

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-1022

RECEIVED
FEB - 3 19[illegible]
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

February 2, 1983

Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: Review of Rule on Governing Special Fuel Requirements
(13 MCAR Section 1.4006)

Dear Sir or Madam:

In accordance with Minn. Stat. Section 15.0412, Subdivision 4h and 1 MCAR Section 1.203, I enclose the following documents for your review:

1. Rule as Adopted (original and 3 copies).
2. Order Adopting (two copies).
3. Order for Notice of Intent to Adopt a Rule Without a Public Hearing.
4. Notice of Intent to Adopt a Rule Without a Public Hearing.
5. Affidavit of Mailing (Notice of Intent to Adopt a Rule Without a Public Hearing).
6. Certificate of Completeness and Accuracy (Mailing List Certificate).
7. Rule as Proposed.
8. Copy of the State Register, Volume 7, Number 23, December 6, 1982, in which the rule was published.
9. Statement of Need and Reasonableness.
10. Statement of Compliance with Rulemaking Procedure.
11. Notice of Submission to the Attorney General.

There were no written comments received by the Department of Revenue on the proposed rule.

Please contact me if there are any questions.

Very truly yours,

Luci Mitchell

LUCI MITCHELL, Attorney
Commissioner's Staff

PAL:dlw
Enclosures

Our File No. 885

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2/3/83
DATE FOR REVIEW 2/14/83
DATE DUE 2/17/83

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

Approved 2/15/83 (COS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due ✗
Approved _____ Disapproved _____ Returned to Agency 2/16/83

Date filed w/Secretary of State 2/16/83 Revisor approved 2/4/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 2.2.83 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
12.2.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

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

N/A Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
✓ Approving H.E.'s Report
_____ Approving agency action

N/A Agency's Findings of Fact — no changes.

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General (submitted, but not mailed)

see transmittal letter - no comments rec'd.

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ARTHUR C. ROEMER, Commissioner of Revenue DATE: 2/15/83

Attn: LUCI A. MITCHELL, Attorney, Commissioner's Staff

FROM : LARRY D. STARNS
Special Assistant
Attorney General PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Revenue Governing Special Fuel Requirements (13 MCAR Section 1.4006).

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;

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.

Encs.
LDS/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy.

Department of Revenue

Petroleum Tax Division

Adopted Rules Governing Special Fuel Requirements

Rule as Adopted

13 MCAR S 1.4006 Special fuel requirements.

A. [Unchanged.]

B. Sales invoices. Sales invoices issued for sales of special fuel made by a distributor or a special fuel dealer shall bear the name and address of the purchaser, date of sale, number of gallons, price per gallon, and total amount of sale. The words "Special Fuel" shall be written or printed on each sales invoice at the time of sale or delivery. Sales invoices shall have the name and address of the distributor or special fuel dealer making the sale printed or rubber-stamped thereon and shall be machine-numbered serially with numbers of at least three digits and issued in sequence. A separate sales invoice book shall be maintained for special fuel sales, and one copy of each such sales invoice shall be retained in the special fuel sales invoice book, unless otherwise authorized by the commissioner. Sales invoices issued for fuel other than for use as special fuel shall show the kind of fuel and the name and address of the purchaser.

C.-G. [Unchanged.]

APPROVED AS TO LEGALITY

February 15, 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Terry D. Pamp
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 16 1983
Joan Anderson Growe
Secretary of State

3:43 PM

Rule as Proposed

13 MCAR S 1.4006 Special fuel requirements.

A. [Unchanged.]

B. Sales invoices. A Sales ~~invoice shall be~~ invoices issued for ~~each sale~~ sales of special fuel made by a distributor or a special fuel dealer. ~~Such sales invoices~~ shall bear the ~~signature of the person making the delivery,~~ name and address of the purchaser, ~~motor vehicle license number if delivered into the supply tank of a licensed motor vehicle,~~ date of sale, number of gallons, ~~rate of tax,~~ price per gallon, and total amount of sale. The words "Special Fuel" shall be written or printed on each sales invoice at the time of sale or delivery. Sales invoices shall have the name and address of the distributor or special fuel dealer making the sale printed or rubber-stamped thereon and shall be machine-numbered serially with numbers of at least three digits and issued in sequence. A separate sales invoice book shall be maintained for special fuel sales, and one copy of each such sales invoice shall be retained in the special fuel sales invoice book, unless otherwise authorized by the commissioner. Sales invoices issued for fuel other than for use as special fuel shall show the kind of fuel and the name and address of the purchaser.

C.-G. [Unchanged.]

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD288

Agency: Department of Revenue

Division: Petroleum Division

Agency Contact: Luci Mitchell

Rule Numbers: 13 MCAR S 1.4006

Title: Proposed Rule Governing Special Fuel Excise Taxes; Sales Invoices

Type of Rules: Permanent

Incorporations by Reference: None
Rule Number: Material Incorporated:

Duplication of Statutory Language: None
Rule Number: Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Janet C. Rahm
Assistant Revisor
Phone: 296-0952
Date: November 1, 1982

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING SPECIAL FUEL REQUIREMENTS (13 MCAR SECTION 1.4006)

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 6, 1982, 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 2, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice; receiving fewer than seven written requests for a public hearing within the 30-day period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 13 MCAR § 1.4006 Special Fuel Requirements are adopted this 2nd day of February, 1983, pursuant to authority vested in me by Minnesota Statutes Section 296.27.

STATE OF MINNESOTA

Arthur C. Roemer

ARTHUR C. ROEMER
Commissioner of Revenue

Date Fehruary 2, 1983

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING SPECIAL FUEL REQUIREMENTS (13 MCAR SECTION 1.4006)

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

IT IS ORDERD this 17th day of November, 1982, that a Notice of Intent to Adopt a Rule Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Revenue for that purpose and be published in the State Register.

STATE OF MINNESOTA

Clyde E. Allen Jr.

CLYDE E. ALLEN, JR.
Commissioner of Revenue

Date: November 17, 1982

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION
OF RULES OF THE DEPARTMENT OF REVENUE
GOVERNING SPECIAL FUEL REQUIREMENTS
(13 MCAR SECTION 1.4006)

AFFIDAVIT OF MAILING

Donna L. Walbridge, being first duly sworn, deposes and says:

That on the 2nd day of December, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt a Rule Without a Public Hearing, in the State of Minnesota Central Mail System for United States mailing at said city of St. Paul, a copy thereof, properly enveloped, with first-class postage prepaid, to all persons and associations who have requested that their names be placed on file with the Minnesota Department of Revenue for the purpose of receiving notice of the proposed adoption of rules by this Department.

Donna L Walbridge
DONNA L. WALBRIDGE

Subscribed and sworn to before me this
2nd day of December, 1982.

Patricia Zentzis

PATRICIA ZENTZIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES APRIL 19, 1989

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING SPECIAL FUEL REQUIREMENTS (13 MCAR SECTION 1.4006)

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, Subdivision 4h (1981).

Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule 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 rule within the thirty-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 Statute, § 15.0412, Subdivisions 4 - 4f.

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

Mr. Larry Trimble
Acting Director
Petroleum Tax Division
Minnesota Department of Revenue
1276 University Avenue
St. Paul, Minnesota 55435
Telephone: (612) 296-3511

Authority for the adoption of this rule is contained in Minnesota Statutes § 296.27. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Larry Trimble upon request. A copy of the proposed rule is also available from Larry Trimble.

Upon adoption of the final rule without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rule as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Larry Trimble.

