

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 785B

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-8-82
DATE FOR REVIEW 2-17-82
DATE DUE 2.22.82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 2-22-82 Disapproved _____ Returned to Agency 2-23-82

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 2-23-82 Revisor approved _____ disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

? Order Adopting 2.3.82 Date See my note

✓ Notice of Intent to Solicit Outside Opinion SR. 2.16.81

_____ Order for rulemaking
_____ date of Hearing DOES NOT EXIST

✓ Certificate of Board's Authorizing Resolution
serves to amend Bd Resolution of Dec. 2, 1981 submitted with Set 785A

✓ Notice of rulemaking
? Sufficiency See my note

✓ Affidavit of Mailing Notice or rulemaking but see my note
12.28.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
12.28.81 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

? Agency's Findings of Fact See my note

N/A LCRAR Report or agency Affidavit

? Certificate of Board's Resolution Adopting Rules See my note

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

_____ Affidavit of Mailing Notice of Submission to Attorney General

_____ Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : MARY ANN MCCOY
Executive Director, Eth. Prcts. Bd.

DATE: 2/22/82

ATTN: Douglas C. Blomgren, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Ethical Practices Board Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); onflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-623)

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

Ethical Practices Board

Adopted Rules Governing Campaign Financing; Economic Interest Disclosure; Lobbyists; and Hearings

Rules as Adopted

9 MCAR S 1.0002 Definitions. For the purposes of 9 MCAR SS 1.0001-~~1.0046~~ 1.0043 the terms defined in this rule have the meanings given them.

A. Board. "Board" means the Ethical Practices Board.

B. Business day. "Business day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

~~B.~~ C. File, filed, filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday or legal holiday, the filing date is the ~~following~~ next regular business day.

~~Relettering. Reletter 9 MCAR S 1.0002 D.-G. as 9 MCAR S 1.0002 C.-F.~~

9 MCAR S 1.0010 Campaign literature.

A. Pictures; references to other candidates. Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of or incidental references to another candidate or officeholder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer as defined in Minn. Stat. S 10A.17, subd. 4.

B. Distribution by principal campaign committee. Literature distributed by a candidate's principal campaign committee is presumed to influence the nomination or election of the candidate. Cost of the literature must be reported by the candidate's principal campaign committee. For material obtained

free of charge, the fair market value must be estimated for reporting purposes. The cost of printed material which does not identify the candidate and in no way furthers the candidate's nomination or election is not a campaign expenditure.

9 MCAR S 1.0015 Judicial candidate.

A. Aggregate contributions. ~~Pursuant to Minn. Stat. S 10A.20, subd. 3, clause (b):~~

~~1. Contributions to a candidate for the supreme court which in aggregate exceed $100 shall be disclosed, and~~

~~2.~~ Contributions to a candidate for district court or county court which in aggregate exceed $50 shall be disclosed in accordance with requirements set forth in Minn. Stat. S 10A.20, subd. 3, clause (b).

B. Contributions from one source. ~~Pursuant to Minn. Stat. S 10A.20, subd. 5:~~

~~1. Contributions to a candidate for the supreme court from any one source totaling $2,000 or more shall be disclosed, and~~

~~2.~~ Contributions to a candidate for district court or county court from any one source totaling $200 or more received between the last day covered in the last report prior to an election and the election shall be ~~disclosed~~ reported to the board in person or by telegram within 48 hours after receipt and also in the next required report.

9 MCAR S 1.0042 Special elections.

A. Applicability of statutes. Contribution limits in Minn. Stat. S 10A.27 apply to general elections and to special elections.

B. Separate application. Contribution limits for a general election and for a special election shall apply separately.

C. Official Tax Credit Receipts prohibited. Candidates shall not issue Official Tax Credit Receipts for special elections.

9 MCAR S 1.0111 Time for filing.

A. Delivery to board. A Statement of Economic Interest is

considered filed if it is delivered to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the ~~following~~ next regular business day.

9 MCAR S 1.0201 Definitions. For the purposes of Chapter Three the terms defined in this rule have the meanings given to them.

A. Board. "Board" means the Ethical Practices Board.

B. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the ~~following~~ next regular business day.

B. [Reletter as C.]

C. [Reletter as D.]

9 MCAR S 1.0601 Definitions. For the purposes of Chapter Six the terms defined in this rule have the meanings given to them.

A. Board. "Board" means the Ethical Practices Board.

B. Contested case. "Contested case" means a proceeding before the board in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. "Contested case" includes:

1. a proceeding pursuant to a request for exemption from campaign reporting requirements under Minn. Stat. S 10A.20, subds. 8 and 10;

2. a proceeding to suspend a public official without pay for failure to file a Statement of Economic Interest under Minn. Stat. S 10A.09, subd. 8;

3. a hearing ordered by the board under 9 ~~MCAR SS 1.0602 and 1.0603~~ 9 MCAR S 1.0604 B. concerning a complaint, investigation or audit; and

4. any other hearing which may be ordered by the board under 9 MCAR SS 1.0601-1.0605 or which may be required by law.

"Contested case" does not include a board investigation or

audit conducted under Minn. Stat. S 10A.02, subds. 9 and 10.

C. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the ~~following~~ next regular business day.

D. Party. "Party" means a person whose legal rights, duties, or privileges may be determined in a contested case. "Party" includes the board except when the board participates in the contested case in a neutral or quasi-judicial capacity only. In anonymous proceedings, "party" includes the person designated to appear by the applicant under ~~EC 606~~ 9 MCAR S 1.0605. In a contested case commenced by the board following a complaint, "party" includes both the person who filed the complaint and the person against whom it was filed.

E. Person. "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, or any government or governmental subdivision, unit or agency, other than a court of law.

F. Service; serve. "Service" or " serve" means service by certified mail addressed to the party at the last known address of that party, unless some other manner of service is required by law or permitted by Chapter Six.

~~Repealer. Rules 9 MCAR S 1.0013, and EC 603 are repealed.~~

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: State Ethical Practices Board

Rule Numbers: 9 MCAR S 1.0002, 1.0010, 1.0015, 1.0042, 1.0111, 1.0201, 1.0601

Rule Title: Adopted Rules Governing Campaign Financing; Economic Interest Disclosure; Lobbyists; and Hearings

Type of Rules: Permanent X

Temporary ____

Documents Incorporated by Reference: None

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
Feb. 22 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY Fred A. Martinez
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 23 1982
Joan Anderson Growe
Secretary of State
12:30 PM

Name: Lorna M. Breiter
Lorna M. Breiter

Title: Assistant Revisor

Phone: 296-2778

AG copy

Ethical Practices Board

Adopted Rules Governing Campaign Financing; Economic Interest Disclosure; Lobbyists; Conflicts of Interest; Representation Disclosure; and Hearings

Rules as Adopted

9 MCAR S 1.0002 Definitions. For the purposes of 9 MCAR SS 1.0001-~~1.0046~~ 1.0043 the terms defined in this rule have the meanings given them.

A. Board. "Board" means the Ethical Practices Board.

B. Business day. "Business day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

~~B.~~ C. File, filed, filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday or legal holiday, the filing date is the following day.

~~Relettering. Reletter 9 MCAR S 1.0002 D.-G. as 9 MCAR S 1.0002 C.-F.~~

9 MCAR S 1.0010 Campaign literature.

A. Pictures; references to other candidates. Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of or incidental references to another candidate or officeholder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer as defined in Minn. Stat. S 10A.17, subd. 4.

B. Distribution by principal campaign committee. Literature distributed by a candidate's principal campaign committee is presumed to influence the nomination or election of the candidate. Cost of the literature must be reported by the

candidate's principal campaign committee. For material obtained free of charge, the fair market value must be estimated for reporting purposes. The cost of printed material which does not identify the candidate and in no way furthers the candidate's nomination or election is not a campaign expenditure.

9 MCAR S 1.0015 Judicial candidate.

A. Aggregate contributions. ~~Pursuant to Minn. Stat. S 10A.20, subd. 3, clause (b):~~

~~1. Contributions to a candidate for the supreme court which in aggregate exceed $100 shall be disclosed; and~~

~~2.~~ Contributions to a candidate for district court or county court which in aggregate exceed $50 shall be disclosed in accordance with requirements set forth in Minn. Stat. S 10A.20, subd. 3, clause (b).

B. Contributions from one source. ~~Pursuant to Minn. Stat. S 10A.20, subd. 5:~~

~~1. Contributions to a candidate for the supreme court from any one source totaling $2,000 or more shall be disclosed; and~~

~~2.~~ Contributions to a candidate for district court or county court from any one source totaling $200 or more received between the last day covered in the last report prior to an election and the election shall be ~~disclosed~~ reported to the board in person or by telegram within 48 hours after receipt and also in the next required report.

9 MCAR S 1.0042 Special elections.

A. Applicability of statutes. Contribution limits in Minn. Stat. S 10A.27 apply to general elections and to special elections.

B. Separate application. Contribution limits for a general election and for a special election shall apply separately.

C. Official Tax Credit Receipts prohibited. Candidates shall not issue Official Tax Credit Receipts for special elections.

9 MCAR S 1.0111 Time for filing.

A. Delivery to board. A Statement of Economic Interest is considered filed if it is delivered to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

9 MCAR S 1.0201 Definitions. For the purposes of Chapter Three the terms defined in this rule have the meanings given to them.

A. Board. "Board" means the Ethical Practices Board.

B. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

B. [Reletter as C.]

C. [Reletter as D.]

9 MCAR S 1.0601 Definitions. For the purposes of Chapter Six the terms defined in this rule have the meanings given to them.

A. Board. "Board" means the Ethical Practices Board.

B. Contested case. "Contested case" means a proceeding before the board in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. "Contested case" includes:

1. a proceeding pursuant to a request for exemption from campaign reporting requirements under Minn. Stat. S 10A.20, subds. 8 and 10;

2. a proceeding to suspend a public official without pay for failure to file a Statement of Economic Interest under Minn. Stat. S 10A.09, subd. 8;

3. a hearing ordered by the board under 9 ~~MCAR SS 1.0602 and 1.0603~~ 9 MCAR S 1.0604 B. concerning a complaint, investigation or audit; and

4. any other hearing which may be ordered by the board under 9 MCAR SS 1.0601-1.0605 or which may be required by law.

"Contested case" does not include a board investigation or

audit conducted under Minn. Stat. S 10A.02, subds. 9 and 10.

C. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

D. Party. "Party" means a person whose legal rights, duties, or privileges may be determined in a contested case. "Party" includes the board except when the board participates in the contested case in a neutral or quasi-judicial capacity only. In anonymous proceedings, "party" includes the person designated to appear by the applicant under ~~EC 606~~ 9 MCAR S 1.0605. In a contested case commenced by the board following a complaint, "party" includes both the person who filed the complaint and the person against whom it was filed.

E. Person. "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, or any government or governmental subdivision, unit or agency, other than a court of law.

F. Service; serve. "Service" or " serve" means service by certified mail addressed to the party at the last known address of that party, unless some other manner of service is required by law or permitted by Chapter Six.

~~Repealer. Rules 9 MCAR S 1.0013, and EC 603 are repealed.~~

Omit 1.203. G.7. perhaps G.2.

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-612)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. §15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. §10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the Board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the Board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the Board.

A statement of need and reasonableness describing the Board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 27, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the Board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. If persons

desire a public hearing on a proposed rule, the Board requests but does not require that they identify the particular provisions to which they object. Also, the Board would appreciate receiving their suggestions for modifications to the proposed language and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or request to Ms. McCoy at the address above.

Upon adoption of the final rules, without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be sent 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 final rules as adopted, should submit a written request to Ms. McCoy.

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

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

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

communicate with public officials.

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

Rules as Proposed

The Board proposes to amend existing rules pertaining to several areas within its jurisdiction. The Board proposes to amend Campaign Financing rules, (9MCARSS1.0001-1.0043) with respect to filing deadlines, allocation of campaign literature expenses, treatment of contribution and expenditure limits for candidates who seek more than one office, contribution limitations for judicial candidates, assessment and waiver of late filing fees, allocation of the cost of radio and television reports to constituents, allocation of the costs of preparation and distribution of sample ballots, application of contribution limits and tax credit receipt provisions to special elections, termination of political committees and political funds, return of public financing money, expenditures by state political parties in support of more than one candidate, application of registration-reporting requirements, contributions-expenditures limitations and expenditure allocation provisions to ballot questions. The Board proposes to amend existing Economic Interest Disclosure rules (9MCARSS1.0100-1.0111) pertaining to the assessment and waiver of late filing fees, and filing deadlines. The Board proposes to amend existing Lobbyist rules (9MCARSS1.0200-1.0209) pertaining to filing requirements and the assessment and waiver of late filing fees. The Board proposes to amend existing Conflict of Interest rules (EC300-307) pertaining to filing requirements and deadlines, identification of the immediate superior of public officials, and to remove the definition of public official. The Board proposes to amend existing Representation Disclosure rules (EC500-507)

pertaining to filing requirements, the assessment and waiver of late filing fees, and to remove the definition of public official. The Board proposes to amend existing Hearings rules (EC601-623) by updating and incorporating references to contested case procedures, identifying those matters which are contested cases, establishing procedures and requirements for submission, consideration, and disposition of complaints under the Ethics in Government Act, Minn. Stat. Ch. 10A, and establishment of procedures for meetings related to investigations and audits. The Board proposes to repeal rules 9MCAR§1.0013 and EC603. The proposed amendments are intended to reflect legislative changes in Minn. Stat. Ch. 10A, to remove obsolete provisions and language, and to incorporate applicable advisory opinions which have been rendered by the Board.

Text and references to Rules as proposed were originally published as rules to be adopted after a hearing in the State Register on Monday, December 7, 1981, pages 1075-1084 (6 S.R. 1075-1084).

As originally printed in the State Register on December 7, 1981, p. 1075-1084 (6S.R. 1075-1084).

PROPOSED RULES

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-623)

Rules as Proposed to Adopt without a Public Hearing

9 MCAR § 1.0002 Definitions. For the purposes of 9 MCAR §§ 1.0001-1.0046 the terms defined in this rule have the meanings given them.

A. ~~"Act" means the Ethics In Government Act, Minn. Stat. ch. 10A. as amended by Laws of 1978, ch. 463, 793, and Laws of 1979, ch. 59.~~

~~B. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.~~ Board. "Board" means the Ethical Practices Board.

~~C.~~ B. File, filed, filing. "File," ~~,~~ "filed," ~~,~~ and "filing" ~~means~~ mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday or legal holiday, the filing date is the following day.

Relettering. Reletter 9 MCAR § 1.0002 D.-G. as 9 MCAR § 1.0002 C.-F.

9 MCAR § 1.0010 Campaign literature.

A. Pictures; references to other candidates. Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of~~,~~ or incidental references to another candidate or officeholder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer as defined in Minn. Stat. § 10A.17, subd. 4.

B. Distribution by principal campaign committee. Literature distributed by a candidate's principal campaign committee is presumed to influence the nomination or election of the candidate. Cost of the literature must be reported by the candidate's principal campaign committee. For material obtained free of charge, the fair market value must be estimated for reporting purposes. The cost of printed material which does not identify the candidate and in no way furthers the candidate's nomination or election is not a campaign expenditure.

9 MCAR § 1.0012 Change of office sought by candidate.

A. Contribution and expenditure limits.

1. When a candidate~~,~~ who sought the nomination or election to one office~~,~~ subsequently seeks the nomination or election to another office in which there is an election in the same election year, expenditures incurred and contributions received to influence the nomination or election to the first office will not be counted toward the campaign contribution and expenditure limits applicable to the subsequent office sought.

2. In each election year after a candidate establishes more than one principal campaign committee, both the contribution limits and the spending limits of the office for which there is an election shall apply to all of the candidate's principal campaign committees jointly.

B. Registration requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate account for funds for the office sought. For purposes of Minn. Stat. § 10A.20, subd. 2, clause (a), both committees shall be considered principal campaign committees.

9 MCAR § 1.0015 ~~Contribution disclosure judgeship.~~ A Judicial candidate ~~subject to Chapter 10A shall be considered a statewide candidate for purposes of the contribution disclosure requirements set forth in Minn. Stat. 10A.20, subd. 3(b).~~

A. Aggregate contributions. Pursuant to Minn. Stat. § 10A.20, subd. 3, clause (b):

1. Contributions to a candidate for the supreme court which in aggregate exceed $100 shall be disclosed; and

2. Contributions to a candidate for district court or county court which in aggregate exceed $50 shall be disclosed.

B. Contributions from one source. Pursuant to Minn. Stat. § 10A.20, subd. 5:

1. Contributions to a candidate for the supreme court from any one source totaling $2,000 or more shall be disclosed; and

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

2. Contributions to a candidate for district court or county court from any one source totaling $200 or more shall be disclosed.

9 MCAR § 1.0026 Late filing fees.

A. Delinquency notice. The board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten ~~business~~ days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the ~~addresses~~ addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered shall be forwarded by first class mail to the treasurer. ~~An undelivered notice of late filing shall be considered received by the recipient five business days after the first class mailing~~ The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

B. Late filing period. A late filing fee will be charged through the day preceding the day of filing of a late statement or ~~late periodic~~ report.

C. ~~A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.~~

~~D.~~ Waiver. Upon receipt of a written request for a waiver, the board shall grant a waiver of a late filing fee if it is satisfied that the statement or report was not filed on time due to sickness, injury, or other compelling reason ~~upon receipt of a written request for a waiver~~.

9 MCAR § 1.0029 Noncampaign disbursements; constituent services.

G. Radio or television report. A radio or television report to constituents which is authorized by a candidate shall be considered an effort by the candidate to influence his nomination or election if it is presented after 60 days after adjournment of the Legislature sine die in an election year when the candidate's name will appear on the ballot and before the radio or television station provides equal time in the manner prescribed by federal regulations.

9 MCAR § 1.0038 Sample ballot prepared by a candidate.

A. Reporting and disclaimer requirements. A candidate who prepares and distributes a sample ballot which contains the names of other candidates must include the proper disclaimer required for independent expenditures and must report the total cost of the preparation, printing and distribution of the sample ballot unless the candidate is making an approved expenditure.

B. Distribution of sample ballot by association. A candidate's participation in an association's pre-endorsement interview shall not of itself be construed as authorizing an approved expenditure; thereafter, if the association prepares and distributes a sample ballot on behalf of the candidates, it must request written authorization from the treasurer of the principal campaign committee of the candidate before expending over $20 on behalf of that candidate. If the expenditure is authorized, Minn. Stat. § 10A.17, subd. 2 applies. If the authorization is not received and the expenditure is made without consultation or assistance of the candidate, the expenditure is an independent expenditure under Minn. Stat. § 10A.17, subd. 4.

9 MCAR § 1.0042 ~~Tax credit subsidy receipts~~ Special elections.

A. Applicability of statutes. Contribution limits in Minn. Stat. § 10A.27 apply to general elections and to special elections.

B. Separate application. Contribution limits for a general election and for a special election shall apply separately.

C. Official Tax Credit Receipts prohibited. Candidates shall not issue Official Tax Credit Receipts for special elections.

9 MCAR § 1.0043 Termination of registration.

A. Termination report. A termination report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Termination procedure. If except for an unpaid bill, an inactive committee designated in A. meets the termination requirements of Minn. Stat. § 10A.24, after six years from the date of the bill the committee may terminate when filing the Report of Receipts and Expenditures for that calendar year by certifying the report to the board and by forwarding to the creditor or to the board the cash balance, if any, remaining in the committee account.

C. Deposit of payments received. Any payments received pursuant to B. shall be deposited in the general fund.

D. Reregistration. Any terminated political committee or political fund which subsequently becomes subject to the registration and reporting requirements of the ~~act~~ Minn. Stat. ch. 10A is required to reregister.

9 MCAR § 1.0044 Return of public financing.

A. Determination.

1. If the aggregate amount of expenditures of a candidate and approved expenditures made on his behalf are less than the amount received from the state elections campaign fund, the difference shall be returned to the board with the Report of Receipts and Expenditures due January 31 of the year following the election.

2. If the aggregate contributions received exceed the aggregate contribution limit, which is the sum of the campaign expenditure limit for that office and the total of noncampaign disbursements including expenditures to promote or defeat a ballot question, the difference shall be returned to the board with the Report of Receipts and Expenditures due January 31 of the year following the election.

B. Enforcement. The amount of public financing which shall be returned to the state according to Minn. Stat. § 10A.32 shall be forwarded to the board for deposit in the general fund in the state treasury.

1. If payment does not accompany the January 31 report or if the board's audit of the report indicates that an amount is owed, the board shall notify the treasurer of the candidate's principal campaign committee by first class mail and stipulate the amount of public financing which shall be returned to the state general fund. A copy of the notice shall be sent by first class mail to the candidate.

2. The treasurer shall remit the amount owed within ten days following receipt of the board's notification. The notice of the amount owed shall be considered received by the treasurer seven days after the first class mailing.

3. If the board does not receive payment as required by Minn. Stat. § 10A.32 the board may initiate proceedings to recover the amount of public financing owed to the state.

9 MCAR § 1.0045 Multi-candidate support by state political parties.

A. Sample ballot or phone bank contributions and expenditures. When a state political party or a substate unit of a state political party makes expenditures for an official party sample ballot or phone bank in accordance with Minn. Stat. § 10A.275, the pro rata contributions and expenditures relevant to candidates defined in Minn. Stat. § 10A.01, subd. 5, must be disclosed as required by Minn. Stat § 10A.20, subd. 3. Disclosure of contributions and expenditures related to other individuals whose names appear on the ballot is not required.

B. Written statement required. All contributions used in accordance with A. for candidates defined in Minn. Stat. § 10A.01, subd. 5, must comply with Minn. Stat. § 10A.22, subd. 7.

9 MCAR § 1.0046 Ballot questions.

A. Registration and reporting.

1. An individual or association other than a candidate or a candidate's principal campaign committee must register and report as a ballot question political committee or fund if over $100 is raised or spent to expressly advocate a position with regard to a clearly identified ballot question or questions.

2. An association may establish a single political fund to receive contributions and make expenditures on behalf of its affiliates to promote or defeat a ballot question. If, independently, an affiliate raises or spends money in excess of $100 to influence the vote on a ballot question, it must register a separate political fund.

3. A corporation may spend money to promote or defeat ballot questions either by registering its own political fund or by contributing to an already registered political fund which will itemize that contribution if it is in excess of $100.

B. Contributions.

1. Contributions to a candidate's principal campaign committee are considered to be made to influence the nomination or election of the candidate and are subject to limits imposed by Minn. Stat. § 10A.27 even though the committee funds are used to promote or defeat a ballot question.

2. For the purpose of contribution limits imposed by Minn. Stat. § 10A.27, contributions from an association's political committee or fund shall be aggregated with contributions from the association's ballot question committee or fund.

3. For reporting purposes, mailing expenditures for ballot issues literature mailed with noncampaign material shall be calculated at what the postage, envelopes, and labor would cost to mail the literature by itself even though the literature was included in another mailing; when mailed by a political committee or political fund along with campaign materials, the costs should be allocated on a pro rata share basis.

C. Expenditures.

1. Expenditures by a candidate or by a candidate's principal campaign committee and candidate "approved expenditures" will be considered to promote or defeat a ballot question only if the communication:

a. Does not identify the candidate;

b. Expressly advocates a position with regard to a ballot question using terms such as "vote for," "support," "cast your ballot for," "yes on amendment X," "defeat," or other language urging a particular position; and

c. Clearly identifies the ballot question or questions on which the position is advocated, for example, by the question's formal or popular title, by number, or by any other unambiguous reference.

2. Expenditures by a candidate or by a candidate's principal campaign committee and "approved expenditures" are not considered to promote or defeat a ballot question if the communication clearly identifies the candidate; such expenditures are considered campaign expenditures and are counted toward the candidate's expenditure limits, according to Minn. Stat. § 10A.25.

3. An "independent expenditure" by an individual or organization other than the candidate or the candidate's principal campaign committee is considered as promoting or defeating a ballot question if the communication expressly advocates a position with regard to a clearly identified ballot question or questions. An "independent expenditure" meeting these criteria may at the same time promote the candidacy of a particular candidate and therefore a reasonable pro rata estimate of the cost

shall be allocated as an expenditure to [redacted]note or defeat a ballot question and as an ind[redacted]dent expenditure on behalf of the candidate.

4. Expenditures made by a political committee or political fund other than the principal campaign committee of a candidate which are "approved" by the candidate, according to Minn. Stat. § 10A.01, subd. 10a, may be considered as expenditures to promote or defeat a ballot question if the communication meets the criteria outlined in 1.

5. Costs of newspaper advertisements and public forums incurred by a political committee or political fund organized solely to promote or defeat a ballot question are ballot question expenditures; however, if nomination or election of a candidate is expressly advocated, costs must be allocated on a reasonable pro rata estimate to the candidate as independent or approved campaign expenditures.

6. Public financing received by a candidate in accordance with Minn. Stat. § 10A.31 shall not be used to promote or defeat a ballot question.

9 MCAR § 1.0105 Late filing fees.

A. Delinquency notice. The board shall send a delinquency notice by certified mail to a public official or candidate within ten ~~business~~ days after a filing date. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered or refused shall be forwarded by first class mail to the public official or candidate. The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

B. Late filing period. A late filing fee will be charged through the ~~business~~ day preceding the day of filing of a late statement.

C. ~~A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.~~

~~D.~~ Waiver. Upon receipt of a written request for a waiver, the board shall grant a waiver of a late filing fee if it is satisfied that the statement ~~or report~~ was not filed on time due to sickness, injury, or other compelling reason ~~upon receipt of a written request for a waiver~~.

9 MCAR § 1.0111 Time for filing.

A. Delivery to board. A Statement of Economic Interest is considered filed if it is delivered to the ~~Ethical Practices~~ office of the board by 4:30 p.m. ~~of~~ on the prescribed filing date or postmarked ~~by~~ on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

9 MCAR § 1.0201 Definitions. For the purposes of Chapter Three the terms in this rule have the meanings given to them.

A. ~~"File", "Filed" and "Filing" means date of postmark or personally delivered to the Ethical Practices Board by the close of a business day.~~ Board. "Board" means the Ethical Practices Board.

B. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

B. [Reletter as C.]

C. [Reletter as D.]

9 MCAR § 1.0209 Late filing fees.

A. Delinquency notice. The board shall ~~grant a waiver of late filing fees for sickness or injury of the filer, or other compelling reason when a written request for waiver is submitted not later than the fifth business day following the day of filing the late statement or report~~ send a delinquency notice by certified mail to a lobbyist within ten days after a filing date. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered or refused shall be forwarded by first class mail to the lobbyist. The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

~~B. A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.~~

~~C. The late filing fee shall commence the eighth day following receipt of a late filing notice, unless the eighth day falls on Saturday, Sunday, or a legal holiday. The late filing fee shall then commence the next business day.~~

~~D.~~ B. Late filing fee period. A late filing fee shall be charged through the ~~business~~ day preceding the day of filing of a late registration, statement or ~~late periodic~~ report.

~~E. A certified letter returned to the Board by the U.S. Post Office marked "refused" shall be deemed to have been received by the addressee on the date of refusal. The late filing fee shall commence the first business day following the seventh day after refusal.~~

~~F. Except as provided in 9 MCAR § 1.0209 E, a certified letter returned to the Board by the U.S. Post Office undelivered for any reason shall be forwarded by first class mail to the lobbyist, addressed to the lobbyist at the address shown on his latest registration statement or disbursement report. The late filing fee shall then commence the first business day following the seventh day after deposit in First Class U.S. mail.~~

C. Waiver. Upon receipt of a written request, the board shall grant a waiver of a late filing fee if it is satisfied that the registration, statement or report was not filed on time due to sickness, injury, or other compelling reason.

~~EC-301~~ 9 MCAR § 1.0301 Definitions. For the purposes of 9 MCAR §§ 1.0300-1.0307, the terms defined in this rule have the meanings given them.

~~(a) "Act" means Minnesota Laws 1974, Chapter 470, approved April 22, 1974, and effective April 13, 1974 (Minn. Stat. 1974, Section 10A.01-10A.34).~~

~~(b)~~ A. Address. "Address" means street and number ~~(~~or post office box or rural route if appropriate~~)~~, room number ~~(~~if any~~)~~ city, state, ~~(if other than Minnesota)~~ and zip code.

~~(c) "Business with which he is associated" means any association in connection with which the individual is compensated in excess of $50 except for actual and reasonable expense in any month as a director, officer, owner, member, partner, employer or employee, or is a holder of securities worth $2,500 or more at fair market value.~~

~~Minn. Stat. 10A01, Subd. 4 (1974)~~

B. Board. "Board" means the Ethical Practices Board.

(d) [Reletter as C.]

D. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

(e) [Reletter as E.]

~~(f) "Public Official" means:~~

~~(1) Any member of the legislature;~~

~~(2) Any person holding a constitutional office in the executive branch and his chief administrative deputy;~~

~~(3) Any member of a state board or commission with rule making authority as provided in MS 15.1411;~~

~~(4) Any person employed by the executive branch in a position specified in MS 15A.081;~~

~~(5) Any person employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, legislative auditor, or researcher or attorney in the office of legislative research;~~

~~(6) Any member of the metropolitan council, metropolitan transit commission, metropolitan sewer board or metropolitan airports commission.~~

~~Minn. Stat. 10A.01, Subd. 18, 1974~~

~~(g) "Superior for purposes of notification of a potential conflict of interest"~~ F. Immediate superior. "Immediate superior" means:

~~(1)~~ 1. If the public official is a member of a board ~~or~~, commission ~~having rule making authority, or a member of a metropolitan agency~~, or council, the chairman of ~~such~~ the board, commission, or ~~agency~~ council, or, if the potential conflict of interest of interest involves the chairman, the immediate superior shall be deemed to be the appointing authority for that office;

~~(2)~~ 2. If the public official is an employee of a state agency, the department head of that agency, or, if the potential conflict of interest involves the department head, the immediate superior shall be deemed to be the appointing authority for that office;

~~(3)~~ 3. If the public official is a member of the Legislature, the presiding officer of the body in which the public official serves, or, if the potential conflict of interest involves the presiding officer, the acting presiding officer; and~~,~~

~~(4)~~ 4. If the public official is a member of the staff of the Legislature, the chief clerk of the house or the secretary of the senate shall be deemed to be the immediate superior, or, if the potential conflict should involve the chief clerk of the house or the secretary of the senate, the presiding officer of the legislative body which the public official serves.

~~EC-501~~ 9 MCAR § 1.0501 Definitions. For the purposes of 9 MCAR §§ 1.0500-1.0508, the terms defined in this rule have the meanings given them.

~~(a) "Act" means Minnesota Laws 1974, Chapter 470, approved April 12, 1974, and effective April 13, 1974 (Minn. Stat., 1974, Sec. 10A.01-10A34).~~

~~(b)~~ A. Address. "Address" means street and number ~~(~~or post office box or rural route, if appropriate~~)~~, room number ~~(~~, if any~~)~~; city~~,~~; state; and zip code.

~~(c) "Association" means business, corporation, firm, partnership, committee, labor organization, club or any other group of two or more persons, which includes more than an immediate family, acting in concert. Minn. Stat. 10A.01, Subd. 3 (1974).~~

B. Board. "Board" means the Ethical Practices Board.

(d) [Reletter as C.]

~~(e)~~ D. File; filed; filing. "File,"~~,~~ "filed,"~~,~~ and "filing" ~~means~~ mean delivery to the ~~Minnesota State Ethics Commission~~ office of the board by ~~midnight of~~ 4:30 p.m. on the prescribed ~~date for~~ filing date or ~~deposit as certified mail in an established U.S. Post Office, postage prepaid, no later than midnight two days before the prescribed~~ postmarked on the filing date. If the filing date is a Saturday, Sunday or legal holiday, the filing date is the following day.

(f) [Reletter as E.]

~~(g) "Public Official" means:~~

~~(1) Any member of the legislature;~~

~~(2) Any person holding a constitutional office in the executive branch and his chief administrative deputy;~~

~~(3) Any member of a state board or commission with rule making authority as provided in MS 15.0411, Subd. 3;~~

~~(4) Any person employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, legislative auditor, or researcher or attorney in the office of legislative research;~~

~~(5) Any person employed by the executive branch in a position specified in MS 15A.081;~~

~~(6) Any member of the metropolitan council, metropolitan transit commission, metropolitan sewer board or metropolitan airports commission.~~

~~Minn. Stat. 10A.001, Subd. 18 (1974).~~

9 MCAR § 1.0508 Late filing fees.

A. Delinquency notice. The board shall send a delinquency notice by certified mail to a public official within ten days after a filing date. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered or refused shall be forwarded by first class mail to the public official. The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

B. Late filing fee period. A late filing fee will be charged through the day preceding the day of filing of a late statement.

C. Waiver. Upon receipt of a written request for a waiver, the board shall grant a waiver of a late filing fee if it is satisfied that the statement was not filed on time due to sickness, injury, or other compelling reason.

~~EC 602~~ 9 MCAR § 1.0601 Definitions. For the purposes of Chapter Six the terms defined in this rule have the meanings given to them.

~~(a)~~ A. Board. ~~"Commission"~~ "Board" means ~~Minnesota State Ethics Commission~~ the Ethical Practices Board.

~~(b)~~ B. Contested case. "Contested case" means a proceeding before the ~~Commission~~ board in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after a ~~Commission~~ board hearing. "Contested case" ~~shall include~~ includes:

~~(1)~~ 1. A proceeding pursuant to a request for exemption from campaign reporting requirements under Minn. Stat. § 10A.20, ~~subd. 8-10 (1974)~~ subds. 8 and 10;

~~(2)~~ 2. A proceeding to suspend a public official without pay for failure to file a Statement of Economic Interest under Minn. Stat. § 10A.09, subd. 8 ~~(1974.~~;

~~For purposes of these rules, "contested case" shall also include:~~

~~(1)~~ 3. A hearing ordered by the ~~Commission pursuant to EC 605(b)~~ board under 9 MCAR §§ 1.0602 and 1.0603 concerning a complaint, investigation or audit; and

~~(2)~~ 4. Any other hearing which may be ordered by the ~~Commission pursuant to these rules~~ board under 9 MCAR §§ 1.0601-1.0605 or which may be required by law.

~~For purposes of these rules,~~ "Contested case" ~~shall~~ does not include a ~~Commission~~ board investigation or audit conducted ~~pursuant to~~ under Minn. Stat. § 10A.02, ~~subd. 8-10 (1974)~~ subds. 9 and 10.

C. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

~~(c)~~ D. Party. "Party" means ~~any~~ a person whose legal rights, duties, or privileges may be determined in a contested case. "Party" ~~shall include~~ includes the ~~Commission~~ board except when the ~~Commission~~ board participates in the contested case in a neutral or quasi-judicial capacity only. In anonymous proceedings, "party" ~~shall include~~ includes the person designated to appear by the applicant. ~~(See~~ under EC 606~~(b) (3)~~). In a contested case commenced by the ~~Commission~~ board following a complaint ~~(see EC 603 (b) (4) and EC 605 (b))~~, "party" ~~shall include~~ includes both the person who filed the complaint and the person against whom it was filed.

~~(d)~~ E. Person. "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, or any government or governmental subdivision, unit or agency, other than a court of law.

~~(e)~~ F. Service; serve. "Service;" or "serve" means service by ~~registered or~~ certified ~~United States~~ mail~~, postage prepaid, and~~ addressed to the party at the last known address of that party, unless some other manner of service is required by law or permitted by ~~these regulations~~ Chapter Six.

9 MCAR § 1.0602 Complaints of violations.

A. Who may complain. Any person who believes a violation of Minn. Stat. ch. 10A or of rules of the board has occurred may submit an oral or written complaint to the board.

B. Form. There is no prescribed form for a written complaint, but all written complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by the complainant. A complaint shall name the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints will not be available for public inspection or copying until after the board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned by the complainant.

C. Oral complaints. The board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite, does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and the violation.

D. Oath. Before a witness gives testimony in a meeting conducted by the board under 9 MCAR § 1.0603 or this rule, the following oath shall be administered to the witness: "Do you solemnly swear or affirm that you will fully and truly answer all questions put to you and that all statements made or submitted to this board are true to the best of your knowledge?"

E. Confidentiality. Any portion of a meeting during which the board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. At the board's discretion, minutes and tape recordings of the meeting shall be kept confidential.

F. Hearings. At any time during an investigation of a complaint the board in its discretion may hold a contested case hearing before making a finding on the complaint.

G. Publicly communicating about a complaint. Publicly communicating about a complaint alleging a violation of Minn. Stat. ch. 10A prior to its filing with the board shall constitute a violation of the confidentiality provisions of Minn. Stat. ch. 10A, if the complaint is subsequently filed with the board for investigation and determination.

H. Violation of confidentiality provisions. Where the confidentiality provisions of the law have been violated by publicly communicating about a complaint prior to its filing or otherwise prior to a determination of the complaint, the board may refrain from proceeding further on the complaint.

9 MCAR § 1.0603 Investigations and audits.

A. No complaint. The board may undertake investigations or audits with respect to statements and reports which are filed or should have been filed under the provisions of Minn. Stat. ch. 10A although no complaint has been filed. Any decision as to whether an investigation should be undertaken shall be made at a closed meeting of the board.

B. Conduct. All investigations and audits shall be conducted in an expeditious manner, but with regard for fundamental fairness. Within a reasonable time after the board decides to undertake an investigation or audit, the executive director of the board shall inform the person under investigation or audit of the investigation or audit. The board shall make no final decision on any investigation or audit unless the person under investigation or audit has been informed of the charges against him and has had the opportunity to make a statement to the board or its employees or agents.

C. Contested case hearing. At any time during an investigation or audit, the board, in its discretion, may hold a contested case hearing before making a finding on any investigation or audit.

D. Dispositions. At the conclusion of an investigation or audit or after a hearing thereon, if such hearing has been ordered, the board shall take the following action:

1. The board may make a finding that there is or is not probable cause to conclude that a violation of Minn. Stat. ch. 10A has occurred. The board shall report any finding of probable cause to the appropriate law enforcement authorities. The board may refer information about possible violations of other laws to the appropriate law enforcement authorities; or

2. The board may authorize the commencement of a civil action for injunctive or other appropriate relief; or

3. The board may take action as provided in both 1. and 2.

E. Board meetings. Board meetings related to an investigation or audit shall be conducted in accordance with 9 MCAR § 1.0602 D. and E.

Repealer. Rules 9 MCAR § 1.0013; and EC 603 are repealed.

STATE OF MINNESOTA
ETHICAL PRACTICES BOARD

In the matter of the Proposed Adoption Without a Public Hearing of Rules of the Ethical Practices Board governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a Public Hearing was published in the State Register on December 28, 1981, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4, on December 28, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving during that period fewer than seven written requests for a public hearing on the rules specified below, reviewing and considering the comments, and determining the need for and reasonableness of the rules identified below,

NOW, THEREFORE IT IS ORDERED that these rules identified as 9MCARSS1.0002, 1.0010, 1.0015, 1.0042, 1.0111, 1.0201, and 1.0601, as revised consistent with the Board's Findings of Fact and Conclusions dated February 3, 1982, and the recommendations of the Attorney General, are adopted this 22nd day of February, 1982, pursuant to authority vested in the Board by Minnesota Statutes section 10A.02, subdivision 13.

STATE OF MINNESOTA
ETHICAL PRACTICES BOARD

by Mary Ann McCoy
Executive Director

STATE OF MINNESOTA
ETHICAL PRACTICES BOARD

In the matter of the Proposed Adoption Without a Public Hearing of Rules of the Ethical Practices Board governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

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NOW, THEREFORE IT IS ORDERED that these rules identified as 9MCARSS1.0002, 1.0010, 1.0015, 1.0042, 1.0111, 1.0201, and 2.0601, as revised consistent with the Board's Findings of Fact and Conclusions dated February 3, 1982, are adopted this 3rd day of February, 1982, pursuant to authority vested in the Board by Minnesota Statutes section 10A.02, subdivision 13.

STATE OF MINNESOTA

Chairperson

ETHICAL PRACTICES BOARD

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION REGARDING PROPOSED RULES AND AMENDMENTS TO RULES GOVERNING CAMPAIGN FINANCING, ECONOMIC INTEREST DISCLOSURE, LOBBYISTS, CONFLICT OF INTEREST, REPRESENTATION DISCLOSURE AND HEARINGS

Notice is hereby given that the Ethical Practices Board is seeking information or opinions from sources outside the Board in preparing to propose amendments and additions to the rules governing:

Campaign Financing (9MCAR § 1.0001-1.0043)
Economic Interest Disclosure (9MCAR § 1.0100-1.0111)
Lobbyists (9MCAR § 1.0200-1.0209)
Conflict of Interest (EC 300 - EC 307)
Representation Disclosure (EC 500 - EC 507)
Hearings (EC 601 - EC 623)

Amendments to these rules are necessary as a result of statutory amendments, and to further implement and clarify the provisions of the Minnesota Ethics In Government Act, Minnesota Statutes, ch. 10A (1980). Minnesota Statutes § 10A.02, subd. 13 (1980), authorizes the Board to promulgate rules to carry out the purposes of sections 10A.01 to 10A.34 of the Minnesota Statutes.

Interested or affected persons may submit written or oral comments, views or information concerning the subject matter of these rules. Written statements should be addressed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155. Oral statements will be received during regular business hours over the telephone at (612) 296-5148 and in person at the address above.

Comments, statements and information should be submitted by March 16, 1981. Any written material received by the Board will become part of the hearing record when the amended rules are promulgated.

Persons submitting comments, statements or information should be aware that, pursuant to Minnesota Statute, §§ 10A.01, subd. 11 and 10A.03, subd. 1 (1980), certain persons who spend time or money attempting to influence administrative action, such as the adoption or amendment of rules, must register with the Ethical Practices Board as a lobbyist within five days after commencing such activity. Any questions concerning this requirement may be directed to the Board at the address or telephone number listed above.

February 9, 1981

Mary Ann McCoy, Executive Director

Department of Commerce
Insurance Division

Meeting Notices

Minnesota Comprehensive Health Association

Board of Directors
Tuesday, April 14, 1981
11:00 a.m.
Blue Cross and Blue Shield
3535 Blue Cross Road
St. Paul, Minnesota and

Annual Meeting
Tuesday, June 16, 1981
10:00 a.m.
Room 51 State Office Building
St. Paul, Minnesota

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may also be obtained by telephone from the Life and Health Section, telephone (612)-296-2202.

Department of Education
Executive Division

Applicants Sought for Minnesota Commissioner of Education

The Minnesota Board of Education/Board for Vocational Education is seeking applicants for the Minnesota Commissioner of Education. The appointment will be made on 6/1/81 with the position to be effective 7/1/81. Minimum qualifications include:

at least three years experience in educational administration, including responsibility for budgeting;

experience in working with local, state and national agencies and legislative bodies to promote legislation and secure funds;

experience in designing, organizing and implementing educational programs including those with multiple sources of funding;

an earned master's degree.

Applications and job description can be obtained from:

Minnesota Department of Education
Office of Employee Relations
754 Capitol Square Bldg.
St. Paul, MN 55101
(612) 296-3377

Ethical Practices Board

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules and Amendments to Rules Governing Campaign Financing, Economic Interest Disclosure, Lobbyists, Conflict of Interest, Representation Disclosure and Hearings

Notice is hereby given that the Ethical Practices Board is seeking information or opinions from sources outside the Board in preparing to propose amendments and additions to the rules governing:

Campaign Financing (9 MCAR §§ 1.0001-1.0043)
Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111)
Lobbyists (9 MCAR §§ 1.0200-1.0209)
Conflict of Interest (EC 300—EC 307)
Representation Disclosure (EC 500—EC 507)
Hearings (EC 601—EC 623)

Amendments to these rules are necessary as a result of statutory amendments, and to further implement and clarify the provisions of the Minnesota Ethics In Government Act, Minn. Stat. ch. 10A (1980). Minn. Stat. § 10A.02, subd. 13 (1980) authorizes the board to promulgate rules to carry out the purposes of §§ 10A.01 to 10A.34 of the Minnesota Statutes.

Interested or affected persons may submit written or oral comments, views or information concerning the subject matter of these rules. Written statements should be addressed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155. Oral statements will be received during regular business hours over the telephone at (612) 296-5148 and in person at the address above.

Comments, statements and information should be submitted by March 16, 1981. Any written material received by the Board will become part of the hearing record when the amended rules are promulgated.

Persons submitting comments, statements or information should be aware that, pursuant to Minn. Stat. §§ 10A.01, subd. 11 and 10A.03, subd. 1 (1980), certain persons who spend time or money attempting to influence administrative action, such as the adoption or amendment of rules, must register with the Ethical Practices Board as a lobbyist within five days after commencing such activity. Any questions concerning this requirement may be directed to the Board at the address or telephone number listed above.

February 9, 1981

Mary Ann McCoy, Executive Director

Ethical Practices Board

Request for Advisory Opinion Re: Campaign Finance Contributions; Securities

The Minnesota State Ethical Practices Board solicits opinions and comments on the following request for an advisory opinion which will be discussed at its February 27, 1981 Board meeting. Written comments concerning the opinion request should be forwarded to arrive at the board's office prior to February 23, 1981.

Ms. Mary Ann McCoy, Executive Director
Minnesota Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

Dear Ms. McCoy:

Per your request in a telephone conversation last week, this letter serves as a written request for information.

We have been informed by several potential contributors that they would prefer to make their contributions in the form of stock versus cash. Accordingly, we are currently investigating the possibility of establishing an account in the name of the MN. DFL Party with a local brokerage. Prior to initiating such an account, however, we would appreciate your advice on the establishment and reporting of such contributions.

It is my assumption that, should we establish such an account with a local brokerage, we would have to amend our Statement of Organization with the State of Minnesota to specify the location of such an account. Furthermore, it is my assumption that such contributions would be reported as in-kind contributions with a value of the stock on the specific date of transfer. Would you kindly inform me if these assumptions are accurate. Also, we would like complete information regarding the eligibility of contributions and the corresponding reporting requirements for both certificated securities and non-certificated securities, and any other information you might be able to provide regarding transference of shares of common stock, municipal bonds, or other non-cash assets which might be offered as contributions to a political party.

Your assistance in clarifying the above assumptions and questions will be greatly appreciated.

Very truly yours,

Bruce Beattie
Finance Director

CERTIFICATE OF BOARD'S RESOLUTIONS
AUTHORIZING ADOPTION OF NONCONTROVERSIAL RULES

I, BRUCE OKNEY, do hereby certify that I am a member and the vice chairperson of the Ethical Practices Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of resolutions adopted at a meeting of the Ethical Practices Board duly and properly called and held on the 10th day of December, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolutions and that said resolutions are set forth in the minutes of said meeting and have not been rescinded or modified.

> RESOLVED "that the Board determine as noncontroversial all rules formerly proposed for hearing, as published in the State Register on December 7, 1981."
>
> RESOLVED "that each rule determined noncontroversial by Board action in this meeting be proposed for adoption without a hearing under Minn. Stat. §15.0412, subd. 4h, and that staff proceed to publish notice to this effect in the State Register."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 4th day of February, 1982.

Mary Ann McCoy
Attest
Mary Ann McCoy
Executive Director

Bruce Okney
Vice Chairperson

STATE OF MINNESOTA,)
) ss
COUNTY OF RAMSEY)

Cecilia Gerlach, Administrative Secretary, Ethical Practices Board, being first duly sworn, deposes and says that on December 28, 1981, she prepared copies of a Notice of Intent to Adopt Rules without a Public Hearing and Proposed Rules Governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612); placed such Notices and Copies of Proposed Rules in envelopes addressed to persons named on the attached list, and deposited the same with the Central Mail Department of the State of Minnesota, to have prepaid postage affixed to the envelopes and deposited in the United States mails at St. Paul, Minnesota.

Subscribed and sworn to before me
this 28th day of December, 1981

Cecilia Gerlach
Cecilia Gerlach

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My Commission Expires
June 30, 1983

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STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Ethical Practices Board Governing Campaign Financing (9MCAR§§1.0001-1.0043); Economic Interest Disclosure (9MCAR§§1.0100-1,9111); Lobbyists (9MCAR§§1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file with and maintained by the State Ethical Practices Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 1:00 p.m., this 28th day of December, 1982.

Mary Ann McCoy

Mary Ann McCoy, Executive Director
Ethical Practices Board

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ETHICAL
PRACTICES
BOARD

STATE REGISTER

STATE OF MINNESOTA



VOLUME 6, NUMBER 26

December 28, 1981

Pages 1177-1224

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 6		
27	Monday Dec 21	Monday Dec 28	Monday Jan 4
28	Monday Dec 28	Monday Jan 4	Monday Jan 11
29	Monday Jan 4	Monday Jan 11	Monday Jan 18
30	Monday Jan 11	Monday Jan 18	Monday Jan 25

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

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

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

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

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

The PROPOSED RULES section contains:

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

The ADOPTED RULES section contains:

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

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

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

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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce
Securities and Real Estate Division

Proposed Rules SDiv 2014 (Agent Bonding) and SDiv 2030 (Cheap Stock), Relating to the Minnesota Securities Act

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that, pursuant to her authority under Minn. Stat. § 80A.25 (1980), the Commissioner of Securities and Real Estate intends to amend SDiv 2014 (Agent Bonding) and SDiv 2030 (Cheap Stock), relating to the Minnesota Securities Act (Minn. Stat. ch. 80A). The commissioner desires that the proposed rules be amended without a public hearing in accordance with Minn. Stat. § 15.0412, subd. 4h (1980). On October 5, 1981 the commissioner caused to be published at 6 *State Register* 576 a notice of intent to amend SDiv 2030 (Cheap Stock) together with a copy of that proposed amendment. This notice, and the proposed amendment to SDiv 2030 which follows, supercede the earlier notice.

A free copy of the proposed rules may be obtained from the commissioner's office. Those interested in submitting comment pertaining to the proposed rules may do so within 30 days of publication of this notice in the *State Register*. Additionally, if during the 30-day comment period, seven or more persons make a written request for a hearing on the proposed rules, the commissioner will hold a public hearing in accordance with Minn. Stat. § 15.0412, subdivisions 4 to 4g (1980). A request for a copy of the proposed rules, all comments, any requests for a hearing and all questions regarding the proposed rules should be directed to:

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101
Telephone: (612) 296-5689

The proposed rules may be modified by the commissioner if the modifications are supported by the data and views submitted during the 30-day comment period, provided the modifications do not result in substantial change.

The commissioner has prepared a statement of need and reasonableness which contains a summary of the evidence justifying both the need for, and the reasonableness of, the proposed rules. The statement of need and reasonableness is available for inspection by the public, during regular business hours, at the above address.

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.

If no hearing is required, the commissioner will submit to the Attorney General the proposed rules and notice as published in the *State Register*, the rules as proposed for adoption, any written comments received by the commissioner during the 30-day comment period, and the statement of need and reasonableness for the rules. On the same day these materials are submitted to the Attorney General the commissioner will notify any person who has requested that the commissioner inform him or her of when these materials have been submitted to the Attorney General. Any person wishing to be so notified should contact Mr. Hardy at the address listed above.

A copy of the existing rules and proposed changes follows this notice.

Finally, Minn. Stat. ch. 10A.03 (1980) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

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

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

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

December 7, 1981

Mary Alice Brophy
Commissioner of Securities and Real Estate

Rules as Proposed

SDiv 2014 ~~(a). No agent's license shall be issued or renewed unless the agent shall have first posted with the Commissioner a surety bond in the amount of $5,000, in the case of an agent for a broker-dealer, and $5,000 in the case of an agent for an issuer, on such form as the Commissioner may prescribe.~~

~~(b) An issuer or broker-dealer may post a blanket surety bond to cover all of its agents, in lieu of the bond required by paragraph (a) of this section. A blanket bond for the agents of a broker-dealer shall be in the sum of $5,000 for each agent up to a maximum of $50,000. A blanket bond for the agents of an issuer shall be in the sum of $5,000 for each agent up to a maximum of $50,000, or ten percent of the total offering price of the registration of securities of the issuer, whichever is less.~~ Bond requirements for investment advisors.

~~(c)~~ A. Amount. Any investment adviser who has custody of, or discretionary authority over, any assets of any client shall have first posted with the commissioner a surety bond in the amount of $25,000, on such form as the commissioner may prescribe.

~~(d)~~ B. Alternative compliance. Any appropriate deposit of cash or security shall be accepted in lieu of any bond required by this section. An appropriate deposit requires, in the case of deposited securities, that ~~such~~ the securities have a market value equal to 120 percent of the amount of the bond which would otherwise be required, and represent an interest in, or debt of, any of the persons whose securities are exempt from registration under Minn. Stat. § 80A.15, ~~subdivision~~ subd. 1, ~~clauses~~ clause (a), (b), (c), (d) or (e) ~~(1978), as amended~~. At no time shall the market value of the securities on deposit be less than 105 percent of the amount of the required bond. Any deposit of cash or securities under this ~~clause~~ paragraph shall be made with an escrow agent, and under such terms and conditions as the commissioner deems appropriate, and shall remain with the depository for a period of three years after the last securities transaction conducted by the licensee or the effective date of any bond acquired by the licensee, whichever first occurs. The commissioner shall allow an irrevocable letter of credit in lieu thereof.

~~(e) The provisions of SDiv 2014(a) and (b) do not apply to any agent employed by a broker-dealer who continuously maintains net capital of not less than $100,000.~~ C. Nonapplication. SDiv 2014 ~~(e)~~ A. does not apply to any investment adviser who continuously maintains net capital of not less than $100,000.

SDiv 2030 Cheap stock.

~~(a) The amount of "cheap stock" allowable, based upon the "fair value of the equity investment" as defined in SDiv 2029(b), shall not exceed three times the first 10 percent of equity investment and two times any further equity investment to a maximum number of shares of cheap stock allowable of 90 percent of the total number of shares to be outstanding after the proposed offering.~~ A. Quantity. The maximum quantity of cheap stock allowable, expressed as a percentage of the total

number of shares to be outstanding after the proposed offering, shall be determined by calculating the "fair value of equity investment" (SDiv 2029 (b)) as a percentage of "equity investment" (SDiv 2029 (c)) in accordance with the following formulations:

1. If the percentage is ten percent or less, the maximum quantity of cheap stock allowable shall be three times the percentage.

2. If the percentage is greater than ten percent, the maximum quantity of cheap stock allowable shall be two times the percentage plus ten percent.

The maximum quantity of cheap stock allowable shall not exceed 90 percent of the total number of shares to be outstanding after the proposed offering.

Exhibit SDiv 2030 A.-1.
Maximum Amount of Cheap Stock Allowable
(as a percentage of the shares to be outstanding)

Fair Value of Equity Investment Divided by Equity Investment	Cheap Stock
5%	15%
10%	30%
15%	40%
20%	50%
30%	70%
40%	90%
50%	90%

~~(b)~~ B. Definition. Cheap stock means securities:

~~(1)~~ 1. Issued in consideration of property tangible or intangible, or services, the value of which has not been reasonably established, or

~~(2)~~ 2. Issued at a price substantially less than the public offering price of the securities and which cannot be justified with reference to the existence of an active public market for such securities. Securities issued at a price substantially less than the public offering price of the securities means:

~~(aa)~~ a. Securities issued for less than 66⅔~~%~~ percent of the public offering price if the securities were issued less than one year prior to registration~~.~~;

~~(bb)~~ b. Securities issued for less than 50~~%~~ percent of the public offering price if the securities were issued more than one year but less than two years prior to registration;

~~(cc)~~ c. Securities issued for less than 33⅓~~%~~ percent of the public offering price if the securities were issued more than two years but less than three years prior to registration.

In the case of unexercised options, or other securities convertible into the same class of security as that proposed to be offered, the aggregate of the cash amount paid and the cash amount required to be paid pursuant to the conversion or exercise privilege shall be divided by the number of shares issuable upon conversion or exercise to determine whether the securities were "issued at a price substantially less than the public offering price."

~~(c)~~ C. Exclusions. Cheap stock does not include:

~~(1)~~ 1. Securities which have been outstanding more than three years at the time of the proposed registration, provided that the issuer ~~of~~ or its predecessors have been in active, continuous business operation for more than three years immediately prior to the proposed registration;

~~(2)~~ 2. Securities of an issuer which ~~(a)~~ had earnings during the fiscal year prior to registration or ~~(b)~~ had earnings during two or the three fiscal years prior to registration, as determined in accordance with generally accepted accounting

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.

principles, after taxes and excluding extraordinary income~~,~~ ~~if~~. For each fiscal year such earnings ~~are~~ shall be in an amount equal to 4 four or greater than four percent of the proposed public offering price on all oustanding shares of the same class at the date of application for registration; or

~~(3)~~ 3. Securities previously issued pursuant to a registration under Minn. Stat. ch. 80A.

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. § 15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. § 10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the board.

