

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) 296-5134

May 11, 1983

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

Re: Review of the Proposed Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies) (13 MCAR Section 1.0003)

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. Notice of Intent to Solicit Outside Opinion with attached correspondence.
4. Order for Notice of Intent to Adopt a Rule Without a Public Hearing.
5. Notice of Intent to Adopt a Rule Without a Public Hearing.
6. Affidavit of Mailing (Notice of Intent to Adopt a Rule Without a Public Hearing).
7. Certificate of Completeness and Accuracy (Mailing List Certificate).
8. Rule as Proposed.
9. Copy of the State Register, Volume 7, Number 41, April 11, 1983, in which the rule was published.
10. Statement of Need and Reasonableness.
11. Findings of Fact and Conclusions.
12. Statement of Compliance with Rulemaking Procedure.
13. Notice of Submission to the Attorney General.

Please contact me if there are any questions.

Very truly yours,

GERALD D. GARSKI, Manager
State Assessed Properties

GDG:dlw
Enclosures

AN EQUAL OPPORTUNITY EMPLOYER

Our File No. 912

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-12-83
DATE FOR REVIEW 5-23-83
DATE DUE 6-26-83

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

Approved _____ Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 5/13/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.11.83 Date

✓ Notice of Intent to Solicit Outside Opinion and comments SR. 3.14.83

✓ 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
4.4.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

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

N/A Hearing Examiner's Report

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

N/A Agency's Findings of Fact - only minor change - see memo.

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

_____ 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

N/A Notice of Submission to the Attorney General
(no request rec'd - see memo)

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : Arthur C. Roemer, Commissioner of Revenue DATE: May 26, 1983

Attn: DOROTHY A. McCLUNG
Director of Legal Research

FROM : LARRY D. STARNS LDS PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State of Minnesota Department of Revenue Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies).

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 Property Equalization Division

Adopted Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

Rule as Adopted

13 MCAR S 1.0003 Valuation.

A.-C. [Unchanged.]

D. Income approach to valuation. The income indicator of value will be estimated by weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; and final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the assessment will be: electric companies, 9.75 percent; gas distribution companies, 10.0 percent; and pipeline companies, 10.25 percent. The income indicator of value computed in accordance with D. will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; and pipeline companies, 25 percent.

The following example illustrates how the income indicator of value would be computed for a ~~pipeline~~ gas distribution company:

	1980	1981	1982
1. Net Operating Income	$ 468,000	$ 385,700	$ 450,000
2. Capitalized Income @ 10%	4,680,000	3,857,000	4,500,000
3. Weighting Factor	25 percent	35 percent	40 percent

4. Weighted Capitalized Income	1,170,000	1,349,950	1,800,000
5. Total Income Indicator of Value			4,319,950

E. Unit value computation. The unit value of the utility company will be the total of the weighted indicators of value.

The following is an example of the computation of the unit value for a ~~pipeline~~ gas distribution company:

1. Cost Indicator of Value:

$5,000,000 x 75% = $3,750,000

2. Income Indicator of Value:

$4,319,950 x 25% = $1,079,987

3. Unit Value of ~~Pipeline~~ Gas Distribution Company:

100% $4,829,987

Any company whose cost indicator was modified under 13 MCAR S 1.0003 C. to reflect the average cost per kilowatt adjustment of a plant or plants located in Minnesota shall have an alternative unit value computation made without giving effect to the modification in respect of such plant or plants.

F.-H. [Unchanged.]

APPROVED AS TO LEGALITY

May 26, 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 26 1983
Joan Anderson Growe
Secretary of State

3:12 P.M.

Rule as Proposed

13 MCAR S 1.0003 Valuation.

A.-C. [Unchanged.]

D. Income approach to valuation. The income indicator of value will be estimated by weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; and final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the assessment will be: electric companies, ~~8.75~~ 9.75 percent; gas distribution companies, ~~9.0~~ 10.0 percent; and pipeline companies, ~~9.25~~ 10.25 percent. The income indicator of value computed in accordance with D. will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; and pipeline companies, 25 percent.

The following example illustrates how the income indicator of value would be computed for a pipeline company:

	1980	1981	1982
1. Net Operating Income	$468,000	$385,700	$450,000
2. Capitalized Income @ 9 10%	~~5,200,000~~ 4,680,000	~~4,285,600~~ 3,857,000	~~5,000,000~~ 4,500,000
3. Weighting Factor	25 percent	35 percent	40 percent
4. Weighted Capitalized Income	~~1,300,000~~ 1,170,000	~~1,500,000~~ 1,349,950	~~2,000,000~~ 1,800,000

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

5. Total Income Indicator
of Value ~~4,800,000~~ 4,319,950

E. Unit value computation. The unit value of the utility company will be the total of the weighted indicators of value.

The following is an example of the computation of the unit value for a pipeline company:

1. Cost Indicator of Value:

$5,000,000 x 75% = $3,750,000

2. Income Indicator of Value:

~~$4,800,000~~ 4,319,950 x 25% = ~~$1,200,000~~ 1,079,987

3. Unit Value of Pipeline Company:

100% ~~$4,950,000~~ 4,829,987

Any company whose cost indicator was modified under 13 MCAR S 1.0003 C. to reflect the average cost per kilowatt adjustment of a plant or plants located in Minnesota shall have an alternative unit value computation made without giving effect to the modification in respect of such plant or plants.

F.-H. [Unchanged.]

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD331

Agency: Department of Revenue

Division: Property Equalization

Agency Contact: Jerry Garski

Rule Numbers: 13 MCAR S 1.0003

Title: Rules Governing the Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Janet C. Rahm
Assistant Revisor
Phone: 296-0952
Date: March 25, 1983

[redacted]

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Department of Revenue Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)	)))	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 Monday April 11, 1983, and was sent by the United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4, on April 4, 1983. 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 comment 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 Ad Valorem Tax Rules, Chapter One, 13 MCAR S 1.0003 are adopted this 11 day of May, 1983, pursuant to authority vested in me by Minnesota Statutes section 270.06 (14).

STATE OF MINNESOTA

Arthur C. Roemer

COMMISSIONER OF REVENUE

Department of Revenue
Property Equalization Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies).

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules governing the valuation and assement of utility companies. The promulgation of these rules is authorized by Minnesota Statutes section 270.06 (14), which permits the agency to make rules and regulations for the administration and enforcement of the property tax law.

The State Department of Revenue requests information and comments concerning the subject matter of these revised rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Ronald Cook.
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at 612-296-5137 and in person at the above address.

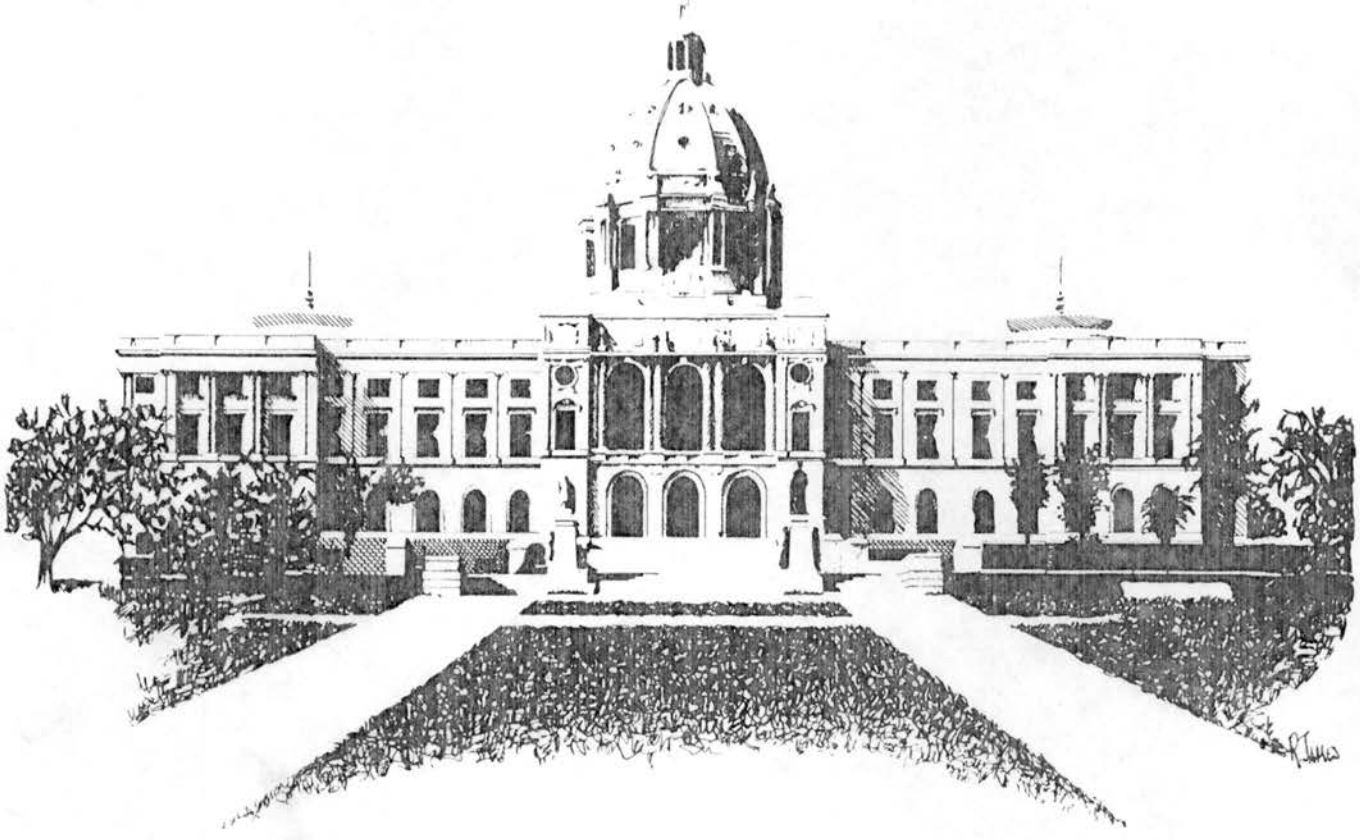
All statements of information and comment shall be accepted until April 1 , 1983. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

LYLE H. ASK, Director
Property Equalization Division
March 7, 1983

UTILITY

STATE REGISTER

STATE OF MINNESOTA



VOLUME 7, NUMBER 37

March 14, 1983

Pages 1281-1300

Minnesota Higher Education Coordinating Board

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing State Scholarships and Grants-in-Aid; Part-Time Student Grants; Work-Study Grants; Area Vocational-Technical Institute Tuition Subsidy; Assistance for Student Dependents of Minnesota Veterans; State Student Loans; Private College Contracts; and Private Institutions Registration and Approval of Degrees and Names

Notice is hereby given that the Minnesota Higher Education Coordinating Board is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing the Scholarships and Grants-in-Aid Program, Part-Time Student Grants Program, Work-Study Grants Program, Area Vocational-Technical Institute Tuition Subsidy Program, Assistance for Student Dependents of Minnesota Veterans Program, State Student Loans Program, Private College Contracts Program, and Private Institutions Registration Program and Approval of Degrees and Names.

The promulgation of these rules is authorized by Minnesota Statutes §§ 136A.111, 136A.121, 136A.132, 136A.233, 136A.236, 136A.141, 136A.20, 136A.70 (1980).

The Minnesota Higher Education Coordinating Board requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Rose Herrera Hamerlinck
Minnesota Higher Education Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 612/296-7963 and in person at the above address.

All statements of information and comment shall be accepted until March 31, 1983. Any written material received by the Minnesota Higher Education Coordinating Board shall become part of the record in the event that the rules are promulgated.

Clyde R. Ingle, Executive Director
Minnesota Higher Education Coordinating Board

Department of Revenue
Property Equalization Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules governing the valuation and assessment of utility companies. The promulgation of these rules is authorized by Minnesota Statutes section 270.06 (14), which permits the agency to make rules and regulations for the administration and enforcement of the property tax law.

The State Department of Revenue requests information and comments concerning the subject matter of these revised rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Ronald Cook
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at 612-296-5137 and in person at the above address.

All statements of information and comment shall be accepted until April 1, 1983. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

March 7, 1983

Lyle H. Ask, Director
Property Equalization Division

Department of Revenue
Property Equalization Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing The Valuation and Assessment of Railroads

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules governing The Valuation of Railroads. These revisions are specifically concerned with The Capitalization Rate which is to be used in the valuation process. The promulgation of these rules is authorized by Minnesota Statutes section 270.81, which requires the agency to adopt rules governing the taxation and assessment of railroad company property.