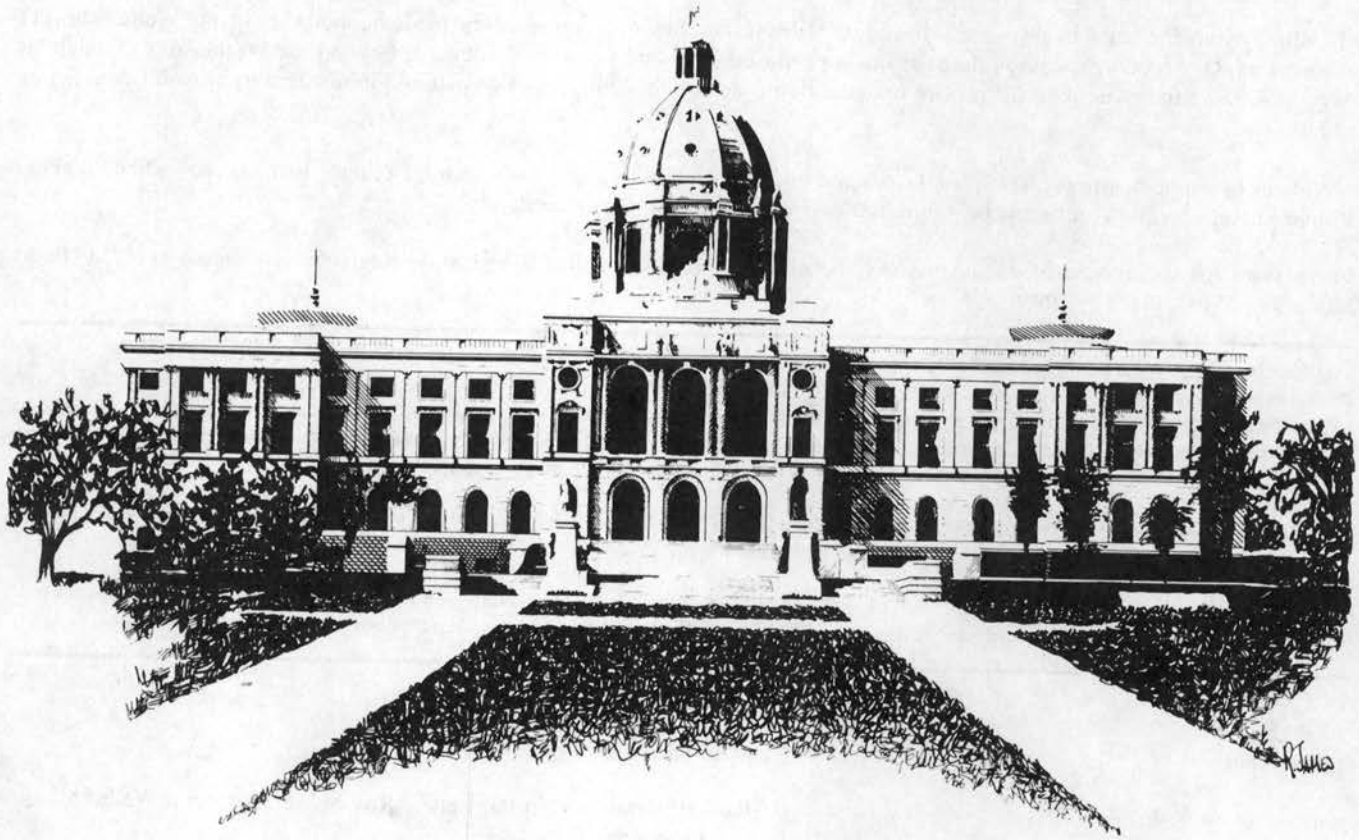
The rule proposed for adoption relates to the issuance of sales invoices for special fuel sales made by a distributor or special fuel dealer.

Date: November 17, 1982

Clyde E. Allen Jr.
CLYDE E. ALLEN, JR.
Commissioner of Revenue

STATE REGISTER

STATE OF MINNESOTA



VOLUME 7, NUMBER 23

December 6, 1982

Pages 881-912

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 7		
24	Monday Nov 29	Monday Dec 6	Monday Dec 13
25	Monday Dec 6	Monday Dec 13	Monday Dec 20
26	Monday Dec 13	Monday Dec 20	Monday Dec 27
27	Monday Dec 20	Monday Dec 27	Monday Jan 3

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

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

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

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.051. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

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

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

Albert H. Quie
Governor

James J. Hiniker, Jr.
Commissioner
Department of Administration

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Director
State Register and
Public Documents Division

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Circulation Manager

Cover graphic: *Minnesota State Capitol*, ink drawing by Ric James.

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How to Follow State Agency Rulemaking Action in the *State Register*

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

Proposed Rules Governing Amendments to the State Building Code entitled Proposed Optional Appendix E Automatic Fire Suppression Systems

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Building Codes and Standards Division Conference Room, 408 Metro Square Building, St. Paul, Minnesota on January 5, 1983 commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Peter Erickson, Hearing Examiner, Office of Administrative Hearings, 4th Floor Summit Bank Building, 310 4th Ave. So., Minneapolis, MN 55415, either before the hearing or within 5 working days after the close of the hearing. At the hearing the hearing examiner may extend the time for comment for a period not to exceed twenty (20) calendar days from the date of hearing.

The proposed rules provide for installation of on-premises fire suppression systems, to alleviate increasing demands on municipalities for additional fire suppression resources, i.e. equipment, personnel, fire stations, etc. by authorizing a municipality to adopt optional provisions based on its local fire suppression capabilities. When a municipality determines that additional provisions for on-site fire suppression systems are necessary based on local fire suppression capabilities they may adopt the rules without change. The adoption of the rule, without change, by municipalities is to establish uniformity of additional standards above and beyond the basic provision of the *State Building Code*. The *State Building Code* is the uniform standard in use throughout the state which establishes standards for the construction, reconstruction, alteration and repair of buildings governing matters of structural materials; design and construction, fire protection, health, sanitation and safety.

The proposed rules are subject to change as a result of the rules hearing process. The agency therefore strongly urges those who are potentially affected in any matter by the substance of the proposed rules to participate in the rules hearing process.

Copies of the proposed rules will be available at the door on the date of the hearing and one free copy can now be obtained by writing to the Building Codes & Standards Division, 408 Metro Square Building, 7th & Robert Sts., St. Paul, MN 55101.

The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 16.85 and 16.86 (1980).

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

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written

request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

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, St. Paul, MN 55155 telephone (612) 296-5615.

Adoption of the proposed rules by the agency will not require the expenditure of additional public monies by local public bodies.

The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113. Questions about the procedure may be directed to the Hearing Examiner.

Date: 11-17-82

James J. Hiniker, Jr., Commissioner,
Department of Administration

Rule as Proposed (all new material)

2 MCAR § 1.10020 Optional provisions for installation of on-premises fire suppression systems.

A. Purpose. This rule authorizes optional provisions for the installation of on-premises fire suppression systems in new construction. It is intended to alleviate increasing demands for additional fire suppression resources by allowing a municipality to adopt the optional provisions of this rule based on its local fire suppression capabilities.

B. Municipal option. The sprinkler system requirements in C. may be adopted without change by a municipality. If they are adopted, the requirements are applicable throughout the municipality for new buildings, additions to buildings, and buildings for which the occupancy classification is changed.

C. Requirements. Automatic sprinkler systems must be installed and maintained in operable condition in buildings in the occupancy classifications listed in 1.-12. This requirement is in addition to other minimum requirements set in the state building code. The height and area increases provided for in sections 506 and 507 of the Uniform Building Code, as adopted in the state building code may be applied.

1. Group A-1 occupancies.
2. Group A-2 occupancies with an occupant load of 300 or more.
3. Group A-2.1 occupancies.
4. Group B-1 service stations with 3,000 or more gross sq. ft. of area, not including canopies.
5. Group B-1 parking garages with 5,000 or more gross sq. ft. of area.
6. Group B-2 offices and post-secondary classrooms with 8,500 or more gross sq. ft. of area or three or more stories in height.
7. Group B-2 retail, warehouse, or manufacturing areas with 2,000 or more gross sq. ft. of area or three or more stories in height.

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.

8. Group E-1 and E-2 occupancies with 8,500 or more gross sq. ft. in area or two or more stories in height, except for minor additions that do not increase the occupant load or significantly increase the fire load.

9. Group E-3 occupancies with an occupant load of 30 or more.

10. Group H-4 occupancies with 3,000 or more gross sq. ft. of area.

11. Group R-1 apartment houses with 8,500 or more gross sq. ft. of area or with dwelling units on three or more floors, except that when they are not required by Uniform Building Code, sections 1807 or 1907, or other provisions of the state building code, automatic sprinkler systems within dwelling units in apartment occupancies are considered complete when protection is provided in all habitable rooms. Building officials, in concurrence with their fire chiefs, may accept systems not fully complying with Standard 38-1 of the Uniform Building Code.

12. Group R-1 hotels and motels with 8,500 or more gross sq. ft. of area or with guest rooms on three or more floors.

Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Income Limits for the Limited Unit Development Mortgages

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of setting income limits for the Limited Unit Development Mortgages, pursuant to Laws 1981, Chapter 306, Section 3.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Monte Aaker, Research Coordinator, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule. As required by the Administrative Procedures Act, this temporary rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

James J. Solem
Executive Director

Temporary Rule as Proposed

12 MCAR § 3.002 [Temporary] Definitions.

A.-N. [Unchanged.]

O. "Persons and families of low and moderate income" means:

1. With respect to limited-unit mortgage loans pursuant to Chapter Four of these rules, development cost loans pursuant to Chapter Three of these rules, planning grants pursuant to Chapter Five of these rules, and American Indian housing loans pursuant to Chapter Eight of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1 [Temporary] and Exhibit 12 MCAR § 3.002 O.-2 [Temporary] or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

Exhibit 12 MCAR § 3.002 O.-1 [Temporary]
Maximum Adjusted Income for
Loans for New Construction

~~Mortgage Interest Rate~~	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
~~0-10.59%~~	~~$24,000~~	~~$29,000~~
~~10.60-11.09%~~	~~$25,000~~	~~$30,000~~
~~11.10-11.59%~~	~~$26,000~~	~~$31,000~~
~~11.60-12.09%~~	~~$27,000~~	~~$32,000~~

~~12.10-12.59%~~	~~$28,000~~	~~$33,000~~
~~12.60% and over~~	~~$29,000~~	~~$34,000~~
	$35,000	$39,000

Exhibit 12 MCAR § 3.002 O.-2 [Temporary]

Maximum Adjusted Income for Loans for Existing Construction

~~Mortgage Interest Rate~~	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
~~0-10.59%~~	~~$20,000~~	~~$24,000~~
~~10.60-11.09%~~	~~$21,000~~	~~$25,000~~
~~11.10-11.59%~~	~~$22,000~~	~~$26,000~~
~~11.60-12.09%~~	~~$23,000~~	~~$27,000~~
~~12.10-12.59%~~	~~$24,000~~	~~$28,000~~
~~12.60% and over~~	~~$25,000~~	~~$29,000~~
	$27,000	$35,000

2.-5. [Unchanged.]

