnesota.

Eligible applicants are public and private agencies with the capacity to carry out the project activities which include: the coordination of respite care services; the development of a volunteer recruitment, training and retention plan; and the provision of supportive services to informal caregivers in the State.

A total of \$880,000 is available to support individual project grants during the 1992-1993 biennium. Each grant may receive a maximum of \$30,000 for eighteen months. Counties, organizations or areas may file jointly for individual project grants to be used together in a larger project. No local match is required, but desirable.

The project sites will begin operation on or about January 1, 1992 and complete their grant cycle by June 30, 1993. Projects must at least serve persons over sixty-five, but may serve other populations as resources allow.

Requests for copies of the complete RFP for the Respite Care and Caregiver Support projects should be directed to Nancy Smith at (612) 296-5892. The original and six copies of the proposal in response to the RFP must be submitted to:

Caregiver Support Project  
Long Term Care Management Division  
Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55155-3844

no later than 4:00 p.m. on October 11, 1991.

The Long Term Care Management Division of the Department of Human Services and the State of Minnesota reserve the right to reject any and all proposals submitted.

## Department of Jobs and Training

### Notice of Proposed Contracts for Federal Fiscal Years 1992 and 1993

The Minnesota Department of Jobs and Training, Services for the Blind and Visually Handicapped (SSB) is publishing notice that the contracts listed below are available and will be awarded for federal fiscal year 1992 (October 1, 1991 to September 30, 1992).

#### A. Notice of Proposed Contracts for Reader Services

SSB is seeking individuals/organizations to provide reader services as a reasonable accommodation to blind or visually handicapped employees of the agency. As a Reader, the individual will read incoming correspondence, case file information, regulations, grants/grant applications, etc. and record information on fiscal documents, rehabilitation plans, applications and client information system forms as dictated by the blind or visually handicapped employee. The following approximate number of contracts will be let:

1. 7 Readers for the Metro area: 1 of these must have a working knowledge or familiarity of computer-related technical terms and language;
2. 1 Reader for the Duluth area;
3. 1 Reader for the Rochester area.

All individuals will be paid at a starting rate of \$4.50 per hour. For each full consecutive Federal Fiscal Year that the individual remains under contract, the rate of pay will be increased by a percentage determined by SSB management by July 1 of the preceding Federal Fiscal Year. Contracts will range from 10-20 hours per week based on the individual needs of the employee. Total cost of all contracts is not expected to exceed \$25,000.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Cindy Farrell, Senior Accounting Officer  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, MN 55104  
(612) 642-0888

## Professional, Technical & Consulting Contracts

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All proposals must be received by 4:30 p.m., Friday, 9/6/91 for consideration. Individuals responding after this date, as well as those individuals who responded by the date although were not selected, will have their name on file for a period of one year, and will be contacted if vacancies occur or additional services are needed during this period.

### **B. Notice of Proposed Contracts for Driver Services**

SSB is seeking individuals/organizations to provide driver services as a reasonable accommodation to blind or visually handicapped employees of the agency. As a Driver, the individual will drive the blind or visually handicapped employee to meetings, client interviews or appointments and return to the office in their own or a state-owned vehicle. The following approximate number of contracts will be let:

1. 7 Drivers for the Metro area;
2. 1 Driver for the Duluth area serving the northern half of the state;
3. 1 Driver for the Rochester area serving Dodge, Faribault, Fillmore, Freeborn, Houston and Mower counties;
4. 1 Driver for the Mankato area serving Blue Earth, Brown, Le Sueur, Martin, McLeod, Nicollet, Renville, Sibley, Waseca, and Watonwan counties.

Candidates must possess a valid driver's license and good driving record and provide proof of insurance if their own vehicle is to be used.