The State Department of Revenue requests information and comments concerning the specific subject matter of these revised rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Wayne Gerwing
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at 612-296-5144 and in person at the above address.

All statements of information and comment shall be accepted until April 1, 1983. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

March 7, 1983

Lyle H. Ask, Director
Property Equalization Division

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is April 5, 1983.

BOARD ON AGING has 1 vacancy open immediately for a member. The board develops, coordinates, evaluates, and administers federal and state funds for programs for the aging of approximately 15 million; makes grants to 12 area agencies on aging and non-profit agencies; and serves as an advocate for older persons, programs and legislation for older persons in Minnesota. Members are appointed by the Governor, and include at least 1 member from each congressional district. Monthly meetings are held at Metro Square Bldg., St. Paul; members receive $35 per diem plus expenses. For specific information, contact the Board on Aging, Suite 204, Metro Square Bldg., St. Paul 55101; (612) 296-2770.

MINNESOTA COUNCIL ON HEALTH PROMOTION AND WELLNESS has 4 vacancies open immediately for 1 member from the 1st congressional district; 1 member from the 8th congressional district; and 2 members at large. Must be experienced or interested in health promotion and wellness and practice a healthy lifestyle. The council reports on the state of the state's health, sponsors projects related to health and wellness, and studies laws and practices of state government that encourage or discourage healthy lifestyles. Members are appointed by the Governor and are reimbursed for travel and other expenses. Bi-monthly meetings (2nd Monday) are held at the Fawkes Bldg., 1645 Hennepin Ave., Minneapolis. For specific information contact the Minnesota Council on Health Promotion and Wellness, 1645 Hennepin Ave., Mpls. 55403; (612) 341-7044.

REVENUE
MAILROOM
FEB 2 1983

CITY OF
PLYMOUTH

February 1, 1983

Mr. Lyle Ask, Chairman
Utility Advisory Committee, Dept. of Revenue
Centennial Office Building
St. Paul, MN. 55145

Dear Lyle:

A few observations on our January 25th meeting. At the meeting I made some remarks relative to my experience, when I was part of a buyer group attempting to purchase a natural gas utility within our city limits. The asking price was over three times the book value.

Due to political pressure and the propagandized mentalities of ill informed people, the deal was never consumated. The message, however, is this. When valuing real property as a "whole entity" the value is considerably less than the sum of all it's saleable smaller parts. We assessors do not overlook this fact. (80 acres might sell for 3000 per acre, but sixteen parcels of 5 acres will sell for $25,000 each or 5000 per acre.) If and when utility managers appeal for changes in the rules that will lower their values this becomes especially important to taxing jurisdictions.

When the "Tower of Babel" (the legislature) gives administrators a task as complicated as our "utility valuation problem" in Minnesota, then in my opinion it behooves all parties pro and con to come up with a liveable concept. I think we have a workable-liveable concept that needs some refinement on occasion, but that refinement should be made consistent with the market value conditions in our economy as a whole. Certainly if property value conditions do not reflect decline and are on a "holding pattern plateau" we should not use a cost of money indicator that includes a 3 year "high rate aberration" in an averaging formula to arrive at a higher income-capitalization rate, in order to give Utility Co's a lower value. Manipulating the "cost of money" into a company's investment determinations includes holding costs on land, and tax costs after improvement. These determinations are an in-house management decision. Such operating costs are charged to expenses in all other real property appraisals. I do not believe money costs should be used in our formula when it's use creates a higher cap-rate that is just the opposite of what's happening in the market. We should change the formula allowing "cost of money" to be a 'judgement-call', only when it can be shown it has a <u>true</u> impact on market reflected increases or decreases in value.

3400 PLYMOUTH BOULEVARD, PLYMOUTH, MINNESOTA 55447, TELEPHONE (612) 559-2800

A further point - utilities have never been denied a rate structure that offsets their tax load.

Regarding Mr. Gary Woodman's "economic obsolescence" approach. As long as the capability of an 'old line' is measured against the capability of a 'brand new line' and the net profit 'differential-only' is capitalized to measure the loss, it's a good approach.

I've enjoyed my association with this committee over the years and I hope I've made some positive contributions. Sooner than later old man time catches up and I hope, in retirement I can out leg the old coot for a while. I expect to retire July 1, 1983. I'll be 64 in June, but I've got some plans to fulfill, a goal or two yet to reach, and some promises to keep. I'll stay in touch through the IAAO Chapter and will operate my own appraisal office as time and health permit. Till retirement though I'm still available 'free of charge'.

"May the wind be always at your back", and the committee's too.

Best Regards,

Martin A. Walsh

Martin A. Walsh
Plymouth Assessor

MAW/je

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-3401

February 8, 1983

Mr. Martin A. Walsh
Plymouth City Assessor
3400 Plymouth Boulevard
Plymouth, Minnesota 55447

Dear Marty:

I have received your comments on the Valuation of Utility Property and appreciate your input.

I also wish to express my gratitude for your many contributions on the Utility Advisory Board over the past years and wish you a very happy retirement.

Sincerely,

ARTHUR C. ROEMER
Commissioner of Revenue

ACR:RKC:vh

REVENUE
MAILROOM
FEB 11 1983

GREAT LAKES
GAS TRANSMISSION COMPANY
2100 BUHL BUILDING, DETROIT, MICHIGAN 48226 · AREA (313) 965-9400

February 8, 1983

Mr. Gerald Garski, Manager
State Assessed Properties
Property Equalization Division
MINNESOTA DEPARTMENT OF REVENUE
Centennial Office Building
St. Paul, MN 55145

Dear Mr. Garski:

In response to your request for input to the several changes you are proposing for the 1983 ad valorem assessment procedures, Great Lakes has no particular problem with a suggested capitalization rate in excess of 10%+ on pipeline properties for the year 1983. Any rate less than 10%+ would, in our estimation, would be unrealistic.

Also, it is my understanding a question has been raised again regarding allocation of system unit values to the State of Minnesota. We have no objection or problems with the current formula the State of Minnesota is using.

If further clarification of our position is required or you have any questions, please do not hesitate to contact us. With kind personal regards, I remain

Very truly yours,

Donald E. Reuther

DER/lo

REVENUE
MAILROOM
FEB 9 1983

Lakehead Pipe Line Company, Inc.

RIGHT-OF-WAY, CLAIMS AND TAX

J. E. STAUDOHAR
Manager

G. W. MAAS
Assistant Manager

E. T. DAVERN
P. L. MARTINEAU
Right of Way Agents

3025 Tower Avenue
P. O. Box 789
Superior, Wisconsin 54880
Telephone (715) 392-5631

February 8, 1983

GCD-303

Mr. Gerald D. Garski, Manager
State Assessed Properties Section
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, MN 55145

Dear Mr. Garski:

We wish to advise you that Lakehead, at this time, agrees with your proposal as expressed at the January 25 Utility Advisory Committee meeting, to limit any change in the rules governing valuation and assessment to the capitalization rate. While we feel there are other areas where the rules could be reformed, we do realize the constraints the Department of Revenue is currently working under.

Based on the report of the Hearing Examiner it would seem a recalculation of the capitalization rate is almost required every year. As an aside the Department should give some thought to revising the rules in the future to include the formula for developing the capitalization rate rather than including a specific capitalization rate each year. This should not be construed as unqualified support for the calculation of the capitalization rate, but rather support for the Department's consistent approach in its development.

We would hope that in the future the Advisory Committee could meet earlier to discuss the rules and changes thereto. We do appreciate this opportunity to offer our comments.

Very truly yours,

J. E. Staudohar

JES:cas

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Rules of the State Department of Revenue Governing The Valuation and Assessment of Electric, Gas Distrbution and Pipeline Companies (Utility Companies).

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 31st day of March, 1983, that a Notice of Intent to Adopt Rules Without 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

Arthur C. Roemer

COMMISSIONER OF REVENUE

DEPARTMENT OF REVENUE
PROPERTY EQUALIZATION DIVISION

In the Matter of the Proposed Adoption of Revisions to Rules of the State of Minnesota Department of Revenue Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies).

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Ronald Cook
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5137

Authority for the adoption of these rules is contained in Minnesota Statutes sections: 270.06 (14); 270.11, Subd. 1 and 6; 273.33, Subd. 2; 273.37, Subd. 2; and 273.38. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook at the above mentioned address, upon request.

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

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on utilities. The present rules deal generally with the valuation, allocation and apportionment of property of electric, gas distribution, pipelines and cooperative electric companies. The proposed rules if adopted would: modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the Notice and the proposed rules are available and may be obtained by contacting Ronald Cook at the above-mentioned address.

STATE OF MINNESOTA

Arthur C. Roemer

COMMISSIONER OF REVENUE

RC:SP:N25

Date March 31, 1983

of pipelines and similar objects; construction; demolition; cutting or welding; or the use of explosives." The standard also sets forth elements a scientific diving program must have in order to be exempted from Subpart T. First, the diving program must have a diving safety manual which includes, at a minimum, procedures covering all diving operations specific to the program, procedures for emergency care including recompression and evacuation, and criteria for diver training and certification. Secondly, the program shall include a diving control board (with the majority of its members being active divers) which shall have the authority to approve and monitor diving projects, review and revise the diving safety manual, ensure compliance with the manual, certify the depths to which a diver has been trained, take disciplinary action for unsafe practices, and assure adherence to the buddy system for SCUBA diving.

By this notice, Minnesota OSHA proposes to adopt this exemption of educational/scientific data from the requirements of Subpart T of 29 CFR Part 1910 as published in the Federal Register, Volume 47, No. 228, on November 26, 1982.

D. "Occupational Exposure to Lead—Administrative Stay of Compliance Plans for Certain Industries." On December 3, 1982, Federal OSHA administratively stayed the requirements of paragraphs 1910.1025(e)(3)(ii)(B) and (E) for primary and secondary lead smelting industries and the battery manufacturing industry. This portion of the Occupational Exposure to Lead Standard requires, among other things, that employers establish and implement a written compliance program to reduce employee exposures to or below permissible exposure limits by means of engineering and work practice controls in accordance with the implementation schedule included in 1910.1025(e)(1). To prepare such a written plan would involve the development of extensive information about specific means of implementing engineering controls and necessitate the expenditure of substantial monies to obtain the information through engineering studies and the likely expenditure of large sums for construction and implementation of engineering controls. This requirement is being stayed because Federal OSHA is presently reconsidering the Lead Standard which is directed, among other objectives, at improving the cost-effectiveness of the standard and at re-evaluating the feasibility of the standard in some industries. The resultant standard may make current requirements unnecessary. The imposition of this stay does not effect the required permissible exposure limit of 50 ug/m^3 nor will it adversely affect the health of employees whose blood-lead levels have been, and continue to be, reduced by a combination of engineering, work practice and respirator protection controls.

Minnesota OSHA hereby proposes to stay the requirements of 1910.1025(e)(3)(ii)(B) and (E) as published in the Federal Register, Volume 47, No. 233, on December 3, 1982 pending publication of the reconsidered standard.

E. "Occupational Safety and Health Standards for Shipyard Employment—Part 1915." On April 20, 1982 Federal OSHA consolidated the existing standards pertaining to shipyard employment into a single, comprehensive standard in an effort to eliminate duplicative and overlapping provisions. In addition, nonsubstantive changes are also included. This action combines 29 CFR Part 1915 "Ship Repairing," Part 1916 "Shipbuilding," and Part 1917 "Shipbreaking" into one standard designated as Part 1915 "Occupational Safety and Health Standards for Shipyard Employment." The new, consolidated Part 1915 will apply to all three shipyard operations which are presently addressed separately in Parts 1915, 1916 and 1917. Editorial and other nonsubstantive language changes have been made to the individual standards to consolidate requirements pertaining to ship repairing, shipbuilding and shipbreaking. The substantive requirements of the specific standards, as well as their scope and application, have not been changed. Each standard in new Part 1915 will apply equally to ship repairing, shipbuilding and shipbreaking operations; where a certain standard or requirement applies to only one or two shipyard activities, the scope and application language has been added to delineate the precise coverage of the involved standard or requirement. In addition to editorial changes, minor changes include: 1) clarification of statutory authority; 2) changes to reflect the transfer of functions among Federal agencies; and 3) renumbering of the sections.

By this notice, Minnesota OSHA proposes to adopt the new, consolidated Part 1915 as published in the Federal Register, Volume 47, No. 76 on April 20, 1982. Adoption of this revised Part will replace existing Parts 1915, 1916 and 1917.