P.-V. [Unchanged.]

Minnesota Pollution Control Agency

Proposed Revision of APC 1 (6 MCAR § 4.0001), Relating to Ambient Air Quality Standards

Notice of Correction of Adopted Amendments

At 7 S.R. 704 (November 8, 1982) the Minnesota Pollution Control Agency published adopted amendments to 6 MCAR § 4.0001 relating to ambient air quality standards. Please make the following corrections:

At S.R. 705 the word "in" in the first sentence in 6 MCAR § 4.0001 C. should be added between the words "requirement" and "B." so the first sentence reads: "The requirement in B. applies without respect to whether emission rules stated in other air pollution control rules of the agency are also being violated."

At S.R. 706, in the Remarks to the three-hour secondary sulfur dioxide standard, the word "not" should be inserted between the word "concentration" and the word "to" so the phrase reads "maximum 3 hr. concentration not to be exceeded more than once per year in Air Quality Control Regions 127, 129, 130 and 132 as set forth in 40 C.F.R. Part 81, Designations of Air Quality Control Regions (1981)."

Minnesota Public Utilities Commission

Proposed Amendment of Rules Governing the Cold Weather Rule (4 MCAR § 3.0299 F.2.b.)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Public Utilities Commission proposes to revise the above-entitled rules without a public hearing. The commission has determined that the proposed revision of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (1981).

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.

The proposed changes to the rules would update the maximum total household income levels that qualify for "Inability to Pay" status under the Cold Weather Rule.

Persons interested in this rule shall have 30 days to submit comments on the proposed amendment. The proposed amendment 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 amendment 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 Minn. Stat. § 15.0412, subds. 4-4f.

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

Mr. Randall D. Young, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Authority for the amending of this rule is contained in Minn. Stat. § 216A.05, subd. 1 and § 216B. Additionally, a statement of need and reasonableness that describes the need for the reasonableness of the proposed amendment and identifies the data and information relied upon to support the proposed amendment has been prepared and is available from Mr. Christopher K. Sandberg upon request. Mr. Sandberg may be reached at the above address or by telephone at (612) 296-2357.

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

A copy of the proposed amendment to the Cold Weather Rule is attached to this notice.

Copies of this notice and the proposed amendment to the rule are available and may be obtained from Mr. Sandberg.

November 17, 1982

Randall D. Young
Executive Secretary

Rule as Proposed

4 MCAR § 3.0299 Disconnection of service during periods of cold weather.

A.-E. [Unchanged.]

F. Commission determination of inability to pay.

1. All appeals of declarations of inability to pay shall be determined on an informal basis by the commission within 30 days after receipt of the utility's written appeal.

2. The commission shall determine the residential customer's inability to pay based upon the following:

a. a finding that the residential customer is in compliance with 4 MCAR § 3.0299 D.1.; and

b. a finding of "lower budget," as defined in the Bureau of Labor Statistics Guidelines, which are ~~those applicable on the effective date of this rule~~ contained in the United States Department of Labor News (82-139) dated April 16, 1982, "Autumn 1981 Urban Family Budgets and Comparative Indexes for Selected Urban Areas" for the Minneapolis-St. Paul, Minnesota area.

3.-4. [Unchanged].

G.-I. [Unchanged.]

Department of Public Welfare

Proposed Rules Governing Mental Health Center Standards (12 MCAR §§ 2.0290-2.0298)

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in the Minnesota Veterans Home Auditorium (Building 15), 5100 Minnehaha Avenue, Minneapolis, Minnesota 55417 on January 6, 1983 commencing at 9:00 a.m. and continuing until

all interested persons have an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Richard C. Luis, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, 612/341-7610 either before the hearing or within five working days after the public hearing ends. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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

Proposed rules 12 MCAR §§ 2.0290-2.0298 cover the following areas:

Rules 12 MCAR §§ 2.0290-2.0298 establish organization, treatment, quality assurance and staffing standards for approval of mental health clinics and mental health centers for purposes of insurance reimbursement pursuant to Minn. Stat. § 62A.152. Minn. Stat. § 62A.152 mandates minimum level of benefits for outpatient treatment of mental or nervous disorders under certain conditions. Approval is not required for the existence of a mental health center.

Rule 12 MCAR § 2.0291 defines the following terms as used in these rules: application, approval, case review, center, client, clinical services, commissioner, competent, consultation, deferral, department, disapproval, discipline documentation, individual treatment plan, mental health professional, mental illness, multidisciplinary staff, and treatment strategy.

Rule 12 MCAR § 2.0292 lists the requirements for the center's organizational structure, and a satellite office.

Rule 12 MCAR § 2.0293 sets out the minimum treatment standards, including procedures for intake, case assignment, assessment and diagnosis, treatment planning, consultation meetings, referral, emergency services and hospital access. Minimum requirements for the client record are also specified.

Rule 12 MCAR § 2.0294 sets out the minimum quality assurance standards, including written policies and procedures for treatment and quality assurance processes, and standard for peer review, internal utilization review, supervision, continuing education, data privacy and handling of complaints and adverse incidents.

Rule 12 MCAR § 2.0295 sets out minimum standards for required staff and additional staff, requirements for staff records, and relationship to staff credentialed under Minn. Stat. § 214.13.

Rule 12 MCAR § 2.0296 explains the application and review process, including how to obtain an application, how the fee is established, what the review entails, timeline for application and review, possible review decisions, and cites the appeals process.

Rule 12 MCAR § 2.0297 explains the post-approval requirements: duration of approval, reapplication process, restrictions on approval, procedures required when the center becomes in noncompliance, and compliance reports.

Rule 12 MCAR § 2.0298 sets out the variance process, how to apply and how the decision is made.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. § 245.69, subd. 2.

The department estimates that county or local costs will be $51,900, $74,800 and $44,900 for FY 1983-FY 1985. These costs are assumed to be a portion of Rule 28 (12 MCAR § 2.028) center costs. The costs include biennial applicant fees and annual ongoing charge or training to ensure that compliance is maintained by the center.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Trudy Dunham, Mental Illness Program Division, Mental Health Bureau, Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota 55155, telephone (612) 296-4503. Additional copies will be available at the hearing. If you have any questions on the content of the rule, please call Trudy Dunham.

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.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

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, St. Paul, Minnesota 55155, telephone (612) 296-5615.

November 19, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rules as Proposed (all new material)

12 MCAR § 2.029 Mental health center standards. Rules 12 MCAR §§ 2.0291-2.0298 establish standards for approval of mental health centers and mental health clinics for purposes of insurance reimbursement under Minnesota Statutes, section 62A.152.

12 MCAR § 2.0291 Definitions.

A. Scope. As used in 12 MCAR §§ 2.0291-2.0298, the following terms have the meanings given them.

B. Application. "Application" means the formal statement by a center to the commissioner, on the forms created for this purpose, requesting recognition as meeting the requirements of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

C. Approval. "Approval" means the determination by the commissioner that the applicant center has met the minimum standards of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.029-2.0298, and is therefore eligible to claim reimbursement for outpatient clinical services under the terms of Minnesota Statutes, section 62A.152. Approval of a center under 12 MCAR §§ 2.0291-2.0298 does not mean approval of a staff person of such center to claim reimbursement from Medical Assistance or other third party payors when practicing privately. Approval of a center under 12 MCAR §§ 2.0291-2.0298 does not mean approval of such center to claim reimbursement from Medical Assistance.

D. Case review. "Case review" means a consultation process thoroughly examining a client's condition and treatment. It includes review of the client's reason for seeking treatment, diagnosis and assessment, and the individual treatment plan; review of the appropriateness, duration, and outcome of treatment provided; and treatment recommendations.

E. Center. "Center" means a public or private health and human services facility which provides clinical services in the treatment of mental illness. It is an abbreviated term used in place of "mental health center" or "mental health clinic" throughout the rule.

F. Client. "Client" means a person accepted by the center to receive clinical services in the diagnosis and treatment of mental illness.

G. Clinical services. "Clinical services" means services provided to a client to diagnose, describe, predict, and explain that client's status relative to a disabling condition or problem, and where necessary, to treat the client to reduce impairment due to that condition. Clinical services include individual treatment planning, case review, record keeping required for treatment, peer review, and supervision.

H. Commissioner. "Commissioner" means the Commissioner of the Minnesota Department of Public Welfare or a designated representative.

I. Competent. "Competent" means having sufficient knowledge of and proficiency in a specific mental illness assessment or treatment service, technique, method, or procedure, documented by experience, education, training, and certification, to be able to provide it to a client with little or no supervision.

J. Consultation. "Consultation" means the process of deliberating or conferring between multidisciplinary staff regarding a client and the client's treatment.

K. Deferral. "Deferral" means the determination by the commissioner that the applicant center does not meet the minimum standards of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298 and is not approved, but is granted a period of time to comply with these standards and receive a second review without reapplication.