All individuals will be paid at a starting rate of \$4.50 per hour. For each full consecutive Federal Fiscal Year that the individual remains under contract, the rate of pay will be increased by a percentage determined by SSB management by July 1 of the preceding Federal Fiscal Year. Contracts will range from 10-20 hours per week based on the individual need of the employee. An individual providing driver services who uses his/her own vehicle shall be reimbursed as part of the contract at a rate of \$.27 per mile. Total cost of all contracts is not expected to exceed \$25,000.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Cindy Farrell, Senior Accounting Officer  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, MN 55104  
(612) 642-0888

Individuals interested in both the reader and the driver activities should indicate this in their brief statement. All proposals must be received by 4:30 p.m. Friday, 9/6/91 for consideration. Individuals responding after this date, as well as those individuals who responded by the date but were not selected, will have their name on file for a period of one year, and will be contacted if vacancies occur or additional services are needed during this period.

The Minnesota Department of Jobs and Training, Services for the Blind and Visually Handicapped (SSB) is publishing notice that the contracts listed below are available and will be awarded for Federal Fiscal Years 1992 and 1993 (October 1, 1991 to September 30, 1993).

### **A. Notice of Proposed Contracts for Medical Services**

1. SSB is seeking 5 individuals to function as Regional General Medical Consultants in the North, South, and Metro Regions to provide medical services under the contract as follows:

- a. serve as the medical expert for the Regional Supervisor(s) and provide face to face medical consultative services on all medical aspects of the rehabilitation program as it relates to specific clients;
- b. review all medical reports on blind and visually handicapped clients obtained in the Region(s) during the contract period;
- c. determine the adequacy of the medical information obtained;
- d. record and code each disabling condition reported;
- e. make recommendations regarding client limitations;
- f. interpret medical findings to rehabilitation counselors upon request;
- g. provide consultation and recommendations regarding medical practice; procedures and individual client needs upon request;
- h. make recommendations regarding medical charges upon request.

The medical consultants will be responsible to the respective regional supervisors with primary administrative direction coming from the Director of Services for the Blind and Visually Handicapped. All individuals will be paid at a rate of \$40.00 to \$60.00 per hour depending upon qualifications and previous experience in dealing with blind and visually handicapped persons. Most contract



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## Professional, Technical & Consulting Contracts

work in the outstate regions will require an average of 2-4 hours per month. Most contract work in the Metro Regions (9-county) will require an average of 4-12 hours per month. Total cost of all contracts is not expected to exceed \$15,000 per year.

Inquiries and/or proposals including a brief statement of qualifications and training/work-experience should be directed to:

Cindy Farrell, Senior Accounting Officer  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, MN 55104  
(612) 642-0888

All proposals must be received by 4:30 p.m., Friday 9/6/91 for consideration.

### B. Notice of Proposed Contracts for Ophthalmological Services

SSB is seeking 1 individual to function as ophthalmological consultant. The individual will provide statewide ophthalmological services under the contract as follows:

- a. serve as the ophthalmological expert (Doctor of Medicine with American Board of Ophthalmological certification) and advise agency staff concerning complex medical program issues;
- b. review and classify (code) all eye reports on blind and visually handicapped clients obtained during the year;
- c. make recommendations regarding client limitations;
- d. make written recommendations for additional procedures as needed;
- e. provide consultation and recommendations for individual blind and visually handicapped clients referred by the rehabilitation counselor or the agency psychologist.

The ophthalmological consultant will be responsible to the CILSS Director, Services for the Blind and Visually Handicapped. The individual will be paid at the rate of \$40.00 to \$60.00 per hour depending upon qualifications and previous experience in working with blind and visually handicapped persons. Most contract work will require an average of 12 hours per month. The total cost of the contract is not expected to exceed \$15,000.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Cindy Farrell, Senior Accounting Officer  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, Minnesota 55104  
(612) 642-0888

All proposals must be received by 4:30 p.m., 9/6/91 for consideration.

## Department of Natural Resources

### Request for Proposals for a Local Area Network to be Installed at the Minnesota Department of Natural Resources, Trails and Waterways Unit Central Office

The Minnesota Department of Natural Resources' Trails and Waterways Unit is requesting proposals from any qualified firm interested in providing software, installation, training, support, and equipment for a Novell token ring local area network. Estimated available funds are \$65,000.