Department of Revenue
Property Equalization Division

Proposed Amendment to Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be

modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Ronald Cook
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5137

Authority for the adoption of these rules is contained in Minnesota Statutes section 270.06 (14); 270.11, subd. 1 and 6; 273.33, subd. 2; 273.37, subd. 2; and 273.38. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook at the above mentioned address, upon request.

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

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on utilities. The present rules deal generally with the valuation, allocation and apportionment of property of electric, gas distribution, pipelines and cooperative electric companies. The proposed rules if adopted would: modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the notice and the proposed rules are available and may be obtained by contacting Ronald Cook at the above-mentioned address.

March 31, 1983

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.0003 Valuation.

A.-C. [Unchanged.]

D. Income approach to valuation. The income indicator of value will be estimated by weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; and final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the assessment will be: electric companies, ~~8.75~~ 9.75 percent; gas distribution companies, ~~9.0~~ 10.0 percent; and pipeline companies, ~~9.25~~ 10.25 percent. The income indicator of value computed in accordance with D. will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; and pipeline companies, 25 percent.

The following example illustrates how the income indicator of value would be computed for a pipeline company:

	1980	1981	1982
1. Net Operating Income	$468,000	$385,700	$450,000
2. Capitalized Income @ ~~9~~ 10%	~~5,200,000~~ 4,680,000	~~4,285,600~~ 3,857,000	~~5,000,000~~ 4,500,000

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.

3. Weighting Factor	25 percent	35 percent	40 percent
4. Weighted Capitalized Income	~~1,300,000~~ 1,170,000	~~1,500,000~~ 1,349,950	~~2,000,000~~ 1,800,000
5. Total Income Indicator of Value			~~4,800,000~~ 4,319,950

E. Unit value computation. The unit value of the utility company will be the total of the weighted indicators of value. The following is an example of the computation of the unit value for a pipeline company:

1. Cost Indicator of Value:

$$\$5,000,000 \times 75\% = \$3,750,000$$

2. Income Indicator of Value:

~~$4,800,000~~ 4,319,950 × 25% = ~~$1,200,000~~ 1,079,987

3. Unit Value of Pipeline Company:

100% ~~$4,950,000~~ 4,829,987

Any company whose cost indicator was modified under 13 MCAR § 1.0003 C. to reflect the average cost per kilowatt adjustment of a plant or plants located in Minnesota shall have an alternative unit value computation made without giving effect to the modification in respect of such plant or plants.

F.-H. [Unchanged.]

Department of Revenue
Property Equalization Division

Proposed Amendments to Rules Governing the Valuation and Assessment of Railroad Operating Property

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Wayne Gerwing
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5144

Authority for the adoption of these rules is contained in Minnesota Statutes sections 270.06 (14); 270.11, subd. 1 and 6; and 270.81, subd. 1 and 5. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed revised rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Wayne Gerwing at the above mentioned address, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utilities)

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY

Ronald K. Cook, being first duly sworn deposes and says:

That on the 4th day of April 19 83, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department.

Ronald K Cook

Subscribed and sworn to before me
this 4th day of April, 1983.

Patricia Zentzis

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

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF REVISIONS TO RULES GOVERNING THE VALUATION AND ASSESSMENT OF ELECTRIC, GAS DISTRIBUTION, AND PIPELINE COMPANIES (UTILITY COMPANIES).

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages numbered 1 through 28 consisting of 324 typewritten names and addresses and an additional sheet consisting of 5 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 30th day of March, 1983, have requested, pursuant to Minn. Stat. § 15,0412, Subd. 4, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules.

STATE OF MINNESOTA
ARTHUR C. ROEMER
COMMISSIONER OF REVENUE

By: Donna L Walbridge
DONNA L. WALBRIDGE
Commissioner's Staff

Advocate for the Blind
1821 University Avenue, Rm. 389S
St. Paul, MN 55104

Mr. Bruce Akerman
1300 N.W. Bank Building
Minneapolis, MN 55402

Allard & Schwanke
Licensed Public Accountants
202 Ironwood Square
300 Third Avenue Southeast
Rochester, MN 55901

American Legion Club
Box 183
Hill City, MN 55748

Anderson & Peterson, LPAs
Dodge Professional Building
Moose Lake, MN 55767

David J. Anderson
Certified Public Accountant
2415 Annapolis Lane, Suite 110
Minneapolis, MN 55441

Dwight C. Anderson, C.P.A.
Box 2924
Fargo, ND 58108

Anderson, Johnson & Co., Ltd.
Certified Public Accountants
1068 South Lake St.
Forest Lake, MN 55025

Anderson, Keszler & Associates
Accountants and Auditors
1202 23rd Street So., Box 2924
Fargo, ND 58108

Arrowhead Accounting Service
Box 240
Coleraine, MN 55722

Arsenal Sand & Gravel Co., Inc.
P. O. Box 12707
New Brighton, MN 55112

Arthur Treacher's Fish & Chips, Inc.
5501 Tabor Road
Philadelphia, PA 19120
Attn: J. A. Altomare

Association of [redacted] Counties
2305 Ford Parkway
St. Paul, MN 55116
Attn: James C. Shipman
Executive Director

Ausmus Furniture & Carpet
Hinckley,
MN 55037

Auto-Soler Co.
5101 Fulton Industrial Blvd. SW
Atlanta, GA 30336
Attn: H. Ensign, General Accountant

Wesley L. Bahl
P. O. Box 822
Faribault, MN 55021

Donald V. Bailey
Attorney at Law
306 Minnesota Federal Bldg.
607 Marquette Avenue
Minneapolis, MN 55402

George R. Ballenger, Finance Dir.
City of Apple Valley
14200 Cedar Avenue South
Apple Valley, MN 55124

Bankers Service Company
1918 W. County Rd. C.
Roseville, MN 55113
Attn: Glenn Thomasen

Bauer Built, Inc.
P. O. Box 248
Durand, WI 54736
Attn: Calvin Jacks, Jr.
Operations Manager

Bemidji Area Chamber of Commerce
P. O. Box 806
Bemidji, MN 56601
Attn: Bookkeeper

T. A. Bengtson
Rural Route 2, Box 90
Waterville, MN 56096

L. T. Bensen & Associates
5315 France Avenue North
Minneapolis, MN 55429

Benson Tax Service
3109 Bloomington Ave. S.
Minneapolis, MN 55407
Attn: Peter J. Benson

Benusa T.V. & Appliance, Inc.
109 7th Avenue South
St. Cloud, MN 56301

Best & Flanagan
4040 IDS Center
Minneapolis, MN 55402
Attn: James C. Diracles

Lyle L. Boehlke
Boehlke & Son, Inc.
Box 86
Buffalo Lake, MN 55314

Oscar J. Boldt Construction Co.
P. O. Box 419
Appleton, WI 54912
Attn: Kathy L. Baumann

Borowicz, Holmgren, Loberg & Co.
Certified Public Accountants
151 West 126th Street
Burnsville, MN 55337

Boulay, Heutmaker, Zibell & Co.
6800 France Avenue South
Minneapolis, MN 55435

Briggs & Morgan, P.A.
W-2200 First National Bank Building
St. Paul, MN 55101
Attn: Jerome A. Geis, Esq.

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive-Suite 800
Minneapolis, MN 55420
Attn: John M. Broeker

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive, Suite 800
Minneapolis, MN 55420
Attn: Angus M. Vaughan
Legal Assistant

R. W. Brust, Vice Pres., Taxes
3M Company
3M Center - 220 - 13W
St. Paul, MN 55144

Business and Financial Services
P. O. Box 365
Cannon Falls, MN 55009

Byerly's
7171 France Avenue So.
Edina, MN 55435
Attn: Don Hoekstra, Accts. Mgr.

C.A.P. Cooperative Oil Ass'n.
P. O. Box 38
Kettle River, MN 55757

Caldwell, Taylor & Brown, Ltd.
540 Shelard Plaza North
300 South County Road 18
Minneapolis, MN 55426

Carlisle Accounting Service
14645 Cameo Avenue
Rosemount, MN 55068

Daniel R. Cartier
Post Office Box 41245
10601 Olson Memorial Highway
Plymouth, MN 55441

Casey & Casey
Certified Public Accountants
7400 Metro Boulevard
Edina, MN 55435

CCH Computax Inc.
P. O. Box 92938
Worldway Postal Center
Los Angeles, CA 90009
Attn: John Koffroth, Tax Specialist

Chicago, Milwaukee, St. Paul
and Pacific Railroad Comapny
516 W. Jackson Blvd.
Chicago, IL 60608
Attn: Manager-Tax Accounting

Mrs. Laudine Christ
Rural Route #1, Box 90
Wells, MN 56097

Christian Preparation Network
P. O. Box 628
Grand Rapids, MN 55744
Attn: Dominick Fenovese, Ed/Pub

Commercial Tally, Inc.
E K Williams & Co.
WestGate Mall
St. Cloud, MN 56301

Computer Techniques Inc.
7801 East Bush Lake Road
Minneapolis, MN 55435
Attn: Office Manager

Concrete Sectional Culvert Company
P. O. Box 1429
Fargo, ND 58102

Corp. Law Dept.
The St. Paul Co., Inc.
385 Washington Street
St. Paul, MN 55102
Attn: Claudia Smith

Corporate Tax Division/3M
Attention: W. R. Spangler
Director of Tax Compliance
P. O. Box 33441
St. Paul, MN 55133

County Flower Shop
Audrey Van Klompenburg
Route 3, Box 218
Montevideo, MN 56265

Country Furniture
D. J. Meyer Inc.
Lake Park, MN 56554

Crest Electronics
Simon at Third
Dassel, MN 55325
Attn: Carol A. Chap, Office Manager

Custom Printing, Inc.
P. O. Box 1010
1913 2nd Street S.W.
Rochester, MN 55901

Dacotah Paper Co.
1401 - 5th Avenue North
P. O. Box 2727
Fargo, ND 58108

Dan Blank Accounting
213 N. 1st Street
P. O. Box 530
Montevideo, MN 56265

Dayton's
700 on the Mall
Minneapolis, MN 55402
Attn: J.E. Wahl, Property Accounting

Dayton's - Advertising
700 Nicollet Mall
Minneapolis, MN 55402
Attn: Mr. Edward Hannasch

DDD Motel Corporation
111 Range Street
North Mankato, MN 56001
Attn: Shirley Miller, Bookkeeper

Dean's Towing & Auto Parks
P. O. Box 157
Brainerd, MN 56401

H. LeRoy DeBoom
3945 Zarthan Avenue
St. Louis Park, MN 55416

Lorraine DeMill
1414 13th Avenue E.
Hibbing, MN 55746

The Denesen Company, Inc.
2836 Colfax Avenue South
Minneapolis, MN 55408
Attn: R. L. Earlywine

Denny's North Star
Box 35
Hill City, MN 55748

Bob Dietrick, Treasurer
City of Excelsior
339 Third Street
Excelsior, MN 55331

Mr. Dennis J. Dietzler
Attorney at Law
7426 Nicollet Avenue So.
Richfield, MN 55423

Director Staff Services
2215 W. Old Shakopee Road
Bloomington, MN 55431
Attn: Lyle R. Olson

Distributors Novelty House, Inc.
119 North 4th Street
Minneapolis, MN 55401
Attn: Lois Mann, Bookkeeper

Dome Pipeline Corporation
P. O. Box 2608, Station M
Calgary, Canada T2P 2M7
Attn: K. D. Olstad

Dome Pipeline Corporation
P. O. Box 200
Calgary, Alberta
Canada T2P 2H8

Dorsey, Windhorst, Hannaford, Whitney
& Halladay
2300 First National Bank Building
Minneapolis, MN 55402
Attn: Philip M. Chen

Drug Fair, Inc.-Star Drug-Witte Drug
Industrial Park Road
Iowa City, IA 52240

E.A.T. Inc.
K-Bob Cafe & Riverside Deli
109 South 5th Avenue
Princeton, MN 55371

E. I. du Pont de Nemours & Co.
State, Excise & Employment Taxes Sec.
Room 1346 Farmers Bank Bldg.
1007 Market Street
Wilmington, DE 19898

Mary Lou Eltgroth
306 E. 4th Street
Morris, MN 56267

The Estenson Company
101 East Main
Luverne, MN 56156

Ernst & Whinney
1400 Pillsbury Center
Minneapolis, MN 55402

Ernst & Whinney
1400 Pillsbury Center
Minneapolis, MN 55402
Attn: Anthony M. Schelonka

FAB Pipe, Inc.
701 County Road 83
Shakopee, MN 55379

Fabri-Centers of America, Inc.
23550 Commerce Park Road
Beachwood, OH 44122
Attn: David Essi, Jr.
Tax Department