A statement of need and reasonableness describing the board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 27, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. If persons desire a public hearing on a proposed rule, the board requests but does not require that they identify the particular provisions to which they object. Also, the board would appreciate receiving their suggestions for modifications to the proposed language and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or request to Ms. McCoy at the address above.

Upon adoption of the final rules, without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be sent 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 final rules as adopted, should submit a written request to Ms. McCoy.

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

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

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

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

Rules as Proposed

The board proposes to amend existing rules pertaining to several areas within its jurisdiction. The board proposes to amend campaign financing rules (9 MCAR §§ 1.001-1.0043) with respect to filing deadlines, allocation of campaign literature expenses, treatment of contribution and expenditure limits for candidates who seek more than one office, contribution limitations for

judicial candidates, assessment and waiver of late filing fees, allocation of the cost of radio and television reports to constituents, allocation of the costs of preparation and distribution of sample ballots, application of contribution limits and tax credit receipt provisions to special elections, termination of political committees and political funds, return of public financing money, expenditures by state political parties in support of more than one candidate, application of registration-reporting requirements, contributions-expenditures limitations and expenditure allocation provisions to ballot questions. The board proposes to amend existing economic interest disclosure rules (9 MCAR §§ 1.0100-1.0111) pertaining to the assessment and waiver of late filing fees, and filing deadlines. The board proposes to amend existing lobbyist rules (9 MCAR §§ 1.0200-1.0209) pertaining to filing requirements and the assessment and waiver of late filing fees. The board proposes to amend existing conflict of interest rules (EC 300-307) pertaining to filing requirements and deadlines, identification of the immediate superior of public officials, and to remove the definition of public official. The board proposes to amend existing representation disclosure rules (EC 500-507) pertaining to filing requirements, the assessment and waiver of late filing fees, and to remove the definition of public official. The board proposes to amend existing hearings rules (EC 601-623) by updating and incorporating references to contested case procedures, identifying those matters which are contested cases, establishing procedures and requirements for submission, consideration, and disposition of complaints under the Ethics in Government Act, Minn. Stat. ch. 10A, and establishment of procedures for meetings related to investigations and audits. The board proposes to repeal rules 9 MCAR § 1.0013 and EC 603. The proposed amendments are intended to reflect legislative changes in Minn. Stat. ch. 10A, to remove obsolete provisions and language, and to incorporate applicable advisory opinions which have been rendered by the board.

Text and references to rules as proposed were originally published as rules to be adopted after a hearing in the *State Register* on Monday, December 7, 1981, pages 1075-1084 (6 S.R. 1975-1084).

Minnesota Pollution Control Agency

Proposed Rules Governing Sewage Sludge Management (6 MCAR § 4.6101, 6 MCAR § 4.6102, 6 MCAR § 4.6103, 6 MCAR § 4.6104, 6 MCAR § 4.6105, 6 MCAR § 4.6106, 6 MCAR § 4.6107, 6 MCAR § 4.6108, 6 MCAR § 4.6111, 6 MCAR § 4.6112, 6 MCAR § 4.6121, 6 MCAR § 4.6122, 6 MCAR § 4.6131, 6 MCAR § 4.6132, 6 MCAR § 4.6133, 6 MCAR § 4.6134, 6 MCAR § 4.6135, 6 MCAR § 4.6136)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency proposes to adopt the above entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subd. 4h.

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes § 15.0412, subd. 4-4f. The agency asks that requests for a public hearing identify the particular objection and suggest appropriate modifications to the proposed rules and the reasons or data relied on to support the suggested modification.

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

Rodney E. Massey, P.E.
Chief, Program Development and Facility Review Section
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
(612) 297-2713

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Authority for the adoption of these rules is contained in Minnesota Statutes § 116.07, subd. 4. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available upon request. It is also available for review in the Minnesota Pollution Control Agency office in Roseville and in each of the Minnesota Pollution Control Agency regional offices:

Duluth Regional Office
314 West Superior Street
1015 Torrey Building
(218) 723-4660

Brainerd Regional Office
304 East River Road
Suite 3
(218) 828-2492

Detroit Lakes Regional Office
116 East Front Street
(218) 847-2164

Marshall Regional Office
Box 286
1104 East College Drive
(507) 537-7146

Rochester Regional Office
1200 South Broadway
Suite 140
(507) 285-7343

The agency has estimated the total cost to local public bodies to implement the proposed rules in either of the first two years following their adoption would be approximately $186,000. This estimate includes $117,500 in annual costs and $68,500 in initial costs.

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

The purpose of the proposed rules is to provide for the protection of the public health and the environment in the utilization or disposal of sewage sludge. The proposed rules establish standards for the design, location and operation of sewage sludge landspreading sites and facilities. The proposed rules also establish permit and letter of approval requirements for landspreading sites and facilities. In addition, the proposed rules provide methods for collection and analysis of sewage sludge samples, soil samples, vegetative tissue samples, and ground water samples; establish methods for sewage sludge application rates based on crop nitrogen requirements and, establish pathogen reduction processes. The persons regulated by the proposed rule include political subdivisions that landspread sewage sludge, persons who own, lease or rent landspreading facilities, and persons who are under contract to landspread sewage sludge or to operate a landspreading facility.

Copies of this notice and the proposed rules are available for review in the Minnesota Pollution Control Agency office in Roseville and at each of the Minnesota Pollution Control Agency regional offices and may be obtained by cntacting Mr. Massey.

December 14, 1981

Louis J. Breimhurst, Executive Director
Minnesota Pollution Control Agency

Rules as Proposed (all new material)

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Chapter Five: General Provisions

6 MCAR § 4.6101 Purpose and scope. The purpose of 6 MCAR §§ 4.6101-4.6136 is to provide for the protection of the public health and the environment in the utilization or disposal of sewage sludge. In accordance with the authority granted in Minn. Stat. § 116.07, subd. 4, these rules establish standards for the design, location, and operation of sewage sludge landspreading sites and facilities.

6 MCAR § 4.6102 Permit and letter of approval requirements.

A. Landspreading.

1. The following persons shall comply with the requirements of 6 MCAR §§ 4.6101-4.6136:

a. political subdivisions that landspread sewage sludge;

b. persons who own, lease, or rent landspreading facilities; and

c. persons who are under contract to a. or b. to landspread sewage sludge or to operate a landspreading facility.

2. The persons identified in 1. shall apply for, and be copermittees of, a state disposal system permit for landspreading facilities.

3. Political subdivisions shall apply for a letter of approval for landspreading sites.

4. Each existing and proposed landspreading site shall have a letter of approval at the time given in Exhibit 6 MCAR § 4.6102 A.4.-1, unless it possesses a current letter of approval. Each existing landspreading facility shall have a state disposal system permit at the time given in Exhibit 6 MCAR § 4.6102 A.4.-1, unless it possesses a current permit. Each proposed landspreading facility shall have a state disposal system permit prior to development and use.

Exhibit 6 MCAR § 4.6102 A.4.-1

Schedule for Obtaining Letter of Approval or Permit

Wastewater Treatment System Design Flow in Million Gallons/Day		Months After Rule Effective Date
More than 20	Sites	0
	Facilities	3
1-20	Sites	6
	Facilities	12
Fewer than 1	Sites	12
	Facilities	12

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B. Incineration. Incineration of sewage sludge is governed by rule APC 28 of the Minnesota Pollution Control Agency.

C. Other facilities. Any facility for the processing, storage, or disposal of sewage sludge into or on any land by means other than regulated by 6 MCAR §§ 4.6101-4.6136 is prohibited without an agency permit.

6 MCAR § 4.6103 Definitions. For the purpose of 6 MCAR §§ 4.6101-4.6136, the following terms have the meanings given them.

A. Agency. "Agency" means the Minnesota Pollution Control Agency.

B. Animal feed. "Animal feed" means any crop grown for consumption by animals, such as pasture crops, forage, and grain.

C. Aquifer. "Aquifer" means a water-bearing soil horizon or bedrock formation that transmits water in sufficient quantities to supply a well.

D. Available nitrogen. "Available nitrogen" means nitrogen which is present in inorganic forms that are useable by plants, and which may be determined by procedures set out in 6 MCAR § 6.6135.

E. Available water-holding capacity. "Available water-holding capacity" means the capacity of soil to hold water against the force of gravity and available for use by most plants. It is usually expressed in inches of water per inch of soil. It may be found in Soil Conservation Service soil surveys or Soil Conservation Service soil interpretation sheets, or it may be obtained in the laboratory using the method provided in 6 MCAR § 4.6132 B.3.

F. Bedrock outcrop. "Bedrock outcrop" means any bedrock that appears at the surface of the land.

G. Cation exchange capacity. "Cation exchange capacity" means a measure of the potential quantity of readily exchangeable positive ions that the soil can attract and retain, expressed in milliquivalents per 100 grams of soil. Rule 6 MCAR § 4.6132 B.2. provides acceptable methods of determining cation exchange capacity.

H. Cave. "Cave" means any naturally formed, subterranean open area or chamber, or series of chambers.

I. Crops for direct human consumption. "Crops for direct human consumption" means crops that are consumed by humans without processing to minimize pathogens prior to distribution to the consumer.

J. Dewatered sewage sludge. "Dewatered sewage sludge" means any sewage sludge with a total solids content of 20 percent or greater or which can be transported and handled as a solid material.

K. Director. "Director" means the executive director or other designated representative of the Minnesota Pollution Control Agency.

L. Fallow land. "Fallow land" means land that is uncropped and kept cultivated throughout a growing season. Vegetative cover is less than 25 percent. Any land that is uncropped and cultivated during the months of September through May where a crop will be grown the following growing season is not considered fallow land.

M. Food-chain crops. "Food-chain crops" means tobacco, crops grown for human consumption, and feed for animals whose products are consumed by humans.

N. Hundred-year floodplain. "Hundred-year floodplain," as defined in 6 MCAR § 4.8051 for floodplain, means any area adjoining a watercourse which has been or hereafter may be covered by a large flood known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

O. Immediate incorporation. "Immediate incorporation" means the mixing of sewage sludge with topsoil, concurrent with application or within 48 hours thereafter, by means such as injection, discing, mold-board plowing, chisel plowing or rototilling to a minimum depth of six inches.

P. Intermittent stream. "Intermittent stream" means any stream which flows at certain times during the year, such as after a rainstorm or during wet weather. Intermittent streams receive water from surface runoff, springs, or melting snow and have definable banks. Any intermittent stream mapped on Soil Conservation Service soil surveys or United States Geological Survey quadrangle maps may be included within this definition. All Class 7 limited resource value waters listed in Supplement 1 of 6 MCAR §§ 4.8024 and 4.8025 are included within this definition.

Q. Lakes and ponds. "Lakes and ponds" means any water basins defined as water basins and public waters in Minn. Stat. § 105.37, subds. 9 and 14 respectively.

R. Landspreading. "Landspreading" means placement of sewage sludge on or incorporated into the soil surface.

S. Landspreading facility. "Landspreading facility" means any land that is used for sewage sludge landspreading and is owned, leased, or rented by the political subdivision generating the sewage sludge.

T. Landspreading site. "Landspreading site" means any land used for sewage sludge landspreading that is not owned, leased, or rented by the political subdivision generating the sewage sludge.

U. Long-term storage. "Long-term storage" means the storage of dewatered sewage sludge for a period of greater than one month but not exceeding seven months at a landspreading site not located at the place of sewage sludge generation.

V. Mine. "Mine" means any excavation for minerals.

W. Organic priority pollutant. "Organic priority pollutant" means the organic compounds that appear in 40 Code of Federal Regulations, Section 401.15 (1981).

X. Pasture crops. "Pasture crops" means crops such as legumes, grasses, grain stubble, and stover which are consumed by animals while grazing.

Y. Pathogens. "Pathogens" means organisms that are capable of producing an infection or disease in a susceptible host.

Z. Person. "Person," as defined in Minn. Stat. § 116.06, subd. 8, means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the Minnesota Pollution Control Agency.

AA. Place of habitation. "Place of habitation" means any house, apartment, mobile home, dwelling, residence, or other structure, occupied or intended to be occupied on a day to day basis by an individual, group of individuals, family unit, or group of family units.

BB. Political subdivision. "Political subdivision" as defined in Minn. Stat. § 115A.03, subd. 24, means any municipal, corporation, governmental subdivision of the state, local government unit, special district, or local or regional board, commission, or authority authorized by law to plan or provide for waste management.

CC. Process to further reduce pathogens. "Process to further reduce pathogens" means high temperature composting, heat drying, heat treatment, thermophilic aerobic digestion, or other methods which will achieve similar levels of pathogen reduction. These methods are described in 6 MCAR § 4.6136.

DD. Process to significantly reduce pathogens. "Process to significantly reduce pathogens" means aerobic digestion, air drying, anaerobic digestion, low temperature composting, lime stabilization, or other methods which achieve similar levels of pathogen reduction. These methods are described in 6 MCAR § 4.6136.

EE. Putrescible sewage sludge. "Putrescible sewage sludge" means any sewage sludge that has a volatile solids content of 70 percent or more of the total solids content.

FF. Quarry. "Quarry" means any surficial mine used for the purpose of obtaining building stone, limestone, gravel, or sand.

GG. Recreational area. "Recreational area" means any public park, trail, campground, playground, athletic field, picnic ground, botanical or zoological garden, swimming beach or pool, fairground, or wayside and any commercial campground, resort, tourist court, amusement park, riding stable, or golf course.

HH. Residential development. "Residential development" means ten or more places of habitation concentrated within ten acres of land. The term also includes schools, churches, hospitals, nursing homes, businesses, offices, and apartment buildings or complexes having ten or more living units.

II. Rivers and streams. "Rivers and streams" means any watercourses defined as natural watercourses or altered natural watercourses and public waters in Minn. Stat. § 105.37, subds. 10, 11, and 14 respectively.

JJ. Road right-of-way. "Road right-of-way" means any interstate, United States, state, county or township highway or road including any shoulder and drainage ditch alongside the road.

KK. Root crops. "Root crops" means plants whose edible parts are grown below the soil surface.

LL. Seasonal high water table. "Seasonal high water table" means the highest level the water table reaches during a given year. Methods of determining the seasonal high water table are given in 6 MCAR § 4.6132 B.5.

MM. Sewage sludge. "Sewage sludge," as defined in Minn. Stat. § 115A.03, subd. 29, means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

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NN. Sewage sludge solids. "Sewage sludge solids" means the total solids remaining in sewage sludge after oven drying at 105 degrees Centigrade.

OO. Short-term storage. "Short-term storage" means the storage of dewatered sewage sludge for a period of less than one month at a landspreading site not located at the place of sewage sludge generation.

PP. Sinkhole. "Sinkhole" means a closed depression in an area of Karst topography that is formed either by solution of surficial limestone or by collapse of underlying caves.

QQ. Soil Conservation Service. "Soil Conservation Service" means the Soil Conservation Service of the United States Department of Agriculture.

RR. Soil horizon. "Soil horizon" means a layer of soil that is approximately parallel to the soil surface and has some set of properties that have been produced by soil-forming processes, and has some properties that are not like those of the layers above and beneath it. These properties include color, structure, texture, consistence, and bulk density.

SS. Soil pH. "Soil pH" means the soil's hydrogen-ion activity or the negative logarithm of the hydrogen-ion concentration. It is a measure of the acidity of soil. A soil pH value of 7.0 is neutral. The value is obtained by methods provided in 6 MCAR § 4.6132 B.1.

TT. Soil texture. "Soil texture" means the relative portion of the soil separates sand, silt, and clay. It can be measured using methods addressed in 6 MCAR § 4.6132 B.1. Coarse texture is United States Department of Agriculture textural classifications sand and loamy sand. Medium texture is United States Department of Agriculture classifications sandy loam, loam, silt, silt loam, and sandy clay loam. Fine texture is United States Department of Agriculture classifications clay loam, silty clay loam, sandy clay, silty clay, and clay.

UU. Soil type. "Soil type" means a soil body having the same profile characteristics and morphology. It is the lowest unit in the natural system of soil classification.

VV. Spray application. "Spray application" means liquid sewage sludge application by sprinkling devices such as center pivots and stationary or movable spray irrigation mechanisms.

WW. Spring. "Spring" means any natural surface discharge of ground water large enough to flow in a small rivulet.

XX. Surface application. "Surface application" means sewage sludge spread on the surface of the land and not incorporated into the soil within 48 hours of application.

YY. Surface water. "Surface water" means any lake or pond, and any river or stream as defined in Q. and II., respectively.

ZZ. Ten-year floodplain. "Ten-year floodplain" means the lowland and relatively flat areas adjoining surface waters which are inundated by a flood which can be expected to occur, on an average, of once in ten years; or the land area to which flood waters have a ten percent chance of inundating in any given year.

AAA. Water table. "Water table" means the surface of the ground water at which the pressure is atmospheric. Generally this is the top of the saturated zone.

BBB. Wetland. "Wetland" means a natural marsh where water stands near, at, or above the soil surface during a significant portion of most years, which is eligible for classification as inland fresh water wetland type 3, 4 or 5 under United States Department of Interior classification, defined in United States Fish and Wildlife Circular No. 39 (1971 edition), not included within the definition of public waters as defined in Minn. Stat. § 105.37, subd. 14, and which is ten or more acres in size in unincorporated areas or 2.5 acres or more in incorporated areas.

6 MCAR § 4.6104 Variance. Any person may apply for a variance from any requirement of 6 MCAR §§ 4.6101-4.6136. Variances shall be applied for and acted upon by the agency in accordance with Minn. Stat. § 116.07, subd. 5 and other applicable statutes and rules.

6 MCAR § 4.6105 Application requirements for landspreading sites. Applications for letters of approval for sewage sludge landspreading sites shall include the specific information given in A.-E. Submittal of this information shall be made using a form obtained from the director.

A. Sewage sludge characterization. Applications shall contain sewage sludge characterization.

1. This shall include a description of the process to significantly reduce pathogens or process to further reduce pathogens used to treat the sewage sludge, including temperatures, retention times, volatile solids reduction, and chemical doses, if applicable.

2. Sewage sludge chemical characteristics shall be determined from either a single composite sample taken within six months of application submittal or the average of analyses from any number of samples taken within one year of application submittal. Sewage sludge shall be analyzed for parameters listed in 6 MCAR § 4.6111 A.5. The dates of sampling and analysis shall be included with the analysis.

B. Site characterization. Applications shall contain site characterization.

1. This shall include a copy of Soil Conservation Service soil survey maps or comparable soil maps prepared by a soil scientist with mapping experience, delineating the boundaries of the specific sewage sludge landspreading and short-term or long-term storage areas. Information included with the soil survey maps or obtained from actual on-site investigations shall include the following items for each soil type present at the landspreading site:

a. texture and thickness of each soil horizon to 60 inches of depth;

b. permeability of each soil horizon to 60 inches of depth;

c. available water-holding capacity of each soil horizon to 60 inches in depth;

d. soil depth required to obtain six inches of available water-holding capacity;

e. depth to seasonal high water table;

f. depth to bedrock; and

g. slope of land surface.

2. It shall include a copy of a United States Geological Service quadrangle map or aerial photo which shows the location of and distance to each of the following features, if within one-quarter mile of the landspreading site:

a. lakes and ponds;

b. rivers and streams;

c. wetlands;

d. intermittent streams;

e. ten-year flood plains;

f. sinkholes, caves, bedrock outcrops, mines, or quarries;

g. potable water supply wells;

h. places of habitation;

i. recreational areas;

j. residential developments;

k. road right-of-ways; and

l. airports.

3. It shall include a legal description of the landspreading site, including township, range, section, quarter section, township or city name, and county.

4. It shall include the approximate quantity of sewage sludge solids previously applied to the landspreading site.

5. Required sampling and analytical procedures of soil characteristics listed in a. to g. are provided in 6 MCAR § 4.6132. Applications shall contain the following soil characteristics which shall be determined from samples obtained within six months of application submittal:

a. United States Department of Agricultural textural classification;

b. percentage of organic matter;

c. extractable phosphorus in pounds per acre;

d. exchangeable potassium in pounds per acre;

e. pH;

f. soluble salts expressed in millimhos per centimeter; and

g. cation exchange capacity expressed in milliequivalents per 100 grams.

6. Site characterization shall include the acreage of the landspreading site.

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7. It shall include the name and address of landowner.

8. It shall also include the name and address of any renter, leasee, or occupier of the landspreading site.

C. Site management. Applications shall include site management. This includes the following:

1. a description of the proposed method or methods of sewage sludge application;

2. the name and address of the person who will apply sewage sludge to the proposed landspreading site;

3. the maximum annual application rate, in tons of sewage sludge solids per acre per year, based on nitrogen or cadmium additions, whichever is limiting;

4. the estimated maximum sewage sludge loading rate over the life of the site, in tons of sewage sludge solids per acre, based on cumulative heavy metal limits, current sewage sludge analysis, and past heavy metal applications;

5. a description of the crop to be grown or dominant vegetation at the site and intended use of the crop;

6. a description of how public access to the site is proposed to be controlled; and

7. months and approximate dates when sewage sludge will be landspread.

D. Provisions for long-term sewage sludge storage at the site. Applications shall include the following provisions for long-term sewage sludge storage at the site:

1. A description of the necessity for storage at the landspreading site.

2. The location of the storage area delineated on maps submitted pursuant to B.1. and B.2.

3. A description of how sewage sludge is to be stored.

4. The acreage of the sewage sludge storage area.

5. The quantity of sewage sludge to be stored.

6. Boring logs from at least two soil borings to a depth of ten feet taken at the perimeter of the proposed storage area. The boring logs shall include:

a. texture and thickness of each soil horizon encountered;

b. color and presence or absence of mottling for each soil horizon encountered;

c. depth to water table, if encountered; and

d. depth to bedrock, if encountered.

7. The soil depth required to obtain eight inches of available water-holding capacity.

8. The expected duration and dates of storage before landspreading.

9. The description of precaution or practices to minimize or prevent leachate, runoff, or nuisance conditions from the storage area. If the long-term storage site is to be at the same location for each year the landspreading site is used, an evaluation of the necessity for an impervious pad shall be included.

E. Public notification. Applications shall include evidence that the applicable county and local officials have been notified that application is being made to the agency for approval of the proposed landspreading site and operation.

6 MCAR § 4.6106 Application requirements for landspreading facilities. Applications for state disposal system permits for sewage sludge landspreading facilities shall include the information required by A.-D.

A. Information required for letters of approval. The application shall contain all information required in 6 MCAR § 4.6105 A., B., and C. for letters of approval for landspreading sites.

B. Ground water quality. Applications shall contain present ground water quality for the following parameters:

1. pH;

2. electrical conductivity expressed in millimhos per centimeter;

3. total hardness expressed in milligrams per liter as $CaCO_3$;

4. alkalinity expressed in milligrams per liter as $CaCO_3$;

5. chlorides expressed in milligrams per liter;

6. sulfates expressed in milligrams per liter;

7. total organic carbon expressed in milligrams per liter;

8. nitrate-nitrogen expressed in milligrams per liter;

9. total phosphorus expressed in milligrams per liter;

10. methylene blue active substances expressed in milligrams per liter;

11. total dissolved solids expressed in milligrams per liter; and

12. total coliform bacteria expressed in organisms per 100 milliliters.

The ground water to be sampled and analyzed shall be from the first aquifer below the proposed landspreading facility that is being used or may be used for drinking water purposes. Analytical methods for these parameters may be found in 6 MCAR § 4.6134.

C. Ground water monitoring wells and soil water sampling devices. Applications shall contain a description of all ground water monitoring wells and soil water sampling devices installed at the facility, including:

1. location on required soil map;

2. elevation of ground water surface, depth of boring and well, well seals, and screened interval; and

3. description of well construction materials such as casing, well seal, grouting and packing.

D. Sewage sludge storage facility and operation. Applications shall contain a description of the sewage sludge storage facility and operation, including:

1. facility type and capacity;

2. frequency of sewage sludge addition to and removal from the storage facility; and

3. description and permeability of storage pond liner or storage pad base, whichever is applicable.

E. Additional information. The information in 1.-3. shall be submitted in addition to that required in A.-D. if the applicant or permittee proposes to apply available nitrogen in excess of that stipulated in 6 MCAR § 4.6121 A.2.e., cadmium in excess of two pounds per acre per year, or metals in excess of levels stipulated in Exhibits 6 MCAR § 4.6121 D.2.f.-1. or D.2.g.-2. The information in 4., 5., 6., or 7., whichever is applicable, shall be submitted in addition to that required in A.-D. if the applicant or permittee proposes not to comply with one or more of the minimum design requirements in 6 MCAR § 4.6121.

1. An application shall contain a characterization of hydrogeological conditions at and within one mile from the landspreading facility, including:

a. type of and depth to bedrock;

b. bedrock condition, such as fractures, faults, and channels;

c. texture of unconsolidated material above bedrock;

d. depth to hydrostatic ground water table;

e. direction of ground water flow and rate of movement;

f. ground water recharge and discharge areas;

g. available well boring logs for any public or private, potable or non-potable water supply wells;

h. present ground water quality and use; and

i. suitability of ground water for future use.

This information may be obtained from available well boring data, United States Geological Survey hydrogeologic atlases, other hydrogeological studies in the area, or by actual on-site investigations.

2. The application shall contain a description of soil characteristics to a minimum depth of 25 feet. The minimum number of borings required can be determined using the following formula:

Number of borings = (landspreading acreage × 0.1) + 3.

The information given for each boring shall include:

a. location and depth of boring;

b. soil classification using the Unified system for each soil horizon encountered;

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c. color and presence or absence of mottling for each soil horizon encountered; and

d. water level measurement.

3. Utilizing the information in 1. and 2., the application shall contain an evaluation of the potential for impacting aquifer quality based on proposed facility management practices.

4. It shall contain a description and evaluation of the provisions, practices, and site features that will be utilized to comply with 6 MCAR § 4.6121 A.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 A.2. cannot be accomplished.

5. It shall contain a description and evaluation of the provisions, practices, and site features that will be utilized to comply with 6 MCAR § 4.6121 B.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 B.2. cannot be accomplished.

6. It shall contain a description and evaluation of the provisions, practices, and site features that will be utilized to comply with 6 MCAR § 4.6121 C.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 C.2. cannot be accomplished.

7. It shall also contain a description and evaluation of the provisions, practices and site features that will be utilized to comply with 6 MCAR § 4.6121 D.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 D.2. cannot be accomplished.

6 MCAR § 4.6107 Administration of letters of approval.

A. Review. All applications shall be reviewed for completeness by the director. If the application is incomplete, the director shall promptly advise the applicant of the incompleteness. Further processing of the application may be suspended until the applicant has supplied the necessary information.

B. Preparation of preliminary determinations. The director shall make a preliminary determination regarding a completed application. This preliminary determination shall include a proposed determination to issue or to deny the approval sought in the application.

1. If the preliminary determination is to deny an approval, the director shall notify the applicant in writing and include the specific reasons for denial. The applicant may request an appearance before the agency to appeal the denial pursuant to agency rules of procedure, rule MPCA 3 of the Minnesota Pollution Control Agency.

2. If the preliminary determination is to issue an approval, the procedures set out in C. and D. shall apply.

C. Public participation.

1. The director shall provide notice of the application and a copy of the draft letter of approval to the following persons: the applicant; the owner and occupier of land proposed to be used for sewage sludge landspreading; the city or township and county officials of the area where a sewage sludge landspreading site is located; and other persons known by the director to have an interest in the proposed approval.

2. Any interested person, including the applicant, may, within 14 days following the date of issuance of the notice, submit written comments on the application and the proposed approval to the director.

3. All written comments submitted during the comment period shall be retained and considered in the formulation of final determinations concerning the application.

D. Final determination.

1. The director shall attempt to resolve all comments prior to a final determination concerning the application. If such comments have been resolved, the director shall issue or deny the approval.

2. If all comments cannot be resolved, the application shall be presented to the agency, which shall issue or deny the approval. A public hearing may be requested in accordance with rule WPC 36(k) of the Minnesota Pollution Control Agency.

3. All persons submitting comments on the application and the proposed approval shall be notified of the final determination concerning the application.

E. Denial of approval.

1. Approval shall be denied if the proposed site does not comply with this rule and other applicable state or federal laws or rules; or approval is likely to cause pollution, impairment or destruction of the air, water, land or other natural resources of the state and there is a feasible and prudent alternative.

2. Notice of denial and reasons for the denial shall be issued to the persons listed in C.1.

F. Modification, suspension, and revocation of letters of approval. A letter of approval may be modified, suspended, or revoked in accordance with the requirements of rule WPC 36(s) of the Minnesota Pollution Control Agency.