L. Department. "Department" means the Minnesota Department of Public Welfare.

M. Disapproval. "Disapproval" means a determination by the commissioner that the applicant center does not meet the minimum standards of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

N. Discipline. "Discipline" means a branch of professional knowledge or skill acquired through a specific course of study and training and usually documented by a specific educational degree or certification of proficiency. Examples of the mental health disciplines are psychiatry, clinical psychology, clinical social work, and psychiatric nursing.

O. Documentation. "Documentation" means the automatically or manually produced and maintained evidence that can be read by person or machine, and that will attest to the compliance with requirements of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

P. Individual treatment plan. "Individual treatment plan" means a written plan of intervention and treatment developed on the basis of assessment results for a specific client, and updated as necessary. The plan specifies the goals and objectives in measurable terms, states the treatment strategy, and identifies responsibilities of multidisciplinary staff.

Q. Mental health practitioner. "Mental health practitioner" means a staff person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

1. by having a bachelor's degree in one of the behavioral sciences or a related field, from an accredited college or university and 2,000 hours of supervised clinical experience in the treatment of mental illness;

2. by having 6,000 hours of supervised clinical experience in the treatment of mental illness;

3. by being a graduate student in a mental health discipline formally assigned to the center for clinical training by an accredited college or university; or

4. by having a master's or other graduate degree in a mental health discipline from an accredited college or university.

Documentation of compliance with 12 MCAR § 2.0294 D.2. is required for designation of work as supervised clinical experience.

R. Mental health professional. "Mental health professional" means a staff person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

1. in psychiatric nursing: a registered nurse with either a master's degree in a mental health discipline from an accredited college or university, or its equivalent, who is licensed under Minnesota Statutes, sections 148.171 to 148.285, with at least 4,000 hours of post master's supervised clinical experience in the treatment of mental illness.

2. in clinical social work: a person with either a master's degree in clinical social work from an accredited college or university, or its equivalent, with at least 4,000 hours of post master's supervised clinical experience in the treatment of mental illness;

3. in clinical psychology: a psychologist licensed under Minnesota Statutes, sections 148.88 to 148.98;

4. in psychiatry: a physician licensed under Minnesota Statutes, chapter 147 and certified by the Board of Psychology or eligible for board certification in psychiatry; and

5. in allied fields: a person with either a master's degree from an accredited college or university in one of the behavioral sciences or related fields, or its equivalent, whose official transcript documents that the degree or its equivalent includes a minimum of 28 semester hours of graduate course credit in mental health theory and supervised clinical training, with at least 4,000 hours of post master's supervised clinical experience in the treatment of mental illness; or a physician licensed under Minnesota Statutes, chapter 147.

Documentation of compliance with 12 MCAR § 2.0294 D.2. is required for designation of work as supervised clinical experience.

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.

S. Mental illness. "Mental illness" means a condition which results in an inability to interpret the environment realistically and in impaired functioning in primary aspects of daily living such as personal relations, living arrangements, work, and recreation, and which is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), Ninth Revision (1980), code range 290.0-302.99 or 306.0-316, or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III), Third Edition (1980), Axes I, II or III. These publications are available from the state law library.

T. Multidisciplinary staff. "Multidisciplinary staff" means the mental health professionals and mental health practitioners employed by or under contract to the center to provide outpatient clinical services in the treatment of mental illness.

U. Treatment strategy. "Treatment strategy" means the particular form of service delivery or intervention which specifically addresses the client's characteristics and mental illness, and describes the process for achievement of individual treatment plan goals.

12 MCAR § 2.0292 Mental health center; mental health clinic.

A. Organizational structure.

1. The center or the facility of which it is a unit shall be legally constituted as a partnership, corporation, or government agency. The center shall be either the entire facility or a clearly identified unit within the facility which is administratively and clinically separate from the rest of the facility. All business shall be conducted at that center or facility, except Medical Assistance billing by individually-enrolled providers when the center is not enrolled.

2. The center shall document that the prevention, diagnosis, and treatment of mental illness are the main purposes of the center. If the center is a unit within a facility, the rest of the facility shall not provide clinical services in the outpatient treatment of mental illness. The facility may provide services other than clinical services in the treatment of mental illness, including medical services, chemical dependency services, social services, training, and education. The provision of these additional services is not reviewed in granting approval to the center under 12 MCAR §§ 2.0291-2.0298.

3. The center shall have a governing body. The governing body shall provide written documentation of its source of authority. The governing body shall be legally responsible for the implementation of the standards set forth in Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298 through the establishment of written policy and procedures.

4. The center shall have an organizational chart or statement which specifies the relationships among the governing body, any administrative and support staff, mental health professional staff, and mental health practitioner staff; their respective areas of responsibility; the lines of authority involved; the formal liaison between administrative and clinical staff; and the relationship of the center to the rest of the facility and any additional services provided.

B. Secondary locations.

1. The center shall notify the commissioner of all center locations. If there is more than one center location, the center shall designate one as the main office and all secondary locations as satellite offices. The main office as a unit and the center as a whole shall be in compliance with 12 MCAR § 2.0295. The main office shall function as the center records and documentation storage area and house most administrative functions for the center. Each satellite office shall:

a. be included as a part of the legally constituted entity;

b. adhere to the same clinical and administrative policies and procedures as the main office;

c. operate under the authority of the center's governing body;

d. store all center records and the client records of terminated clients at the main office;

e. ensure that a mental health professional is on-site and competent to supervise and intervene in the clinical services provided at that site, whenever the satellite office is open;

f. ensure that its multidisciplinary staff have access to and interact with main center staff for consultation, supervision, and peer review; and

g. ensure that clients have access to all clinical services provided in the treatment of mental illness and the multidisciplinary staff of the center.

2. If the commissioner determines that a secondary location is not in compliance with 1., it is not a satellite office. Outpatient clinical services in the treatment of mental illness delivered by the center or facility of which it is a unit shall cease at that location, or the application shall be disapproved.

12 MCAR § 2.0293 Minimum treatment standards.

A. Multidisciplinary approach. The center shall document that services are provided in a multidisciplinary manner. That

documentation shall include evidence that staff interact in providing clinical services, that the services provided to a client involve all needed disciplines represented on the center staff and that staff participate in case review and consultation procedures as described in F.

B. Intake and case assignment.

1. The center shall establish an intake or admission procedure which outlines the intake process, including the determination of the appropriateness of accepting a person as a client by reviewing the client's condition and need for treatment, the clinical services offered by the center, and other available resources.

2. The center shall document that case assignment for assessment, diagnosis, and treatment is made to a multidisciplinary staff person who is competent in the service, in the recommended treatment strategy and in treating the individual client characteristics. Responsibility for each case shall remain with a mental health professional.

C. Assessment and diagnostic process. The center shall establish an assessment and diagnostic process that determines the client's condition and need for clinical services. The assessment of each client shall include clinical consideration of the client's general physical, medical, developmental, family, social, psychiatric, and psychological history and current condition. The diagnostic statement shall include the diagnosis based on the codes in the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and refer to the pertinent assessment data. The diagnosis shall be by or under the supervision of and signed by a psychiatrist or licensed consulting psychologist, or by and signed by a licensed psychologist.

D. Treatment planning. The individual treatment plan, based upon a diagnostic assessment of mental illness, shall be jointly developed by the client and the mental health professional. This planning procedure shall ensure that the client has been informed in the following areas: assessment of the client condition; treatment alternatives; possible outcomes and side effects of treatment; treatment recommendations; approximate length, cost, and hoped-for outcome of treatment; the client's rights and responsibilities in implementation of the individual treatment plan; staff rights and responsibilities in the treatment process; the Government Data Practices Act, Minnesota Statutes, sections 15.1611 to 15.1699; and procedures for reporting grievances and alleged violation of client rights. If the client is considering chemotherapy, hospitalization, or other medical treatment, the appropriate medical staff person shall inform the client of the treatment alternatives, the effects of the medical procedures, and possible side effects. Clinical services shall be appropriate to the condition, age, sex, socioeconomic, and ethnic background of the client, and provided in the least restrictive manner. Clinical services shall be provided according to the individual treatment plan and existing professional codes of ethics.

E. Client record. The center shall maintain a client record for each client. The record must document the assessment process, the development and updating of the treatment plan, the treatment provided and observed client behaviors and response to treatment, and serve as data for the review and evaluation of the treatment provided to a client. The record shall include:

1. a statement of the client's reason for seeking treatment;

2. a record of the assessment process and assessment data;

3. the initial diagnosis based upon the assessment data;

4. the individual treatment plan;

5. a record of all medication prescribed or administered by multidisciplinary staff;

6. documentation of services received by the client, including consultation and progress notes;

7. when necessary, the client's authorization to release private information, and client information obtained from outside sources;

8. at the closing of the case, a statement of the reason for termination, current client condition, and the treatment outcome; and

9. correspondence and other necessary information.