Donald M. Fahrenkamp
P. O. Box 305
4769 Dakota Street
Prior Lake, MN 55372

Farmers Exchange Cooperative
Lake Park
IA 51347

First Northwestern Bank
110 E. 3rd Street
Box 579
Thief River Falls, MN 56701

Firstbank Financial Corporation
100 Federal Street
Boston, MA 02110
Attn: Renato R. Te, Accounting Officer

Firstmiss Inc.
P. O. Box 328
Ft. Madison, IA 52627
Attn. Financial/Tax Accountant

Stephen H. Fischer
Certified Public Accountant
Suite 357
10901 Red Circle Drive
Minnetonka, MN 55343

Flight Transportation Corporation
9960 Flying Cloud Drive
Minneapolis, MN 55344
Attn: Glen Grambart, Asst. Controller

The Flintkote Company
P. O. Box 800
Dallas, TX 75221
Attn: Tax Department
Account No. 8665376

John Henry Foster Co., Inc.
3748 Minnehaha Ave.
Minneapolis, MN 55406
Attn: Edward H. Mayhew

John Henry Foster Co., Inc.
10740 Midwest Industrial Blvd.
St. Louis, MO 63132
Attn: Fred R. Nolkemper

Fox & Company
1800 Northwestern Financial Center
7900 Xerxes Avenue South
Minneapolis, MN 55431

Conrad M. Fredin
Attorney at Law
811 1st National Bank Bldg.
Duluth, MN 55802

Froedtert Malt Corporation
P. O. Box 712
Milwaukee, WI 53201
Attn: A. De Bauche

Froedtert Malt Corp.
P. O. Box 712
Milwaukee, WI 53201
Attn: R. Strauss

Frundt, Frundt & Johnson
Attorneys at Law
117 West 5th Street
Blue Earth, MN 56013

Furniture et cetera, Inc.
311 South Main
Hector, MN 55342

Gavin, Olson & Conkel, Ltd.
Gavin Law Building
Glencoe, MN 55336

General Business Services
P. O. Box 365
Cannon Falls, MN 55009

General Business Service
1827 No. St. Paul Road
Maplewood, MN 55109

General Mills, Inc.
c/o R. D. Mueller, Tax Manager
P. O. Box 1113
Minneapolis, MN 55440

Gildner Stores, Inc.
15½ N. Federal
Mason City, IA 50401

Goering Fire Suppression, Inc.
9803 Logan Avenue South
Bloomington, MN 55431

Goodall Rubber Company
P. O. Box 8237
Trenton, NJ 08650
Attn: G. E. Hamilton, Tax Manager

Elmer A. Goodman
Route 2, Box 276
Rockford, MN 55373

Grace Home, Inc.
Graceville, MN 56240

Richard J. Graf
10505 Decatur Circle
Minneapolis, MN 55438

Graves, McKenna, Lundeen & Almquist
6800 France Avenue South
Minneapolis, MN 55435
Attn: Mary Olmscheid

H & R Block, I
Regional Office
3990 Central Avenue N.E.
Minneapolis, MN 55421
Attn: Richard Fretland

Haack Tax Service
1506 3rd Avenue N.W.
Rochester, MN 55901

Habert Accounting
2127 West Superior St.
Duluth, MN 55806
Attn: Karen Habert

Hackbarth Auto & Tractor Supply, Inc.
Howard Lake, MN 55349
Attn: Betty Jane Hackbarth

Mathew Hall Lumber Co.
127 6th Avenue North
St. Cloud, MN 56301

Philip M. Hanft
Attorney at Law
1200 Alworth Building
Duluth, MN 55802

E. Hara
2160 Orchard Ave. N.
Golden Valley, MN 55422

Melvin R. Harris
Suite 915 Park Place
5775 Wayzata Boulevard
St. Louis Park, MN 55416

The Hart Press, Inc.
333 Central Avenue
Long Prairie, MN 56347
Attn: John L. Larson, Accountant

Alfred L. Haugud
Box 49
Fairmont, MN 56031

Havemeier's Accounting
P. O. Box 367
Hutchinson, MN 55350
Attn: Jim Drahos

Hayssen Manufacturing Company
P. O. Box 571
Sheboygan, WI 53081
Attn: L. H. Volz

HBE Leasing Corporation
717 Office Parkway
P. O. Box 27340
St. Louis MO 63141

Heart of America
1853 Zanzibar Lane
Minneapolis, MN 55447
Attn: Ms. Sonya H. Stenulson

Perry and Jane Hendricks
Route 1
Millville, MN 55957

Wallace F. Hilke, C.P.A.
33 E. Wentworth Avenue
West St. Paul, MN 55118

Erwin Hill, CPA
P. O. Box B
Austin, MN 55912

Brad Hoffman
City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

Holcomb, Knudson & Co.
407 - 2nd Street N.W.
East Grand Forks, MN 56721

Holcomb, Knudson & Co.
P. O. Box 1043
Grand Forks, ND 58201
Attn: Gerald C. Knudson

Honeywell Inc.
Honeywell Plaza, MN 12-4184
Minneapolis, MN 55408
Attn: Robert H. Dillon
Director, Tax Admin.

Honeywell Inc.
Honeywell Plaza
Minneapolis, MN 55408
Attn: Mr. W. C. Viitala
Dir. of Public Affairs

Hopkins Lodge No. 2221
30 - 8th Avenue South
P. O. Box 106
Hopkins, MN 55343

Paul J. Huber LTD
Certified Public Accountants
1821 University Avenue
St. Paul, MN 55104

Hudrlik Furnit[illegible]
125-133 W. Bridge St.
Owatonna, MN 55060

Human Service Agency
Wright Co. Courthouse
Buffalo, MN 55313
Attn: Janice M. Devens, Director

INDEP. BANKERS OF MN
327 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402
Attn: Norbert McCrady, Exec. V.P.

Inryco, Inc.
Tax Division
P. O. Box 8237
Chicago, IL 60680

Inter-City Gas Corporation
Inter-City Gas Building
444 St. Mary Avenue
Winnepeg Manitoba Canada
R3C3T7

International Business Machines Corp.
Armonk, NY 10504
Attention: J. J. Nash

International Research & Evaluation
Research Publication Division
21098 IRE Control Center
Eagan, MN 55121

Interstate Power Company
President
1000 Main Street
Dubuque, IA 52001

ISC Corporate Offices
E. 9922 Montgomery
Spokane, WA 99206

Keith E. Jacob Associates, Inc.
329 West Fifteenth Street
Minneapolis, MN 55403

Barbara Johnson
1636 Taylor Avenue
St. Paul, MN 55104

Johnson Engineering
Grandy, MN 55029

Johnson & Friesen, Ltd.
Certified Public Accountants
1450 North Highway 60
P. O. Box 307
Windom, MN 56101
Attn: Chris K. Johnson

Harley Y. Karvonen
Public Accountant
544 - 4th Street S.W.
Perham, MN 56573

Kato Moving & Storage Co.
Route 1, Box 216
Mankato, MN 56001
Attn: Linda Miller

Kelco Supply Company
311 East 14th Street
Minneapolis, MN 55404

Mr. Jay B. Kelly
Suite W-1294
First National Bank Building
St. Paul, MN 55101

Kern, Paganski, Hirschfeld & Company
c/o Don Meyer
1400 St. Germain
St. Cloud, MN 56301

L. A. Klepperich
Space Center, Inc.
444 Lafayette Road
St. Paul, MN 55101

Maurice Klingsporn, CPA
1022 Mill
Zumbrota, MN 55992

R. L. Kuehmichel & Co.
2437 Park Avenue South
Minneapolis, MN 55404

Kuhlman Corporation
P. O. Box 288
Birmingham, MI 48012
Attn: Walter Meissner

Mr. George J. Kurvers
1010 London Road
St. Paul, MN 55118

Laclede Steel Company
Equitable Building
St. Louis, MO 63102
Attn. D. K. Shipley

Lake City Gas, Inc.
211 East Lyon Avenue
Lake City, MN 55041

Lake Superior Industrial Bureau
828 First National Bank Building
Duluth, MN 55802
Attention: Alfred E. France, President

Lakeland Federal Savings & Loan Ass'n.
P. O. Box 646
928 Lake Avenue
Detroit Lakes, MN 56501

LANCO Data Proc. Serv., Inc.
219 Little Canada Road
St. Paul, MN 55117
Attn: Harold R. Johnson

Land O'Lakes, Inc.
P. O. Box 116
Minneapolis, MN 55440
Attn: Tom Jordan, Tax Dept.

Lapp, Lazar, Laurie & Smith
1800 First Bank Place West
Minneapolis, MN 55402
Attn: Mr. John M. Gendler

LARSON, ALLEN, WEISHAIR & CO.
Certified Public Accountants
Shelard Tower, Ste. 1560
600 South Co. Rd. 18
Minneapolis, MN 55426
Attention: David A. Krahn, CPA

Robert Laude
Route 1
Lancaster, MN 56735

Leaders Distributing
1114 2nd Street S.W.
Wadena, MN 56482

Legis. Comm. to Review
Admin. Rules
Room 430, State Office Bldg.
St. Paul, MN 55155
Attn: Susan P. Robertson, Exec. Dir.

LeSueur Foundry Company, Inc.
650 - 25th Avenue S.E.
Minneapolis, MN 55414
Attn: Janet Labardee

William J. Leuthner
Attorney at Law
221 Broadway, Box 295
Alexandria, MN 56308

Lindquist & Vennum
4200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Attn: Eugene Keating

Lindquist & Vennum
4200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Attn: Mark E. Larson

Lockmasters Alarm & Safe Co.
2409 Chicago Avenue
Minneapolis, MN 55404
Attn: James A. Matesky

Louisiana Tax Service
10 North Central Avenue
Buffalo, MN 55313

Lowy Enterprises, Inc.
1565 First Avenue N.W.
New Brighton, MN 55112

Lu's Bookkeeping Service
1527 Oxford Street
Worthington, MN 56187
Attn: Luella W. Gaiser

3M
3M Center, Tax Division
220-13W
St. Paul, MN 55144
Attn: G. F. Blissenbach, Income Tax Spec.

Mackall, Crounse & Moore
Law Offices
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402
Attn: Mr. Thomas F. Dougherty

Marcus Construction Co., Inc.
Box 68
Prinsburg, MN 562781
Attn. Russ Serbus

Mark Management Company
5290 Villa Way
Edina, MN 55436
Attn: Sandra A. Mariotti
Director of Accounting

Helen Marks, C.P.A.
1201 Brainerd Avenue
Duluth, MN 55811

Mason Shoe Mfg. Co.
Accounting Department
21 E. Grand Avenue
Chippewa Falls, WI 54729

The Master's Piano Shop, Inc.
1131 East 4th Street
Duluth, MN 55805

Maurices, Inc.
105 W. Superior Street
Duluth, MN 55802
Attn: John Kubow

McCough Construction Co., Inc.
2737 North Fairview Avenue
St. Paul, MN 55113
Attn. John A. Shea

W. B. Meier Co.
2505 E. County Road F
White Bear Lake, MN 55110
Attn: Donna M. Plan, Bookkeeper

John C. Merrill
1817 East Lake Street
Minneapolis, MN 55407

Herbert W. Meyer
City Manager's Office
2215 W. Old Shakopee Road
Bloomington, MN 55431

Loren T. Meyer
Certified Public Accountant
850 South Main
Sauk Centre, MN 56378

Mexican Foods of America, Inc.
720 South Colorado Blvd. #570
Denver, CO 80012
Attn: Mr. Pete Stroup

Midstate Restaurant Supply Co.
P. O. Box 88
Montevideo, MN 56265
Attn: Bookkeeper

Midwest Electric Products, Inc.
P. O. Box 910
Mankato, MN 56001
Attn: Mr. Gerald W. Poppe

Charles Miller
Accounting Services
215 W. Holmes
Detroit Lakes, MN 56501

Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488
Attn: Bob Franklin, City Editor

Minnegasco, Inc.
201 South 7th Street
Minneapolis, MN 55402
Attn: Myron C. Martin

Minnesota Bankers Association
332 Baker Building
Minneapolis, MN 55402
Attn: John S. Jackson
-General Counsel

MN Chapter of Associated Builders &
Contractors, Inc.
6300 Walker Street, Ste. 109
(Hwy 7 at Woodale)
Minneapolis, MN 55416
Attn: Donald E. Montgomery, Exec. Director

MN Citizens Action
3416 University Avenue S.E.
Minneapolis, MN 55414
Attention: Martha Ballou

MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101
Attn: Richard C. Buske

MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101
Attn: Kent E. Eklund, Commissioner

MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101
Attn: Charles Schaffer

MN Department of Economic Security
690 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
Attn: F. James Rybak, PhD.