G. Duration of approvals. The letter of approval shall have a duration of one to five years. The term of approval shall be based upon the request of the applicant and a determination of the suitability of the landspreading site and operation for compliance with 6 MCAR §§ 4.6101-4.6136 for the duration of the requested approval period.

H. Enforcement. A letter of approval issued to a political subdivision pursuant to this rule shall become part of the political subdivision's national pollutant discharge elimination system or state disposal system permit and shall be enforceable to the same extent as the permit.

6 MCAR § 4.6108 Administration of state disposal system permits. The administration of state disposal system permits for landspreading facilities shall be governed by rule WPC 36 of the Minnesota Pollution Control Agency.

Chapter Six: Landspreading Sites

6 MCAR § 4.6111 Requirements and limitations. The following requirements and limitations apply to the management of landspreading sites.

A. Sewage sludge sampling and analysis.

1. Sewage sludge samples shall be representative of the sewage sludge to be landspread.

2. In the case of digesters and liquid storage tanks, a representative sample shall be composed of at least four grab samples composited over a 24-hour period prior to landspreading.

3. In the case of lagoons, stockpiles, drying beds, and compost piles, a representative sample shall be composed of at least ten grab samples composited from the sewage sludge prior to landspreading.

4. Other recommended sampling and handling procedures are provided in 6 MCAR § 4.6131.

5. Sewage sludge shall be analyzed according to methods set forth in 6 MCAR § 4.6131 for the following parameters:

a. percentage of total solids;

b. volatile solids as percentage of total solids;

c. pH;

d. nitrogen, including the percentages of kjeldahl, ammonia and, in the case of aerobically digested and composted sewage sludges only, nitrate;

e. total weight of heavy metals, including milligrams per kilogram of zinc, copper, lead, nickel, cadmium, chromium and mercury; and

f. polychlorinated biphenyls expressed as milligrams per kilogram.

All analytical values, except pH and total solids, shall be recorded on a dry weight basis.

6. The minimum frequency of sewage sludge sampling and analysis is given in Exhibit 6 MCAR § 4.6111 A.6.-1.

Exhibit 6 MCAR § 4.6111 A.6.-1

Minimum Frequency of Sewage Sludge Sampling and Analysis

Wastewater Treatment System Design Flow in Million Gallons/Day	Minimum Frequency
Less than 1.0	annually
1.0-20	semi-annually
More than 20	quarterly

7. Each parameter exceeding concentrations listed in Exhibit 6 MCAR § 4.6111 A.7.-2 shall be analyzed for at two or three times the minimum frequency given in Exhibit 6 MCAR § 4.6111 A.6.-1.

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Exhibit 6 MCAR § 4.6111 A.7.-2

Greater Frequency of Sewage Sludge Sampling and Analysis

Concentration Expressed in Milligrams/ Kilogram of Dry Weight

Parameter	2x Frequency	3x Frequency
Zinc	1800	3600
Copper	900	1800
Lead	500	1000
Nickel	100	200
Cadmium	20	40
Chromium	1000	2000
Mercury	5	10
Polychlorinated biphenyls	5	10

8. Frequency of sewage sludge sampling and analysis may be reduced by the director depending on the annual frequency of landspreading and the variability of sewage sludge quality.

B. Pathogen control.

1. Sewage sludge, at a minimum, shall be treated by a process to significantly reduce pathogens prior to landspreading.

2. Sewage sludge shall be treated by a process to further reduce pathogens if crops for direct human consumption are to be grown within 18 months of sewage sludge application, unless there is no contact between the sewage sludge and the edible portion of the crop.

3. Sewage sludge shall only be applied to pasture or forage crops when foliage is minimal unless the sewage sludge is injected. Surface application during the growing season shall only be permitted within seven days following a cutting.

4. If sewage sludge is to be applied to land used for pasturing livestock or for growing forage crops, the pasturing or harvesting of the crop shall not be permitted for at least one mouth following the last sewage sludge application unless the sewage sludge was treated by a process to further reduce pathogens.

5. Public access to a landspreading site shall be controlled during and for a period of 12 months following sewage sludge application unless the sewage sludge was treated by a process to further reduce pathogens. Fencing or posting of appropriate signs is required if the site is likely to be frequented by the general public. If the site is remote, or used for agricultural purposes, fencing and posting are not required if inadvertant public contact is deemed unlikely.

C. Soil pH and cadmium application.

1. For landspreading sites where food-chain crops will be grown, the pH of the soil and sewage sludge mixture shall be 6.5 or greater during the growing season following sewage sludge application.

2. Annual cadmium application shall not be more than one-half pound per acre on the land used for the production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food-chain crops, the annual cadmium application shall not exceed two pounds per acre.

3. Cumulative cadmium application to any landspreading site shall not exceed the levels provided in Exhibit 6 MCAR § 4.6111 C.3.-3.

Exhibit 6 MCAR § 4.6111 C.3.-3.

Maximum Cumulative Cadmium Application

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Cadmium Application (pounds/acre)
Less than 5	5
5-15	10
More than 15	20

D. Cumulative heavy metal additions. Sewage sludge application shall be terminated when the sum addition of any one heavy metal equals the level in Exhibit 6 MCAR § 4.6111 D.-4 for that particular heavy metal and soil.

Exhibit 6 MCAR § 4.6111 D.-4.

Maximum Cumulative Heavy Metal Addition

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Heavy Metal Addition (pounds/acre)			
	Lead	Zinc	Copper	Nickel
Less than 5	500	250	125	50
5-15	1000	500	250	100
More than 15	2000	1000	500	200

E. Sewage sludge application rates.

1. Sewage sludge application rates, combined with other known nitrogen sources, shall supply no more nitrogen than the amount required by the vegetation to be grown at the site. The rate of sewage sludge application shall be determined using the method outlined in 6 MCAR § 4.6135.

2. Sewage sludge application to a site shall be suspended whenever the soil extractable phosphorus content exceeds 400 pounds per acre.

3. Sewage sludge application to a site shall be suspended whenever the electrical conductivity of the saturation extract of soil exceeds four millimhos per centimeter as determined by the soluble salt test.

4. Sewage sludge shall not be applied to fallow land unless the following provisions are met: the soil surface has a medium or fine texture; the average annual precipitation is no greater than 24 inches; the addition of available nitrogen does not exceed 50 pounds per acre on medium-textured soil and 75 pounds per acre on fine-textured soil; and a crop is grown the year following sewage sludge application. The amount of available nitrogen applied to that crop is reduced by the amount of available nitrogen applied the previous year.

F. Organic priority pollutant limitations.

1. Sewage sludge containing concentrations of PCBs equal to or greater than 10 milligrams per kilogram of sewage sludge solids shall be incorporated into the soil when applied to land used for producing food-chain crops.

2. Sewage sludge containing concentrations of PCBs equal to or greater than 50 milligrams per kilogram of sewage sludge solids shall not be landspread.

3. If there is a known source in the sewer system service area which discharges a significant quantity of an organic priority pollutant, the sewage sludge shall be analyzed for that chemical. Concentrations will be considered on a case-by-case basis and recommendations will be made regarding the utilization of that sewage sludge on land.

G. Suitable soil conditions.

1. A soil profile shall be of sufficient depth to provide an available water-holding capacity of at least six inches above bedrock or the seasonal high water table. In no case shall this depth be less than three feet. Where sewage sludge is injected into the soil, the six inches of water-holding capacity or the three foot separation distance, whichever is applicable, shall exist between the bottom of the injection zone and the seasonal high water table or bedrock.

2. For the purpose of 1., a perched water condition, in which a zone of saturated soil exists between zones of unsaturated soil in the upper five feet of the soil profile, shall not be considered a seasonal high water table.

3. For the purpose of 1., the depth to subsurface drainage tiles shall be considered the depth to the seasonal high water table for tile drainage systems that are designed according to or equivalent to Soil Conservation Service engineering standards and criteria.

4. If, according to available information such as Soil Conservation Service soil surveys and soil interpretation sheets, the required six inches of available water-holding capacity is not provided in the upper five feet of soil for any given soil type, a boring shall be made to the depth in which six inches of available water-holding capacity would be provided. If indication of a seasonal high water table or bedrock is found before this depth is accomplished, that soil type shall not be used for landspreading.

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5. The soil texture, United States Department of Agriculture classification, at the zone of sewage sludge application shall be one of the following: fine sand; loamy sand; sandy loam; loam; silt loam; silt; sandy clay loam; sandy clay; clay loam; silty clay loam; silty clay; or clay.

6. Liquid sewage sludge shall not be spread on soils with surface permeabilities of less than 0.2 inch per hour unless the sewage sludge is immediately incorporated.

7. Sewage sludge shall not be spread on soils that have permeabilities of greater than six inches per hour throughout the top five feet.

8. Sewage sludge shall not be spread in areas where bedrock containing solution cavities or fractures or cracks exists within six feet of the soil surface.

9. Sewage sludge shall not be spread on areas ponded with water or sewage sludge.

10. Surface application of sewage sludge shall not be allowed on land with a slope greater than six percent. Subsurface application or an immediately incorporated application of sewage sludge shall not be allowed on land with a slope greater than 12 percent.

11. Soil samples shall be collected and analyzed prior to each cropping season that a landspreading site is used. The following parameters shall be determined using collection and analysis procedures provided in 6 MCAR § 4.6132:

a. United States Department of Agriculture textural classification;

b. percentage of organic matter content;

c. extractable phosphorus in pounds per acre;

d. exchangeable potassium in pounds per acre;

e. pH; and

f. soluble salts expressed in millimhos per centimeter.

H. Separation distances.

1. A distance of at least 200 feet from any place of habitation and a distance of at least 600 feet from any residential development or recreational area shall be maintained, unless written permission is obtained from the appropriate party.

2. A distance of at least 200 feet from any private water supply well and a distance of at least 1,000 feet from any public water supply well shall be maintained. Monitoring and test wells are exempt from this limitation.

3. Separation distances prescribed in 1. may be reduced by one-half if sewage sludge is injected into the soil.

4. Land application of sewage sludge shall be conducted so that sewage sludge is not applied to adjoining property or to road right-of-ways.

5. A distance of at least 200 feet for coarse-textured soils and at least 300 feet for medium and fine-textured soils shall be maintained from any downgradient surface water where sewage sludge is surface applied during the months of May through October. These separation distances shall be doubled where sewage sludge is surface applied during the months of November through April.

6. The minimum distances in Exhibit 6 MCAR § 4.6111 H.6.-5. from any downgradient surface water shall be maintained where sewage sludge is immediately incorporated into the soil.

Exhibit 6 MCAR § 4.6111 H.6.-5.

Minimum Distances From Downgradient Surface Water

Land Slope	Separation (feet)
Less than 2 percent	25
2-6 percent	50
6-12 percent	100

7. A 100 foot separation distance from intermittent streams shall be maintained when applying sewage sludge unless one or more of the following conditions exist, in which case the separation distance shall be at least 25 feet:

a. the sewage sludge is immediately incorporated;

b. the sewage sludge is surface applied and the intermittent stream does not discharge to any surface water; or

c. the sewage sludge is surface applied and the intermittent stream discharges to a surface water that is more than one mile downstream.

I. Short-term dewatered sewage sludge storage.

1. Sewage sludge in short-term storage shall be spread as soon as conditions permit. In no case shall the short-term storage of sewage sludge be in excess of 30 days. It is advisable that the short-term storage site be relocated each year the landspreading site is used.

2. Separation distances for short-term sewage sludge storage areas shall be those provided in H. for landspreading sites except that short-term storage of sewage sludge shall not be within 100 feet of any adjoining property without the written permission of the owner or within 100 feet of any road right-of-way.

3. Short-term storage of sewage sludge shall not take place on land with a slope greater than two percent unless measures are taken to control water runoff or the sewage sludge is being spread concurrent with the unloading of sewage sludge delivery trucks.

4. The suitable soil conditions for short-term storage of sewage sludge shall be the same as those for landspreading sites in G.

J. Long-term dewatered sewage sludge storage.

1. Long-term storage of sewage sludge shall only be allowed at landspreading sites where the stored sewage sludge is to be applied. Long-term storage at one landspreading site of sewage sludge that is intended for application at several landspreading sites is allowed provided that all sites are owned by the same person and all sites are within a one-half mile radius.

2. Long-term storage of sewage sludge for landspreading areas of 40 acres or less shall not take place within 400 feet from any place of habitation. This separation distance shall increase 100 feet for every additional ten acres of landspreading area, or portion thereof, up to a maximum of 1,000 feet. Separation distances may be reduced if written permission is obtained from the appropriate party.

3. Long-term storage of sewage sludge shall not take place within 1,000 feet of any residential development or recreational area.

4. Long-term storage of sewage sludge shall not take place within 1,000 feet of any downgradient surface waters or ten-year floodplain, unless measures are taken to control runoff in which case the separation distance may be reduced to 200 feet.

5. Long-term storage of sewage sludge shall not be allowed on land with greater than two percent slope unless measures are taken to control runoff; in which case the maximum land slope may be increased to six percent.

6. Long-term sewage sludge storage areas shall not be located in areas where the soil profile has less than eight inches of available water-holding capacity between the soil surface and the seasonal high water table and bedrock.

7. Long-term sewage sludge storage shall not take place in areas where the soil permeability is greater than six inches per hour throughout the top five feet of soil.

8. Long-term sewage sludge storage shall not take place in the same area for two or more consecutive years.

9. Conditions set forth in 6., 7., and 8. are not required if measures are taken to control leachate generation from the area of long-term sewage sludge storage.

K. Prohibited sites and other limitations.

1. Sewage sludge shall not be disposed of on or into any cave, sinkhole, or wetland. Except as part of a reclamation project, sewage sludge shall not be disposed of in or on any mine or quarry.

2. Sewage sludge shall not be applied on any land without the permission of the owner.

3. Organic soils or peat shall not be utilized for sewage sludge application unless subsurface drainage is provided by a system designed according to or equivalent to Soil Conservation Service engineering criteria.

4. Daily surface applications of liquid sewage sludge shall not exceed the following: for coarse-textured soil, 25,000 gallons per acre; for medium-textured soil, 15,000 gallons per acre; or for fine-textured soil, 10,000 gallons per acre.

5. Sewage sludge shall be applied to land in such a manner as to provide uniform spreading or application over the entire site.

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6. The boundary of a landspreading site shall be identified prior to and during application with the use of conspicuous flags placed every 100 feet along the border unless apparent boundaries, such as fence rows, roads, tree lines, or steep slopes, exist.

7. Putrescible sewage sludge, regardless of pathogen reduction process, shall be immediately incorporated into the soil.

6 MCAR § 4.6112 Record keeping and annual reporting.

A. Record keeping. A record keeping system shall be initiated and maintained by the political subdivision generating the sewage sludge that is applied at landspreading sites to verify compliance with 6 MCAR § 4.6111. The information recorded in the system shall include the following:

1. required sewage sludge composition data pursuant to 6 MCAR § 4.6111 A.5.;

2. soil test data for landspreading sites used during the year, pursuant to 6 MCAR § 4.6111 G.11.;

3. the location of the landspreading and stockpile sites on a United States Geological Survey quadrangle or soil survey map and the number of acres to which sewage sludge was applied, if different from the submitted application;

4. the amount of sewage sludge applied that year and cumulatively expressed in terms of tons of sewage sludge solids per acre;

5. the known amount of available nitrogen applied that year expressed in terms of pounds per acre;

6. the amount of cadmium, zinc, lead, nickel, and copper applied that year and cumulatively expressed in terms of pounds per acre; and

7. vegetation grown on the site during the year.

B. Reports. The information in A. shall be recorded on an agency form by the political subdivision and submitted annually to the agency no later than the March 1 next following the end of the reporting year. The form for annual reporting may be obtained from the director.

Chapter Seven: Landspreading Facilities

6 MCAR § 4.6121 Requirements and limitations. The following requirements and limitations apply to the management of landspreading facilities.

A. Ground water protection.

1. A sewage sludge landspreading facility shall be designed, constructed, monitored, and maintained so that it will comply with the standards of rule WPC 22 of the Minnesota Pollution Control Agency at the facility boundary.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. A minimum of six ground water monitoring wells shall be installed at the facility. Four wells shall be placed within the facility boundaries, two upgradient and two downgradient of ground water flow. The remaining two wells shall be placed within the area of landspreading. All wells shall be placed in the uppermost portion of the first aquifer below the landspreading facility that is currently being used or may be used in the future for drinking well purposes. All wells shall sample the same portion of the aquifer. At a minimum, the frequency of sampling shall be semi-annually. The parameters to be tested for and a sampling frequency exceeding the minimum shall be determined by the director and will be based upon soil permeabilities, depth to water table, direction of ground water flow in relation to the location of potable water supply wells, distance to potable water supply wells, sewage sludge application rates, sewage sludge quality, and suitability of the ground water as a source of potable drinking water.

b. A landspreading facility shall not be located on soils that have permeabilities of greater than six inches per hour throughout the profile above the water table.

c. Landspreading facilities shall not be located in areas where the soil profile has less than six inches of available water-holding capacity between the soil surface and the water table or bedrock.

d. Landspreading facilities shall be located at least 1,000 feet from potable water supply wells that are finished to a depth of less than 50 feet and are downgradient with respect to ground water flow direction.

e. Sewage sludge application rates shall supply no more nitrogen than the amount required by the vegetation to be grown at the facility. The rate of sewage sludge application shall be determined using the method outlined in 6 MCAR § 4.6135.

f. Any basin, tank, pit, or lagoon used to store liquid sewage sludge shall not seep at a rate greater than 500 gallons per acre per day. Any area at a landspreading facility used to store dewatered sewage sludge for a period in excess of one month per year shall be paved with asphalt or concrete to a depth sufficient to bear the weight of unloading and loading trucks and

equipment without cracking. The pad shall be sloped and curbed to collect all runoff water. Runoff water shall be routed to a wastewater treatment facility or land applied in a manner approved by the director.

B. Surface waters protection.

1. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that it will not impact the use or the quality of surface waters.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. A sewage sludge landspreading facility shall not be located within 1,000 feet of the normal high water level of any lake or pond.

b. A sewage sludge landspreading facility shall not be located within 300 feet of any river or stream.

c. A sewage sludge landspreading facility shall not be located within a wetland.

d. A sewage sludge landspreading facility shall not be located within a hundred year floodplain.

e. Surface sewage sludge application at a landspreading facility shall not take place within 100 feet of an intermittent stream unless it is immediately incorporated, in which case the separation distance may be reduced to 25 feet.

f. The director may determine that discharge from a landspreading facility of subsurface water via underground drainage systems or of channelized runoff to surface waters should be monitored. Any required monitoring, parameters to be monitored for, and sampling frequency shall be determined by the director based upon the following: discharge quantity; time of year discharge is expected; classification of receiving water; sewage sludge quality; sewage sludge application rate; source of channelized runoff; depth of tile drainage system; and purpose of tile drainage system.

C. Public health and safety.

1. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that it will not adversely impact the health and safety of the public living near or passing by the facility. The facility shall comply with applicable provisions of rule APC 9 of the Minnesota Pollution Control Agency at the facility boundary.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. At a minimum, sewage sludge applied to a landspreading facility shall be treated by a process to significantly reduce pathogens.

b. Daily surface applications of liquid sewage sludge shall be limited to quantities that will infiltrate into the soil within 24 hours.

c. Unauthorized public access to a landspreading facility shall be controlled by fencing or posting of appropriate signs.

d. Any landspreading facility located within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 feet of any airport runway used by only piston-type aircraft shall have the approval of the Federal Aviation Administration.

D. Food-chain protection.

1. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that the quality of food-chain crops grown at the facility complies with applicable regulations of the Food and Drug Administration, United States Department of Agriculture, and rules of the Minnesota Department of Agriculture.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. If crops for direct human consumption are to be grown at a landspreading facility within 18 months of sewage sludge application, the sewage sludge shall be treated by a process to further reduce pathogens.

b. If sewage sludge is to be applied to land used for pasturing livestock or for growing forage crops, the pasturing or harvesting of the crop shall not take place for at least one month following the last sewage sludge application.

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c. Sewage sludge containing concentrations of PCBs greater than ten milligrams per kilogram of sewage sludge solids shall be incorporated into the soil when applied to land used for producing food-chain crops.

d. Sewage sludge containing concentrations of PCBs equal to or greater than 50 milligrams per kilogram of sewage sludge solids shall not be landspread.

e. If the facility is used for growing a food-chain crop, vegetative tissue shall be sampled at the stage of development designated in 6 MCAR § 4.6133 and analyzed for cadmium if the pH of the soil and sewage sludge mixture is less than 6.5 immediately before the time food-chain crops are grown; or the annual application of cadmium exceeds one-half pound per acre on land used for the production of tobacco, leafy vegetables or root crops grown for human consumption; or the annual cadmium application rate exceeds two pounds per acre on land used for the production of other food-chain crops.

f. The cumulative addition of cadmium to any land shall not exceed the levels in Exhibit 6 MCAR § 4.6121 D.2.f.-1, unless the only food-chain crop produced is animal feed; the pH of the soil and sewage sludge mixture is 6.5 or greater immediately before the time the crop is planted and this pH level is maintained whenever food-chain crops are grown; vegetative tissue is sampled at the stage of development designated in 6 MCAR § 4.6133 and analyzed for cadmium; there is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans and which describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food-chain, which may result from alternative land uses; and future property owners are notified by a stipulation in the land record or property deed of the amount of cadmium the property has received and that food-chain crops should not be grown due to a possible health hazard.

Exhibit 6 MCAR § 4.6121 D.2.f.-1

Maximum Cumulative Addition of Cadmium

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Cadmium Addition (pounds/acre)
Less than 5	5
5-15	10
More than 15	20

g. The cumulative addition of lead, zinc, copper, and nickel shall not exceed the levels in Exhibit 6 MCAR § 4.6121 D.2.g.-2 unless future property owners are notified by a stipulation in the land record or property deed of the amount of lead, zinc, copper, or nickel applied, whichever are in excess. The stipulation shall state that these levels may result in reduced crop yield.

Exhibit 6 MCAR § 4.6121 D.2.g.-2

Maximum Cumulative Heavy Metal Addition

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Heavy Metal Addition (pounds/acre)			
	Lead	Zinc	Copper	Nickel
Less than 5	500	250	125	50
5-15	1000	500	250	100
More than 15	2000	1000	500	200

6 MCAR § 4.6122 Record keeping and annual reporting.

A. Record keeping. A record keeping system shall be initiated and maintained by the permittee of the landspreading facility to verify compliance with requirements and limitations in 6 MCAR § 4.6121. The information recorded in such a system shall include the following:

1. sewage sludge composition data for parameters outlined in 6 MCAR § 4.6111 A.5.;
2. the quantity and rate of sewage sludge solids applied to the facility expressed in tons per acre;
3. the amount of available nitrogen applied to the facility expressed in pounds per acre;
4. the amount of cadmium, zinc, lead, nickel, and copper applied that year and cumulatively expressed in pounds per acre;
5. vegetation grown and use of vegetation grown at the facility;
6. results of required monitoring of ground water, soils, or vegetative tissue;
7. information required in the facility operating permit;

8. a description of any adverse environmental, health, or social effects, complaints, management problems, or other difficulties encountered during the year due to sewage sludge disposal; and

9. a report of any action not in compliance with the permit or 6 MCAR § 4.6121.

At a minimum, the frequency of sewage sludge sampling and analysis shall be once a year. A frequency exceeding the minimum may be required by the director at the time of permit issuance based on the following: sewage sludge characteristics; quantity of sewage sludge applied at the facility; frequency of sewage sludge application; and design wastewater treatment system daily flow.

B. Reports. The information and records prescribed in A. shall be organized into a report to be submitted annually to the agency no later than the March 1 next following the end of the reporting year.

Chapter Eight: Appendices

6 MCAR § 4.6131 Collection and analysis of sewage sludge samples.

A. Collection of sewage sludge samples.

1. The following sampling and handling methods for liquid sewage sludge are recommended to obtain a sample that accurately represents the sewage sludge being sampled.

a. Daily grab samples of approximately one cup of sewage sludge are transferred to a two-gallon watertight container left in a refrigerator at 4 degrees Centigrade. After one month, the large composite sample is thoroughly mixed and a quart subsample removed for analysis. The quart subsample is delivered or shipped to the analytical laboratory as rapidly as possible in a very well-insulated shipping container. During very warm weather, the subsample is packed with dry ice to prevent microbial activity which would affect analytical values. If more than one day will elapse between sample collection and cold storage, enough sulfuric acid (H_2SO_4) is added to decrease the sewage sludge pH to about pH 1.0, which is approximately 10 to 20 milliliters per quart, prior to shipping.

b. Random grab samples of equal volume are taken from different depths and locations in the storage lagoon, tank, or digester. Care is exercised to obtain samples from many varied sampling points. The grab samples are composited into a single container, thoroughly mixed, and a quart subsample removed for analysis. Subsample handling then proceeds as discussed in a.

2. The following sampling and handling method is recommended for dewatered sewage sludges that are stored in stockpiles, compost piles, or drying beds. The storage area is divided up into sections of equal size using an imaginary grid. Grab samples or cores are taken from the center of each section at several depths. The samples are then composited, thoroughly mixed, and a pint subsample removed for analysis. The subsample is delivered or shipped to the analytical laboratory as rapidly as possible in a well-insulated container.

B. Analysis of sewage sludge. Analytical procedures for determining constituents in sewage sludge samples shall be obtained from one of the following publications:

1. 'Methods for Chemical Analysis of Water and Wastes,' issued by the United States Environmental Protection Agency as EPA-625/6-74-003 (1974).

2. 'Standard Methods for the Examination of Water and Wastes,' 14th edition, issued by the American Public Health Association.

3. 'Analytical Procedures for Determining Organic Priority Pollutants in Municipal Sludges,' issued by the United States Environmental Protection Agency as EPA 600/2-80-030 (1980).

4. 'Method Development for Determination of Polychlorinated Hydrocarbons in Municipal Sludge,' issued by the United States Environmental Protection Agency as EPA 600/2-80-029 (1980).

6 MCAR § 4.6132 Collection and analysis of soil samples.

A. Collection of soil samples. At a minimum, one soil sample shall represent an area of no more than 40 acres. Additional soil samples may be required if there are areas differing greatly in previous fertilization, liming, cropping history, land management, or soil texture. The soil shall be sampled to a depth of six to nine inches from at least 15 to 20 random locations in the sampling area. The samples shall be composited, thoroughly mixed, and subsampled for analysis. Approximately one pint of soil is necessary for analysis.

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B. Analysis of soils.

1. Acceptable analytical methods for United States Department of Agriculture textural classification, organic matter, extractable phosphorus, exchangeable potassium, pH, and soluble salts are found in one or more of the following publications:

a. 'Guide to Computer Programmed Soil Test Recommendations in Minnesota,' issued by the University of Minnesota, Agricultural Extension Service as Special Report No. 1 (St. Paul, Minnesota, 1978).

b. 'Recommended Chemical Soil Test Procedures for the North Central Region,' issued by the North Dakota State University as North Central Region Publication No. 221 (1975).

c. 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

d. 'Soil Survey Laboratory Methods and Procedures for Collecting Soil Samples,' issued by the Soil Conservation Service as Soil Survey Investigations Report 1 (revised) (Washington, D.C.: United States Government Printing Office, 1972).

2. Soil cation exchange capacity may be estimated on the basis of soil texture and organic matter content using Exhibit 6 MCAR § 4.6132 B.2.-1 or by direct analysis, either by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous, or saline soils. ('Methods of Soil Analysis,' edited by C.A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).)