F. Consultation; case review. The center shall establish standards for case review and encourage the ongoing consultation among multidisciplinary staff. The multidisciplinary staff shall attend staff meetings at least twice monthly for a minimum of

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four hours per month, or a minimum of two hours per month if the staff person provides clinical services in the treatment of mental illness less than 15 hours per week. The purpose of these meetings shall be case review and consultation. Written minutes of the meeting shall be maintained at the center for at least three years after the meeting.

G. Referrals. If the necessary treatment or the treatment desired by the client is not available at the center, the center shall facilitate appropriate referrals. The multidisciplinary staff person shall discuss with the client the reason for the referral, potential treatment resources, and what the process will involve. The staff person shall assist in the process to ensure continuity of the planned treatment.

H. Emergency service. The center shall ensure that clinical services to treat mental illness are available to clients on an emergency basis.

I. Access to hospital. The center shall document that it has access to hospital admission for psychiatric inpatient care, and shall provide that access when needed by a client. This requirement for access does not require direct hospital admission privileges on the part of qualified multidisciplinary staff.

12 MCAR § 2.0294 Minimum quality assurance standards.

A. Policies and procedures. The center shall develop written policies and procedures and shall document the implementation of these policies and procedures for each treatment standard and each quality assurance standard in B.-G. and 12 MCAR § 2.0293. The policies shall be approved by the governing body. The procedures shall indicate what actions or accomplishments are to be performed, who is responsible for each action, and any documentation or required forms. Multidisciplinary staff shall have access to a copy of the policies and procedures at all times.

B. Peer review. The center shall have a multidisciplinary peer review system to assess the manner in which multidisciplinary staff provide clinical services in the treatment of mental illness. Peer review shall include the examination of clinical services to determine if the treatment provided was effective, necessary, and sufficient and of client records to determine if the recorded information is necessary and sufficient. The system shall ensure review of a randomly selected sample of five percent or six cases, whichever is less, of the annual caseload of each mental health professional by other multidisciplinary staff. Peer review findings shall be discussed with staff involved in the case and followed up by any necessary corrective action. Peer review records shall be maintained at the center.

C. Internal utilization review. The center shall have a system of internal utilization review to examine the quality and efficiency of resource usage and clinical service delivery. The center shall develop and carry out a review procedure consistent with its size and organization which includes collection or review of information, analysis or interpretation of information, and application of findings to center operations. The review procedure shall minimally include, within any three year period of time, review of the appropriateness of intake, the provision of certain patterns of services, and the duration of treatment. Criteria may be established for treatment length and the provision of services for certain client conditions. Utilization review records shall be maintained, with an annual report to the governing body for applicability of findings to center operations.

D. Staff supervision.

1. The center shall have a clinical evaluation and supervision procedure which identifies each multidisciplinary staff person's areas of competence and documents that each multidisciplinary staff person receives the guidance and support needed to provide clinical services for the treatment of mental illness in the areas they are permitted to practice.

2. A mental health professional shall be responsible for the supervision of the mental health practitioner, including approval of the individual treatment plan and bimonthly case review of every client receiving clinical services from the practitioner. This supervision shall include a minimum of one hour of face-to-face, client-specific supervisory contact for each 40 hours of clinical services in the treatment of mental illness provided by the practitioner.

E. Continuing education. The center shall require that each multidisciplinary staff person attend a minimum of 36 clock hours every two years of academic or practical course work and training. This education shall augment job-related knowledge, understanding, and skills to update or enhance staff competencies in the delivery of clinical services to treat mental illness.

F. Violations of standards.

1. The center shall have procedures for the reporting and investigating of alleged unethical, illegal, or grossly negligent acts, and of the serious violation of written policies and procedures. Serious violations of policies and procedures are: a violation which threatens the health, safety, or rights of clients or center staff; the repeated nonadherence to policies and procedures; and the nonadherence to policies and procedures which result in noncompliance with Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298. The center shall document that the reported behaviors have been reviewed and that responsible disciplinary or corrective action has been taken if the behavior was substantiated. The procedures shall address both client and staff reporting of complaints or grievances regarding center procedures, staff, and services. Clients and staff shall be informed they may file the complaint with the department if it was not resolved to mutual satisfaction.

2. The center shall have procedures for the reporting of suspected abuse or neglect of clients, in accordance with Minnesota Statutes, sections 241.62, subdivision 5, 626.556, and 626.557.

G. Data classification. Client information compiled by the center, including client records and minutes of case review and consultation meetings, shall be protected as private data on individuals within the welfare system under the Minnesota Government Data Practices Act.

12 MCAR § 2.0295 Minimum staffing standards.

A. Required staff.

1. The multidisciplinary staff of a center shall consist of at least four mental health professionals. At least two of the mental health professionals shall each be employed or under contract for a minimum of 35 hours a week by the center. Those two professionals shall be of different disciplines and shall be either a clinical social worker, psychiatric nurse, psychologist, or a psychiatrist. At least two mental health professionals shall be on-site when the center is open.

2. The mental health professional staff shall include a psychiatrist and a licensed consulting psychologist.

3. The mental health professional staff shall include either a clinical social worker or a psychiatric nurse.

4. The mental health professional employed or under contract to the center to meet a requirement of 2. or 3. shall be on-site and providing clinical services in the treatment of mental illness at least eight hours every two weeks. The center shall employ or contract with the professionals required in 2. or 3. so that each professional comprises five percent of the full-time equivalent multidisciplinary staff time spent in clinical services, or 35 hours, whichever is less, to ensure and document their ongoing presence and availability in the provision of clinical services.

B. Additional staff; staffing balance. Additional mental health professional staff may be employed by or under contract to the center provided that no single mental health discipline or combination of allied fields shall comprise more than 60 percent of the full-time equivalent mental health professional staff. This provision does not apply to a center with fewer than six full-time equivalent mental health professional staff. This provision does not apply to a center with fewer than six full-time equivalent mental health professional staff. Mental health practitioners may also be employed by or under contract to a center to provide clinical services for the treatment of mental illness in their documented area of competence. Mental health practitioners shall not comprise more than 25 percent of the full-time equivalent multidisciplinary staff. In determination of full-time equivalence, only time spent in clinical services for the treatment of mental illness shall be considered.

C. Multidisciplinary staff records. The center shall maintain records sufficient to document that the center has determined and verified the clinical service qualifications of each multidisciplinary staff person, and sufficient to document each multidisciplinary staff person's terms of employment.

D. Credentialed occupations. The center shall adhere to the qualifications and standards specified by rule for any human service occupation credentialed under Minnesota Statutes, section 214.13 and employed by or under contract to the center.

12 MCAR § 2.0296 Application procedures; review; decision.

A. Application.

1. A facility seeking approval as a center for insurance reimbursement of its outpatient clinical services in treatment of mental illness must make formal application to the commissioner for such approval. The application form for this purpose may be obtained from the Mental Illness Program Division of the department. The application form shall require only information which is required by statute or rule, and may require the applicant center to explain and provide documentation of compliance with the minimum standards in Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

2. Each application shall be accompanied by payment of the nonrefundable application fee. The fee shall be established and adjusted in accordance with Minnesota Statutes, section 16A.128 to cover the costs to the department in implementing Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

3. The application is considered complete on the date the application fee and all information required in the application form are received by the department.

4. The center shall designate in the application a mental health professional as the coordinator for issues surrounding compliance with 12 MCAR §§ 2.0291-2.0298.

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5. A center whose application is disapproved or whose approval is withdrawn may not reapply for 90 days following notification of disapproval or the withdrawal of approval. A center whose approval is withdrawn under 12 MCAR § 2.0297 D.2. or due to noncompliance with 12 MCAR § 2.0294 F.1. may not reapply for two years following notification of disapproval.

B. Review of applicant centers.

1. The formal review shall begin after the completed application has been received, and shall include an examination of the written application and a visit to the center. The applicant center shall be offered a choice of site visit dates, with at least one date falling within 60 days of the date on which the department receives the complete application. The visit shall include interviews with multidisciplinary staff and examination of a random sample of case records, consultation minutes, quality assurance reports, and multidisciplinary staff records.

2. If implementation of a procedure is too recent to be reliably documented, a written statement of the planned implementation shall be accepted as documentation on the initial application. The evidence of licensure or accreditation through another regulating body shall be accepted as documentation of a specific procedure when the required minimum standard of that body is the same or higher than a specific provision of 12 MCAR §§ 2.0291-2.0298.

3. The applicant center shall allow the commissioner to inspect the center at any time during the approval and deferral periods, whether or not the visit had been announced in advance. A visit shall occur only during normal working hours of the center and shall not disrupt the normal functioning of the center.

C. Decision on application.

1. Upon completion of the site visit, a report shall be written. The report shall include a statement of findings, a recommendation to approve, defer, or disapprove the application, and the reasons for the recommendation.

2. The applicant center shall be sent written notice of approval, deferral, or disapproval within 30 days of the completion of the site visit. If the decision is a deferral or a disapproval, the notice shall indicate the specific areas of noncompliance.

3. An application shall be disapproved or deferred if it is the initial application of a center, when the applicant center is not in compliance with Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

4. If an application is deferred, the length of deferral shall not exceed 180 days. If the areas of noncompliance stated in the deferral notice are not satisfactorily corrected by the end of the deferral period, the application shall be disapproved. At any time during the deferral period, the applicant center may submit documentation indicating correction of noncompliance. The application shall then be approved or disapproved. At any time during the deferral period, the applicant center may submit a written request to the commissioner to change the application status to disapproval. The request shall be complied with within 14 days of receiving this written request. The applicant center is not an approved center for purposes of Minnesota Statutes, section 62A.152 during a deferral period.