Proposals must be received by 4:30 p.m. CDT, Monday, September 9, 1991. Interviews of finalists will tentatively be held in late September 1991; with final selection in October 1991.

For a copy of the Request for Proposal contact:

Mr. Charlie Regnier, Use Monitoring Specialist  
Recreation Services Section  
Trails and Waterways Unit  
Minnesota Department of Natural Resources  
DNR Building—500 Lafayette Road  
Saint Paul, Minnesota 55155-4052  
(612) 296-0729

## Professional, Technical & Consulting Contracts

### State Designer Selection Board

#### Request for Proposal for a Project at the University of Minnesota to Minnesota Registered Design Professionals

The State Designer Selection Board has been requested to select a designer for a project at the University of Minnesota. Design firms who wish to be considered for these projects should deliver proposals on or before 4:30 p.m., September 10, 1991, to:

George Iwan  
Executive Secretary  
State Designer Selection Board  
Room G-10, Administration Building  
St. Paul, Minnesota 55155-3000

#### The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

#### 4) Mandatory Proposal contents in sequence:

- a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.
- b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.
- c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.
- d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall list and total all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.
- e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel were, at the time of the work, employed by other than their present firms.

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

#### 5) Statutory Proposal Requirements:

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

#### The proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
  - b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights;
- or
- c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or
  - d) A statement certifying that the firm has an application pending for a certificate of compliance.
- 6) Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:
- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or

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## Professional, Technical & Consulting Contracts

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

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

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

### 7) PROJECT—05-91

#### Central Chilled Water System University of Minnesota—East Bank

The project consists of four phases:

Phase I being an engineering study of the complete central chilled water system, considering several locations for one or more chilled water plants, as well as different piping systems for the chilled water loop.

Phase II consists of developing a preliminary engineering design.

Phase III is the development of a final engineering design and specifications for the recommended piping system identified in Phase I, excluding the design of the recommended central chilled water plant.

Phase IV consists of construction administrative services.

It is the desire of the University that this request for engineering services be limited to consulting engineers and architects that have had actual experience in designing centralized chilled water systems of 10,000 tons or more. All engineers and architects shall provide a list of clients for all similar projects worked on within the last five years, along with the names, phone numbers, and addresses of client contacts.

The University anticipates that the total compensation to the engineer for services and expenses from project inception to construction completion would not exceed Five Hundred Thousand Dollars (\$500,000.00).

Questions concerning this project may be referred to Clint Hewitt at (612) 625-7355.

James Tillitt, Vice Chairman  
State Designer Selection Board

## Minnesota State University Board

### Request for Proposals for Consultant

The Minnesota State University Board—Chancellor's Office seeks a consultant to design a planning process and coordinate activities to prepare the System for the Legislatively mandated merger of the Minnesota State Systems of Higher Education. The process will include a rearticulation of the perceived needs leading to merger and the method by which that can occur.

A formal outline of the project may be obtained by contacting the Minnesota State University Board, Office of the Vice Chancellor for Academic Affairs at:

555 Park Street, Suite 230  
St. Paul, MN 55103  
(612) 296-6870

Final proposals will be due in the Board Office no later than 4:30 p.m. Friday August 30, 1991. Proposals received after that time will not be accepted.

## Department of Veterans Affairs

### Veterans Homes Board of Directors

### Request for Proposals for the Management of Food Services Operations

The Minnesota Veterans Homes Board of Directors is seeking proposals from organizations with the expertise to manage and deliver to manage and deliver quality food and nutritional services to the residents of the Minnesota Veterans Home located in Silver Bay, Minnesota. Food and nutritional services must comply with applicable Long Term Care standards and will be coordinated with on-site management and the on-site dietician. The project period will cover the operational phase-in to full operation as an 89 bed skilled care facility. Phase-in is scheduled to begin in late September 1991 and will continue for approximately 20 months.