Exhibit 6 MCAR § 4.6132 B.2.-1
Cation Exchange Capacity
(milliequivalents/100 grams)

	Soil Organic Matter Level		
Texture	Low (less than 2%)	Medium (2-4%)	High (greater than 4%)
Coarse	less than 5	5-15	5-15
Medium	5-15	5-15	more than 15
Fine	more than 15	more than 15	more than 15

3. Available water-holding capacity measurements for different soil types and soil horizons may be found in Soil Conservation Service soil surveys or Soil Conservation Service soil interpretation sheets. Another acceptable alternative is the determination by direct analysis of soil samples. In general, the available water-holding capacity is the difference in water retained at 1/3 bar (1/10 bar for coarse-textured soil) and 15 bar matric suction. Acceptable procedures are discussed in the following publications:

a. 'Soil Survey Laboratory Methods and Procedures for Collecting Soil Samples,' issued by the Soil Conservation Service as Soil Survey Investigation Report 1 (revised) (Washington, D.C.: United States Government Printing Office, 1972).

b. Chapter 8-2, "Water Retentivity of Soil at Specified Values of Matric Suction," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

4. Soil permeability measurements for different soil types and soil horizons can be found in Soil Conservation Service soil surveys and Soil Conservation Service soil interpretation sheets. Other acceptable alternatives include:

a. Determination by direct measurements in the field as outlined in Chapter 15, "Field Measurement of Hydraulic Conductivity Above a Water Table," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

b. Determination in the laboratory using undisturbed soil samples as outlined in Chapter 13, "Laboratory Measurement of Hydraulic Conductivity of Saturated Soil," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

5. The depth to the seasonal high water table for different soil types can be found in Soil Conservation Service soil surveys and Soil Conservation Service soil interpretation sheets. Other acceptable alternatives include:

a. Determination of the depth of soil having mottles with a chroma of two or less as discussed on pages 48 and 49 of the 'Soil Taxonomy,' issued by the Soil Conservation Service as Agriculture Handbook No. 436 (Washington, D.C.: United States Government Printing Office, 1975).

b. Measurement of water levels at monthly intervals over the course of one year in piezometers. The highest water level measurement obtained is acceptable as the seasonal high water table. The piezometers must be installed and water levels must be measured as outlined in Chapter 11, "Hydraulic Head," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

6 MCAR § 4.6133 Collection and analysis of vegetative tissue samples.

A. Sample collection. Samples collected shall adequately represent the average condition of the vegetation grown at the landspreading facility. This is best accomplished by compositing many grab samples followed by subsampling to a quantity sufficient for chemical analysis. Areas that are managed differently, for example different soil type, crop, sewage sludge application rate, application method, shall be sampled separately. A sample shall represent an area no larger than ten acres.

Samples shall be taken from the following plant parts at the designated stages of development:

1. corn, leaf at, or opposite and below, ear level, at silking stage;
2. soybeans, the youngest mature leaves and petioles on the plant after first pod formation;
3. legumes, upper stem cuttings in early flower stage;
4. cereals, the whole plant at the boot stage; and
5. grasses, whole plants at early hay cutting stage.

B. Sample handling and preservation. All samples should be washed with deionized or distilled water to remove any surface contamination. Samples are then dried at 55 degrees Centigrade as quickly as possible, ground, and stored for analysis. If samples cannot be dried immediately, they shall be placed in plastic bags and stored in a refrigerator.

C. Sample analysis. Dried and ground tissue samples may be prepared for analysis by wet digestion in a suitable combination of nitric, sulfuric, or perchloric acid or by dry ashing at a temperature not to exceed 500 degrees Centigrade. Cadmium shall then be analyzed by using atomic absorption or flame emission spectroscopy.

6 MCAR § 4.6134 Collection and analysis of ground water samples.

A. Sample collection. Construction and sampling of ground water monitoring wells at sewage sludge landspreading facilities shall be consistent with methods discussed in either of the following publications:

1. 'Water Quality Monitoring at Solid Waste Disposal Sites in Minnesota,' issued by the Minnesota Pollution Control Agency (May 1979).

2. 'Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities,' issued by the United States Environmental Protection Agency as EPA/530/SW-611 (August 1977).

B. Sample analysis. Analytical procedures for determining constituents in ground water collected in monitoring wells at sewage sludge landspreading facilities shall be obtained from one of the following publications:

1. 'Methods for Chemical Analysis of Water and Wastes,'' issued by the United States Environmental Protection Agency as EPA-625/6-74-003 (1974).

2. 'Standard Methods for the Examination of Water and Wastes,' 14th edition, issued by the American Public Health Association.

6 MCAR § 4.6135 Determination of sewage sludge application rate based on crop nitrogen requirements. Sewage sludge application rates shall be based upon soil texture, crop nitrogen requirements and yield goals, sewage sludge nitrogen availability, carry-over nitrogen supplied by past sewage sludge applications, and available nitrogen added by manures or fertilizers. The procedures in A.-E. shall be used:

A. Maximum allowable available nitrogen level. Based on cropping practices and soil texture, determine the maximum allowable available nitrogen level in pounds per acre from Exhibit 6 MCAR § 4.6135 A.-1 or Exhibit 6 MCAR § 4.6135 A.-2.

Maximum allowable nitrogen levels for crops not listed in these exhibits shall be based on agricultural extension, Soil Conservation Service, or University of Minnesota recommendations.

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Exhibit 6 MCAR § 4.6135 A.-1
Maximum Allowable Available Nitrogen Levels for Various Crops, Yields, and Soil Textures

Crop	Yield/Acre	Maximum Allowable Available Nitrogen Level (pounds/acre) Soil Texture Coarse	Medium	Fine
Alfalfa	4 ton	180	210	230
	6 ton	280	340	370
Barley	80 bushel	100	110	120
Bluegrass	3 ton	180	210	230
Corn	75 bushel	100	120	130
	100 bushel	130	150	160
	125 bushel	150	180	190
	150 bushel	180	210	230
	175 bushel	210	250	270
Oats	75 bushel	80	90	100
	100 bushel	130	150	160
Soybeans	30 bushel	120	140	150
	40 bushel	180	210	230
	50 bushel	230	270	300
	60 bushel	280	340	370
Wheat	50 bushel	100	120	130
	75 bushel	160	180	190

Exhibit 6 MCAR § 4.6135 A.-2
Maximum Allowable Available Nitrogen Levels for Non-Cropped, Non-Harvested Areas

Degree of Vegetative Cover	Maximum Allowable Available Nitrogen Level (pounds/acre) Soil Texture Coarse	Medium	Fine
High density (more than 50 percent cover)	75	100	125
Low density (25-50 percent cover)	50	75	100
Fallow (less than 25 percent cover)	0	50	75

B. Carry-over nitrogen. Determine carry-over nitrogen from the previous year's sewage sludge application using the following formula:

Carry-over N (pounds per acre) = (percentage organic sewage sludge N) × (tons sewage sludge solids applied per acre).

If sewage sludge was not applied the previous year, carry-over nitrogen is zero.

C. Net allowable nitrogen level. To determine the net allowable available nitrogen level in pounds per acre subtract carry-over nitrogen, nitrogen added from other sources such as fertilizer or animal manure, if known, and available nitrogen applied the previous year to fallow land, from the maximum allowable available nitrogen level.

D. Sewage sludge available nitrogen. Determine the available nitrogen in sewage sludge in pounds per ton using the appropriate formula in Exhibit 6 MCAR § 4.6135 D.-3.

Exhibit 6 MCAR § 4.6135 D.-3
Formulas for Determination of Available Nitrogen in Sewage Sludge
(pounds of available nitrogen per ton of sewage sludge solids)

Type of Stabilization Digested	Application Method	Formula
	Surface	(% organic-N × 4) + (% NH_3-N × 10)
	Incorporated or Injected	(% organic-N × 4) + (% NH_3-N × 15)

Chemically or Physically Stabilized or Unstabilized	Surface	(% organic-N × 6) + (% NH_3-N × 10)
	Incorporated or Injected	(% organic-N × 6) + (% NH_3-N × 15)

E. Sewage sludge application rate. Divide the net allowable available nitrogen level in pounds per acre from C. by the available nitrogen in sewage sludge in pounds per ton from D. to obtain the sewage sludge application rate in tons of solids per acre per ton.

6 MCAR § 4.6136 Pathogen reduction processes.

A. Process to significantly reduce pathogens. Paragraphs 1.-5. contain processes to significantly reduce pathogens.

1. Aerobic digestion is a process conducted by agitating sewage sludge with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15 degrees Centigrade to 40 days at 20 degrees Centigrade. The level of volatile solids in the sewage influent must be reduced by at least 38 percent after processing.

2. Air drying is a process by which liquid sewage sludge not exceeding nine inches in depth is allowed to drain and/or dry on underdrained sand beds or paved basins. A minimum of three months is needed, two months of which temperatures average on a daily basis above 0 degrees Centigrade.

3. Anaerobic digestion is a process conducted in the absence of air at residence times ranging from 60 days at 20 degrees Centigrade to 15 days at 35 degrees Centigrade to 55 degrees Centigrade. The level of volatile solids in the sewage influent must be reduced by at least 38 percent after processing.

4. In composting by means of the within vessel, static aerated pile, or window composting methods, the sewage sludge is maintained at minimum operating conditions of 40 degrees Centigrade for five days. For four hours during this period the temperature exceeds 55 degrees Centigrade.

5. Lime stabilization is a process by which sufficient lime is added to produce a pH of 12 after two hours of contact.

6. The director may determine that other methods or operating conditions are acceptable if pathogens, vector attraction, and volatile solids of the waste are reduced to an extent equivalent to the reduction achieved by any of the methods listed in 1.-5., or to an extent necessary for the proposed landspreading operation. The director's decision shall be based upon:

a. sewage sludge residence time;

b. temperatures achieved during treatment;

c. duration of sewage sludge storage;

d. method of sewage sludge application;

e. crop or crops to which sewage sludge is applied;

f. potential impact of runoff on surface waters;

g. location of landspreading area with respect to places of habitation, residential developments, and recreational areas; and

h. degree of public access control.

B. Processes to further reduce pathogens. Paragraphs 1.-4. contain processes to further reduce pathogens.

1. Composting consists of the aerobic thermophilic decomposition of organic constituents to a relatively stable, humus-like material. High temperature composting methods which will further reduce pathogens are:

a. Windrow, consisting of an unconfined composting process involving periodic aeration or mixing of uninsulated compost piles. At least five turnings must occur during a period of 15 days when the temperature of the mixture is at least 55 degrees Centigrade.

b. Static aerated pile, consisting of an unconfined composting process involving mechanical aeration of insulated compost piles. The sewage sludge in the insulated pile is maintained at operating conditions of 55 degrees Centigrade or greater for three days.

c. Within vessel, consisting of a confined composting process involving mechanical mixing of compost under controlled environmental conditions so that the sewage sludge is maintained at operating conditions of 55 degrees Centigrade or greater for three days.

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2. Heat drying consists of a process by which dewatered sewage sludge cake is dried by direct or indirect contact with hot gases and moisture content is reduced to ten percent or lower. Sewage sludge particles must reach temperatures in excess of 80 degrees Centigrade, or the wet bulb temperature of the gas stream in contact with the sewage sludge at the point where it leaves the dryer must be in excess of 80 degrees Centigrade.

3. Heat treatment consists of a process by which liquid sewage sludge is heated to temperatures of 180 degrees Centigrade for 30 minutes.

4. Thermophilic aerobic digestion consists of a process by which liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of ten days at 55 to 60 degrees Centigrade. The level of volatile solids in the sewage influent must be reduced by at least 38 percent after processing.

5. The director may determine that other methods or operating conditions are acceptable if pathogens, vector attraction, and volatile solids of the sewage sludge are reduced to an extent equivalent to the reduction achieved by the methods in 1.-4.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Capitol Area Architectural and Planning Board
Adopted Capitol Area Zoning and Design Rules

The rules proposed and published at *State Register*, Volume 5, Number 43, pages 1655-1683, April 27, 1981 (5. S.R. 1655) are now adopted with the following modifications:

Rules as Adopted

[CAAPC 208 Renumber as CAAPB 207.]

CAAPB 259 Sign.

J. Identification and name ~~place~~ plate: A business sign stating the name of a person, firm, institution, or name or description of a certain permitted use.

M. Political sign: A temporary sign which displays information pertaining to an ~~uncoming~~ upcoming governmental district, city, county, state or national election.

[CAAPC 254 q.-r. Reletter and renumber as 259 T.-U.]

[Change all internal references in Chapter Four from CAAPC to CAAPB.]

CAAPB 405 Governmental district (G-2); conditional uses. Underground structures containing uses, as regulated in G-1 zone, shall be permitted provided that the following criteria are met:

C. ~~Proof~~ Reasonable documentation satisfactory to the board that soil conditions will not cause damage to adjacent property shall be provided.

CAAPB 410 Office-service district (OS-1); principal uses.

F. All principal uses permitted in the governmental district (G-1), as governed by CAAPB ~~403~~ 402.

CAAPB 609 Minimum number of required off-street parking spaces. The minimum number of off-street parking spaces by type of

use shall be determined in accordance with the following schedule. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.

Use	Number of Minimum Parking Spaces Per Unit of Measure
A. Governmental	One (1) for every three hundred (300) square feet of usable floor area.
B. Residential ~~one-family~~	~~Two (2) for each dwelling unit.~~
Residential, one-family	Two (2) for each dwelling unit.
Two-family and townhouse	Two (2) for each dwelling unit.
Multiple family	One (1) for each dwelling unit.
Housing for the elderly	One (1) for each four (4) units. Should units revert to general occupancy, then one (1) per unit shall be provided.
Boarding house	One (1) per each dwelling unit plus one (1) for each two (2) roomers.
C. Institutional ~~auditoriums~~	~~One (1) for each three (3) seats plus one (1) for each two (2) employees.~~
Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
Churches or temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
Hospitals	One and one-half (1½) for each one (1) bed.
Homes for the aged and convalescent homes	One (1) for each two (2) beds.
Elementary and junior high schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.
Senior high schools	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
Private clubs or lodge halls	One for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Private tennis clubs, or other similar uses	One (1) for each two (2) member families or individuals.
Theaters	One (1) for each five (5) seats plus one (1) for each two (2) employees.
D. Commercial ~~auditoriums~~	~~One (1) for each three (3) seats plus one (1) for each two (2) employees.~~
Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
Planned commercial or shopping area located in any "B" district	One (1) for each one hundred (100) square feet of usable floor area, plus one (1) for each one (1) employee.
Auto wash	One (1) for each one (1) employee. In addition, forty (40) reservoir parking spaces shall be provided.
Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additional chair.
Bowling alleys	Five (5) for each one (1) bowling lane.

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Dance halls, pool or billiard parlors, roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or or state fire, building, or health codes
Establishments for the sale and consumption on the premises of beverages, food, or refreshments	One (1) for each one hundred (100) square feet of usable floor space.
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses	One (1) for each eight hundred (800) square feet of usable floor area. (For the floor area used in processing, space shall be provided for each one (1) person employed therein.)
Automobile service center	Two (2) for each lubrication stall, rack, or pit, and one (1) for each gasoline pump.
Laundromats and coin-operated dry cleaners	One (1) for each two (2) machines.
Mortuary establishment	One (1) for each fifty (50) square feet of assembly room usable floor space, parlors, and slumber rooms.
Motel, hotel, or other commercial lodging establishment	One (1) for each one (1) occupancy unit.
Motor vehicle sales and service establishments	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.
Retail stores except as otherwise specified herein	One (1) for each hundred and fifty (150) square feet of usable floor space.
Theaters	One (1) for each five (5) seats plus one (1) for each two (2) employees.
E. Offices ~~banks, savings and loan associations, credit unions, and similarly regulated financial institutions.~~	~~One (1) for each one hundred (100) square feet of usable floor space.~~
Banks, savings and loan associations, credit unions, and similarly-regulated fiancial institutions	One (1) for each one hundred (100) square feet of usable floor space.
Other financial institutions such as loan companies and similar establishments	One (1) for each two hundred (200) square feet of usable floor space.
Business offices or professional offices except as indicated in the following item	One (1) for each three hundred (300) square feet of usable floor space.
Professional offices of doctors, dentists, or similar medical professions	One (1) for each one hundred (100) square feet of usable floor area.

CAAPB 610 Construction of off-street parking spaces.

C. Parking areas may designate up to fifty percent (50%) of their area for compact cars only; in which case, the minimum layout dimensions for each compact car space then may be reduced to eight feet (8′) width and sixteen feet (16′) length.

CAAPB 1104 Nonconforming signs. When a lawful sign exists ~~at~~ on the effective date of these rules or amendments thereto and which is made non-conforming by reason of these rules, such sign may continue until January 1, 1986, as long as it remains otherwise safe, not unsightly (as defined in CAAPB 1102 H.), or not abandoned (as defined in CAAPB ~~1107~~ 1108), subject to the following provisions:

CAAPB 1105 Administration and enforcement. In the administration and enforcement of the sign rules contained in this chapter the board shall designate a zoning administrator who is hereby authorized and directed to enforce all the provisions of these sign rules.

The zoning administrator shall enforce the provisions of these sign rules and amendments thereto and shall have the power to certify compliance and issue sign permits, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of these sign rules.

No permit shall be issued by the zoning administrator until he has reviewed all plans in detail and found them to conform to these rules.

The zoning administrator shall not grant any variances with respect to these rules in carrying out his or her duties as zoning administrator. Variances shall be granted by the board. The zoning administrator shall grant a permit upon a finding of compliance with the conditions imposed by these rules.

CAAPB 1106 Sign permit; application.

C. The lot, block, and addition at which ~~billboards~~ signs are to be erected and the street on which they are to front, and

CAAPB 1201 Application. Except as otherwise provided in CAAPB 1101~~-1105~~ 1109, the rules for all zoning districts, except the governmental district, shall be subject to the following interpretations and exceptions.

CAAPB ~~202~~ 1202 Essential services. Essential services shall be permitted as authorized and regulated by law and rule. Essential services are exempt from the application of these rules.

CAAPB 1402 Zoning permit required. Except as otherwise provided in CAAPB ~~411-415~~ 412-416 and CAAPB 1101~~-1107~~ 1109, no land, building or structure, in any district, shall hereafter be changed to a different use, and no building, structure or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until the board has issued a zoning permit, certifying that the plans and intended use, including any conditional use, of land, buildings, and structures are in conformity with all provisions of these rules.

CAAPB 1403 Zoning permit; application. Except as otherwise provided in CAAPB ~~411-415~~ 412-416 and CAAPB 1101~~-1107~~ 1109, all applications for zoning permits shall be submitted in writing and shall contain the following information:

CAAPB 1406 Certificate of design compliance. Subject to the provisions of Chapter Fifteen no building, structure, or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it has been issued, in addition to a zoning permit issued by the board and a building permit by the city of St. Paul, a certificate of design compliance by the board certifying that the plans of the building or structure are in conformity with all provisions of the design rules as provided in CAAPB 1502~~-1610~~ 1510.

CAAPB 1413 Permit expiration. No zoning permit or certificate of design compliance permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building ~~permit~~ permitted for ~~such~~ erection or alteration is started and is proceeding with the terms of ~~such a~~ its permit or certificate.

CAAPB 1501 Designation. That part of University Avenue and adjacent land, Aurora Street and adjacent land, Cedar Street and adjacent land, John Ireland Boulevard and adjacent land, Park Avenue and adjacent land, Sherburne Avenue and adjacent land, and Rice Street and adjacent land as identified on the attached map entitled Visual Corridors are hereby designated as visual corridors in the capitol area.

CAAPB 1502 Application.

C. The repair or alteration of an existing building or structure if the cost of the repairs or alterations ~~exceed~~ exceeds sixty (60) percent of the replacement value of the building or structure, exclusive of its foundation.

CAAPB 1504 Setback.

B. State buildings along Cedar ~~Avenue~~ Street and John Ireland Boulevard shall be setback a distance no more than 40 feet from the front property line in order to visually expand the open space corridor.

CAAPB 1511 Variances. The board shall have the authority to grant variances from the strict application of these rules pursuant to the provisions of CAAPB ~~1504~~ 1604.

CAAPB 1603 Disposition of variance requests.

B. If, after receiving the variance request, the board determines that additional information must be submitted by the requesting person, it may direct the person seeking the variance to:

1. Submit additional data regarding the variance request to the board or ~~its executive secretary~~ the zoning administrator, or

2. Appear before the board or ~~its executive secretary~~ the zoning administrator to provide additional information thereon.

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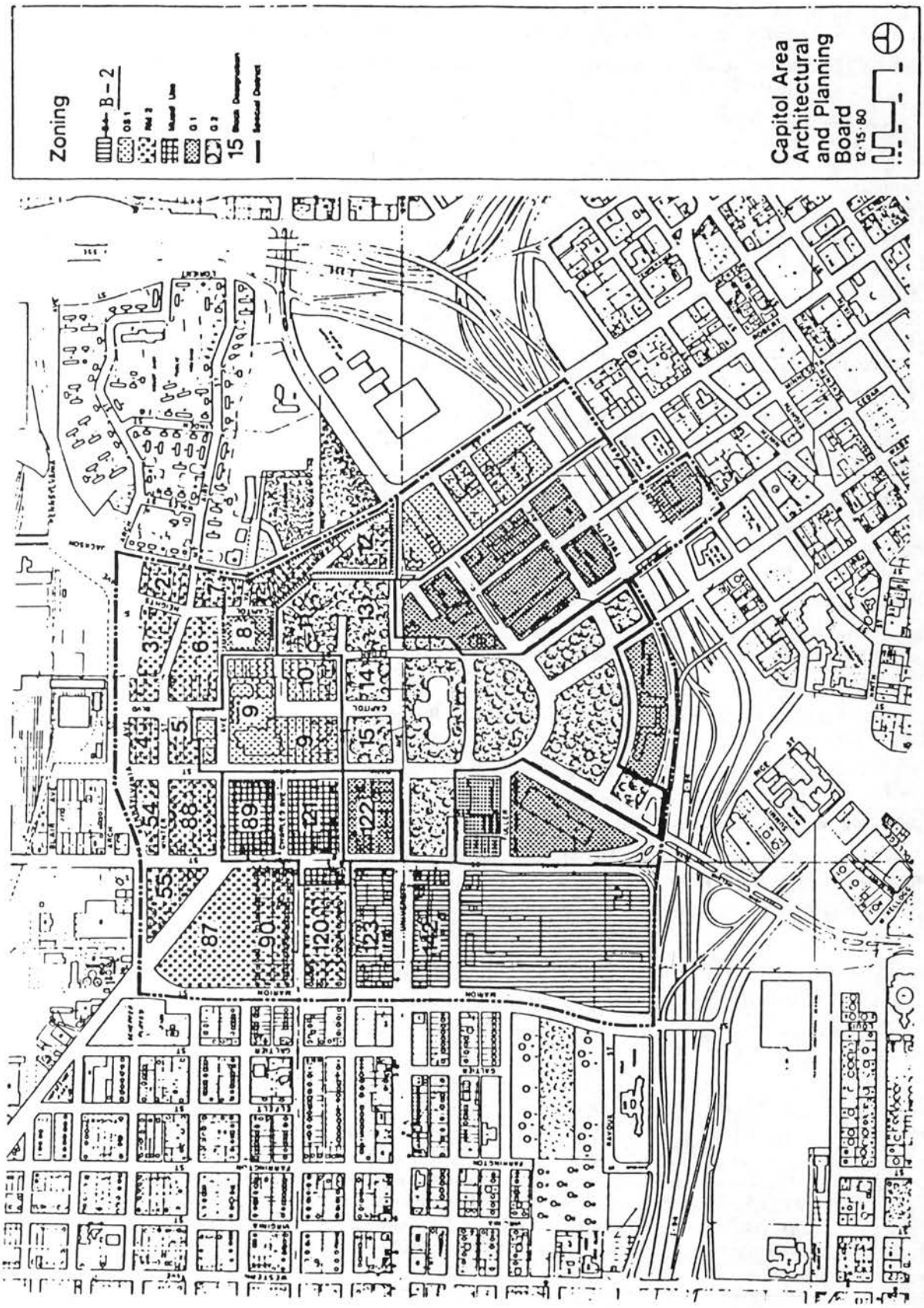
[ADOPTED NEW MAP]



Department of Economic Security

Adopted Changes in Rules Governing the Minnesota Youth Employment Act

The rules proposed and published at *State Register*, Volume 6, Number 15, pages 621-624, October 12, 1981 (6 S.R. 621) are now adopted as proposed.

SUPREME COURT

Decisions Filed Thursday, December 17, 1981

Compiled by John McCarthy, Clerk

49100/Sp., 51605 Bruce Smith v. Scott Senst, Ross Muir d/b/a Whitewater Tavern, Citizens Security Mutual Insurance Company, garnishee, Appellant. Winona County.

The trial court erred in determining an intentional injury exclusionary clause of a homeowner's insurance policy did not preclude coverage.

Reversed, Otis, J.

81-311/Sp. State of Minnesota, by Jim Lord, its treasurer, Appellant, v. The First National Bank of Saint Paul, a national banking association. Ramsey County.

The proposed examination of records of a national bank under Minn. Stat. § 345.53 (1980), which authorizes the state treasurer to examine the records of any holder of unclaimed property, is not an exercise of visitorial powers and is not preempted as to national banks under 12 U.S.C. § 484 (1976).

Reversed. Peterson, J. Took no part, Otis, J.

51332/14 Keith Vagle, Plaintiff, v. Pickands Mather & Co., Defendant. U.S. District Court.

Response to certified question. Whal, J. Took no part, Scott, J.

51529/14 John Conover, Appellant, v. Northern States Power Company. Dakota County.

An employer of an independent contractor may, as a possessor of land, be personally liable to an employee of the independent contractor who is injured on the job.

Failure to give JIG instructions on duties of a possessor of land and allowance of expert's opinion on legal question of applicability of Electrical Safety Code were harmless errors.

An employer of an independent contractor does not owe a nondelegable duty of care to the contractor's employees; the trial court did not err in refusing to instruct the jury on the Restatement (Second) of Torts §§ 416, 424, 427 and 428 (1965).

The conditional order for a new trial is reversed as to damages but affirmed as to liability.

Reversed in part and affirmed in part. Simonett, J. Dissenting in part, Wahl, Todd and Yetka, JJ. Took no part, Scott, J.

81-319 Laron K. Honn, *et al.*, v. The City of Coon Rapids, Appellant. Anoka County.

Certiorari is not a proper procedure to review a legislative rezoning decision of a city council.

On review of a zoning decision to the district court the parties are entitled to a trial but evidence is limited to that presented before the municipal body or to new or additional evidence relevant to issues that had been raised and considered before the municipal body.

The standard of review in zoning matters is the reasonableness of the municipal body's action, but the nature of the matter under review, whether legislative or quasi-judicial, has a bearing on what is reasonable.

In this case the "agreed upon" record required by the trial court was not adequate to present the city council's denial of a rezoning application for judicial review, and the case is remanded to the trial court for trial.

Reversed and remanded. Simonett, J. Took no part, Sheran, C. J.

81-210/Sp., 81-216 Henry C. Hagen v. City of Fergus Falls and Great Central Insurance Company, Relators (81-210), City of Fergus Falls and AID Insurance Company, Relators (81-216), State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

SUPREME COURT

The determination that medical reports, filed with the Workmen's Compensation Commission following an injury sustained by the employee in 1970 arising out of an in the course of his employment, did not constitute automatic registration of a physical impairment pursuant to Minn. Stat. § 176.131, subd. 4 (1969), has substantial evidentiary support.

Affirmed. Rogosheske, J.

Decision Filed Monday, December 14, 1981

81-796/Sp. State of Minnesota v. Jacqueline Rott, Appellant. Ramsey County.

Trial court was justified in departing from presumptive sentence in two ways, both in executing sentence and in increasing the sentence length, where evidence established that defendant was unamenable to probation and where conduct underlying the charged of which defendant was convicted showed that she had committed a major economic offense.

Affirmed as modified. Amdahl, J.

Decision Filed Tuesday, December 15, 1981

81-1053/Sp. State of Minnesota, Appellant, v. Moreene Esther Weber. Redwood County.

Held, appeal by prosecution pursuant to Minn. R. Crim. P. 29.03, subd. 1, will be dismissed where, absent special circumstances, the prosecutor fails to comply with the time limit for filing an appellant's brief.

Appeal dismissed. Sheran, C. J.

STATE CONTRACTS

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

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

Department of Education Instruction Division

Notice of Availability of Contracts for Community Educators

The Minnesota Department of Education has been awarded a Federal Grant to develop Community Partnerships. Contractors knowledgeable in the field of Community Education are being sought to complete the terms of the grant by June 30, 1982. One contract will involve establishment of model partnerships at five different Community Education sites. The other two contracts divide the tasks of coordinating the management of the project which includes planning, training, evaluation, and publication of the project monographs. Proposals from one contractor for one, two or three parts of the project may be made.

It is estimated that about $3,000 for each part of the project will be sufficient to accomplish the requirements. Authorized travel expenses will be reimbursed at state rates.

Send your response to:

Larry Erie or Don Peterson
Community Education
Room 680, Capitol Square Building
St. Paul, Minnesota 55101
Telephone (612) 296-2587 or 296-3160

Department of Transportation
Technical Services Division
Research and Development Office

Notice of Availability of a Contract for Implementation of Research Findings

The Department of Transportation acting as the agent for the Local Research Board requires the services of a consultant for implementation of research findings applicable to county highway and municipal streets in Minnesota. This contract involves the review of selected research, recommendation of implementation procedures and performance of effective implementation activities. Concurrent activity on several implementation projects may be anticipated.