5. The effective date of a decision is the date the commissioner signs a letter notifying the applicant center of that decision.

D. Appeals. If an application is disapproved or approval is withdrawn, a contested case hearing and judicial review as provided in Minnesota Statutes, sections 15.0418 to 15.0425 may be requested by the center within 30 days of the commissioner's decision.

12 MCAR § 2.0297 Post-approval requirements.

A. Duration of approval. Initial approval of an application is valid for 12 months from the effective date, subsequent approvals for 24 months, except when approval is withdrawn according to the criteria in D.

B. Reapplication. The center shall contact the department for reapplication forms, and submit the completed application at least 90 days prior to the expected expiration date. If an approved center has met the conditions of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298, including reapplication when required, its status as an approved center shall remain in effect pending department processing of the reapplication.

C. Restrictions. The approval is issued only for the center named in the application and is not transferable or assignable to another center. The approval is issued only for the center location named in the application and is not transferable or assignable to another location. If the commissioner is notified in writing at least 30 days in advance of a change in center location and can determine that compliance with all provisions of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298 are maintained, the commissioner shall continue the approval of the center at the new location.

D. Noncompliance.

1. Changes in center organization, staffing, treatment, or quality assurance procedures that affect the ability of the center to comply with the minimum standards of Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298 shall be reported in writing by the center to the commissioner within 15 days of occurrence. Review of the

change shall be conducted by the commissioner. A center with changes resulting in noncompliance in minimum standards shall receive written notice and may have up to 180 days to correct the areas of noncompliance before losing approval status. Interim procedures to resolve the noncompliance on a temporary basis shall be developed and submitted in writing to the commissioner for approval within 30 days of the commissioner's determination of the noncompliance. Nonreporting within 15 days of occurrence of a change that results in noncompliance, failure to develop an approved interim procedure within 30 days of the determination of the noncompliance, or nonresolution of the noncompliance within 180 days shall result in the immediate withdrawal of approval status.

2. Serious violation of policies or procedures, professional association or board sanctioning, or loss of licensure for unethical practices, or the conviction of violating a state or federal statute shall be reported in writing by the center to the commissioner within ten days of the substantiation of such behavior. Review of this report and the action taken by the center shall be conducted by the commissioner. Approval shall be withdrawn immediately unless the commissioner determines that: the center acted with all proper haste and thoroughness in investigating the behavior, the center acted with all proper haste and thoroughness in taking appropriate disciplinary and corrective action, and that no member of the governing body was a party to the behavior. Failure to report such behavior within ten days of its substantiation shall result in immediate withdrawal of approval.

E. Compliance reports. The center may be required to submit written information to the department during the approval period to document that the center has maintained compliance with the rule and center procedures.

12 MCAR § 2.0298 Variances.

A. When allowed. The standards and procedures established by 12 MCAR §§ 2.0291-2.0297 may be varied by the commissioner. Standards and procedures established by statute shall not be varied.

B. Application. A request for a variance must be submitted in writing to the commissioner, accompanying or following the submission of a completed application for approval under Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298. The request shall state:

1. the standard or procedure to be varied;

2. the specific reasons why the standard or procedure cannot be or should not be complied with; and

3. the equivalent standard or procedure the center will establish to achieve the intent of the standard or procedure to be varied.

C. Decision procedure. Upon receiving the variance request, the commissioner shall consult with a panel of experts in the mental health disciplines regarding the request. Criteria for granting a variance shall be the commissioner's determination that B.1.-3. are met. Hardship shall not be a sufficient reason to grant a variance. No variance shall be granted that would threaten the health, safety, or rights of clients. Variances granted by the commissioner shall specify in writing the alternative standards or procedures to be implemented and any specific conditions or limitations imposed on the variance by the commissioner. Variances denied by the commissioner shall specify in writing the reason for the denial.

D. Notification. The commissioner shall send the center a written notice granting or not granting the variance within 90 days of receiving the written variance request. This notice shall not be construed as approval or disapproval of the center under Minnesota Statutes, section 245.69, subdivision 2, and 12 MCAR §§ 2.0291-2.0298.

Department of Revenue
Petroleum Tax Division

Proposed Rules Governing Special Fuel Requirements (13 MCAR § 1.4006)

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subdivision 4h (1981).

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Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule 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 rule within the thirty-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 Statute § 15.0412, subdivisions 4-4f.

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

Mr. Larry Trimble
Acting Director
Petroleum Tax Division
Minnesota Department of Revenue
1276 University Avenue
St. Paul, Minnesota 55435
Telephone: (612) 296-3511

Authority for the adoption of this rule is contained in Minnesota Statutes § 296.27. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Larry Trimble upon request. A copy of the proposed rule is also available from Larry Trimble.

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

The rule proposed for adoption relates to the issuance of sales invoices for special fuel sales made by a distributor or special fuel dealer.

November 17, 1982

Clyde E. Allen, Jr.
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.4006 Special fuel requirements.

A. [Unchanged.]

B. Sales invoices. ~~A~~ Sales ~~invoice shall be~~ invoices issued for ~~each sale~~ sales of special fuel made by a distributor or a special fuel dealer~~.~~ ~~Such sales invoices~~ shall bear the ~~signature of the person making the delivery,~~ name and address of the purchaser, ~~motor vehicle license number if delivered into the supply tank of a licensed motor vehicle,~~ date of sale, number of gallons, ~~rate of tax,~~ price per gallon, and total amount of sale. The words "Special Fuel" shall be written or printed on each sales invoice at the time of sale or delivery. Sales invoices shall have the name and address of the distributor or special fuel dealer making the sale printed or rubber-stamped thereon and shall be machine-numbered serially with numbers of at least three digits and issued in sequence. A separate sales invoice book shall be maintained for special fuel sales, and one copy of each such sales invoice shall be retained in the special fuel sales invoice book, unless otherwise authorized by the commissioner. Sales invoices issued for fuel other than for use as special fuel shall show the kind of fuel and the name and address of the purchaser.

C.-G. [Unchanged.]

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.

Department of Public Welfare
Social Services Bureau

Adopted Rule Governing Services to Mothers and Pregnant Women (12 MCAR § 2.222)

The rule proposed and published at *State Register* Volume 7, Number 5, pp. 129-131, August 2, 1982 (7 S.R. 129) is adopted with the following amendments.

Rule as Adopted

12 MCAR § 2.222 Services to mothers and pregnant women ~~and mothers who are minors~~.

A. Applicability; purpose. This rule governs the offer and provision of services to mothers and pregnant women ~~and to mothers~~. The purpose of this rule is to ~~define the types of~~ establish criteria for mothers and pregnant women ~~and mothers~~ who shall be offered social services and the responsibility of local agencies to offer services to ~~them~~ women who meet these criteria as required by Minnesota Statutes, section 257.33.

B. ~~Definition~~ Definitions. As used in 12 MCAR § 2.222, "local social services agency" means the agency responsible for social services which is under the authority of the board of county commissioners or human services board; and "appropriate social services" are those services identified as appropriate social services by the local social services agency.

C. Eligibility criteria for women. The local agency shall offer the services required under D. to women who meet one or more of the following criteria:

1. women who are minors and are either pregnant or already have a child;

2. mothers who are referred to the agency because they did not have prenatal care;

3. mothers who request assistance in establishing paternity for their children;

4. women who request assistance in deciding if they want to parent their child; and

5. mothers who are referred to the agency because they have physical, mental, or emotional problems which limit the care that they are able to provide for their children.

D. Local social services agency responsibilities. The local agency shall:

1. Contact each minor mother who is reported by a hospital as having given birth to a child and offer appropriate social services to her; and

2. Offer appropriate social service to women who meet one or more of the criteria of C.

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SUPREME COURT

Decisions Filed Wednesday, November 24, 1982

Compiled by John McCarthy, Clerk

82-340 State of Minnesota v. John Van Gorden, Appellant. Hennepin County.

Presence of severe aggravating circumstances justified durational departure of greater than two times the presumptive sentence established by the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-343 State of Minnesota v. Bradley Vogelpohl, Appellant. Brown County.

Particularly cruel way in which defendant committed offense of second-degree murder justified limited durational departure from presumptive sentence established by Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-892 Jeffrey Frank, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J. Dissenting, Wahl, J.

81-1210 American Motorist Insurance Company v. Vicky M. Sarvela, Appellant. Hennepin County.

Underinsured, like uninsured coverages, were incorporated into the Minnesota No-Fault Automobile Insurance Act, Minn. Stat. § 65B.41, *et seq*, (1980), not subject to the Act's motorcycle exclusions.

An insurance policy exclusion which attempts to prevent underinsured motorist coverage from following the insured is inconsistent with the purposes of the Minnesota No-Fault Automobile Insurance Act, § 65B.41, *et seq*. (1980).

Reversed and remanded. Todd, J.