## Professional, Technical & Consulting Contracts

The formal Request for Proposals which contains specifications may be requested from the Veterans Homes Board of Directors. The deadline for submitting a proposal is 4 p.m. August 26, 1991. Selection of the contractor will be made by August 30, 1991. The Chairman of the Board reserves the right to reject all proposals submitted.

Please direct proposals to:

Richard Zierdt  
Veterans Homes Board of Directors  
Veterans Service Building-Room 122  
St. Paul, MN 55155  
Phone: 612/296-2073

Please direct inquiries to:

Fred Janklow  
Minnesota Veterans Home-Silver Bay  
45 Banks Boulevard  
Silver Bay, Minnesota 55614  
Phone: 218/226-3350

Mr. Janklow is the only employee authorized to answer questions regarding this proposal.

## State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management 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 whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

## Materials Management Division—Department of Administration: Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

**Commodity:** Minolta projection unit  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Department of Administration  
**Deliver to:** St. Paul  
**Requisition #:** B 02509-20456

**Commodity:** Seagate hard drive  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Department of Employee Relations  
**Deliver to:** St. Paul  
**Requisition #:** B 24000-20526

**Commodity:** Codex NP card  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-23038

**Commodity:** Amatrol workstation—no substitute  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-64077

**Commodity:** IBM PS2/55SX—no substitute  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Moorhead State University  
**Deliver to:** Moorhead  
**Requisition #:** B 26072-03426

**Commodity:** Micom channel pad  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Southwest State University  
**Deliver to:** Marshall  
**Requisition #:** B 26175-02225

## State Contracts and Advertised Bids

**Commodity:** Seagate hard disk  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** North Hennepin Community College  
**Deliver to:** Brooklyn Park  
**Requisition #:** B 27153-21363

**Commodity:** WYSE terminals—no substitute  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** August 23  
**Agency:** Minnesota Department of Human Rights  
**Deliver to:** St. Paul  
**Requisition #:** B 17000-04054

**Commodity:** Micom channel pad  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-23037

**Commodity:** Daynafile drive  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 23  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-48088

**Commodity:** Panasonic printers  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Moorhead State University  
**Deliver to:** Moorhead  
**Requisition #:** B 26072-03425

**Commodity:** Multiplexors  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** St. Cloud State University  
**Deliver to:** St. Cloud  
**Requisition #:** B 26073-23102

**Commodity:** 386/25 computer  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Anoka Ramsey Community College  
**Deliver to:** Coon Rapids  
**Requisition #:** B 27152-46869

**Commodity:** Smartwriter toner cartridge  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Minnesota Pollution Control Agency  
**Deliver to:** St. Paul  
**Requisition #:** B 32200-30299

**Commodity:** Ion chromatograph  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** August 23  
**Agency:** Minnesota Pollution Control Agency  
**Deliver to:** St. Paul  
**Requisition #:** B 32200-30342

**Commodity:** Datpak tapes  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Board of Voc-Tech Education  
**Deliver to:** St. Paul  
**Requisition #:** B 36000-22255

**Commodity:** Epson Equity 386SX/20 computer  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Brainerd Regional Human Services Center  
**Deliver to:** Brainerd  
**Requisition #:** B 55304-09124

**Commodity:** Simms memory  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 23  
**Agency:** Department of Revenue  
**Deliver to:** St. Paul  
**Requisition #:** B 67450-43167

**Commodity:** Probes—agriculture sample  
**Contact:** Pam Anderson 296-1053  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Department of Agriculture  
**Deliver to:** Minneapolis  
**Requisition #:** B 04131-21118

**Commodity:** Laboratory gases  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 4:30pm:** August 21  
**Agency:** Minnesota Pollution Control Agency  
**Deliver to:** St. Paul  
**Requisition #:** B 32200-30340

**Commodity:** Winter sand  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 2pm:** August 23  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Various places  
**Requisition #:** B 79100-09259