The MN Government Report
B-12, Press Room
State Capitol
St. Paul, MN 55155
Attn: Jean Dawson, Editor

Minn. Higher Ed. Coord. Board
Suite 400, Cap. Square Bldg.
550 Cedar Street
St. Paul, MN 55101
Attn: Mary Samoszuk
Admin. Asst. to Exec. Dir.

Minnesota Independent Retailers Assc.
P. O. Box 12892
New Brighton, MN 55112
Attn: Ken Wingard, Ex. Director

MN Manufactured Housing Assoc.
222 E Little Canada Rd, Ste. 222
Little Canada, MN 55117
Attn: John T. Farmer, Exec. Dir.

MN Motor Transport Assoc.
1821 University Avenue, Rm 134N
St. Paul, MN 55104
Attn: Mr. James N. Denn

Minn. Multi-Housing Ass'n.
3100 West Lake Street
Minneapolis, MN 55416
Attn: John G. Horner

Minnesota Petroleum Council
300 Northern Federal Building
St. Paul, MN 55102

Minnesota Power & Light Company
30 West Superior St.
Duluth, MN 55802
Attn: Bruce E. Gangnon
Manager - Taxes

MN Railroads Association
303 Hanover Building
480 Cedar Street
St. Paul, MN 55101
Attn: Gordon Forbes

MN Taxpayers Association
480 Cedar Street
St. Paul, MN 55101
Don G. Paterick
Attn: Executive Director

Minnesota Transport Services Association
1821 University Avenue (N310)
St. Paul, MN 55104
Attn: Abe Rosenthal, Executive Vice President

Robert W. Mosford & Company
Box 596
Monticello, MN 55362

Mueller Sales Corp.
2420 Nevada Avenue No.
Golden Valley, MN 55427

National Ben Franklin of Illinois
Tax Division - 25th Floor
Eighty Maiden Lane
New York, NY 10038

National Computer Systems
4401 W. 76th Street
Minneapolis, MN 55435
Attn: Douglas Logeland

Natrogas, Inc.
3900 Washington Ave. No.
Minneapolis, MN 55412
Attn: M. D. Olson, Controller

Nelson French
3915 E. 26th Street
Minneapolis, MN 55406

Howard Nelson
Box 744
Lindstrom, MN 55045

Mrs. Mary V. Nelson, Accountant
City of Edina
4801 West 50th St.
Edina, MN 55424

Nelson Radio
Route 1, Box 150
Webster, MN 55088

NORTH STAR STEEL CO.
P. O. Box 43189
1678 Red Rock Road
St. Paul, MN 55164
Attn: R. A. Garvey
Vice President/General Manager

Northern Mining Equipment Co.
E. Highway 37, Box 6
Hibbing, MN 55746

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401
Attn: Robert J. Dolan
Manager Property Tax

Northwestern Bell Co.
100 South 19th St.
Room 760 Dodge
Omaha, NE 68102
Attn: Dan Kotinek, Staff Manager
State and Local Taxes

Office of the Legislative Auditor
Program Evaluation Division
lst Floor, Veterans Service Building
St. Paul, MN 55155

Olsen, Thielen & Co.
223 Little Canada Rd. at Hwy. 35-E
St. Paul, MN 55117

Mr. Eldon Olson
18963 Jewell St. N.E.
Wyoming, MN 55092

Olson, Gunn and Seran, Ltd.
315 Peavey Building
730 Second Avenue South
Minneapolis, MN 55402
Attn: David R. Knodell, Esq.

Olympia Brewing Company
707 E. Minnehaha Avenue
St. Paul, MN 55165
Attn. Tax Department

Osco Drug, Inc.
1818 Swift Drive
Oak Brook, IL 60521

John C. Ostdiek
17816 Suan Lane
Minnetonka, MN 55343

Otter Tail Power Co.
215 S. Cascade St.
Fergus Falls, MN 56537
Attn: Betty Coleman, Tax Accountant

Parts Service Company
1021 North Front Street
Mankato, MN 56001

Patchin Contracting
319 So. Dewey Street
Fairmont, MN 56031
Attn: H. W. Patchin

Patten Building Supply
Box 959
Winnebago, MN 56098

Lois M. Payne
Bondhus Corporation
Box 667
Monticello, MN 55362

PBS Computing
3550 No. Lexington Ave.
St. Paul, MN 55112
Attn: Terry Wightman, Controller

Peat, Marwick, Mitchell & Co.
Certified Public Accountants
1700 IDS Center
Minneapolis, MN 55402
Attn: L. H. Biegert, Partner

Peavey Company
Peavey Building
730 - 2nd Avenue South
Minneapolis, MN 55402
Attn: J. J. Knip, Jr., Treasurer

Pemalaj & Associates
2800 East Cliff Road
Suite 150
Burnsville, MN 55337

Mrs. Jean Peterson
2627 Elmcroft Drive S.W.
Rochester, MN 55901

Marita J. Peterson
Box 246, Webb Lake Road
Hackensack, MN 56452

Peterson, Popovich, Knutson
and Flynn,
314 Minnesota Building
St. Paul, MN 55101
Attn: Peter S. Popovich

Phillips Legislative Service Inc.
459 Rice Street
St. Paul, MN 55103

Pickands Mather & Co.
Ste. 811, 200 W. Superior St.
Duluth, MN 55802
Attn: P. D. Brick

Pickands Mather & Co.
1100 Superior Avenue
Cleveland, OH 44114
Attn: T. J. Manthey

Mr. Walter Pickhardt
1300 N.W. Bank Building
Minneapolis, MN 55402

Steven E. Pierce
323 E. Blue Earth
Fairmont, MN 56031

Pillsbury Company - MS 1075
608 - 2nd Avenue South
Minneapolis, MN 55402
Attn: Kenneth A. Johnson
Director of Taxation

Pioneer Hi-Bred International, Inc.
1206 Mulberry Street
Des Moines, IA 50308
Attn: Karen Benhart, Tax Manager

Pipestone Cooperative Ass'n
202 N.W. 2
Pipestone, MN 56164

Thomas M. Polt
Attorney at Law
McCarthy Building
Eyota, MN 55934

Poly-Tech
1401 West 94th Street
Minneapolis, MN 55431
Attn: Geno Tamparelli

Orville H. Prechel
Public Accountant
3560 Dakota Avenue
St. Louis Park, MN 55416

PRENTICE-HALL, Inc.
Englewood Cliffs, NJ 07632
Attn: R. Jerry Alba
Planning Coordinator
State and Local Taxes

Prentice-Hall, Inc.
Englewood Cliffs, NJ 07632
Attn: Stephen L. Taylor

Proximity Controls, Inc.
Drawer C, Highway 210 E.
Fergus Falls, MN 56537

Professional Instruments Co.
4601 Highway 7
Minneapolis, MN 55416

Ralph's Electric
Route 1, Box 434
Alexandria, MN 56308
Attn: Ralph Ziegelman

Chris Rasmussen
Certified Public Accountant
309 Wallace Street
Ivanhoe, MN 56142

Reese, Winter & Erickson, Ltd.
421 West Fourth Street
Red Wing, MN 55066
Attn: David L. Erickson, C.P.A.

Reike Carroll Muller Associates, Inc.
209 S. 2nd Street
P. O. Box 66
Mankato, MN 56001

Roger L. Reinhart, C.P.A.
607 Washington Street
Box 425
Brainerd, MN 56401

Revoluntionary Heat Systems, Inc.
241 Second Avenue
Foley, MN 56329

Barbara J. Richter
Box 21
Clear Lake, MN 55319

Roberts-Hamilton Company
P. O. Box 16248
Minneapolis, MN 55416
Attn: John E. Loberg, Vice Pres., Finance

Rogers, Knutson & Company, Ltd.
Certified Public Accountants
211 South Front Street
P. O. Box 876
Mankato, MN 56001

Sam Ruhle
Office of Administrative Hearings
400 Summit Bank Building
310 South Fourth Avenue
Minneapolis, MN 55415

S & FA Reporting Services, Inc.
1101 - 15th Street N.W.
Washington, D.C. 20005
Attn: Regulatory Department

St. Paul Bank for Cooperatives
Farm Credit Banks Building
375 Jackson Street
St. Paul, MN 55101
Attn: Joel A. Huser

Savings League of Minnesota
625 - 2nd Avenue South
Minneapolis, MN 55402

Wayne L. Schauble
160 East Main Street
Lewiston, MN 55952

Schneiderman's Furniture Inc.
Route 1
Meadowlands, MN 55765
Attn: Larry Schneiderman

Evelyn L. Schocker
1941 Flandrau Street
St. Paul, MN 55109

S. L. Schroeder
8273 Scott Avenue North
Brooklyn Park, MN 55443

Sell Bros., Inc.
Walnut Grove
MN 56180

Sevenich, Butler, Gerlach & Brazil, Ltd.
901 Jefferson Avenue
St. Paul, MN 55102
Attn: Larry P. Butler

Pamela J. Shea
Accountant
2209 Person Parkway
Brooklyn Park, MN 55444

Shelly's Chips & Paints
918 South Dellwood Street
Cambridge, MN 55008

Shekeda Hearing Conservation, Inc.
P. O. Box 8747
White Bear Lake, MN 55110

Sibley House Association
4533 47th Avenue South
Minneapolis, MN 55406
Attn: Mrs. Harper R. Wilcos, Financial Sec.

Ronald B. Sieloff, P.A.
Attorney at Law
9th Floor, Commerce Building
St. Paul, MN 55101

Simma, Flottemesch & Company
Certified Public Accountants
103 North Knowles Avenue
P. O. Box 158
New Richmond, WI 54017

D. D. Simpson
Route 2, Box 69
Park Rapids, MN 56470

Mary Smith
Box 164
Red Barn Building
South Highway 65 & 23
Mora, MN 55051

Smith Sharpening & Repair
Route 2, Box 92
Grove City, MN 56243

Frank M. Srdar & Associates
7545 16th Avenue South
Minneapolis, MN 55423

Spartan Mechanical, Inc.
9801 Valley View Road
Eden Prairie, MN 55344
Attn: John Pierson, Sec. - Treas.

Springsteel Resort and Marina, Inc.
Warroad, MN 56763
Attn. Dick Soderberg

Standard Upholstering Co., Inc.
Box 8595
Minneapolis, MN 55408
Attn: Maurice L. Londer

Ms. Mary Stanton
Staff Associate/Finance
State University System
407 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Stiles Stores, I
P. O. Box 1068
1550 Grand Avenue
Waukegan, IL 60085

Super Valu Stores, Inc.
101 Jefferson Avenue South
Hopkins, MN 55343
Attn: Robert J. Murphy
Corporate Tax Manager

Sylvester Brothers
Highway 65 at 221st Ave. NE
Cedar, MN 55011

Tax Accountant
Butler Manufacturing Company
BMA Tower, Penn Valley Park
Kansas City, MO 64141

Tax-MEN, Inc.
923 W. Excelsior
Hopkins, MN 55343
Attn: James C. Berger, Vice President

Technical Services for Electronic, Inc.
P. O. Box 687
Arlington, MN 55307

Tenney Company
207 South First Street
Buffalo, MN 55313
Attn: Mr. Harold Tenney

Kathy Terpstra
Route 2, Box 147
Brooten, MN 56316

Edwin E. Thoreson, Inc.
P. O. Box 507
Grand Marais, MN 55604

Thunderbird Aviation
5100 Eden Avenue
Minneapolis, MN 55436
Attn: Steven L. Schadegg, Acct.

Neal Tilsner, Accountant
1119 St. Paul Avenue
St. Paul, MN 55116

Timpte, Inc.
5990 N. Washington Street
P. O. Box 16423
Denver, CO 80216
Attn: Steven M. Alexander

Touche Ross
900 Pillsbury Center
Minneapolis, MN 55402
Attn: Mark Schneider

Touche Ross & Co.
900 Pillsbury Center
Minneapolis, MN 55402
Attn: Mark A. Sellner

Tri-County Community Action
Program, Inc.
404 NE 2nd Avenue
Little Falls, MN 56345
Attention: Mark G. Sexton, Planner

Tri-Mac Building Supply, Inc.
571 East Fourth Street
Winona, MN 55987
Attn: Don McNally

TRW Cinch Connectors
Electronic Components Div.
1501 Morse Avenue
Elk Grove Village, IL 60007
Attn: General Accounting Mgr.