82-398 Rush City Hospital v. Sandstone Area Hospital and Nursing Home, Inc. and Lakeside Nursing Home, Inc., Appellants, and Pine County Board of Commissioners, Dr. George R. Petterson, Minnesota Commissioner of Health, and Central Minnesota Health Systems Agency, Defendants. Pine County.

Act of May 15, 1981, ch. 200, § 2, 1981 Minn. Laws 673, 673 is constitutional legislation, although not yet effective.

Reversed. Todd, J.

81-1296 In the Matter of the Appeal of: Daniel J. Nordgren, Jr., *et al.*, Appellants, v. City of Maplewood, Ramsey County, Minnesota. Ramsey County.

The City of Maplewood had authority under Minn. Stat. § 444.075, subd. 3 (1980) to impose connection charges on the owners of land for which special assessments had been voided when the owners subsequently made connections with the improvements.

A connection charge under Minn. Stat. § 444.075 (1980) may not be prescribed without formal city council action.

Respondents are entitled to a hearing on whether the connection charges are just and equitable.

Reversed and remanded. Wahl, J.

82-429 Olympia Brewing Company, Relator, v. Commissioner of Revenue. Tax Court.

Beer picked up at the taxpayer's brewery in Minnesota by out-of-state distributor-purchasers in their own trucks for transportation and resale outside Minnesota does not constitute a sale made *within* Minnesota for the purposes of income tax apportionment under Minn. Stat. § 290.19 (1980).

Reversed. Simonett, 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 Public Welfare
Chemical Dependency Program Division

Notice of Request for Proposals for the Provision of Training

The Department of Public Welfare (DPW) is requesting proposals for the development and provision of training for individuals who conduct alcohol and drug problem assessments as assigned by the courts. The purpose of the project is to improve the quality and consistency of assessments.

DPW seeks to upgrade the assessments through the development of a comprehensive curriculum and the delivery of twelve one-day training events. Additional tasks include the identification of a model assessment instrument, a report on the characteristics of the assessors and a report on further activities to enhance the public response to DWI offenders.

A grant will be awarded to the lowest bidder submitting a detailed work plan and demonstrating the necessary skills and experience to successfully complete the contract. Specific proposal requirements are defined in the Request for Proposals. The maximum amount available for this grant is $30,000. A bidders conference will be held Friday, December 10, 1982 at 1:30 p.m. in Conference Room D of the Veterans Service Building, 20 W. 12th Street, St. Paul, MN. Closure for responses will be 4:30 p.m., January 20, 1983.

All inquiries regarding this request should be made to:

Lee Gartner
Chemical Dependency Program Division
4th Floor, Centennial Bldg.
St. Paul, MN 55155
(612) 296-8574

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 Administration

Office Space Wanted by State of Minnesota

The Department of Administration desires proposals for the rental of approximately 16,000 useable sq. ft. of office space for the Public Employee Retirement Association in the City of St. Paul. CONTACT: Department of Administration, Real Estate Management Division, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

Department of Commerce
Banking Division

Bulletin No. 2685: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of December 1982

Notice is hereby given that pursuant to Section 47.20, subd. 4a, Minnesota Statutes 1980, the maximum lawful rate of interest for conventional home mortgages for the month of December 1982 is fourteen (14.00) percentage points. Further, pursuant to Section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of December 1982 is fourteen (14.00) percentage points.

It is important to note that this maximum lawful interest rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

This is the same rate as set for November 1982 and is based on the Federal National Mortgage Association (FNMA) October 25, 1982, auction results and an average yield for conventional mortgage commitments of 13.917%. No offers were accepted by FNMA at the November 22, 1982, auction. In this case, Section 47.20, Subd. 4a, Minnesota Statutes, provides that the previous month's rate continues in effect. The next FNMA auction is scheduled for December 20, 1982, and will be the basis for the January 1983 maximum rate. Current rates regarding the monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

November 24, 1982

Michael J. Pint
Commissioner of Banks

Department of Energy, Planning and Development
Planning Division
Office of Local Government

Notice of Meeting

The Juvenile Justice Advisory Committee will meet on Friday, December 10, 1982 at 9:00 a.m. in Room 116A, First Floor, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota.

Department of Energy, Planning and Development
Planning Division
Office of Local Government

Notice of Meeting

The Juvenile Justice Advisory Committee will hold the grants award meeting for Youth Intervention Bill applicants on Thursday, December 9, 1982 at 9:00 a.m. in Room D, Sixth Floor, Veterans Service Building, 20 W. 12th St. and Columbus Avenue, St. Paul, Minnesota.

Ethical Practices Board

1983 Campaign Expenditure and Contribution Limits

In accordance with Minn. Stat. §§ 10A.25, 10A.255, and 10A.27, the following nonelection year campaign expenditure and contribution limits will be applicable in calendar year 1983:

Office sought or held	Nonelection Year Contribution Limits From individual, pol. com. or fund	From political party, in aggregate	Nonelection Year Expenditure Limits
Governor and Lt. Governor	$12,000	$60,000	$254,160
Attorney General	$ 2,000	$10,000	$ 42,360
Secretary of State	$ 1,000	$ 5,000	$ 21,180
State Treasurer	$ 1,000	$ 5,000	$ 21,180
State Auditor	$ 1,000	$ 5,000	$ 21,180
State Senator	$ 300	$ 1,500	$ 6,354
State Representative	$ 150	$ 750	$ 3,177
Elective Judgeships	No limit	No limit	No limit

Request for Advisory Opinion re: Contributors to Political Party

The Ethical Practices Board solicits opinions and comments on the following request for an advisory opinion which will be discussed at its January 13, 1983, Board meeting. Written comments should arrive prior to December 20, 1982, at the Board office, 41 State Office Bldg., St. Paul 55155.

The Libertarian Party of Minnesota has not since its beginning supported individual candidates in any elections. All contributions have been used for educational activities, convention expenses, office maintenance, etc.

I interpret this condition as releasing us from the requirement of listing all contributors in excess of $50.00 during the calendar year. Should our party change this policy of not contributing to individual campaigns, I would interpret this new condition as then requiring this individual reporting to begin. Please inform me if this is a correct interpretation of the statute.

Requested by John W. Ardoyno, treasurer, Libertarian Party of Minnesota

Metropolitan Council of the Twin Cities

Notice of Availability of Final Environmental Impact Statement

Pursuant to Section 4332(2)(c), Title 42, U.S.C. the Metropolitan Council of the Twin Cities has prepared the Final Environmental Impact Statement (EIS) for Interstate 35E from Trunk Highway 110 in Dakota County to I-94 near Downtown St. Paul, Ramsey County.

The FEIS describes and evaluates the preferred alternative within the Pleasant Avenue corridor for a proposed link between I-35E south of the St. Paul area to I-94 and I-35E immediately north at Downtown St. Paul. A direct connection parkway design is the preferred alternative.

Copies of the FEIS are available at the following library locations:

St. Paul Public Library
Central Library
90 W. Fourth St.
St. Paul, MN 55101

St. Paul Public Library
Merriam Park Branch
1831 Marshall Av.
St. Paul, MN 55104

Dakota County Library
1101 West County Rd. 42
Burnsville, MN 55337

St. Paul Public Library
Riverview Branch
1 E. George St.
St. Paul, MN 55107

South St. Paul Public Library
106 3rd Avenue N.
South St. Paul, MN 55075

St. Paul Public Library
Highland Park Branch
1974 Ford Parkway
St. Paul, MN 55116

St. Paul Public Library
Lexington Branch
1080 University Av.
St. Paul, MN 55104

Metropolitan Council Library
Suite 300 Metro Square Bldg.
7th and Robert Sts.
St. Paul, MN 55101

Dakota County Public Library
W. St. Paul Community Library
40 Emerson Avenue E.
West St. Paul, MN 55118

The FEIS maps, right-of-way information and other data are available for public review and copying at the Road Plans Information Office, Room 609, State Transportation Building, St. Paul, and the Mn/DOT District Nine Office, 3485 Hadley Avenue North, Oakdale.

Final EIS summaries are available by calling the Metropolitan Council's Public Information office at 291-6464.

Charles Weaver, Chairman
Metropolitan Council

Minnesota Board of Chiropractic Examiners

Proposed Rules of the Minnesota Board of Chiropractic Examiners

Notice of Intent to Solicit Outside Opinion and Information

Pursuant to Minn. Stat. § 15.0412, subd. 6, notice is hereby given that the Minnesota Board of Chiropractic Examiners is reviewing its rules to determine whether any new rules or amendments are needed. Among other possible subjects, the board will be considering changes in its existing rules on professional advertising.

The board hereby requests information and opinions from sources outside the agency relative to any such advertising or other rule changes. Interested or affected persons or groups should address their written or oral comments to E. A. Brochman, DC, Executive Secretary, Minnesota Board of Chiropractic Examiners, Minnesota Department of Health Building, Room 336, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, telephone: (612) 623-5430.

All written submissions shall become part of the record in any subsequent rulemaking proceeding.