**Commodity:** Remanufactured toner cartridges  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Board of Voc-Tech Education  
**Deliver to:** St. Paul  
**Requisition #:** B 36000-22226

**Commodity:** Okidata printer  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Moose Lake R.T.C.  
**Deliver to:** Moose Lake  
**Requisition #:** B 55103-05777

**Commodity:** Intermec bar code eq.  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Department of Revenue  
**Deliver to:** St. Paul  
**Requisition #:** B 67350-43168

**Commodity:** Radius interface card  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 4:30pm:** August 21  
**Agency:** Department of Public Service  
**Deliver to:** St. Paul  
**Requisition #:** B 80400-92131

**Commodity:** Video equipment  
**Contact:** Pam Anderson 296-1053  
**Bid due date at 4:30pm:** August 21  
**Agency:** Winona State University  
**Deliver to:** Winona  
**Requisition #:** B 26074-14094

**Commodity:** Winter sand  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 2pm:** August 23  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Various places  
**Requisition #:** B 79100-09258

## State Contracts and Advertised Bids

**Commodity:** Winter sand  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 2pm:** August 23  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Various places  
**Requisition #:** B 79100-09260

**Commodity:** Corrosion inhibitor  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 4:30pm:** August 21  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Golden Valley  
**Requisition #:** B 79500-22503

**Commodity:** Conference table  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Department of Agriculture  
**Deliver to:** St. Paul  
**Requisition #:** B 04631-21151

**Commodity:** Gun belts—rebid  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 21  
**Agency:** Department of Public Safety/Finance  
**Deliver to:** St. Paul  
**Requisition #:** B 07500-27079-1

**Commodity:** Rebuilt copier  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Bemidji State University  
**Deliver to:** Bemidji  
**Requisition #:** B 26070-14490

**Commodity:** Copier rental  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** August 23  
**Agency:** Winona State University  
**Deliver to:** Winona  
**Requisition #:** B 26074-14123

**Commodity:** Fire alarm maintenance check  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Cambridge Regional Human Services Center  
**Deliver to:** Cambridge  
**Requisition #:** B 55201-20210

**Commodity:** Copier rental  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** St. Cloud  
**Requisition #:** B 79350-01166

**Commodity:** Portland cement  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 4:30pm:** August 21  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Fort Snelling  
**Requisition #:** B 79990-00337

**Commodity:** Free standing file  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Department of Agriculture  
**Deliver to:** St. Paul  
**Requisition #:** B 04631-21156

**Commodity:** Book copier  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Bemidji State University  
**Deliver to:** Bemidji  
**Requisition #:** B 26070-14488

**Commodity:** Copiers  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** August 23  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-38308

**Commodity:** Tables and chairs  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** North Hennepin Community College  
**Deliver to:** Brooklyn Park  
**Requisition #:** B 27153-10358

**Commodity:** Print stitcher  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Correctional Facility  
**Deliver to:** Lino Lakes  
**Requisition #:** B 78550-08546

**Commodity:** Thermometer & accessories—rebid  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 21  
**Agency:** Department of Public Service  
**Deliver to:** Various places  
**Requisition #:** B 80300-92123-1

**Commodity:** Rebuilt tire changer  
**Contact:** Mary Jo Bruski 296-3772  
**Bid due date at 4:30pm:** August 23  
**Agency:** Southwest State University  
**Deliver to:** Marshall  
**Requisition #:** B 26175-02228

**Commodity:** B & S small engines  
**Contact:** Mary Jo Bruski 296-3772  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** Fort Snelling  
**Requisition #:** B 79990-00336

**Commodity:** Refrigerant recovery & recycling machine  
**Contact:** Mary Jo Bruski 296-3772  
**Bid due date at 4:30pm:** August 23  
**Agency:** Minnesota Correctional Facility  
**Deliver to:** St. Cloud  
**Requisition #:** B 78830-10996

**Commodity:** Check stock  
**Contact:** Brenda Thielen 296-9075  
**Bid due date at 2pm:** August 26  
**Agency:** Minnesota Department of Jobs & Training  
**Deliver to:** St. Paul  
**Requisition #:** B 21200-41555