A seasoned professional, with engineering and educational experience who is familiar with design, construction and maintenance practices and problems on Minnesota streets and highways, as well as national research trends, is desired.

The Local Road Research Board has budgeted a maximum of $30,000 per year for this two year contract. Interested bidders should note that the board may extend this project for an additional two years if they should decide to continue the project beyond the initial two year period.

Those interested may obtain a request for proposal from:

Gabriel S. Bodoczy
Research Services Engineer
Minnesota Department of Transportation
Research and Development Office
Room B-9, Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-4925

Request for Proposals will be available through January 15, 1982. All proposals will be due no later than January 26, 1982.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture
Agronomy Services Division

Notice of Special Local Need Registration for Far-Go Herbicide

Pursuant to Minn. Stat. § 18.A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on December 9, 1981, issued a Special Local Need Registration for Far-Go Granular Herbicide manufactured by Monsanto Agricultural Products Company, 800 North Lindbergh Boulevard, St. Louis, MO 63166.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In additional to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide to be fall applied with no incorporation until spring.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 81-0020) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
Phone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

December 16, 1981

Mark W. Seetin, Commissioner

Ethical Practices Board

Advisory Opinion #81

Approved by the Ethical Practices Board on December 2, 1981

Issued to:

Mr. Tim Groshens, Administrator
Lawyers Public Affairs Commission
110 Minnesota Federal Building
Minneapolis, MN 55402

Re: Voluntary Contribution Plans

Summary

81. Voluntary checkoff plans conducted by a membership association may be used by political committees or political funds to raise money if:

1. The political committee or fund reimburses the association for all costs in soliciting, collecting and recording amounts allocated to the political committee or fund and receives only legal contributions.

2. A single payment covering both dues and political contribution is put into a separate trust bank account with the political contribution transferred promptly to the political committee or fund. The trust bank account is subject to audit under Minn. Stat. § 10A.

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

Board of Nursing

Notice of Meetings and Availability of Information Pertaining to Adjudicatory Actions of the Board

The Board of Nursing will meet on the following dates during 1982 in Room 105, Minnesota Department of Health Building, 717 Delaware Street SE, Mpls., MN:

February 4 and 5
April 1 and 2
June 3 and 4
August 5 and 6
October 7 and 8
December 2 and 3

The public is cordially invited to attend the meetings. Information about time of the meetings or the agenda may be obtained from the Board of Nursing office.

The adjudicatory (disciplinary) actions taken by the Board of Nursing against professional nurses (RNs) and practical nurses (LPNs) are available following each board meeting. A list of actions will be sent upon receipt of a written request. Public documents are available for review at the Board office Monday through Friday between 8:00 a.m. and 4:30 p.m.

Address requests to Joyce M. Schowalter, Executive Secretary, Minnesota Board of Nursing, 717 Delaware St. SE, Mpls., MN 55414, telephone (612) 296-5493.

Department of Public Safety
Bureau of Criminal Apprehension

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Issuance of Explosives Licenses and Permits

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the issuance of explosives licenses and explosives permits. The promulgation of these rules is pursuant to Minnesota Statutes §§ 299F.71 through 299F.83 which authorizes the commissioner to issue explosives licenses and permits and determine eligibility.

The Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until February 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner

Department of Public Safety
Bureau of Criminal Apprehension

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Issuance of Permits for the Use of Police Communications Equipment in Motor Vehicles Pursuant to Minn. Stat. § 299C.37.

Notice is hereby given that the State of Minnesota, Department of Public Safety, Division of Bureau of Criminal Apprehension is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the issuance of permits for the use of police communications equipment in motor vehicles. The promulgation of these rules is authorized by Minnesota Statutes §§ 299C.37, subd. 3 which requires the superintendent of the Bureau of Criminal Apprehension to establish rules for carrying out and enforcing Minnesota Statutes §§ 299C.30 through 299C.38 concerning police radio broadcasting stations.

The Bureau of Criminal Apprehension requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until February 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner
John D. Erskine, Superintendent

Department of Public Welfare
Social Service Bureau

Notice of Intent to Solicit Outside Opinion Concerning Foster Care Services to Children

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.204, Foster Care-Children. This rule governs the administration and provision of foster care services to children and their families in Minnesota. Authority for this rule is contained in Minnesota Statutes, Chapters 257, 260, and 393. Authority is also

found in Public Law 96-272. The proposed changes are limited to revised sections on Service Plan (12 MCAR § 2.204 C.1.h.) and Rates Paid to Foster Home (12 MCAR § 2.204 C.1.1.).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made in writing and should be addressed to:

Sandra Erickson
Division of Social Services
Minnesota Department of Public Welfare
4th Floor, Centennial Office Building
St. Paul, MN 55155

All statements of information and comment must be received by January 31, 1982. Any written material received by the department shall become part of the hearing record.

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-7876. **Application deadline is January 19, 1982.**

HUMAN RIGHTS ADVISORY COMMITTEE has 1 vacancy for a member. The committee advises the Commissioner of Human Rights and recommends programs and policies. Members are appointed by the Governor. Monthly meetings are held. Members receive $35 per diem. For specific information, contact the Human Rights Advisory Committee at 240 Bremer Bldg., St. Paul 55101; (612) 296-5676.

BOARD ON JUDICIAL STANDARDS has 1 vacancy for a District Court Judge. The board investigates allegations of misconduct by Minnesota judges and recommends judicial discipline to the Supreme Court, including censure, suspension, retirement or removal of judges. Members are appointed by the Governor and confirmed by the Senate. Monthly meetings are held. Members receive $35 per diem. For specific information, contact the Board on Judicial Standards at 202 Minnesota State Bank Bldg., 200 S. Robert, St. Paul 55107; (612) 296-3999.

CORRECTIONS BOARD has 1 vacancy for a woman member. The board grants paroles and discharges to adult felons committed to the Commissioner of Corrections. Members are appointed by the Governor and confirmed by the Senate. Members must file with the Ethical Practices Board. Members hold six year terms. Positions are full-time. Members receive $25,682 annually. The board will expire June 30, 1982. For specific information, contact the Corrections Board at 430 Metro Square Bldg., St. Paul 55101; (612) 296-2729.

Waste Management Board

Notice of Elimination of Proposed Area in Shakopee from Further Consideration as a "Preferred Area" for Hazardous Waste Processing Facilities

At its December 4 meeting in Thief River Falls the Waste Management Board voted to eliminate from further consideration an area in Shakopee proposed by the board September 11 as a "preferred area" for hazardous waste processing facilities.

The board took the action after the Shakopee City Council voted on December 1 to withdraw its proposal of the area, a five-acre site formerly owned by Pollution Control, Inc. The area had originally been volunteered by the City Council and the Mayor of Shakopee for possible inclusion in the board's "Inventory of Preferred Areas for Hazardous Waste Processing Facilities," to be issued in February, 1982.

Following the Waste Management Board's December 4 action the board cancelled a public hearing on the proposed area, which had been scheduled for December 11.

Errata

At *State Register*, Volume 6, Number 25, December 21, 1981, page 1163 (6 S.R. 1163), in 4 MCAR § 7.009 C.1., change "April 1, 1981" to read "April 1, 1982."

STATE OF MINNESOTA

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FOR LEGISLATIVE NEWS

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Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Ethical Practices Board
41 State Office Bldg
Interoffice

STATE OF MINNESOTA

ETHICAL PRACTICES BOARD

In the matter of the Proposed Adoption Without a Public Hearing of Rules of the Ethical Practices Board governing Campaign Financing (9MCAR§§1.0001-1.0043); Economic Interest Disclosure (9MCAR§§1.0100-1.0111); Lobbyists (9MCAR§§1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter was published in the State Register on December 28, 1981, and proper notice required by Minnesota Statutes §15.0412 was served on all persons, associations, and other interested groups registered with the Ethical Practices Board for that purpose.

After affording interested and affected persons the opportunity to submit comments for 30 days after Notice, having considered all of the comments received, the Board finds the following:

FINDINGS

1. The Board received more than seven written requests for a public hearing on 9MCAR§§1.0012, 1.0026, 1.0029.G., 1.0038, 1.0043, 1.0044, 1.0045, 1.0046, 1.0105, 1.0209, 1.0301, 1.0501, 1.0508, 1.0602, and 1.0603, and these proposed rules have been withdrawn. The proposed deletion of the existing 9MCAR§1.0002 B., pertaining to the definition of "business day" is also withdrawn for reasons stated below. 9MCAR§1.0013 and EC 603 are not repealed because the proposed rules to which their contents were transferred received more than seven written requests for a public hearing and those proposed rules have been withdrawn. p.3

2. No written objections were received to 9MCAR§§1.0002, 1.0010, 1.0015, 1.0042, 1.0111, 1.0201, and 1.0601.

3. In 9MCAR§1.0002, the sentence beginning "For the purposes of 9MCAR§§1.0001-1.0046. . . ." should be changed to begin "For the purposes of 9MCAR§§1.0001-1.0043. . . ." because proposed rules 9MCAR§§1.0044-1.0046 have been withdrawn. p.1

4. Existing rule 9MCAR§1.0002 B. should not be deleted because proposed amendments to existing rules which would eliminate use of the term "business day" have been withdrawn. This rule is needed to define "business day" in existrule 9MCAR§1.0026. p.1

5. Proposed rule 9MCAR§1.0002 B. should be re-lettered and adopted as 9MCAR 9MCAR§1.0002 C. The re-lettering is necessary because the Board has found that rule 9MCAR§1.0002 B, as currently written should not be deleted. p.1

6. 9MCAR§1.0015 The rule as written inadvertently repeats statutory language about reporting requirements for candidates for the supreme court. Language pertaining to candidates for supreme court should be stricken. p.2

   9MCAR§1.0015 A should be clarified by moving reference to the reporting requirements of Minn. Stat. §10A.20, subd. 3(b), from the beginning of the rule to the end of this rule. p.2

In 9MCAR§1.0015 B reference to Minn. Stat. §10A.20, subd. 5, should be stricken. The reporting requirements of Minn. Stat. §10A.20, subd. 5, should be incorporated in proposed rule 9MCAR§1.0015 B.

7. 9MCAR§1.0601 B. As written this rule inadvertently and incorrectly suggested that a Board hearing on a contested case fell under proposed rules 9MCAR§§ 1.0602 and 1.0603. The citation should be changed to 9MCAR§1.0605 B. which pertains to a contested case initiated by Board order.

8. 9MCAR§1.0601 D. As proposed rule inadvertently makes reference to existing EC 606, which was renumbered as 9MCAR§1.0605 when published in the State Register on December 7, 1981, for adoption without a hearing. Since 9MCAR§1.0605 has been adopted by Board action February 3, 1982, reference to EC 606 should be changed to 9MCAR§1.0605 in 9MCAR§1.0601 D.

CONCLUSIONS

The rules to be adopted are reasonable and necessary. The changes in 9MCAR§§1.0002 and 1.0601 are corrections of omissions or inadvertent errors and do not change the substance of these rules. Therefore, with these changes 9MCAR§§1.0002, 1.0010, 1.0015, 1.0042, 1.0111, 1.0201, and 1.0601 should be adopted.

STATE OF MINNESOTA

February 3, 1982

Judith G. Schatzko

Chairperson

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, Judith Schotzko, do hereby certify that I am a member and the chairperson of the Ethical Practices Board, a board duly authorized under the laws of the State of Minnesota, and the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Ethical Practices Board, duly and properly called and held on the 3rd day of February, 1982, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that the rules relating to Campaign Financing (9MCAR§§1.0012, 1.0026, 1.0029. G., 1.0038, 1.0043, 1.0044, 1.0045, and 1.0046), Economic Interest Disclosure (9MCAR§1.0105), Lobbyists (9MCAR§1.0209), Conflict of Interest (9MCAR§ 1.0301), Representation Disclosure (9MCAR§§1.0501, 1.0508), and Hearings (9MCAR§§1.0602, 1.0603) as published in the State Register on December 28, 1981, for adoption without a public hearing were objected to by more than seven persons and are hereby withdrawn;

BE IT FURTHER RESOLVED, that the rules relating to Campaign Financing (9MCAR§§ 1.0002, 1.0010, 1.0015, 1.0042), Economic Interest Disclosure (9MCAR§1.0111), Lobbyists (9MCAR§1.0201), and Hearings (9MCAR§1.0601) as published in the State Register on December 28, 1981, for adoption without a public hearing and as revised consistent with the Board's Findings of Fact and Conclusions dated February 3, 1982, be and they hereby are approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes §10A.02, subd. 13, and that Judith Schotzko, Chairperson, and Mary Ann McCoy, Executive Director, of the Ethical Practices Board be and they are hereby authorized to sign an Order of the Board adopting these rules and further are authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 3rd day of February, 1982.

Attest by one other Board member

Judith G. Schotzko
Chairperson

STATE OF MINNESOTA
COUNTY OF RAMSEY

ETHICAL PRACTICES BOARD

In the matter of Proposed Rules governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

STATEMENT OF NEED AND REASONABLENESS

The Ethics in Government Act, Minn. Stat. ch. 10A, enacted in 1974, authorized the Ethical Practices Board to promulgate rules to carry out the purposes of the Act. Rules have been adopted governing Campaign Financing (9MCARSS1.0001-1.0043 - adopted 1974; amended 1976, 1978, 1979); Economic Interest Disclosure (9MCARSS1.0100-1.0111 - adopted 1974; amended 1976, 1978, 1979); Lobbyists (9MCARSS1.0200-1.0209 - adopted 1974; amended 1979); Conflict of Interest (EC300-307 - adopted (1975); Representation Disclosure (EC500-507 - adopted 1975); and Hearings (EC601-623 - adopted 1975; amended 1977).

The need to amend these rules arises in order to implement registration and reporting requirements of Minn. Stat. ch. 10A enacted in Laws of 1975 Chapter 271, Laws of 1978 Chapter 463, Laws of 1979 Chapter 59, and Laws of 1980 Chapter 607; nomenclature changes in Minn. Stat. ch. 15 enacted in Laws of 1975 Chapter 271; and the application of Minn. Stat. ch. 645 to agency rules enacted in Laws of 1981 Chapter 117; to enable the Board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the Board; to guide the Board in providing forms and monitoring compliance; to provide the public with information regarding the data collected by Minn. Stat. SS10A.01-10A.34; to remove obsolete provisions and language from existing rules; and to incorporate applicable advisory opinions which lapse on the day of adjournment of the regular session of the Legislature in the second year following the date of the opinion.

The following material describes the need for and reasonableness of each rule proposed; texts of advisory opinions and findings cited are attached and are hereby incorporated in this statement. To assist members of the public who are not trained in the law or in political activities and who are involved in endeavors regulated and administered by Minn. Stat. ch. 10A, rules which paraphrase statutory language are crucial to the understanding of the rules.

CHAPTER ONE: CAMPAIGN FINANCING RULES

9MCARS1.0002 Definitions. Reference to the Act is removed as unnecessary to the understanding of the rules. Reference to time and date of filing is clarified to conform with existing rule 9MCARS1.0111, and the method of computing time in Minn. Stat. ch. 645; repetition of statutory language in Minn. Stat. S 10A.20 is removed.

9MCARS1.0010 Campaign literature. Clause B of this rule clarifies that since literature distributed by a candidate's committee is presumed to be for the purpose of influencing the nomination or election of the candidate, the cost of the literature must be reported by the candidate's committee

whether or not the literature is also an in-kind donation from the group which prepared the literature. This rule provides a fair way for candidates and their campaign committees to disclose to the public the actual costs of materials distributed during a campaign; ensures disclosure of contributions and expenditures which must be applied toward the applicable limits imposed by Minn. Stat. §§10A.25 and 10A.27; incorporates the substance of Advisory Opinion #71 to give guidance to principal campaign committees.

9MCAR§1.0012 Change of office sought by candidate. This rule establishes administrative procedures to ensure timely disclosure to the public about the activities of principal campaign committees established to influence the nomination or election of the same individual to different offices. Language added to Clause A. 1. clarifies that the provisions of the existing rule apply only when change in office sought occurs in the same year in which there is an election for both of the offices. In subsequent election years, contribution and expenditure limits applicable to the particular office sought must be applied jointly to all of that candidate's principal campaign committees in order to ensure that contributions received by that candidate and expenditures made by that candidate during an election year are in compliance with limits applicable to the single office sought in a specific election. At present, a candidate with more than one active committee may receive total contributions and make total expenditures through all the committees which are in excess of the applicable limits imposed by Minn. Stat. §§10A.25 and 10A.27. In order to provide timely disclosure and ensure that the applicable spending limits are not exceeded, the rule requires all principal campaign committees established by the same candidate to report before the primary election and before the general election, whether or not there is an election in that year for one or more of the offices to which that candidate sought nomination or election.

9MCAR§1.0015 Judicial candidate. This rule is needed to implement the provisions of Laws of 1979, Chapter 59 Sections 2 and 7 which extended the campaign finance disclosure provisions of Minn. Stat. ch. 10A to candidates for county court, probate court, and county municipal court; to clarify the application of Minn. Stat. §10A.20, subds. 3(b) and 5 to candidates for elective judicial office; and to give guidance to principal campaign committees established by these candidates. Contribution disclosure requirements in Minn. Stat. §10A.20, subds. 3(b) and 5, for statewide candidates are applied to candidates for the supreme court since candidates are elected from the entire state. Contribution disclosure requirements in Minn. Stat. §10A.20, subds. 3(b) and 5, for legislative candidates are applied to candidates for the district, county, and probate courts since candidates are elected from geographic areas more related in size to legislative districts than to the entire state. This rule incorporates provisions of the current rule, 9MCAR§1.0015 Contribution disclosure judgeship.

9MCAR§1.0026 Late filing fees. Provisions of the present rule regarding computation of late filing fees by business days conflict with computation of time in Minn. Stat. ch. 645, which applies to rules under Laws of 1981, Chapter 117, Section 2. The proposed amendments provide uniform references to the administration of late filing fees which are consistent with late filing fee provisions in other chapters of these rules; remove reference to "business days"; incorporate language consistent with existing

9MCAR§1.0105 which establishes the date when the late filing fee commences after an undelivered certified notice is forwarded by first class mail; deletes language in the present rule which conflicts with existing 9MCAR§1.0105.

9MCAR§1.0029 Noncampaign disbursements; constituent services. This rule incorporates the substance of Advisory Opinion #68 to give guidance to principal campaign committees. The opinion and the rule are based on Minn. Stat. §10A.01, subd. 10c(f) which specifies that constituent services performed from the beginning of the term to 60 days after adjournment sine die of the legislature in the election year for the office held are deemed to be noncampaign disbursements. Additionally, the opinion and the rule are based on Minn. Stat. §10A.01, subd. 10c (g) which authorizes the Board to determine whether an activity involves a noncampaign disbursement.

9MCAR§1.0038 Sample ballot prepared by a candidate. This rule incorporates the substance of Advisory Opinion #63 to give guidance to associations and principal campaign committees. The rule guides associations which may screen candidates for endorsement with the intention of preparing sample ballots advocating the election of certain candidates by specifying when such ballot preparation will be authorized or independent expenditures.

9MCAR§1.0042 Special elections. This rule clarifies the provisions of Minn. Stat. §§ 10A.32, subd. 3b and 10A.33. Additionally the rule clarifies that Minn. Stat. § 10A.01, subd. 9, defines elections to include special elections, however, Minn. Stat. § 10A.33 provides that the tax credit agreement and public financing provisions of Minn. Stat. §§ 10A.30-10A.32 do not apply to special elections. This rule clarifies that the campaign contribution limits of Minn. Stat. § 10A.27 apply to special elections. Language provides uniform reference to tax credit agreement; substance of the existing rule is unchanged and appears in Clause C.

9MCAR§1.0043 Termination of registration. Clauses B and C establish administrative procedures which may be applied to allow inactive committees with unpaid bills subject to statutes of limitation to terminate under Minn. Stat. § 10A.24. Inactive committees with unpaid bills now must continue to report; however, their unpaid bills may have been written off by creditors as bad debts. In addition, Minn. Stat. § 541.05 creates a six year limitation on contract actions. The cost of requiring public disclosure exceeds the public good. Clause B is based upon the fact that all money received by the Board under Minn. Stat. ch. 10A is deposited in the general fund of the state. Clauses A and D incorporate, unchanged, the substance of the current rule.

9MCAR§1.0044 Return of public financing. This rule establishes administrative procedures to clarify the circumstances which require the return of public financing received from the state elections campaign fund; to provide for enforcement of the timely return of public financing, where required; to guide candidates and their principal campaign committees in compliance with Minnesota's public financing law. Paraphrase of statutory language in this rule is crucial to the understanding of the rule by candidates and campaign committee treasurers who are affected by the limitations upon the state election campaign fund imposed by Minn. Stat. § 10A.32. Clause B. informs the public of the steps the Board will take to enforce the provisions of Minn. Stat. § 10A.32. In addition to the Board's authority for promulgating rules, need for this rule is supported by Minn. Stat. § 10A.02, subds. 8(c) and 9.

9MCAR§1.0045 Multi-candidate support by state political parties. This rule clarifies the application of Minn. Stat. § 10A.275 to disclosure of the source of contributions which are expended to pay costs of official party sample ballots and phone banks relevant to candidates defined in Minn. Stat. § 10A.01, subd. 5; guides state political parties in preparation of reports required by Minn. Stat. § 10A.20. The rule clarifies that all funds used by political parties to make expenditures for candidates defined in Minn. Stat. ch. 10A must be reported in accordance with the applicable law, including contributions from sources not registered with and reporting to the Board.

9MCAR§1.0046 Ballot questions. This rule is needed in order to clarify the registration and reporting requirements for individuals, associations, principal campaign committees, political committees, and political funds required by Laws of 1980, Chapter 607 to file statements and reports about contributions and expenditures to promote or defeat a ballot question. This rule incorporates the substance of Advisory Opinions #65, #67, #70, and #73 issued in 1980 which will lapse before the 1982 general election.

A. This clause incorporates the substance of Advisory Opinions #65, Questions 9 and 10; #67; and #73 and clarifies the circumstances under which associations are required to register and report contributions to promote or defeat a ballot question under Minn. Stat. §§ 10A.01, subds. 7, 10a, 10b, 16; 10A.12, subds. 1, 5; 10A.13; 10A,14; 10A.19, subd. 4; and 10A.20, subd. 3(g).

B. Clauses B1 and B2 incorporate the substance of Advisory Opinion #65, Questions 7 and 8 and clarify that contributions to a candidate from an association's political committee or political fund and the same association's ballot question committee or fund shall be aggregated and shall not exceed the contribution limits imposed by Minn. Stat. § 10A.17. Clause B3 incorporates the Board's policy that an association makes expenditures for postage, envelopes, and labor regardless of whether or not ballot question literature is mailed with other communications from the association, such as statements or bills; provides guidance to associations which are required to register and report contributions and expenditures to promote or defeat a ballot question under Minn. Stat. ch. 10A.

C. This clause incorporates the substance of Advisory Opinions #65, Questions 3, 5, and 13; and #70 and clarifies the application of Minn. Stat. §§ 10A.01, subds. 10, 10a, 10b; 10A.17; 10A.25; 10A.32, subds. 1, 2, to the allocation of expenditures to promote or defeat a ballot question by principal campaign committees, political committees, and political funds.

CHAPTER TWO: ECONOMIC INTEREST DISCLOSURE RULES

9MCAR§1.0105 Late filing fees. Changes the computation of late filing fees. Provisions of the present rule regarding computation of late filing fees by business days conflict with computation of time in Minn. Stat. ch. 645, which applies to rules under Laws of 1981, Chapter 117, Section 2. The proposed amendments provide uniform references to the administration of late filing fees which are consistent with the late filing fee provisions in other chapters of these rules.

9MCAR§1.0111 Time for filing. Reference to time and date of filing is clarified to conform with provisions of other Board rules and with the method of computing time in Minn. Stat. ch. 645.

CHAPTER THREE: LOBBYIST REGISTRATION AND REPORTING RULES

9MCAR§1.0201 Definitions. Except for reference to the time and date of filing to conform with existing rule 9MCAR§1.0111 and the method of computing time in Minn. Stat. ch. 645, the substance of this rule is unchanged.

9MCAR§1.0209 Late filing fees. Provisions of the present rule regarding computation of late filing fees by business days conflict with the computation of time in Minn. Stat. ch. 645, which applies to rules under Laws of 1981, Chapter 117, Section 2 and with Minn. Stat. §§ 10A.03, subd. 3 and 10A.04, subd. 5. The latter conflict adversely affects attempts to secure both a delinquent registration or report and payment of a late filing fee in the same legal action. The rule incorporates language consistent with existing 9MCAR§1.0105 and provides uniform reference to the administration of late filing fees.

CHAPTER FOUR: CONFLICTS OF INTEREST RULES

9MCAR§1.0301 Definitions. This rule removes language which is obsolete and which repeats Minn. Stat. §§ 10A.01, subd. 4; and 10A.01, subd. 18, presently in effect as EC301(c) and (f); provides reference to state agencies under Laws of 1975, Chapter 271. Reference to time and date of filing is clarified to conform with other Board rules and the method of computing time in Minn. Stat. ch. 645. The rule is currently in effect as rule EC301.

CHAPTER FIVE: REPRESENTATION DISCLOSURE RULES

9MCAR§1.0501 Definitions. This rule removes obsolete language and language which repeats Minn. Stat. §§ 10A.01, subd. 4, and 10A.01, subd. 18 under EC501 (c) and (g); clarifies time and date of filing to conform to provisions of other Board rules and the method of computing time in Minn. Stat. ch. 645. The rule is currently in effect as rule EC501.

9MCAR§1.0508 Late filing fees. Laws of 1978, Chapter 463, Section 34 authorized the Board to levy late filing fees for failure to file timely Representation Disclosure Statements. In order to clarify the provision for the public officials potentially liable for late filing fees, this rule establishes procedures to impose late filing fees. The proposed rule provides uniform references to the administration of late filing fees which are consistent with late filing fee provisions in other chapters of these rules, including 9MCAR§1.0105 which establishes the date when the late filing fee commences after an undelivered certified notice is forwarded by first class mail. (see 9MCAR§§1.0026, 1.0105, and 1.0209)

CHAPTER SIX: HEARINGS RULES

9MCAR§1.0601 Definitions. This rule removes obsolete language; adds reference to time and date of filing to conform with rule 9MCAR§1.0111; substance of present rule is unaltered. The rule is currently in effect as rule EC601.

9MCARS1.0602 Complaints of violations. Clauses A, B, C, and E are presently in effect as 9MCARS1.0013.

D. Since Minn. Stat. § 10A.11 instructs the Board to report its findings in matters of probable cause to the appropriate law enforcement authorities, this rule is proposed to clarify that individuals who appear before the Board regarding an investigation of a complaint must be truthful in their responses to Board questions and must submit truthful statements.

E. The substance of this clause is presently in effect as 9MCARS1.0013 D.

F. Presently in effect as rule EC603 (b) (4), this clause has been added to clarify the application of Minn. Stat. § 10A.13 and Minn. Stat. ch. 15 to the investigation of complaints.

G. and H. Incorporating the Board's public findings in a complaint, August 24, 1981, these clauses apply the confidentiality provisions of present rule 9MCARS1.0013 to the case of an individual publicly complaining about an alleged violation of Minn. Stat. ch. 10A and then subsequently filing a complaint with the Board, thereby causing the confidentiality provisions of Minn. Stat. § 10A.02, subd. 11 to prevent the individual or association complained against from responding publicly.

9MCARS1.0603 Investigations and audit. The substance of existing rule EC603(b) is incorporated in this rule; obsolete language, including reference to "Ethics Commission" which was changed to Ethical Practices Board by Laws of 1975, Chapter 271, Section 6, is removed. Although the rule is presented as "all new material", Clauses A, B, C, and D contain the substance of existing EC603(b), unchanged. Clause E incorporates by reference the procedures proposed in 9MCARS1.0602 D. and E. regarding meetings of the Board during investigation or audit.

REPEALER

9MCARS1.0013 Complaints of violations. This rule is repealed in Chapter One, Campaign Financing Rules, and is proposed with amendments as 9MCARS1.0602 in Chapter Six, Hearing Rules in order to clarify its application to potential violations of Minn. Stat. §§ 10A.01-10A.34.

EC603 Complaints, investigations and audits. This rule is repealed because it is superseded by proposed 9MCARSS1.0602 Complaints of violations and 1.0603 Investigations and audits because the latter rule incorporates the substance of existing rule EC603.

SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ETHICAL PRACTICES BOARD
41 State Office Building
St. Paul, MN 55155

TO : The Public

DATE: December 16, 1981

FROM : Mary Ann McCoy
Executive Director

PHONE: (612) 296-1720

SUBJECT: Texts of Advisory Opinions and Board Findings (attached)

Advisory Opinions

The texts of advisory opinions issued by the Ethical Practices Board which are incorporated in proposed rules and cited and incorporated in the Statement of Need and Reasonableness are attached:

Advisory Opinion #63 - Sample ballot (Campaign Finance Rule 9MCAR§1.0038, 8-1-80;
Advisory Opinion #65 - Ballot questions (Campaign Finance Rule 9MCAR§1.0046), 7-9-80, specifically opinions on Questions 3, 5, 7, 8, 9, 10, and 13;
Advisory Opinion #67 - Ballot question support (Campaign Finance Rule 9MCAR§1.0046), 6-6-80;
Advisory Opinion #68 - Radio spots (Campaign Finance Rule 9MCAR§1.0029), 7-9-80;
Advisory Opinion #70 - Ballot question expenditures (Campaign Finance Rule 9MCAR§1.0046), 8-1-80;
Advisory Opinion #71 - Campaign literature (Campaign Finance Rule 9MCAR§1.0010), 9-19-80; and
Advisory Opinion #73 - Corporate ballot question (Campaign Rule 9MCAR§1.0046), 9-19-80.

The Ethical Practices Board is authorized to issue advisory opinions on the requirements of the Ethics in Government Act, Minn. Stat. ch. 10A (see Minn. Stat. §10A.02, subd. 12) and the Hennepin County Disclosure Law (see Laws of 1980, Chapter 362, Section 15). Individuals or associations may ask for advisory opinions about these laws to guide their own conduct.

A request for an advisory opinion is published in the State Register before action is taken by the Board to approve an opinion. Public comment is invited. A summary of each approved advisory opinion is published in the State Register; full texts of opinions are published by the Board in booklet form.

An advisory opinion lapses the day the regular legislative session adjourns in the second year following the date of the opinion (Minn. Stat. §10A.02, subd. 12).

Findings

"Findings in the Matter of the Ethical Practices Board's Complaint Regarding Michael Hatch and the Confidentiality Provisions of the State Ethics in Government Act," August 24, 1981, are incorporated in the following proposed rule and are cited and incorporated in the Statement of Need and Reasonableness:

(Over)

Hearings Rule 9MCAR§1.0602 Complaints of violations

The Ethical Practices Board is authorized to investigate complaints of alleged violations of Minnesota Statutes Chapter 10A (see Minn. Stat. §10A.02, subd. 11. The Board shall notify any individual or association of the fact of the investigation and the nature of the allegations. The Board shall make no finding of whether or not there is probable cause to believe a violation has occurred without affording an opportunity for the individual or association to answer the allegations.

Enc.

Issued to:

Approved:

Mr. Denis Wadley
Vice President (State Board)
Americans For Democratic Action
Minnesota Chapter
P. O. Box 19288
Minneapolis, MN 55419

August 1, 1980

RE: Sample Ballot

ADVISORY OPINION #63

SUMMARY

63. A candidate's appearance at a pre-endorsement interview, standing alone, should not be construed as a "request" or "suggestion" (*Minn. Stat.* 10A.01, subd. 10) that Americans For Democratic Action (ADA) make an expenditure on behalf of the candidate, however, such appearance does set in motion the application of *Minn. Stat.* 10A.17, subd. 2, when and if, the ADA decides to prepare and distribute a sample ballot on behalf of candidates.

ADA must request written authorization for expenditures over $20 from appropriate treasurers before spending money to prepare and distribute sample ballots on behalf of candidates who have screened before ADA. Should written authorization be granted, then ADA reports the sample ballot expenditure as an approved expenditure on behalf of the candidate (*Minn. Stat.* 10A.01, subd. 10). If written authorization is expressly denied, then the expenditure would be treated as an independent expenditure (*Minn. Stat.* 10A.17, subd. 5).

FACTS

Americans For Democratic Action (ADA) is a non-partisan liberal organization which supports selected candidates for elected office. As part of this process, ADA screens and endorses candidates, and distributes to the general public sample ballots supporting those candidates it endorses. ADA selects the races in which it will make endorsements, and ordinarily asks every candidate for an office to participate in the pre-endorsement screening process. ADA does not request a candidate's consent to its statements or literature, and does not work with the candidate's campaign committee, but instead determines for itself the type and extent of support it will provide.

QUESTION

How should the expenses involved in printing and distributing sample ballots be treated under the campaign finance provisions of the Ethics In Government Act, *Minn. Stat.* Ch. 10A (1978)?

OPINION

The sample ballots circulated by ADA are clearly intended to influence the nomination or election of particular candidates. The cost of printing and distributing these sample ballots is therefore a "campaign expenditure" within the meaning of *Minn. Stat.* 10A.01, subd. 10 (1978).

The question presented is whether these campaign expenditures are subject to the contribution and expenditure limits of Chapter 10A. That chapter, of course, limits the amount which an individual or organization may contribute to a candidate. *Minn. Stat.* 10A.27. Although, to some degree, such contribution limits necessarily restrict contributors' rights of expression and association, this restriction is justified by the need to prevent the potentially coercive influence of large financial contributions upon candidates' positions and actions. Of equal concern is the appearance of corruption stemming from the opportunities for abuse inherent in very large contributions, a perception corrosive to public confidence in our system of representative government. Buckley v. Valeo, 424 U.S. 1, 25-29 (1976). Similarly, candidates who accept public campaign financing are subject to limitations upon the total amount they may expend and the total amount of contributions they may accept. *Minn. Stats.* 10A.25, 10A.32 (1978). We believe the importance of these limitations is well established.

If contribution and expenditure ceilings are to have meaning, however, they must be free from loopholes which invite their circumvention. Such limitations would be impotent if they could be avoided by the simple expedient of having supporters outside the campaign organization pay directly for campaign literature, advertisements or other aspects of a candidate's campaign. To prevent such circumvention of the limits, the Minnesota statutes, like their federal counterparts, were written to identify third-party expenditures which are properly imputable to the candidate, and to count those expenditures toward the candidate's contribution and expenditure limits.

While this principle is clear, it is not self-implementing; its application requires the drawing of difficult, but unavoidable, distinctions. The purpose is to identify those expenditures which have a sufficient nexus to the candidate that they should be imputed to him or her. The Minnesota statutes do this by distinguishing between "approved expenditures," which, while made by persons outside the campaign organization, are counted toward a candidate's limits, *Minn. Stats.* 10A.01, subd. 10a; 10A.25; 10A.27 and 10A.32; and "independent expenditures," which are not counted toward such limits. *Minn. Stat.* 10A.01, subd. 10b. An approved expenditure is an expenditure made "with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of /a/ candidate, his principal campaign committee or his agent," *Minn. Stat.* 10A.01, subd. 10a, while an independent expenditure is an expenditure expressly advocating the election or defeat of a candidate which is made "without the express or implied consent, authorization, or cooperation" of, and not "in concert with or at the request or suggestion of," a candidate or the candidate's agent or principal campaign committee. *Minn. Stat.* 10A.01, subd. 10b.

This distinction is precisely parallel to that drawn by the language of former federal statutes approved in Buckley v. Valeo, supra. Under those provisions, expenditures which were "authorized or requested" by a candidate or the candidate's agent or authorized committee, were treated as contributions to, and expenditures by, the candidate. 18 U.S.C. § 608(C(2) (B) 1970 ed., Supp. IV). In Buckley v. Valeo, supra, 424 U.S. at 47, the United States Supreme Court looked to the legislative history for guidance in distinguishing such "authorized or requested" expenditures from independent expenditures. The Court's opinion indicates that an expenditure prearranged or coordinated with a candidate, or made with the candidate's consent or cooperation, is to be treated as a contribution subject to the federal contribution limits. The Court quoted the Senate Report on the legislation for an example illustrating this distinction:

"[A] person might purchase billboard advertisements endorsing a candidate. If he does so completely on his own, and not at the request or suggestion of the candidate or his agent's [sic] that would constitute an 'independent expenditure on behalf of a candidate' under section 614(c) of the bill. The person making the expenditure would have to report it as such."

"However, if the advertisement was placed in cooperation with the candidate's campaign organization, then the amount would constitute a gift by the supporter and an expenditure by the candidate -- just as if there had been a direct contribution enabling the candidate to place the advertisement himself. It would be so reported by both."

Buckley v. Valeo, supra, 424 U.S. at 47, n. 53, quoting S. Rep. No. 93-689, at 18 (1974), U.S. Code Cong. & Admin. News 1974, at 5604.

Further guidance can be found in federal provisions adopted in light of Buckley, which define an "independent expenditure" as one not made at the request or suggestion of, or in concert with, or in cooperation or consultation with, the candidate or the candidate's agent or committee. 2 U.S.C. § 431(p). An expenditure is not "independent," under these statutes, if it involves any prior arrangement, coordination or direction by the candidate or the candidate's agent, 11 C.F.R. § 109.1(b) (4) (i). Any expenditure made on the basis of information about the candidate's needs, plans or projects is presumed to be an authorized expenditure if the information was supplied by the candidate or the candidate's agent "with a view toward having an expenditure made." Id.

With these criteria in mind, we turn to the situation you describe. Are the expenditures made by ADA, to distribute sample ballots to the general public, "approved expenditures" within the meaning of *Minn. Stat.* 10A.01, subd. 10a? Although other elements of the statutory definition may also be applicable, we believe the question, in essence, is whether the expenditures can be said to be made at the candidate's "request or suggestion." § 10A.01, subd. 10a.

This question necessarily involves a factual determination which may vary from one instance to the next. For example, if ADA makes its endorsement and distributes its sample ballot supporting a candidate without any contact whatever with the candidate or the candidate's campaign organization or agents, then the expenditure will be an independent expenditure. In contrast, if the sample ballot is prepared or distributed in concert with the candidate's campaign organization -- e.g., if it is written, printed, or distributed by the candidate's committee, or if it is circulated in precincts specifically requested by the candidate -- then the expenditure would in all likelihood be an approved expenditure attributable to the candidate.

The case you posit is more difficult. As we understand the facts, the only contact between ADA and the candidate's campaign typically consists of the candidate's appearance at a pre-endorsement screening interview, to which all candidates are invited. We do not believe the candidate's mere appearance at a screening interview, standing alone, should be construed as a "request" or "suggestion" that ADA expend money on the candidate's behalf, in the absence of any further indication that such a request or suggestion is intended. We do believe, however, that a candidate's appearance at such a screening interview is sufficient to set in motion the application of *Minn. Stat.* 10A.17. That provision requires that before

spending more than $20 for any expenditure approved by a candidate, the person or organization contemplating the expenditure must obtain written authorization from the treasurer of the candidate's principal campaign committee. *Minn. Stat.* 10A.17, subd. 2; see also 9 MCAR §1.0007. This provision is intended to allow the expenditure to be counted against the candidate's expenditure and contribution limits, to insure that the candidate has knowledge of the expenditure and an opportunity to disavow it, and to provide a single, central point to which all contributions, committee expenditures and approved expenditures are reported.

As we interpret chapter 10A, ADA must request written authorization from the appropriate treasurers before spending money to prepare and distribute sample ballots on behalf of candidates who have screened before ADA. If written authorization is granted, then the expenditures are counted toward the expenditure limits and aggregate contribution limits of the candidate. In addition, ADA must must report the expenditures as approved expenditures, and the expenditures are subject to the statutory limit on the amount a person or organization may contribute.

If written authorization is expressly denied, then the expenditure would be treated as an independent expenditure, and reported by the ADA as such, in the absence of evidence that the denial of authorization is not genuine. *Minn. Stat.* 10A.20, subd. 6. In such a case, ADA would be required to include on the face of its sample ballot a conspicuous disclaimer, stating that the ballot was not approved by the candidate, in accordance with *Minn. Stat.* 10A.17, subd. 5 — a requirement designed to protect the candidate from unauthorized communications and to enable the public to determine which communications have been authorized by a candidate. Bang v. Chase, 442 F. Supp. 758, 769 (1977) aff'd 98 S.Ct. 2840 (1978).

We are sensitive to the danger that a candidate might arrange for an expenditure to be made by supporters, and then execute a sham disavowal of the expenditure, as a means of subverting the contribution and spending limits. If other evidence indicates that an expenditure is in fact authorized or approved by a candidate, we will not hesitate to look past a purported denial of written authorization.

Absent such evidence, however, we believe there are sufficient statutory safeguards that an expenditure for which the candidate's treasurer has denied authorization may be treated as independent. We note that pursuant to *Minn. Stat.* 10A.17, subd. 5, any person who falsely claims that a candidate has not approved an expenditure is guilty of a misdemeanor. In addition, a person or organization making independent expenditures in excess of $100 in one year must file with this Board a sworn statement that the expenditures were not made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of any candidate or agent or principal committee of a candidate. We believe these provisions will help to deter purportedly independent expenditures which are in fact requested by the candidate.

To summarize, then, it is our opinion that where a candidate has appeared for the purpose of being screened for endorsement by ADA and inclusion on its sample ballot, it is incumbent upon ADA to request the authorization of the candidate's treasurer to make expenditures to distribute the sample ballots on the candidate's behalf. If authorization is granted, the expenditure is reported as an approved expenditure, and therefore a contribution. If authorization is denied, the expenditure is reported as an independent expenditure, absent evidence that the denial is a sham.

Issued to:

Rep. Gerald Knickerbocker
395 State Office Building
St. Paul, Minnesota 55155

Approved:

July 9, 1980

RE: Ballot Questions

ADVISORY OPINION #65

SUMMARY

65. Contributions and expenditures made to promote or defeat ballot questions are not subject to campaign expenditure or aggregate contribution limits, but are subject to individual contribution limits.

Expenditures by a candidate or by a candidate's principal campaign committee, and "approved expenditures", will not be considered to promote or defeat a ballot question if the communication clearly identifies the candidate; such expenditures will instead be counted toward the candidate's limits. Thus, expenditures for any of the following purposes will count toward the candidate's limits, if the expenditure is made by the candidate or his principal campaign committee: advertisements or sample ballots containing the name or picture of the candidate; a forum or broadcast in which the candidate participates; and newsletters, columns, questionnaires or mass mailings which are either (a) made for purposes other than constituent service purposes, or (b) made more than sixty days after adjournment of the legislature sine die.

Expenditures made by a political committee or political fund other than a principal campaign committee of a candidate to promote or defeat a ballot question or questions may be considered approved expenditures on behalf of a candidate in certain circumstances.

"Independent expenditures" which expressly advocate a position on a clearly identified ballot question will be treated, at least in part, as ballot expenditures, but may also be treated in part as independent expenditures on behalf of a candidate.

FACTS

In its 1980 session the legislature made a number of changes in *Minn. Stat.* Chapter 10A. You have asked the following questions regarding the treatment of contributions and expenditures to promote or defeat a ballot question:

QUESTION

3. *Minn. Stat.* 10A.32, subdivisions 1 and 2 indicate that a candidate may not receive public funds in an amount greater than the amount of campaign expenditures that that candidate made during his campaign. Do "expenditures" to promote or defeat a ballot question made by a candidate apply in making this determination? Can public funds be used by a candidate to promote or defeat a ballot question?

OPINION

3. No. Expenditures to promote or defeat a ballot question are not expenditures to influence the nomination or election of a candidate, therefore public funds cannot be used to promote or defeat a ballot question.

QUESTION

5. What constitutes "promoting or defeating a ballot question" within the meaning of Article XVII, Section 8? What if the "expenditure or contribution" does not expressly advocate the promotion or defeat of a particular ballot question, but deals with several ballot questions generally? What if it is merely informative in nature? Do groups or individuals who merely provide informative material have to register with the Board and file disclosure reports?

OPINION

5. The determination whether an expenditure is made "to promote or defeat a ballot question" will depend in part on the identity of the person or organization making the expenditure. If the expenditure is made by a candidate, or by a candidate's principal campaign committee, then the expenditure will be considered as an expenditure to promote or defeat a ballot question if it is made for a communication which (1) does not identify the candidate, (2) expressly advocates a position with regard to a ballot question, and (3) clearly identifies the ballot question or questions on which a position is advocated. (See Answer to Question 13).

These three criteria will similarly govern the classification of expenditures which are not made directly by a candidate or the candidate's principal campaign committee, but which are nevertheless "approved" by the candidate or committee, within the meaning of *Minn. Stat.* 10A.01, subd. 10a (1978). Such "approved expenditures" are those in which there is sufficient interaction, coordination, or linkage between the person making the expenditure and the candidate's campaign that the expenses may properly be imputed to the candidate. "Approved expenditures" include expenditures made with the express or implied consent, authorization, cooperation, request or suggestion of the candidate, his principal campaign committee or agents; such expenditures will not be considered "to promote or defeat a ballot question" unless they meet the three criteria set out above.

In contrast, an expenditure which is not an approved expenditure, but rather an independent expenditure by a person or organization other than the candidate or the candidate's principal campaign committee, will be considered as promoting or defeating a ballot question if the expenditure involves a communication which (1) expressly advocates a position with regard to (2) a clearly identified ballot question or questions. Independent expenditures which meet these two criteria may at the same time promote the candidacy of a particular candidate, and may therefore have to be allocated, with part of the cost treated as an expenditure to promote or defeat a ballot question, and part of the cost treated as an independent expenditure on behalf of the candidate.

To "expressly advocate a position" on a ballot question, a communication must contain express words of advocacy of support for, or opposition to, the ballot question, such as "vote for," "support," "cast your ballot for," "'yes' on proposition X," "defeat," or other language clearly urging a particular position. To "clearly identify" a ballot question, a communication must include an explicit reference to the particular question or questions--for example, by the proposition's formal or popular title; by number, if it is numbered on the ballot; or by any other unambiguous reference. Thus, expenditures for communications which are purely "informative," or which discuss a question or questions "generally," will not come within the registration and reporting requirements if they do not expressly advocate a position on particular questions, and if they are not otherwise subject to registration and reporting as expenditures to influence the election or defeat of a candidate.

QUESTION

7. What criteria does the candidate use in determining whether a given "contribution or expenditure" is made or given to promote or defeat a ballot question? For example, does the contributor have to clearly state on his contribution that it is made to promote or defeat a ballot question?

OPINION

7. *Minn. Stat.* 10A.19, subd. 1, requires an individual who seeks nomination or election to office to form a single principal campaign committee to report all contributions and expenditures. Since the primary purpose of a principal campaign committee is to support the nomination or election of a candidate, all contributions received by the committee shall be considered money or anything of value to influence a candidate's nomination or election, even though the candidate chooses to

QUESTION

8. How do the contribution limits in *Minn. Stat.* 10A.27 apply to "contributions" to promote or defeat a ballot question which are given to a candidate? For example, can an individual, political committee or political fund contribute up to $750 to a House candidate for the purpose of promoting or defeating each ballot question? Or does the $750 limit apply in aggregate to all contributions made to a candidate from that individual, political committee or political fund, regardless whether it was made to promote or defeat a ballot question? What is a candidate receives contributions from the same organization, but that organization has established two separate committees: one for supporting candidates and one for supporting or opposing ballot questions?

OPINION

8. *Minn. Stat.* 10A.27, limits all contributions to a candidate's principal campaign committee. Since the Board considers all funds received by a principal campaign committee to be for the primary purpose of influencing a candidate's nomination or election, all contributions to the committee are subject to the contribution limits. An individual or organization cannot give money to a candidate exclusively for ballot question support without being subject to contribution limitations. If an organization establishes one political committee or political fund to support candidates and another to support or oppose a ballot question and both political committees or political funds give a contribution to a principal campaign committee, the contribution will be considered a contribution from the same association and therefore in aggregate subject to the applicable contribution limit. It should be noted that a political fund or a political committee which accepts corporate contributions for supporting or opposing a ballot question cannot give, directly or indirectly, money, free services or property or anything else of value to influence the election of candidates. (See *Minn. Stat.* 210A.34, as amended by Minn. L. 1980, c 607, art. 17 §§ 13, 14).

QUESTION

9. Must a candidate establish a separate political committee or fund, aside from his principal campaign committee, if he wishes to receive "contributions" or make "Expenditures" to promote or defeat a ballot question?

OPINION

9. No. A candidate is not required to establish a separate political committee to support or oppose a ballot question. *Minn. Stat.* 10A.19, subd. 4 states:

> "No candidate shall accept contributions from any source, other than himself, in aggregate in excess of $100 or any money from the state elections campaign fund unless he designates and causes to be formed a single principal campaign committee." (emphasis added.)

The law allows a candidate to spend money on behalf of a ballot question from principal campaign committee funds.

QUESTION

10. Must an individual, political committee or political fund establish a separate committee or fund for each ballot question which they intend to promote or defeat?

OPINION

10. No. An individual political committee or political fund is not required to establish a separate political committee or political fund for each ballot question which the political committee or political fund intends to promote or defeat. *Minn. Stat.* 10A.20, subd. 3(g) requires the disclosure of expenditures for ballot questions when they are in aggregate in excess of $100. In the cases where corporate contributions are given to a political committee or political fund, such political committees or political funds cannot contribute, directly or indirectly, money or anything of value to a principal campaign committee, political committee or political fund which supports a candidate.

QUESTION

13. Are the following considered campaign expenditures (and therefore counted against a candidate's limits) or "expenditures" to promote or defeat a ballot question (and therefore not subject to any limits):

a. media advertisements for a ballot question which contain pictures of or incidental references to a candidate, but do not mention his or her candidacy?

b. newsletters, newspaper columns, questionnaires, circulars or other literature on a ballot question which contain pictures of or incidental references to a candidate but do not mention his or her candidacy?

c. a public forum, radio or television show regarding a ballot question in which a candidate participates but does not mention his or her candidacy?

d. a sample ballot indicating what candidates support or oppose a ballot question?

e. letters or other information regarding a ballot question sent out by an officeholder or constituents (60 days) after adjournment sine die of the legislature in the year in which that officeholder is up for election?

Does it make any difference in (a) to (e) above if the candidate's candicacy is mentioned or if the item(s) is paid for from his personal funds?

OPINION

13. The Board assumes that each of these questions concerns hypothetical expenditures by candidates and their principal campaign committees. The Board believes that such expenditures may generally be assumed to be made in furtherance of the candidate's campaign, and the United States Supreme Court has indicated that this assumption is constitutionally permissible. Buckley v. Valeo, 424 U.S. 1, 79 (1976). Accordingly, any expenditure made by a candidate or a candidate's principal campaign committee will be considered to be made for the purpose of influencing the candidate's nomination or election, if the expenditure involves a communication in which the candidate is clearly identified. Expenditures which are "approved" by the candidate or the candidate's principal campaign committee, within the meaning of *Minn. Stat.* 10A.01, subd. 10a, will be treated in the same manner.

A communication will be considered to clearly identify a candidate if it includes the candidate's name, picture, initials (e.g., "F.D.R."), nickname (e.g., "Ike"), or another equally unambiguous reference to the candidate. (The mere incidental inclusion of the candidate's name in a statutorily-required disclaimer provision will not be treated as such an identification, however.)

Therefore, the expenditures described in question 13(a), for advertisements which contain pictures of, or references to, the candidate, will be considered expenditures to promote his or her election. Similarly, the expenditures described in question 13(d), for a "sample ballot" containing the candidate's name or picture, will be considered expenditures for the purpose of influencing the candidate's election, assuming the expenditures are made by the candidate or with the approval of the candidate.

The expenditures described in question 13(c), for a forum or broadcast in which the candidate participates, will also be considered expenditures to influence the candidate's election. (Again, we assume the expenditures are made by the candidate or the candidate's principal campaign committee. Independent expenditures for such a forum, made by a group unconnected to the candidate's campaign, would not count toward the candidate's limits.)

The expenditures described in questions 13(b) and 13(e) may be discussed together. If an expenditure is for constituent services, whether in the form of newsletters, public opinion questionnaires, newspaper columns, circulars or mass-produced letters, then it will be treated as a constituent service non-campaign disbursement if made prior to the sixtieth day after adjournment sine die of the legislature in an election year, but the expenditure will be considered an effort by the officeholder to influence his or her nomination or election if made after that date. If expenditures of the type described in question 13(b) and 13(e) are not for constituent service purposes (for example, if they are made by a non-incumbent candidate, or in areas outside an incumbent's district), then the communication will be considered to be made to influence the candidate's election if it clearly identifies the candidate.

Mention of the candidate's candidacy in any of the foregoing communications would not alter the result, but would tend to reinforce the conclusion that the expenditure is made on the candidate's behalf. If an item is paid for from the candidate's personal funds, it will be exempt from the contribution limits, as is true of any expenditure from a candidate's personal funds to promote his or her candidacy, but its treatment will be otherwise unaffected. If expenditures of any of the types described in questions 13(a)-13(e) are made as independent expenditures by persons outside the candidate's principal campaign committee, they will be considered independent expenditures on behalf of the candidate if the candidate is clearly identified and if the communication expressly advocates the candidate's election or defeat. Where these criteria are met, it may be necessary to allocate the expenditure, with part treated as an expenditure to promote or defeat a ballot question, and part treated as an independent expenditure to influence the candidate's election.

Issued to:

Pamela Berkwitz, President
Joyce Lake, Action Chair
League of Women Voters of Minnesota
555 Wabasha Street
St. Paul, MN 55102

Approved:

June 6, 1980

RE: Ballot Question Support

ADVISORY OPINION #67

SUMMARY

67. The Minnesota League of Women Voters and its state affiliates must register separate political funds to support or oppose a ballot question if, independently, each element of the Minnesota League of Women Voters raises or spends money in excess of $100 to influence a vote on a ballot question; however, the Minnesota League of Women Voters can establish a single political fund to receive contributions and make expenditures on behalf of all League of Women Voter elements in support or opposition to a statewide ballot question.

FACTS

The Minnesota League of Women Voters is a membership organization with some 68 local affiliate elements. The League of Women Voters will be supporting at least two of the constitutional amendment questions on the November statewide ballot.

QUESTIONS

1. Can the League of Women Voters of Minnesota register a single political fund and report for the entire organization?

2. Does each of the 68 local Leagues, if raising and spending money independently on behalf of a ballot question, have to register and report to the Board?

OPINION

1. In response to question 1, the League of Women Voters of Minnesota may establish a single political fund to receive contributions and make expenditures in support or opposition to a ballot question.

Minn. Stat. 10A.01, subd. 16 defines political fund:

> *Subd. 16. "Political fund" means any accumulation of dues or voluntary contributions by an association other than a political committee, which accumulation is collected or expended for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.*

Under *Minn. Stat.* 10A.12, subd. 1:

10A.12 POLITICAL FUNDS. Subdivision 1. No association other than a political committee shall transfer more than $100 in aggregate in any one year to candidates or political committees or make any approved or independent expenditures or expenditure to promote or defeat a ballot question unless the transfer or expenditure is made from a political fund.

Under *Minn. Stat.* 10A.12, subd. 5:

Subd. 5. Notwithstanding subdivision 1, any association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees. Pursuant to section 10A.20, the treasurer of the fund shall disclose the name of any member whose dues, membership fees and contributions deposited in the political fund together exceed $50 in any one year.

Any association may transfer money from its treasury to its political fund. The association has then satisfied the requirement of the statute. The treasurer of the state political fund would be required to register a political fund when in excess of $100 is raised or spent to support or oppose a ballot question.

The treasurer of the state political fund shall disclose all contributions received from individuals or local League of Women Voters in excess of $100. As set forth in *Minn. Stat.* 10A.12, subd. 5, the treasurer of the political fund shall disclose the name of any member whose dues, membership fees, and contributions deposited in the political fund together exceed $50 in any one year. Each local League element may designate the state League of Women Voters of Minnesota Political Fund and transfer dues, contributions or membership fees to the political fund. The local affiliate would not be required to register and report to the Board, provided it did not make contributions and expenditures directly in its own name in support or opposition to a ballot question.

2. Yes, a local League of Women Voters element would be required to register and report contributions and expenditures to promote or defeat a ballot question when the local League spent directly in excess of $100 if such activity was not in the name of and not under the direct control of the State League of Women Voters Political Fund.

Issued to:

Representative Al Wieser, Jr.
332 State Office Building
St. Paul, Minnesota 55155

Approved:

July 9, 1980

RE: Radio Spots

ADVISORY OPINION #68

SUMMARY

68. Free air time given to, and controlled by, a candidate, between 60 days after adjournment sine die of the legislature and such time as when the broadcasting station implements its equal time policy in accordance with FCC regulations, must be reported as in-kind contributions and campaign expenditures.