November 29, 1982

E. A. Brochman, DC, Executive Secretary
Minnesota Board of Chiropractic Examiners

Department of Natural Resources

Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Marshall County

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1980) will be held in the Court House, Warren, MN, on December 22, 1982, commencing at 1:00 p.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Howard Lunsetter, Gatzke, MN 56724, Department of Natural Resources representative Merlyn Wesloh, Route 5, Box 41A, Bemidji, MN 56601, and County Soil and Water Conservation District representative Gary Anderson, Stephen, MN 56757.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1980) and the criteria contained in Minn. Stat. § 105.37, subds. 14 and 15 (1980). Please take notice that waters listed in para. A.2. may sometimes also be considered for designation, in the alternative, as wetlands.

A. PUBLIC WATERS

1. Watercourses.

Name	From Section	From Township	From Range	To Section	To Township	To Range
None						

2. Preliminarily designated under section 105.37, subds. 14(a)-14(h).

Number and Name	Section	Township	Range
45-14: Agder WMA	27	155 (Agder)	42
45-23: Elm Lake WMA	10-16, 21-23	155 (Agder)	42

B. WETLANDS

Number and Name	Section	Township	Range
45-56: Unnamed	26, 27	155 (Agder)	42

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425 (1980).

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this notice and order may be directed to any member of the hearings unit or to:

David B. Milles
DNR—Division of Waters
Third Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/297-2835.

November 23, 1982

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under Minn. Stat. § 169.832

Order No. 67287

Whereas, the Commissioner of Transportation has made his Order No. 66400 as amended by Orders Nos. 66446, 66550, 66628, 66690, 66768, 66807, 66920, 66962, 67065, 67142, 67224, 67267 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.832, and

Whereas, the commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.832.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 66400 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

TRUNK HIGHWAYS

T.H. 113 From Jct. T.H. 59 to Jct. T.H. 71
(Seasonally Restricted. Effective Dec. 1 to Mar. 7 each year.)

COUNTY ROADS

Redwood County

C.S.A.H. 6 From Jct. T.H. 14 to Jct. T.H. 68
(Effective July 15 each year)

C.S.A.H. 33 From Jct. T.H. 68 to Jct. C.S.A.H. 133
(Effective July 15 each year)

C.S.A.H.	133 From Jct. C.S.A.H. 33 to Front St. in Wabasso (Effective July 15 each year)

Correction to November 15, 1982 Designation

T.H. 72	From Baudette to So. Jct. T.H. 1 Should read:
T.H. 72 & T.H. 1	From Baudette to So. Jct. T.H. 71 (Effective December 1 each year)

Dated this 29th of November, 1982.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

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_____FREE COPY

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Minnesota Department of Revenue. Please enclose full amount for items ordered. Make check or money order payable to "State of Minnesota."

EACH ORDER MUST INCLUDE ADDITIONAL $1.00 FOR POSTAGE AND HANDLING.

Name_____

Attention of: _____

Street _____

City _____ State _____ Zip _____

Telephone_____

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

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.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AN AMENDMENT TO AN EXISTING RULE OF THE DEPARTMENT OF REVENUE RELATING TO SPECIAL FUEL REQUIREMENTS (13 MCAR & 1.4006B.)

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim presentation of the facts necessary to establish the statutory authority, need for, and reasonableness of the proposed new rule. It is submitted pursuant to 9 MCAR § 2.104 requiring a Statement of Need and Reasonableness.

Authority to Adopt the Rule

Minn. Stat. § 296.27 grants to the Commissioner of Revenue statutory authority to establish rules concerning special fuel taxes.

Statement of Need

Minn. Stat. § 296.12, subd. 5, prior to being amended in 1981, read as follows:

> Subd. 5. Sales tickets. A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser or into the supply tank of an aircraft or a licensed motor vehicle. The person who delivers the special fuel shall issue and sign the sales ticket and such person shall show thereon the name and address of the purchaser, motor vehicle license number if delivered into the supply tank of a licensed motor vehicle, date of sale, number of gallons, price per gallon, and total amount of sale. On deliveries of special fuel into the supply tank of an aircraft or a licensed motor vehicle the sale ticket shall show the per gallon rate of special fuel excise tax. The words "Special Fuel" shall be written on each sales ticket at the time of sale or delivery. A separate sales ticket book shall be mantained for special fuel sales by a special fuel dealer.

The adoption of 13 MCAR § 1.4006 B was based on that language and, therefore, included requirements for sales by distributors to both bulk purchasers and for delivery into the supply tank of an aircraft or licensed motor vehicle.

In 1981, Minn. Stat. § 296.12, subd. 5, was amended by Laws of Minnesota 1981, Chapter 164, Section 5. to provide:

> Subd. 5. Sales tickets. A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser. A sales ticket shall also be issued for each delivery into the supply tank of an aircraft or a licensed motor vehicle, if so requested by the purchaser. The person who delivers the special fuel shall issue the sales ticket and shall show thereon the name and address of the purchaser, date of sale, number of gallons, price per gallon, and total amount of sale.

This language removed the supply tanks of individual aircraft or licensed motor vehicles from the requirements for issuance of sales tickets. This section now only applies to bulk purchasers. The proposed amendment to 13 MCAR § 1.4006B is necessary to conform the language of the rule to the statutory language which is now in effect following the 1981 amendment. The rule previously applied to all sales as did the statute and now must be amended to only apply to bulk sales.

Statement of Reasonableness

The proposed rule reflects the statutory change in requirements regarding the preparation of a sales invoice each time there is a sale of special fuel. The statutory language prior to being amended required preparation of a sales invoice for all sales of special fuel regardless of whether the fuel was placed into the supply tank of a licensed motor vehicle or into a bulk storage tank.

The 1981 amendment to Minn. Stat § 296.12, subd. 12, made issuance of a sales ticket mandatory only for bulk sales. A sales ticket is required only upon the request of the purchaser when the fuel is placed into the supply tank of a licensed motor vehicle.

Special fuel as defined in Minn. Stat. § 296.01, subd. 6, includes diesel fuel which is the primary type of special fuel. Diesel fuel was previously used predominantly in motor carriers.

The change in Minn. Stat. § 296.12, subd. 5, was based upon a significant increase in use of diesel fuel by individuals in their personal vehicles. The requirement for issuance of a sales invoice was initially adopted to accommodate interstate carriers who must have the invoice for use tax purposes pursuant to Minn. Stat. § 296.17. The change in the character of diesel fuel users was, therefore, the basis for the change in the law as individuals, who are growing in numbers as diesel fuel purchasers, do not generally need the invoices; and in many situations, refused to provide the information necessary for completion of the invoice.

Any person who wishes to have an invoice, for whatever purpose, may request that an invoice be prepared and the dealer must then prepare and issue the invoice to an individual purchasing special fuel for their personal use.

The change to the language of Minn. Stat. § 296.12, subd. 5, in addition to removing the requirement for issuance of a sales ticket for other than bulk purchases of special fuel, also deleted requirements for certain information previously included on the sales ticket. The requirements deleted in this section of the statute include:

1. signature of the dealer on the ticket.
2. motor vehicle license number on the ticket.
3. per gallon rate of special fuel excise tax for deliveries into aircraft or licensed motor vehicle supply tanks on the ticket.
4. identification of the sales ticket with the words "special fuel."
5. maintenance of a separate sales ticket book for special fuel sales.

Items 2 and 3 above relate directly to sale for delivery into the supply tank of an aircraft or licensed motor vehicle. These have, therefore, been deleted from the rule language.

Item 1 has also been deleted from the rule based on its elimination from the statutory language.

Item 5 although deleted from Minn. Stat. § 296.12, subd. 5, was at the same time placed in Minn. Stat. § 296.12, subd. 3 and, therefore, has been retained in the rule.

Item 4 while deleted from the statute is being retained in the rule and is consistent with the requirement for maintaining a separate sales ticket book for special fuel.

Finally, the requirement for the purchaser's signature has been deleted from the rule. The reasons for the deletion are as follows:

1. for purposes of administering the tax, there is no need for the signature of the purchaser.
2. the statute does not require the purchaser's signature.
3. practically the requirement is seldom complied with in the case of bulk purchasers since deliveries are often made at the discretion of the suppliers and at a time when there may or may not be anyone available to sign the sales ticket.
4. Minn. Stat. § 296.12, subd. 4, does make reference to the purchaser's signature but not as a general requirement but rather at the dealer's option. The dealer's reporting system may require the purchaser's signature but the burden of obtaining that signature lies with the dealer.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING SPECIAL FUEL REQUIREMENTS (13 MCAR SECTION 1.4006)

NOTICE OF SUBMISSION TO ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, Section 15.0412:

PlEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, February 2, 1983, for review as to form and legality. Pursuant to 1 MCAR § 1.206B., the Attorney General will not approve the rules for at least eight calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Luci Mitchell, Department of Revenue, Second Floor Centennial Office Building, St. Paul, Minnesota 55145.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Luci A. Mitchell

LUCI A. MITCHELL, Attorney
Commissioner's Staff

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING SPECIAL FUEL REQUIREMENTS (13 MCAR SECTION 1.4006)

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, LUCI A. MITCHELL, Legal Research Attorney, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Hearings, and the rules of the Attorney General have been followed. There are no exceptions.

Luci A. Mitchell

LUCI A. MITCHELL

Dated: February 2, 1983