**Commodity:** Copier rental  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** August 26  
**Agency:** Winona State University  
**Deliver to:** Winona  
**Requisition #:** B 26074-14123-1

**Commodity:** Copier lease purchase—rebid  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 21  
**Agency:** Office of the State Auditor  
**Deliver to:** St. Paul  
**Requisition #:** B 61000-81555-1

**Commodity:** Color copier  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** August 22  
**Agency:** Minnesota Department of Transportation  
**Deliver to:** St. Paul  
**Requisition #:** B 79000-21688

**Commodity:** Copiers  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** August 26  
**Agency:** Mankato State University  
**Deliver to:** Mankato  
**Requisition #:** B 26071-38308-1

**Commodity:** Galvanized steel  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** August 27  
**Agency:** Department of Public Safety/  
Finance  
**Deliver to:** Various places  
**Requisition #:** B 07700-27093

**Commodity:** Mirror stereoscopes  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 20  
**Agency:** Department of Natural Resources—Regional Headquarters  
**Deliver to:** Various places  
**Requisition #:** B 29005-15669

**Commodity:** Fencing & install  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 4:30pm:** August 26  
**Agency:** Minnesota Correctional Facility  
**Deliver to:** Stillwater  
**Requisition #:** B 78620-00407

**Commodity:** Laundry service  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** September 9  
**Agency:** Military Affairs  
**Deliver to:** Camp Ripley, Little Falls  
**Requisition #:** Price contract

**Commodity:** Regular & unleaded gasoline, #1 and #2 regular diesel fuel  
**Contact:** Dale Meyer 296-3773  
**Bid due date at 2pm:** August 22  
**Agency:** Department of Transportation  
**Deliver to:** Alexandria  
**Requisition #:** Price contract

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## Announcements

**Reduce, Reuse, Recycle Exhibit at State Fair:** The Minnesota State Fair, in conjunction with the Metropolitan Council, the Minnesota Office of Waste Management and the Recycling Association of Minnesota, will be presenting an educational exhibit dealing with waste management issues and techniques during the '91 exposition, August 22 through September 2. • The exhibit will feature a gigantic trash can showing proportions of solid waste materials in the garbage; walk-through displays of a grocery store, kitchen, backyard and office showing recycling and waste reduction techniques; and a display showing the entire recycling process from collection to new end products. There will also be displays of a MSW composting facility, mass burn/incineration site and a landfill, as well as demonstrations and an information center. • The Reduce, Reuse, Recycling exhibit will be located just inside the main gate on Commonwealth Avenue. Volunteers involved in solid waste management will be available to answer questions from 9:00 a.m. to 9:00 p.m. each day.

**New Appointees Will Advise Health Commissioner on Regulation of Speech and Hearing Professionals:** Marlene E. Marschall, Minnesota Commissioner of Health, has announced the names of seven people she intends to appoint to a newly created Speech-Language Pathologist and Audiologist Advisory Council. The council will advise the commissioner regarding the operation of a statewide program for the registration of people in those occupations. • The registration program gives people in those occupational groups the exclusive right to use certain occupational titles—if they choose to become registered. In order to be registered, an individual must have certain basic qualifications, and meet requirements for continuing professional education. The program also includes provisions for disciplining registered professionals who act improperly. • The seven advisory council members must include two members of the public, two audiologists, and three speech-language pathologists—one of whom must be employed in a Minnesota public school. • The appointees—whose terms will begin on August 12—include: Rena Glaser, St. Paul; Janet Jacobs, Roseville; David Johnson, Richfield; Debbie Scofield, Inver Grove Heights; Noralee Siems, Bemidji; Maxine Slobof, Mendota Heights; Terrence Wobig, Minnesota City.