TEXT

You have requested an advisory opinion from the Ethical Practices Board based on the following:

FACTS

You are a candidate for the State House of Representatives in the 1980 election and a member of the Minnesota House. Two radio stations, both located in LaCrosse, Wisconsin, have each made 90 seconds of radio time available to you every weekend which you use to report and comment on Minnesota legislation and local, state, and national issues.

QUESTION

Are these practices "contributions" under *Minn. Stat.*10A.01, subd. 7, which must be reported on your campaign disclosure forms?

OPINION

Based on *Minn. Stat.* 10A.01, subds. 7, 7a, and 7b, the fundamental criterion for determining whether free air time given to, and controlled by, a candidate shall be considered a campaign contribution is whether or not the air time was given "for the purpose of influencing the nomination or election of a candidate."

In the opinion of the Board:

1. In a non-election year and prior to 60 days after adjournment sine die of the legislature in an election year, free air time given to, and controlled by, an officeholder for reports to constituents on current legislation, issues, and events, are constituent services1/ and are not done "for the purpose of influencing the nomination or election of a candidate"; therefore the air time is not reportable as a contribution.

2. Once a broadcasting station implements its equal time policy, in

accordance with FCC regulations,[2] and provides equal, free time to all candidates, the provision of air time can no longer be considered to further the candidacy of any particular candidate, or to favor any one candidate over another; therefore, the value of the air time is not reportable as a contribution.

3. However, during any period more than 60 days after adjournment sine die of the legislature, but before the broadcasting station implements its equal time policy, free air time given to, and controlled by, a candidate will be considered to be made "for the purpose of influencing the nomination or election of a candidate"; therefore the air time's market value, if worth in excess of $20, must be reported as a donation in kind and in-kind campaign expenditure.[3]

PERTINENT STATUTORY AUTHORITY

Minn. Stat. 10A.09, subd. 7, 9 MCAR § 1.0029A; 9 MCAR § 1.0029F; CFR 73.1940.

.....

FOOTNOTES

[1] Legislative reports to constituents, including newsletters and public opinion questionnaires, (but excluding official press releases and letters to the editor) which are authored and controlled by an officeholder and published or broadcast more than 60 days after adjournment sine die of the legislature, are not "news items or editorial comments" specifically exempt from *Minn. Stat.* 10A.01, subd. 7's definition of "contribution." See 9 MCAR § 1.0029A, 9 MCAR § 1.0029F.

[2] 47 CFR 73.1940 provides that a broadcast licensee which permits any "Legally Qualified Candidate" to use its facilities (other than in bona fide newscasts, interviews, documentaries, or on the spot news event coverage), must afford equal opportunities to all other legally qualified candidates for the same office.

A legally qualified candidate is anyone who is qualified to hold office and has publicly announced his intention to run. In addition, the individual must have qualified for a place on the primary or election ballot or, if seeking nomination by means of convention or caucus, must make a substantial showing (engaged to a substantial degree in activities commonly associated with campaigning) that he or she is a bona fide candidate.

[3] We call attention to *Minn. Stat.* 210A.34, which prohibits corporate contributions.

Issued to:

Richard A. Hodges, President
Joyce W. Lake, Executive Director
Common Cause/Minnesota
Room 307
555 Wabasha Street
St. Paul, MN 55102

Approved:

August 1, 1980

RE: Ballot Question Expenditures

ADVISORY OPINION #70

SUMMARY

70. The costs for newspaper "endorsement" advertisements and for public forums incurred by a political committee or fund organized solely to promote or defeat a ballot question are reported as ballot question expenditures, not as expenditures on behalf of candidates who permit their names to be used in advertisements, who attend forums, or who make a contribution (transfer) to a political committee or fund organized solely to promote or defeat a ballot question. If, however, the nomination or election of a candidate is expressly advocated in an advertisement or during a forum, costs may, at least in part, have to be allocated back to the candidate as campaign expenditures.

FACTS

Common Cause/Minnesota will be registering a political fund for the sole purpose of promoting a ballot question. In an effort to promote the ballot question, the fund will be taking newspaper advertisements and sponsoring forums.

QUESTIONS ON NEWSPAPER ADVERTISEMENTS

You ask the following questions about newspaper "endorsement" ads in which supporters' names will be listed in similar type size:

1. If an elected official, not up for reelection in 1980 allows his/her name to be used in a paid advertisement with many other names, is that an approved campaign expenditure or a ballot expenditure?

2. If a candidate for office in 1980 allows his/her name to be used in a paid advertisement with many other names, is that an approved campaign expenditure or a ballot expenditure?

3. Is either a candidate or an elected official not running for office, implying approval of an expenditure if he/she transfers funds from his/her principal campaign committee to a committee or fund formed to promote or defeat a ballot question, if the committee or fund uses his/her name in a paid advertisement along with many other names?

4. If a political fund or committee formed to promote or defeat a ballot question asks for contributions from individuals or political committees or funds, to pay for an advertisement which will use their names, is the donor giving consent for an approved campaign expenditure?

OPINION

In its response to Representative Knickerbocker's advisory opinion request, the Board stated that "expenditures made by a political committee or a political fund, other than a principal campaign committee of a candidate, to promote or defeat a ballot question or questions may be considered approved expenditures on behalf of a candidate in certain circumstances." The questions you raise relate to the circumstances under which an expenditure to promote or defeat a ballot question may or may not also be an approved expenditure on behalf of a candidate.

The Board assumes that the political fund set up by Common Cause to support proposition 1 is operating independently of any candidate and that any expenditures made by the fund are made independently of any candidate or his committee or agent. The Board also assumes that the fund to promote the ballot question will not advocate the election or defeat of any candidate.

The fact that an officeholder or a candidate permits a committee or fund organized solely to promote or defeat a ballot question to use his name in the same way as any other supporter of the proposition permits his name to be used does not imply that the officeholder or candidate is permitting an approved expenditure on his behalf. The transfer of money, in the form of either a general contribution to the fund or a specific contribution to help pay for an advertisement, from a candidate or his committee to a political committee or fund organized solely to promote or defeat a ballot question or questions is to be considered a ballot question expenditure by the candidate or committee and is to be reported as such. The making of a contribution is not sufficient to imply authorization of an expenditure on behalf of a candidate by the committee or fund organized to promote or defeat a ballot question.

The Board is guided in its opinion by the Supreme Court decision in Buckley v. Valeo. In that decision, the Court held that in cases where expenditure limits are to be applied, expenditures made on behalf of candidates by independent groups must not only clearly identify the candidate but must also expressly advocate the election or defeat of a candidate by using such phrases as "vote for," "elect," or "defeat." The newspaper "endorsement" advertisements you describe will clearly identify some officeholders and candidates but they will not advocate the election or defeat of any candidate.

In all four of the situations you describe in relation to newspaper "endorsement" advertisements, the costs involved are to be reported as ballot question expenditures. With respect to questions one and two, all expenditures involved in running the advertisement are to be reported as ballot question expenditures by your political fund. With respect to questions three and four, money transferred to your fund by candidates or their committees is to be reported by your fund as contributions received and by the candidate or committee as cash contributed (transferred) to other committees and funds to promote or defeat a ballot question.

QUESTIONS ON FORUMS

You asked the following questions about public forums sponsored and paid for entirely by a political committee or fund formed exclusively to promote or defeat a ballot question.

1. If a clearly identified candidate is invited to participate in such a forum, does his/her appearance constitute approval of expenditures made by the sponsoring committee or fund?

2. Would any part of such an appearance have to be counted as an approved campaign expenditure?

OPINION

Following the reasoning outlined above, the Board feels that as long as the forum is restricted to a discussion of a ballot question or questions and is in no way designed to support the election or defeat of a candidate, a candidate's appearance at a forum does not imply that he/she is consenting to an approved expenditure on his/her behalf. For example, a candidate may be introduced as Senator Jones or Representative Smith; but the introductory speech should not contain a pitch for the reelection of Senator Jones or Representative Smith. The advisory opinion given to Representative Knickerbocker stated that independent expenditures for a forum made by a group unconnected to the candidate's campaign would not count toward the candidate's limits. The Board may find, however, that it would be very difficult to conclude that expenditures for a forum at which a candidate consents to appear and at which his nomination or election is expressly advocated are independent expenditures. The sponsors of the forum should make it clear to all participants that the difference between clearly identifying a candidate and expressly advocating his nomination or election is crucial. If election is expressly advocated, part of the expenditures for the forum may be considered to be approved expenditures on behalf of the candidate.

As long as there is no express advocacy and the political fund operates independently of a candidate or candidates, the costs of the forum are to be reported as ballot question expenditures by the committee or fund sponsoring it and need not be allocated to any candidate.

Issued to:

Representative Willis R. Eken
Twin Valley, Minnesota 56584

Approved:

September 19, 1980

RE: Campaign Literature, Independent Group

ADVISORY OPINION #71

SUMMARY

71. Literature distributed by a candidate's committee is presumed to be for the purpose of influencing the nomination or election of the candidate. The literature should be reported as a campaign expenditure by the candidate's committee whether or not it is also an in-kind donation from the group that prepared it.

FACTS

You are a candidate for the Minnesota House of Representatives. Your opponent has distributed literature, published by the Legislative Evaluation Assembly of Minnesota, stating the publishing entity's views on various pieces of legislation, along with your voting record (and the records of two other legislators) on each piece of legislation. The votes are defined as being either "for Lower Taxes and Less Government" or "for Higher Taxes and Big Government." The literature neither contains a disclaimer, mentions your opponent by name, nor expressly advocates any candidate's election or defeat.

QUESTIONS

1. If a candidate distributes the attached literature, produced by a nonprofit corporation, with his personal campaign literature, does this additional piece also constitute campaign literature and therefore, should it have a disclaimer printed on it?

1. The Ethical Practices Board has generally concluded that any material distributed by a candidate's committee is for the purpose of influencing the nomination or election of the candidate and is therefore a campaign expenditure. In Advisory Opinion #65 issued to Representative Gerald Knickerbocker, the Board said that material distributed by a candidate which supports or opposes a ballot question is to be considered a campaign expenditure if it mentions the candidate's name.

In the question raised here, the literature does not mention the candidate by name but rather the candidate's opponent. According to *Minn. Stat.* 10A.01, subd. 10:

> *An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.*

The Board finds, therefore, that expenses incurred by a candidate's campaign committee to distribute literature which mentions the candidate's opponent by name will be treated as a campaign expenditure by the candidate's committee.

You then ask whether the literature should bear a disclaimer. The principal statutory requirement for disclaimers on campaign literature appears in *Minn. Stat.* 210A.03 (1978). Because that statute is not within the scope of the Board's jurisdiction, we express no opinion on its application to the sitaution you describe. The sole disclaimer provision administered by the Board is that of *Minn. Stat.* 10A.17, subd. 4 (1978), which requires a publishing entity making "independent expenditures" on behalf of a candidate to publicly disclose that the candidate has not approved the expenditures, nor is he responsible for them. This provision has no application to the distribution of literature by the candidate's own campaign committee.

2. Does the attached literature encourage a person to support, oppose or influence a particular candidate?

2. Whether the attached literature is viewed as a campaign expenditure depends on the situation surrounding its use.

If the literature is prepared and distributed independently of the candidate, and is not an "approved expenditure" within the meaning of *Minn. Stat.* 10A.01, subd. 10a (1978), then the organization preparing the literature is not required either to report its expenditures as "independent expenditures," pursuant to *Minn. Stat.* 10A.01, subd. 10b, and 10A.20, subd. 6 (1978), or to use an independent expenditure disclaimer, pursuant to *Minn. Stat.* 10A.17, subd. 4 (1978), because the literature does not expressly advocate the election or defeat of any candidate, and thus is not within the definition of an independent expenditure. *Minn. Stat.* 10A.01, subd. 10b (1978).

Where, however, the literature is used or distributed by the candidate, the expense is to be reported as a campaign expenditure by the candidate. Material distributed by a candidate is presumed to be for the purpose of influencing the nomination or election of the candidate whether or not that nomination is expressly advocated. This conclusion is consistent with the Board's findings in Advisory Opinions 65 and 70, issued to Representative Knickerbocker and Common Cause/Minnesota, respectively.

3. If the attached literature is not campaign literature and a candidate receives the piece in bulk quantities, does he have to reprort it as an in-kind contribution on his Ethical Practices Statement?

3. If the candidate's committee distributes the attached literature, the expense is a campaign expenditure and should be reported in an appropriate fashion. If, for instance, the committee purchases the material, the cost of the purchase would be reported as a campaign expenditure. If the committee picks up one free copy of the material and reproduces and distributes it, the costs involved in reproduction and distribution would be a campaign expenditure.

If the organization producing the material did so with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of that candidate, his principal campaign committee or his agent, then the organization's cost of producing and distributing the literature is to be treated as an approved expenditure on behalf of that candidate, and thus as a donation in kind and a contribution to the candidate. *Minn. Stat.* 10A.01,

subds. 7, 7b, and 10a (1978).[1] The expenditure would therefore be reported by the candidate's committee. If the organization making such an approved expenditure is an "association" within the meaning of *Minn. Stat.* 10A.01, subd. 3 (1978), and if the contribution has a fair market value in excess of $100, then the organization would also be required to register a political fund and to report the contribution/approved expenditure. *Minn. Stat.* 10A.12, 10A.14, 10A.20 (1978).

If the organization producing the material makes it freely available in bulk quantities to anyone who wishes to use it, and if bulk quantities are made available to a candidate in this manner, the organization need not register or report, but the candidate's principal campaign committee using the literature must estimate the fair market value of the material and report that amount as a campaign expenditure.

4. If the attached literature is not campaign literature, does the use of it by a candidate for public office require approval by the group who publishes it?

4. As described above, the Board finds that when the attached material is used by a principal campaign committee, it is to be considered a campaign expenditure. The campaign expenditure is to be reported in an appropriate fashion. *Minn. Stat.* 10A (1978) does not require the candidate to obtain the consent of the publishing organization before using the material. However, we express no opinion on any possible application of *Minn. Stat.* 210A.02, 210A.03, or other provisions of Ch. 210A, or of copyright or other laws.

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[1] In this regard, we call attention to *Minn. Stat.* 210A.34 (1978), which generally prohibits corporate contributions. Because this statute is beyond the scope of the Board's jurisdiction, we express no opinion concerning its application here.

Issued to:

Michael L. Flanagan, Esq.
2350 IDS Center
Minneapolis, MN 55402

William F. Brooks, Jr., Esq.
900 Midland Bank Building
Minneapolis, MN 55401

Approved:

September 19, 1980

RE: Corporate Ballot Question

ADVISORY OPINION #73

SUMMARY

73. A corporation may spend money to promote or defeat a ballot question either by registering its own political fund or by contributing to an already registered political fund.

FACTS

You have requested the Board to answer the following questions:

Q) For account keeping and reporting purposes under Chapter 10A, Minnesota Statutes, how are contributions to political funds for statewide ballot questions to be handled in the following cases:

1) Individual contributions to a political fund?

A) Individual contributions made to funds organized solely to promote or defeat ballot questions are to be handled in the same way as are individual contributions to any other political committee or fund covered by the provisions of Chapter 10A. Individuals who make contributions to political committees and funds are not required to register with the Ethical Practices Board. Chapter 10A.27 limits the amount a principal campaign committee may accept from an individual, political committee or fund. There are no limits on what an individual may give to a non-candidate political committee or fund. The political committees and funds are required to record, to report and disclose individual contributions as specified in 10A.13 and 10A.20.

2) Corporate contributions made to an established political fund?

A) According to Chapter 210A.34, subd. 1b:

"A corporation doing business in this state may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. But no such contribution shall be made to any candidate for nomination, election or appointment to a political office or to any committee organized wholly or partly to promote or defeat such a candidate."

The Board finds that a corporation may spend money to promote or defeat ballot questions either by registering its own political fund or by contributing to an already registered political fund which will itemize that contribution if it is in excess of $100. Funds accepting money from corporations may not contribute to candidates.

The Board also requests that the legislature interpret *Minn. Stat.* Chapter 10A.12, subd. 1 as it relates to corporate expenditures to promote or defeat ballot questions.

4B Minneapolis Tribune Mon., Feb. 1, 1982

3 groups protest plan to close campaign review

Associated Press

The Minnesota Civil Liberties Union (MCLU) and the state's two main political parties have demanded a public hearing on proposals to close reviews of complaints of unfair campaign practices.

The state Ethical Practices Board has proposed a rule change that would keep the public out of board meetings in which action is considered on campaign-practice complaints, investigations or conciliation agreements, said Matthew Stark, executive director of the MCLU.

The proposal violates freedom of speech and press, said Stark, whose letter challenging the proposal was signed by William Morris, chairman of the state Independent-Republican Party, and Mike Hatch, his DFL counterpart.

30 St. Paul Pioneer Press/Dispatch Saturday, January 30, 1982

MCLU opposes political ethics rule change

The Minnesota Civil Liberties Union has filed a demand for a public hearing with the state Ethical Practices Board over a proposed rule change that would make campaign practices complaints confidential.

The demand was signed by Matthew Stark, MCLU executive director; William Morris, chairman of the Independent-Republican Party, and Michael Hatch, state chairman of the Democratic-Farmer-Labor Party.

The proposed rule change makes board meetings in which action is considered on campaign practices complaints, investigations or conciliation agreements confidential and closed to the public, Stark said.

Stark said the change would allow the board to refuse to consider any complaint publicized by the parties to the complaint, and would effectively prohibit public discussion of a campaign practices complaint before or after a complaint had been filed.

"The proposed rules," Stark said, "are a flagrant and unconscionable violation of freedom of speech and press guarantees under the First Amendment to the U.S Constitution. A state agency has no authority to ban all public discussion of an issue, no matter how embarrassing the discussion may be."



MINNESOTA CIVIL LIBERTIES UNION

628 Central Avenue
Minneapolis, Minnesota 55414

We, the undersigned, hereby request that a public hearing be held in accordance with Minn. Stat. §§ 15.0412, subds. 4-4g to consider objections to adoption of proposed Ethical Practices Board Rules 9 MCAR §§ 1.0602 (E),(G) and (H). This request is made in accordance with, and under the terms of, Minn. Stat. § 15.0412, subd. 4h.

NAME	ADDRESS
Matthew Stark	444 Penn South., Mpls, Mn 55405
William D Morris	810 Thornton St SE, Minneapolis, MN 55414.
Donna Mac Flaherty	9535-18th Ave N. Plymouth 544-6235
Connie Nelson	1341 Jersey Ave S, St Louis Park, MN 55426
Mike Hatch	1042 Naumkeag ST. Shakopee, MN 55379
Mary Monahan	2840 Highview Terrace Eagan Mn 55121
Nancy J. Link	7701 Plymouth Ave No. Golden Valley, Mn. 55427

THE MINNEAPOLIS STAR EVENING

425 Portland Avenue Minneapolis, Minnesota 55415

RODGERS ADAMS
ASSISTANT TO THE
EXECUTIVE EDITOR

RECEIVED JAN 12 1982 ETHICAL PRACTICES BOARD

January 11, 1982

State Ethical Practices Board
41 State Office Building
Saint Paul, Minnesota 55155

According to the board's December 28 press release, the board is cancelling plans to hold a public hearing on proposed rules, including 9 MCAR 1.0602 G. and H. Those sections attempt to prohibit communicating about a complaint prior to its filing and impose a penalty for violation.

The board apparently intends to restrict comments about disputed election practices. The proposed rules do not clearly define what sorts of comments consitute "publicly communicating about a complaint" but since the heart of the complaint is the allegation of improper practices, any comment about disputed practices would potentially be "communicating about a complaint."

The broad sweep of the proposed sections is extended by the fact that a candidate has no way of knowing for sure whether or not a complaint might eventually be filed by an opponent. The effect of the proposed rule would be to prohibit all discussion of campaign practices until after the time limit for filing complaints has expired.

This sweeping gag on public discussion of a vital part of our democracy is bad public policy. The proposed sections exceed the statutory language, and are contrary to the board's previous interpretation of the statute. They are unconstitutional in their restriction on free speech, among other problems. We strongly object to these sections, and to the attempt to adopt them without a public hearing.

On behalf of the First Amendment Committee of The Minneapolis Star and the Minneapolis Tribune, I urge the board to drop these proposed sections and to approach the Legislature for a solution to any problems caused by the current law -- a solution that will not involve unconstitutional suppression of free discussion about controversies. If the board decides not to drop these proposed sections, I formally request a public hearing as provided by law.

Sincerely,

Rodgers Adams

Rodgers Adams
Chairman, First Amendment Committee

Minnesota House of Representatives



December 10, 1981

TO: Mary Ann McCoy

FROM: Barry Tilley, House Majority Research

RE: Proposed Rules

Mary Ann,

Since the rules proposed by the Ethical Practices Board were published in the State Register on Monday, December 7, 1981, I have had the opportunity to review the rules with several legislators--the chairman and vice-chairman of the House Reapportionment and Elections Committee, the staff of the House DFL leadership, and Paul Hess of the House IR Caucus. The attached copy of the proposed rules indicates those proposed rules that we all agreed involved enough controversy that they deserved a public hearing.

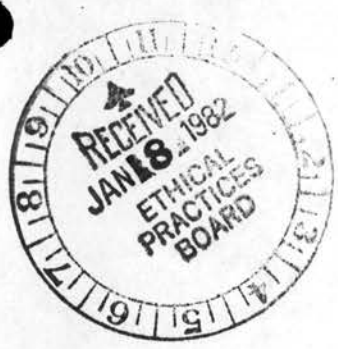
While the individual reasons for objecting to these rules did vary, I think it's safe to say that most legislators who I questioned indicated that most of the topics involved should be dealt with legislatively rather than through the rules process and the Board may wish to include these as recommended legislation in their annual report.

I will be glad to answer any questions that you have.

Enc.

BT/mm

December 31, 1981



Mary Ann McCoy
Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

Dear Ms. McCoy:

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I would appreciate it if you would notify me when the public hearing has been scheduled.

Sincerely,

Al E. Curie
7711 Tyler St. N.E.
Spring Lake Park, MN 55432
786-6515

December 31, 1981



Mary Ann McCoy
Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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Sincerely,

Doris Curie
7711 Tyler St. NE.
S.P. Minn

December 31, 1981



Mary Ann McCoy
Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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I would appreciate it if you would notify me when the public hearing has been scheduled.

Sincerely,

Joi A Simpson
8400 Laddie Rd
Spring Lake Park, Mn 55432
786.0009

December 31, 1981



Mary Ann McCoy
Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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Sincerely,

Robert E. Simpson
8400 Laddie Rd
Spring Lake Park
MN
55432
786-0009

December 31, 1981



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Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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I would appreciate it if you would notify me when the public hearing has been scheduled.

Sincerely,

Diane Jacobson
542 Jone Ave.
Spring Lake Park.
784-7247

December 31, 1981



Mary Ann McCoy
Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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Sincerely,

Jane Jacobson
542 Dove Ave
Spring Lake Park Mn
55432

784-7247

December 31, 1981



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Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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542 Ione Ave
Spring Lake Park
784-7247

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Executive Director
Ethical Practices Board
41 State Office Building
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Ann E Jacobson
542 Sone Ave NE
Spring Lake Park, Minn
784-7247

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Executive Director
Ethical Practices Board
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Minn.
55432

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I would appreciate it if you would notify me when the public hearing has been scheduled.

Sincerely,

Anna E Rafferty
801-81 st ave. N.E.
Spg. Lk. Pk, Mn. 55432
784-9110

December 31, 1981



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Executive Director
Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

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Sincerely,

Eugene J Rafferty
801-81 5th Ave NE
Spring Lake Park MN 55432
784-9110

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Sincerely,

Leonard A. Zolna Jr.
8406 Saddle Road
Spring Lake Park, Mn.
786-4316

December 31, 1981



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Sincerely,

Pat Zolna
8406 Laddie Rd
Spring Lake Park
MN 55432

786 4316

Paul McCarron
District 46A
Spring Lake Park-Mounds View-
Fridley
Committees:
Reapportionment and Elections,
Chairman
Local and Urban Affairs
Financial Institutions and
Insurance

Legislative Commission to Review
Administrative Rules
Legislative Coordinating Commission
Reapportionment Oversight

Minnesota House of Representatives

RECEIVED
DEC 31 1981
ETHICAL
PRACTICES
BOARD

December 31, 1981

The Ethical Practices Board has redesignated the entire group of proposed rules that the Board had determined to be controversial as non-controversial because there was not enough money in their budget to conduct public hearings. Hearings are not conducted on proposed rules that are determined to be non-controversial unless seven or more people object to the proposed rules and request a public hearing. The Board redesignated these rules as non-controversial, even though they had previously determined these to be controversial during numerous public meetings that were held by the Board in the process of promulgating the rules.

Many of these rules were determined to be controversial because there was some doubt as to the authority of the Board to extend the rules into areas that should have been addressed by legislation. Other rules were found to be controversial simply because the interpretation of the intent of statute by the Board was questionable. Still others were the result of advisory opinions that were issued by the Board and the Board now seeks to make these opinions permanent by incorporating them into rules. (Advisory Opinions issued by the Board lapse after two years..)

Listed below are the proposed rules that should be objected to and scheduled for public hearings.

9MCAR Section 1.0012--Change of office sought by candidate.

Paragraph #2 contradicts paragraph #1 and was brought about because of the potential of a candidate simultaneously running for two different offices and maintaining a committee for each. Statute permits a candidate to run for more than one office; the Board is trying to limit the candidate's spending to one office. This clearly should be addressed by legislation rather than administrative rule.

9MCAR Section 1.0026--Late filing fees.

Paragraph C is being deleted which states that late filing fees shall not be assessed for Saturday, Sunday or legal holidays when the Board office is not open. This results in a 40% increase in fees and penalizes those persons who need assistance in filling out forms properly.

9MCAR Section 1.0029--Non-campaign disbursements.

This proposed rule would penalize a candidate for issuing a press release that is used by a radio or television station. This is the result of a very

Reply to: 335 State Office Building, St. Paul, Minnesota 55155 Office Phone: 296-4242

controversial advisory opinion that is now being challenged in court. Even if the court finds that the Board acted properly, this rule should be given a public hearing.

9MCAR Section 1.0038--Sample ballot prepared by a candidate.

Paragraph B deals with a sample ballot prepared by an association and should not be located in this section. Here the Board proposes a major change in the historical manner that associations have endorsed candidates and notified their members of that endorsement. This is a clear step by the Board that if done at all, should be done by legislation.

9MCAR Section 1.0043--Termination of registration.

The Board proposes to suggest to candidates that they send balances in a campaign treasury to the Board in order to terminate their campaign committee registration with the Board. There is no statutory direction for this rule and if campaign contributions are to be disbursed, it should surely be returned to a creditor or a contributor and not given to the Ethical Practices Board.

9MCAR Section 1.0044--Return of public financing.

The provisions of this proposed rule are in statute. There is no need to repeat it here.

9MCAR Section 1.0045--Multi-candidate support by state political parties.

This proposed rule is not only not authorized by statute, but it is clearly in conflict with statute--Minnesota Statutes, Section 10A.275, clearly exempts sample ballots and phone banks provided by a state party from being contributions to candidates. This proposed rule would require political parties to allocate contributions to individual candidates.

9MCAR Section 1.0046--Ballot questions.

This proposed rule exceeds the authority permitted by statute. Paragraph (B)(1) treats mailings done by candidates differently from those mailings done by other committees.

9MCAR Section 1.0105--Late filing fees; and
9MCAR Section 1.0209--Late filing fees.

Again, the Board is proposing raising late filing fees by 40% by removing the section that prohibits fees from being levied for Saturday, Sunday and legal holidays.

9MCAR Section 1.0301--Definitions; and,
9MCAR Section 1.0501--Definitions.

In these proposed rules, the Board is eliminating existing definitions of business interests, association and public official without apparent reason.

9MCAR Section 1.0508--Late filing fees.

Most of this proposed rule is already a part of statute. There is no need to repeat it in administrative rules.

9MCAR Section 1.0602--Campaign violations.

Portions of this proposed rule go well beyond the intentions of the confidentiality section of statute. Paragraphs G and H are clear violations of the freedom of speech. Changes of this sort, if they are to be made, should be done by legislation.

9MCAR Section 1.0603--Investigations and audits.

This proposed rule clearly exceeds statutory authority. In addition, the

intention of the statutory authority for conducting investigations is not meant to include "witch hunts" as are permitted by these proposed rules.

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Douglas Blomgren, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Special Assistant
Attorney General

Dated: 2-8-82