Tuscargra Lodge & Outfitters
Gunflint Trail
Grand Marais, MN 55604

Tushner's Market, Inc.
501 E. Third Street
Winona, MN 55987

TYMSHARE, Inc.
212 No. Market, Ste. 208
Wichita, KS 67202
Attn: Research Manager

University of Minnesota
271 19th Avenue S.
645 BA Tower
Minneapolis, MN 55455
Attn: Frederick R. Jacobs, Director
Graduate Studies in Taxation

Village Inn Pancake House, Inc.
400 West 48th Avenue
Denver, CO 80216
Attn. Tax Department

Wagemaker & Wagemaker
Law Offices
106 South Ninth Street
Olivia, MN 56277
Attn: James Wagemaker

Richard S. Wa[illegible]e, CPA
437 1st National Bank Building
Rochester, MN 55901

Weather Shield Mfg., Inc.
P. O. Box 309
Medford, WI 54451
Attn: Roger M. Orlady, CPA
Assistant Controller

Stan Weinberger
P. O. Box 966
St. Cloud, MN 56301

Wells Drug Co.
36 South Broadway
Wells, MN 56097

R. B. Whitacre & Co., Inc.
P. O. Box 3586
105 State Street
St. Paul, MN 55165
Attn: W. C. Branum

White Motor-Hopkins
130 - 9th Avenue South
Hopkins, MN 55343
Attn: Paul M. Leegard
Personnel Administrator

Whole Person Assoc., Inc.
Box 3151
Duluth, MN 55804

Wiese and Cox, Ltd.
Attorneys at Law
2022 IDS Center
Minneapolis, MN 55402
Attn: Mr. Robert B. Fering

City of Winona
City Hall
4th & Lafayette St.
Winona, MN 55987
Attn: Darrel Johnson, Finance Dir.

Wolverton Farmers Elevator
Wolverton, MN 56594

Eleanor Ziesmer
Olivia, MN 56277

Elvira E. Kiel
2545 Colfax Avenue South
Minneapolis, MN 55405

Legal Aid Clinic
Law School
190 Law Building
229 19th Avenue South
Minneapolis, Minnesota 55455

Reid J. Hansen
Dakota Central Offices
14450 South Robert Trail
Rosemount, Minnesota 55068

Gary D. Blackford, Esq.
Popham, Haik, et al
4355 IDS Center
Minneapolis, MN 55402

David G. Roald
Hessian, McKasy & Soderberg
1500 Midwest Plaza West Building
Minneapolis, MN 55402

MAILING FOR INVESTOR OWNED UTILITIES

Orbin A. Holt, Sec. & Treas.
Big Fork Valley Elec. Service
Big Fork, Minnesota 56628

Lloyd Crum
Community Utilities Company
Racine, Minnesota 55967

Jim Weston, Tax Agent
Dome Exp. & Prod. Pipeline
P. O. Box 200
Calgary, Alberta, Canada T2 P2 H8

Pat McInerney, Tax Agent
Great Lakes Gas Transmission
One Woodward Avenue
Detroit, Michigan 48226

John H. Murray, Sec. Treas.
Great Plains Natural Gas Company
8404 Indian Hills Drive
Omaha, Nebraska 68114

Hall L. Shella, Sec. Treas.
Home Light & Power Company
Jasper, Minnesota 56156

Loren R. Knudson, Acct'. Mgr.
Inter City Gas Limited, Inc.
910 Cloquet Avenue
Cloquet, Minnesota 55720

R. Beleyowski, Acct. Mgr.
Inter City Minn. Pipelines, Inc.
1700 444 St. Mary Avenue
Winnipeg, Manitoba R3C 3T7
Canada

Frank Larson, Mgr. of Taxes
Interstate Power Company
1000 Main Street
Dubuque, Iowa 52001

R. J. Kucharski, Treas. & Cont.
Iowa Electric Light & Power
P. O. Box 351
Cedar Rapids, Iowa 52406

George Maas, Ass't. Mgr. R/W
Lakehead Pipeline Company
3025 Tower Avenue
Superior, Wisconsin 54880

Richard B. Heltzel, Tax Rep.
Mid-America Pipeline
1800 SouthBaltimore Avenue
Tulsa, Oklahoma 74119

Bob Bailey, Tax Mgr.
Midwestern Gas Trans. Company
P. O. Box 2511
Tennessee Building
Houston, Texas 77001

Kay Sharp, Prop. Tax Mgr.
Minnesota Gas Company
201 South 7th Street
Minneapolis, Minnesota 55402

Robert Foster, Director
Property Tax Department
InterNorth
2223 Dodge Street
Omaha, Nebraska 68102

Gary Woodman, Sr. Prop. Agent
Minnesota Pipe Line Company
Box 2256
Wichita, Kansas 67201

Bruce Gangnon, Mgr. of Taxes
Minnesota Power Company
30 West Superior Street
Duluth, Minnesota 55802

Gary Lund, Tax Agent
Montana Dakota Utilities
400 North Fourth Street
Bismarck, North Dakota 58501

Ann Tessier
North Central Public Service
1080 Montreal Avenue
St. Paul, Minnesota 55102

Clyde Birch, Prop. Tax Agent
Northern Border Pipeline
224 South 108th Avenue
P. O. Box 3330
Omaha, Nebraska 68103

Robert Dolan, Prop. Tax Mgr.
Northern States Power
414 Nicollet Mall
Minneapolis, Minnesota 55402

Mark F. Dahlberg, Vice President
Northwestern Wisconsin Electric
Grantsburg, Wisconsin 54840

Vern Kester, Supervisor/Taxes
OtterTail Power Company
215 South Cascade Street
Fergus Falls, Minnesota 56537

MAILING FOR INVESTOR OWNED UTILITIES

Donna Perry, Tax Agent
Portal Pipeline Company
2900 1st National Bank Building
Dallas, Texas 75202

Paul Zuppke, President
Western Gas Utilities
3900 Washington Avenue North
Minneapolis, Minnesota 55412

Dean Coop, Tax Agent
Williams Pipe Line Company
P. O. Box 2400
Tulsa, Oklahoma 74101

Gary D. Woodman, Sr. Prop. Agent
Wood River Pipeline
P. O. Box 2256
Wichita, Kansas 67202

James McDonald, Tax Agent
AMOCO
4940 Viking Drive
Minneapolis, MN 55435

C. D. Keith, General Manager
ERIE MINING COMPANY
P. O. Box 847
Hoyt Lakes, MN 55604

D. E. Matchett
RESERVE MINING COMPANY
Silver Bay, MN 55614

Steven J. Haaven, Office Manager
WILD RICE ELECTRIC COOP., INC.
P. O. Box 438
Mahnomen, MN 56557

Joseph B. Brus, General Manager
LYON LINCOLN ELECTRIC COOP., INC.
P. O. Box 639
Tyler, MN 56178

Marjorie K. Conner, Accountant
MEEKER COOP. LIGHT AND POWER
Box 522
Litchfield, MN 55355

Helen Hendrickson, Accountant
MN VALLEY COOP. LIGHT & POWER
501 South 1st St. - P. O. 717
Montevideo, MN 56265

Dave Loer, Accountant
MINNKOTA POWER COOPERATIVE
Box 1318 - 1822 State Mill Road
Grand Forks, N. D. 58201

Jeffrey Ortman, Ass't General Mgr.
NORTH ITASCA ELECTRIC COOP
Bigfork, MN 56628

C. Thomas Marhula, Ass't Manager
NORTH STAR ELECTRIC COOP., INC.
P. O. Box 719
Baudette, MN 56623

Robert A. Graham, Manager
P.K.M. ELECTRIC COOP., INC.
406 North Minnesota Street
Warren, MN 56762

Roger Johanneck, Office Manager
RED LAKE ELECTRIC COOP., INC.
Box 430.
Red Lake Falls, MN 56750

MN ASS'N OF ELECTRIC COOPERATIVES
4901 West 77th Street
Minneapolis, MN 55435

S. C. McNeil, Tax Agent
MOBIL OIL COMPANY
P. O. Box 900
Dallas, Texas 75221

William J. Motl, General Manager
WELLS ELECTRIC ASSOCIATION
P. O. Box 156 - 54 First St. S.W.
Wells, MN 56097

A. H. Elsenpeter, Office Manager
WRIGHT HENNEPIN COOP. ELECTRIC
Maple Lake, MN 55358

Randy Owen, Office Manager
MC LEOD COOP. POWER ASSOCIATION
1231 Ford Avenue
Glencoe, MN 55336

Margaret Klingelhofer, Fin. Officer
MILLE LACS ELECTRIC COOP.
P. O. Box 230
Aitkin, MN 56431

Donald C. Fredenbrugh, Office Manager
MINNESOTA VALLEY ELECTRIC
Route #1, Box 125
Jordan, MN 55352

Douglas E. Wallace, Manager
NOBLES COOP. ELECTRIC
Hwy. 59 N. - P. O. Box 70
Worthington, MN 56187

Kenneth Bergseth, Office Manager
NORTH PINE ELECTRIC COOP., INC.
P. O. Box 8
Finlayson, MN 55735

Lyman Patee, General Manager
NORTHERN ELECTRIC COOP. ASSOCIATION
1500 16th Street S. - Box 1308
Virginia, MN 55792

Donald H. Brandt, General Manager
PEOPLE'S COOP. POWER ASSOCIATION
P. O. Box 339-3935 - Hwy. 14E
Rochester, MN 55903

Gene Thompson, Office Manager
RED RIVER VALLEY COOP POWER
Halstad, MN 56548

Albert Lennick, Manager
REDWOOD ELECTRIC COOPERATIVE
Clements, MN 56224

M. A. Haslerud, Manager
ROSEAU ELECTRIC COOP., INC.
903 3rd St. N.E. - P. O. Box 100
Roseau, MN 56751

Carl Kreun, Office Manager
SOUTHWESTERN MINNESOTA COOP.
P. O. Box 431 - E. Hwy 30
Pipestone, MN 56164

Eugene P. Sullivan, Gen. Manager
STEARNS COOPERATIVE ELECTRIC
900 Kraft Drive
Melrose, MN 56352

George Winn, Mgr., Bus. Service
TODD WADENA ELECTRIC COOP.
P. O. Box 431 - Hwy 10 East
Wadena, MN 56482

Earl L. Johnson, General Manager
TRI COUNTY ELECTRIC COOP.
Rushford, MN 55971

Paul A. Siegler, Controller
UNITED POWER ASSOCIATION
Elk River, MN 55330

Ron Olson, Accounting Department
ANOKA ELECTRIC COOPERATIVE
2022 North Ferry Street
Anoka, MN 55303

Richard Toninato, Office Sup'r
BELTRAMI ELECTRIC COOPERATIVE
P. O. Box 488 - Hwy 2 West
Bemidji, MN 56601

Lonnie Spaeth, Accountant
BROWN COUNTY RURAL ELECTRIC
Hwy. 4 North
Sleepy Eye, MN 56085

E. A. Curfman, Manager
CLEARWATER POLK ELECTRIC COOP
403 North Main Ave. - P. O. Box 0
Bagley, MN 56621

Ray Murray, Accountant
COOPERATIVE POWER ASSOCIATION
8020 Mitchell Road
Eden Prairie, MN 55344

Darrell L. Wicks, Office Manager
RENVILLE SIBLEY COOP. POWER
Box 68
Danube, MN 56230

Thomas E. Malone, Office Manager
SOUTH CENTRAL ELECTRIC ASSOCIATION
P. O. Box 150 - Cty Rd #57 West
St. James, MN 56081

Dean W. Sellheim, Accountant
SQUARE BUTTE ELECTRIC COOP.
P. O. Box 1318 - 1822 State Mill
Grand Forks, N. D. 58201

Donald B. Larson, Gen. Manager
STEELE WASECA COOP. ELECTRIC
115 E. Rose Street - P. O. Box 485
Owatonna, MN 55060

Donald O'Leary, Office Manager
TRAVERSE ELECTRIC COOP., INC.
T.H. 27 and 17th Street - P. O. Box 66
Wheaton, MN 56296

Douglas J. Paumen, Accounting Sup'r
UNITED POWER ASSOCIATION and
COOPERATIVE POWER ASSOCIATION
Elk River, MN 55330

Ramon D. Millett, General Manager
AGRALITE COOPERATIVE
E. HIGHWAY 12 - Box 228
Benson, MN 56215

Larry D. Backstrom, Manager
ARROWHEAD ELECTRIC COOPERATIVE
P. O. BOX 38
Lutsen, MN 55612