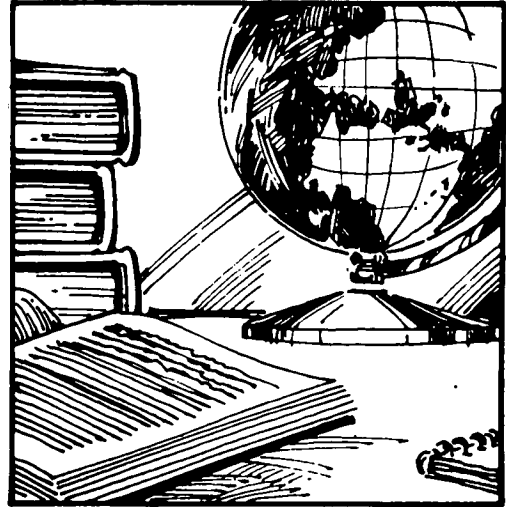
**Buckle Up or Pay:** Minnesotans now will pay more for failing to buckle their seat belts with an increase in the seat belt fine from \$10 to \$25. The law is one of many that went into effect August 1. Littering also gets more expensive with an increased fine from \$100 to \$400 for a second offense.

## Get Smart with these Education Resources

**Board of Teaching-Licensure Rules 1990. Minnesota Rules Chapter 8700.** Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74. \$14.95 plus tax.

**Education Directory 1990-91.** All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93. \$9.95 plus tax.

**TO ORDER:** Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-657-3757. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. *Prices are subject to change.* FAX: (612) 296-2265.



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## Good Business Decisions are Made with Good Information

**Minnesota Manufacturer's Directory.** More than 7,000 entries that include name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$85.00 plus tax.

**Business and NonProfit Corporation Act 1989.** A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 308A, 302A and 317A. Code #2-87. \$19.95 plus tax.

**Minnesota Guidebook to State Agency Services 1987-1990.** Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4. \$15.00 plus tax. FAX: (612) 296-2265.



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## Resolve Bargaining Disputes and Grievances

**Public Employment Labor Relations Act 1989.** The collective bargaining rights and responsibilities of public employers and public employees. Details employees' right to organize and the legislature's authority. Code #2-90, \$6.00 plus tax.

**Public Sector Labor Relations in Minnesota.** A practical resource and training guide analyzing public sector labor relations in Minnesota. A special emphasis on contract administration, grievance handling and the arbitration process. 286 pages, paperbound. Code #10-51, \$12.50.

**Minnesota Guidebook to State Agency Services 1987-1990.** A treasure of helpful, useful, and interesting information about Minnesota state government. This important resource guides you through applications, fees, licenses, reports, history and travel highlights. Describes agencies in detail, giving addresses, phones and contact people. Code #1-4, \$15.00 plus tax. FAX: (612) 296-2265.



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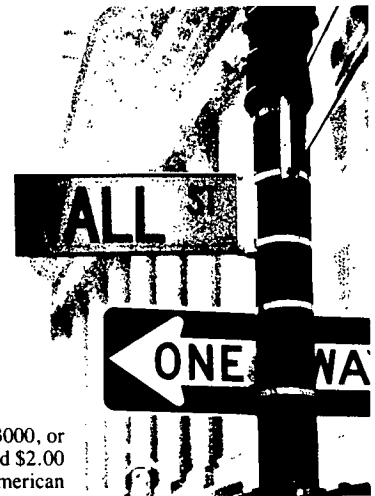
## A Wise Investment—the rules of the game

**Securities Laws, 1989.** Governs the activities of broker/dealers, agents and investment advisors. *Minnesota Statutes* Chapter 80A. Code #2-12, \$7.00 plus tax.

**Securities Rules, 1988.** Rules implementing the legislative mandate. Subjects include equity securities and investment companies. *Minnesota Rules* Chapter 2875. Code #3-5, \$14.00 plus tax.

**Minnesota Guidebook to State Agency Services, 1987-1990.** Packed with information to help you, this 640-page resource guides you through license requirements, forms, fees, reports, services, grants, and more. Its listing of addresses, phones, and agency descriptions cut red tape for easy and fast service from state agencies. Code #1-4, \$15.00 plus tax.