Steve Flo, Assistant Office Mgr.
FROST BENCO ELECTRIC
P. O. Box 8 - Hwy 169 South
Mankato, MN 56001

William Berglin, Assistant Manager
CARLTON COUNTY COOPERATIVE
Kettle River, MN 55757

Eugene Neil, Office Manager
COOP LIGHT & POWER OF LAKE COUNTY
P. O. Box 69
Two Harbors, MN 55616

Louis Polasik, Manager
CROW WING COOP POWER AND LIGHT
P. O. Box 507 - Hwy 371 N.
Brainerd, MN 56401

Joel Martin, Office Manager
DAIRYLAND ELECTRIC COOP.
2810 Elida Drive
Grand Rapids, MN 55744

Robert Rankin, Office Manager
DAKOTA ELECTRIC ASSOCIATION
4300 220th Street West
Farmington, MN 55024

Loren A. Zingmark, General Mgr.
EAST RIVER ELECTRIC POWER
P. O. Lock-Drawer East
Madison, South Dakota 57042

Ronald Steckman, General Manager
FREEBORN MOWER ELECTRIC
Box 611, County Road 46E
Albert Lea, MN 56007

Clarence Johnson, Office Manager
H-D ELECTRIC COOP
Clear Lake, South Dakota 57226

Duane Jongerius, For Mgrm't
L & O POWER COOPERATIVE
P. O. Box 817
Rock Rapids, Iowa 51246

Harry R. Chalupsky, Attorney
CHALUPSKY, NYBERG & HAWKINSON
20 Northeast 4th Street
Grand Rapids, MN 55744

Kent E. Nyberg, Attorney
CHALUPSKY, NYBERG & HAWKINSON
20 Northeast 4th Street
Grand Rapids, MN 55744

Diana Skelly, Clerk
BASS BROOK TOWNSHIP
Cohasset, MN 55721

Donovan D. Wendt
TOWN OF BASS BROOK
Box 146
Cohasset, MN 55721

Lloyd W. Meissner
TOWN OF BASS BROOK
Box 146
Cohasset, MN 55721

Robert Fieldsend
TOWN OF BASS BROOK
Box 146
Cohasset, MN 55721

W. M. Stecker, Mgr. Property Acct'g
DAIRYLAND POWER COOP.
P. O. Box 817
LaCrosse, Wisconsin 54601

Jerome Haider, General Manager
EAST CENTRAL ELECTRIC ASSOCIATION
412 North Main
Braham, MN 55006

Roger J. Schmit, Office Manager
FEDERATED RURAL ELECTRIC
P. O. Box 69 - Hwy 71 S
Jackson, MN 56143

Cecil Holsing, Manager
GOODHUE COUNTY COOPERATIVE
224 Main Street - P. O. Box 99
Zumbrota, MN 55992

Dale Kvanli, Accountant
KANDIYOHI COOP ELECTRIC
Route 4
Willmar, MN 56201

Arlan Mostue, Mgr. Adm. Services
LAKE REGION COOP ELECTRIC
12 5th Ave. N.E. - P. O. Box W
Pelican Rapids, MN 56572

Gary Wieber, City Administrator
CITY OF MONTICELLO
250 East Broadway
Monticello, MN 55362

Robert Herbst, District #1
ITASCA BOARD OF COMMISSIONERS
Itasca County Courthouse
Grand Rapids, MN 55744

Shirley Jokinen, District #2
ITASCA COUNTY BOARD OF COMMISSIONERS
Itasca County Courthouse
Grand Rapids, MN 55744

George Predovich, District #3
ITASCA COUNTY BOARD OF COMMISSIONERS
Itasca County Courthouse
Grand Rapids, MN 55744

Margaret Matalamaki, District #4
ITASCA COUNTY BOARD OF COMMISSIONERS
Itasca County Courthouse
Grand Rapids, MN 55744

Larry Blankenship, Chairman
MORSE TOWNSHIP
Itasca County - Route 2
Deer River, MN 56636

James S. Goodrie
TOWN OF BASS BROOK
Box 146
Cohasset, MN 55721

Peter B. Grimsbo
TOWN OF BASS BROOK
Box 146
Cohasset, MN 55721

Barbara Lanum
TOWN OF BASS BROOK
Box 146
Cohasset, MN 55721

Vernon Jutila, General Manager
RUNESTONE ELECTRIC COOP. ASS'N
Box 9 - 7th and Fillmore
Alexandria, MN 56308

Joseph Pfeifer, Supervisor
MORSE TOWNSHIP
Itasca County - Route #2
Deer River, MN 56636

Mildred Van Overschelde, Supervisor
MORSE TOWNSHIP
Itasca County - Route #2
Deer River, MN 56636

Jeanne Bixby, Clerk
MORSE TOWNSHIP
Itasca County - Route #2
Deer River, MN 56636

SUPERIOR WATER, POWER & LIGHT
1230 Tower Avenue
Superior, Wisconsin 54880

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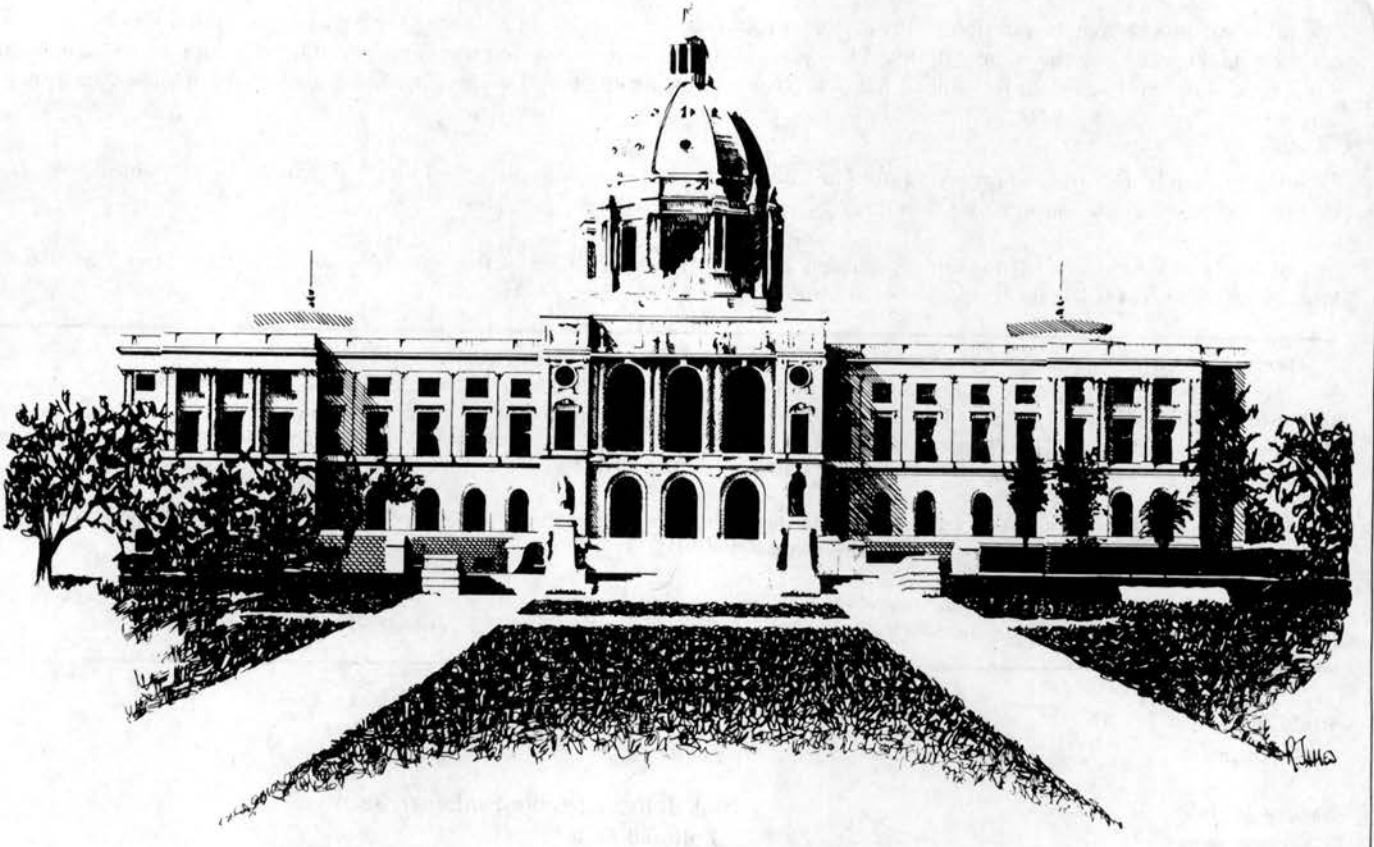
STATE OF MINNESOTA



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Pages 1445-1500

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		
42	Monday Apr 4	Monday Apr 11	Monday Apr 18
43	Monday Apr 11	Monday Apr 18	Monday Apr 25
44	Monday Apr 18	Monday Apr 25	Monday May 2
45	Monday Apr 25	Monday May 2	Monday May 9

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

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

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

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

Rudy Perpich
Governor

Sandra J. Hale
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Carol Anderson Porter
Editor

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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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).
- Proposed temporary rules.

The ADOPTED RULES section contains:

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

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in late summer 1983. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* 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:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
Issues 40-51, inclusive
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The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

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*Published in *MCAR 1982 Reprint*

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.

Minnesota Higher Education Coordinating Board

Proposed Rules Governing State Scholarships and Grants-In-Aid; Part-Time Student Grants; Work-Study Grants; Area Vocational-Technical Institute Tuition Subsidy; Assistance for Student Dependents of Minnesota Veterans; State Student Loans; Private College Contracts; and Private Institutions Registration and Approval of Degrees and Names

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Higher Education Coordinating Board proposes to adopt the above-entitled rules without a public hearing. The Executive Director has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.21-14.28 (1982).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 14.13-14.15 (1982).

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

Rose Herrera Hamerlinck
Minnesota Higher Education Coordinating Board
400 Capitol Square building
550 Cedar Street
St. Paul, Minnesota 55101
612/296-7963

Authority for the adoption of these rules is contained in Minnesota Statutes sections 136A.111, 136A.121, 136A.132, 136A.233, 136A.236, 136A.141, 136A.20, 136A.70 (1982). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Rose Herrera Hamerlinck, Higher Education Coordinating Board, upon request.

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.

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

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

Copies of this notice and the proposed rules are available and may be obtained by contacting Rose Herrera Hamerlinck at the above address.

Clyde R. Ingle, Executive Director
Minnesota Higher Education Coordinating Board

Rules as Proposed

5 MCAR § 2.0604 Terms of loans and grants.

A. Conditions for conversion of loans. Each eligible institution shall be authorized and be responsible for informing any foreign students who receives funds or ~~residing~~ residency status pursuant to the program that the funds are provided initially as a loan and will not be converted to a grant until the student submits written, documentable evidence that the student has returned to his home country within one year of completion of the student's education and has not returned to the United States for five years as a permanent resident.

B. Emergency scholarship funds. Prior to the annual report on which appears a loan cancellation involving emergency scholarship funds, the board must approve evidence submitted to the institution by the student. The board shall approve a loan cancellation when the evidence shows that the student has met the requirements in A. The evidence may be notarized statements by the student, notarized statements by persons who know the student, letters from the students with postmarks of the student's country, or similar writings.

B.-F. [Reletter as C.-G.]

5 MCAR § 2.0606 Disbursement of funds.

A.-B. [Unchanged.]

C. Accountability. Each participating ~~institution~~ school shall be accountable for any funds disbursed to students under the provisions of these rules ~~and regulations~~ as long as loan balances are outstanding.

D. Time for return of funds. Any emergency scholarship fund disbursement plus accrued interest which is outstanding six years after the documented date the student left school shall be remitted to the board according to the procedures established to implement B.

Rules as Proposed (all new material)

5 MCAR § 2.0100 Definitions for higher education programs.

A. Applicability. For the purposes of 5 MCAR §§ 2.0100-2.2705 the terms defined in this rule have the meanings given them unless specifically provided otherwise.

B. Board. "Board" means the Higher Education Coordinating Board.

C. Educational costs. "Educational costs" means tuition, required fees, room and board, books, and miscellaneous expenses.

D. Eligible student. "Eligible student" means a student who meets, at a minimum, all of the following requirements:

1. has not earned a baccalaureate degree and has not entered a graduate school program as a full-time graduate student;
2. is a resident of Minnesota;
3. qualifies for resident tuition other than through a tuition reciprocity agreement;
4. is enrolled or is intending to enroll as a full-time student in an eligible school;
5. is in good standing and making satisfactory progress, as determined by the school; and
6. is a permanent resident of the United States, if the student is not a United States citizen.