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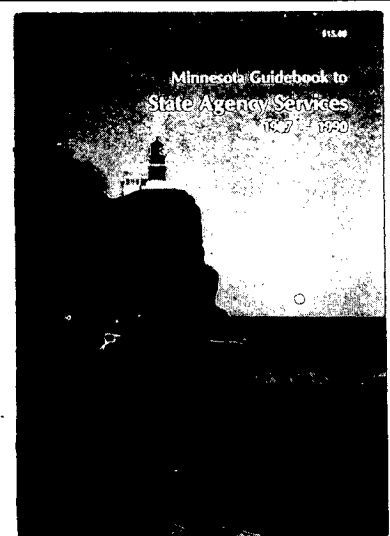
## A Beacon to Guide You—Minnesota's Owners Manual

You'll enjoy smooth sailing through your business with state government with the *Minnesota Guidebook to State Agency Services 1987-1990*.

Considered one of the finest resources to Minnesota's state agencies, this valuable and useful book is a treasure awaiting your discovery.

Packed with information to help you, its 640 pages guide you through license requirements, forms, fees, reports, services, grants, hotlines, maps, history, travel highlights and more. Its listing of addresses, phones, and agency descriptions cuts red tape so you get easy and fast service.

Copies cost \$9.95 (+ 60¢ tax, MN residents only). Make checks out to the "State of Minnesota" and send to the Print Communications Division, 117 University Avenue, St. Paul, MN 55155. MasterCard and VISA orders can be taken over the phone by calling (612) 297-3000 or toll-free in Minnesota 1-800-657-3757. FAX: (612) 296-2265.



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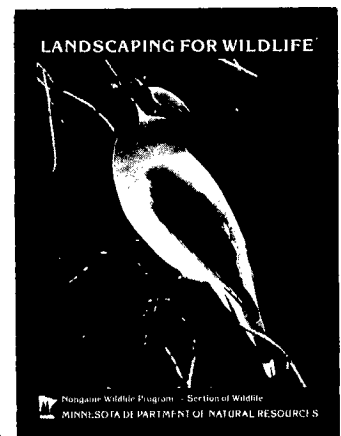
## Welcome wildlife to your property

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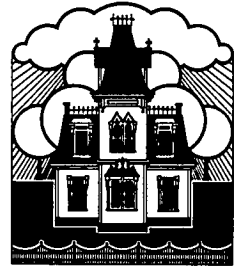
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**1991 Minnesota Rules.** Eleven volume set includes 1992 Supplement as a subscription service. Stock #18-100, \$200 + tax (Minnesota residents only). Individual volumes can be purchased at \$20.00 + tax.

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**It's Never Okay: A Handbook for Professionals on Sexual Exploitation by Counselors and Therapists.** Therapeutic and prevention issues and employer responsibilities are discussed in this task force report, as well as recommended curriculum for training institutions for counselors and therapists. Stock No. 14-16, \$19.95 + tax.

### OTHER PUBLICATIONS

**Our Minnesota.** More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. \$13.95 + tax.

**Historic Sites and Place Names of Minnesota's North Shore.** John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. \$3.50 + tax.

**Landscaping for Wildlife.** Attract songbirds, deer, butterflies, hummingbirds, pheasants, and other wildlife to your property by using the tips in this 144-page, 4-color book. Stock #9-15, \$8.95 + tax.

**Woodworking for Wildlife.** Variety of game bird and mammal box designs, including details on placement in proper habitat areas and maintenance. Stock #9-14, \$3.95 + tax.

**Wildlife Set.** Both books above, save 15%. Code #9-20, \$10.95 + tax.

**Minnesota Manufacturer's Directory, 1991.** More than 7,000 entries listing name, address, phone, staff size, sales volume, market area, year of establishment, type of firm, CEO, sales or marketing and purchase managers, and four manufactured products. Stock #40-2. \$85.00 + tax.

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