E. Executive director. "Executive director" means the executive director of the Higher Education Coordinating Board.

F. Financial need. "Financial need" means the amount of monetary assistance necessary for a student to meet educational

costs after parental and student contributions, determined by the financial need analysis, are subtracted from the student's educational costs. "Financial need analysis" means a system for analyzing a family's financial strength to determine the expected parental and student contributions to educational costs. The system is a federally approved system or an equivalent need analysis system adopted each year by the board for the appropriate processing year.

G. Minnesota resident. "Minnesota resident" means, for a dependent student, a student whose parent or legal guardian resides in Minnesota on the date of application. "Dependent" student means a student who:

1. lives with the parent or legal guardian for at least six weeks; or

2. receives support from the parent or legal guardian; or

3. is claimed as a tax exemption by the parent or legal guardian in the calendar year prior to or during the calendar year in which the application is made.

"Minnesota resident" means, for an independent student, a student who has resided in Minnesota for other than educational purposes for at least 12 consecutive months prior to the date of application. "Independent" student means a student who is not a dependent student.

State Scholarships and Grants-in-aid

5 MCAR § 2.2101 Scope.

Rules 5 MCAR §§ 2.2101-2.2106 govern state scholarships and grants-in-aid.

5 MCAR § 2.2102 Eligible schools.

Annually by July 31, the board shall adopt by resolution a list of schools at which a state scholarship or grant-in-aid may be used. To be eligible a school must meet the following requirements:

1. is located in Minnesota; and

2. offers at least one program that:

   a. is vocational or academic in nature; and

   b. leads to a certificate or degree; and

   c. is ten weeks long; and

   d. involves at least 12 academic credits or 300 clock hours; and

3. is one of the following:

   a. accredited by a federally recognized accrediting agency or association; or

   b. approved to offer degrees or use terms in its name according to 5 MCAR § 2.2805; or

   c. is licensed by an appropriate state agency.

5 MCAR § 2.2103 Application dates and student eligibility.

A. Date. Annually the board shall adopt by resolution a date by which all applications must be filed to be given priority for an award. The date may not be before February 15.

B. Eligibility for initial scholarship. To be eligible for an initial scholarship a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and all of the following:

1. be a Minnesota resident on the priority application date;

2. will be a first-year student, without any previous post-secondary education; and

3. rank in the upper quarter of the class at the end of the junior year of senior high school, or the equivalent, based on the student's cumulative scholastic record in senior high school.

C. Eligibility for initial grant-in-aid. To be eligible for an initial grant-in-aid a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and all of the following:

1. is a Minnesota resident on the priority application date;

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

2. has not earned a baccalaureate degree and has not completed the number of semesters or quarters normally required to complete a baccalaureate degree;

3. demonstrates financial need;

4. if applying for a nursing grant, is enrolled or will be enrolled in a program leading to licensure as a registered nurse or a licensed practical nurse.

D. Renewal awards. A scholarship or grant-in-aid is renewable for a maximum of six semesters, nine quarters, or the equivalent. To be eligible to renew a scholarship or grant-in-aid a student must apply each year and continue to meet the requirements for an initial scholarship or grant-in-aid, except B.2. A student must have made satisfactory progress as determined by the school and have been enrolled in a post-secondary school as a full-time student for no more than four years or the equivalent.

5 MCAR § 2.2104 Ranking applicants.

A. Classification and ranking of applicants. Each applicant shall be placed in at least one of the following classifications: renewal scholarship, renewal grant-in-aid, initial scholarship, initial grant-in-aid. Grant-in-aid applicants are ranked according to parental contribution; applicants with the least parental contribution are awarded first. Scholarship applicants are ranked according to class rank as a junior in high school; applicants with the highest class rank are awarded first.

B. Priority of classes of applicants. Applicants renewing scholarships shall be given first priority. Applicants renewing grants-in-aid shall be given second priority. Applicants for initial scholarships shall be given third priority. Applicants for initial grants-in-aid shall be given fourth priority.

C. Awards based on need. Awards determined by financial need shall be assigned each applicant in descending order of rank until available funds are exhausted.

5 MCAR § 2.2105 Awards.

A. Monetary awards. Scholarship and grant-in-aid awards range from a minimum of $100 to a maximum of $1,400 but may not exceed one-half of financial need. If a federal Pell grant and a state scholarship or grant-in-aid exceeds 75 percent of financial need, the state scholarship or grant-in-aid must be reduced so that the combination of the two awards does not exceed 75 percent of financial need. The state scholarship or grant-in-aid must be further reduced if additional gift assistance, in combination with a federal Pell grant and a state scholarship or grant-in-aid, exceeds 100 percent of financial need.

B. Adjustments to awards. If financial need decreases because a recipient chooses a different school after the scholarship or grant-in-aid award is offered, the award shall be reduced. If a change in schools causes financial need to increase, the award shall be increased only if funds are available.

C. Nonmonetary awards. Honorary scholarships, which are nonmonetary awards, shall be granted to all applicants who have no financial need or did not request financial aid and who rank equally with or above the last monetary scholarship recipient.

5 MCAR § 2.2106 Method of payment.

A. Payments to schools. After a scholarship and grant-in-aid award is determined, the award shall be sent by the executive director to the school chosen by the recipient. The school shall apply the award to the recipient's educational costs in the following order: tuition, fees, books, supplies, and other expenses. The costs must be prorated for each term of the academic year. The school shall notify each recipient that the award has been received by the school.

B. Return and refund. A scholarship and grant-in-aid is awarded for full-time attendance at a specified school for the academic year which commences with the fall term. If a recipient fails to enroll or ceases to be a full-time student, the school must return the unused portion of the award. A refunded award must be sent by the school to the board's scholarship or grant-in-aid account. Refunded awards are available for reassignment to other qualified applicants.

C. School accounting requirements. Schools shall maintain separate accounts for scholarship and grant-in-aid funds. Refunds to the board shall be made by separate checks for scholarships and grants-in-aid. Schools shall provide evidence, prepared according to generally accepted accounting principles, that all awards have either been distributed or returned to the board. Books and records relating to state scholarships and grants-in-aid must be made available for audit by representatives of the board or the State Auditor.

Part-time Student Grants

5 MCAR § 2.2201 Scope.

Rules 5 MCAR §§ 2.2201-2.2206 govern state grants-in-aid for part-time students.

5 MCAR § 2.2202 Eligible schools.

Schools eligible for part-time student grants are the same schools eligible for state scholarships and grants-in-aid under 5 MCAR § 2.2102.

5 MCAR § 2.2203 Application and distribution of funds for grants.

A. Application by schools. A school desiring funds for part-time student grants must request funds by June 30 each year. The school must submit its estimate of the amount needed to meet eligible student needs for the school year.

B. Allocation formula.

1. Funds shall be allocated to each school according to the following formula:

a. part-time enrollment of each school, divided by the total part-time enrollment of all eligible participating schools;

b. multiplied by the current fiscal year's appropriation for part-time student grants; and

c. multiplied by the percent of funds for part-time student grants actually used by that school during the prior school year.

2. "Part-time enrollment" means the sum of all enrolled resident, extension, and unclassified part-time students reported as lower division, upper division, and vocational in the fall term of the school year prior to the fiscal year the funds are allocated and as published by the board in its annual enrollment survey.

C. Notification. The board shall notify each school of the amount allocated to it.

D. Accountability. Each participating school shall be accountable for any funds disbursed to students for grants-in-aid for part-time students. Funds may be used only during the fiscal year of disbursement. When a student does not use a grant because the student does not enroll or withdraws from school, the school may use the funds for other eligible students or return them to the board.

E. Unused funds. When requested by the board, each school shall report its use of funds and shall return unused funds. The board shall reallocate unused funds to schools desiring additional funds.

5 MCAR § 2.2204 Eligible students.

A. Determination of eligibility. A school shall determine if a student is eligible for a part-time student grant. To be eligible a student must be an eligible student as defined in 5 MCAR § 2.0100 D., except that the student need not be a full-time student, and all of the following:

1. is pursuing a program or course of study leading to a degree, diploma, or certificate; and

2. is not eligible for state or federal financial aid, other than a Pell grant; and

3. is not reimbursed for tuition and fees by any source other than a Pell grant; and

4. demonstrates financial need.

B. Family income. A student has financial need if the student's family income is no more than the income levels annually established by the board. Family income shall take into consideration the number of dependents in the student's family.

C. Income for year tax return filed and exceptions. Family income is determined according to the base year. The base year is the most recent tax year in which a tax return has been filed. In any of the following circumstances estimated income for the current year shall be used instead of the base year:

1. a parent or spouse who provided income in the base year has died during the base year or the current year;

2. a parent, spouse, or applicant who provided income in the base year experiences a complete loss of all employment for at least ten weeks in the current year;

3. a parent, spouse, or applicant who provided income in the base year is unable to pursue normal income-producing activities in the current year for at least ten weeks due to disability occurring in the base year or the current year or due to a natural disaster that occurred in the current year;

4. a parent or applicant became separated or divorced during the current year;

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5. the applicant, who was employed for an average of 35 hours per week for at least 30 weeks in the base year, is no longer employed full-time in the current year; or

6. no tax return was filed for the most recent tax year.

5 MCAR § 2.2205 Amount and term of grants.

A school shall award a grant to each eligible student, to the extent institutional funds are available and the student shows need. The amount of the grant, when combined with a student's Pell grant, shall not exceed the lesser of the cost of resident tuition and fees at the school or the cost of resident tuition and fees for an equivalent program at the University of Minnesota. A grant is for one quarter, semester, or the equivalent at the school and is not automatically renewable. The recipient of an award may apply for a grant for subsequent terms.

5 MCAR § 2.2206 Reports of data.

To prepare summary data, each school must annually solicit demographic, educational, and financial data from eligible students requesting grants. Each school shall provide the summary data upon request by the board.

Work-Study Grants

5 MCAR § 2.2301 Scope.

Rules 5 MCAR §§ 2.2301-2.2307 govern state work-study grants.

5 MCAR § 2.2302 Eligible schools.

Schools eligible for work-study grants are the same schools eligible for state scholarships and grants-in-aid under 5 MCAR § 2.2102.

5 MCAR § 2.2303 Application and distribution of funds for grants.

A. Application by schools. A school desiring funds for work-study grants must request funds by June 30 each year. The school must submit its estimate of the amount needed to meet eligible student needs for the following school year.

B. Allocation formula.

1. Funds shall be allocated to each school according to the following formula:

a. full-time equivalent enrollment of each school, divided by the total full-time equivalent enrollment of all participating eligible schools;

b. multiplied by the current fiscal year's appropriation for work-study grants; and

c. multiplied by the percent of funds for work-study grants actually used by that school during the prior school year.

2. "Full-time equivalent enrollment" means the enrollment in the fall term determined by the board in its annual enrollment survey in the year prior to the academic year for which work-study funds are allocated.

C. Modification of allocations. The board shall allocate funds equal to a school's estimated need if the estimated need is less than the amount determined by the allocation formula.

D. Accountability. Each participating school shall be accountable for any funds disbursed to students for work-study grants. Funds may be used only during the fiscal year of disbursement. At schools where the proportion of grants to students employed by off-campus employers is significantly less than the proportion at other schools, the executive director may require the school to document its efforts to place students with off-campus employers. The percent of the school's allocation provided to graduate students shall not exceed the percent of graduate students in the total enrollment at the participating school.

E. Unused funds. When requested by the board, the school must immediately return funds which the school determines will not be used. The board shall reallocate the funds to other participating schools requesting additional funds.

5 MCAR § 2.2304 Eligible students.

A school shall determine if a student is eligible for a work-study grant. To be eligible a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., except that the student may be a graduate student.

5 MCAR § 2.2305 Employment terms; amount of grants.

A. Eligible employers. A work-study grant recipient may be employed on-campus by the school or off-campus by any of the following:

1. a nonprofit, nonsectarian agency located in Minnesota;

2. a person who has a physical or mental impairment which substantially limits at least one life activity and who could benefit from student assistance in or about the home; or

3. a person over 65 years old who could benefit from student assistance in or about the home.

B. Amount. The maximum a student may earn through a work-study grant is the amount of the student's financial need. If a school finds it necessary to replace any portion of a student's family contribution with a work-study grant, the school must place written documentation supporting the decision in the student's file at the school.

C. Hourly wages. Not less than 20 percent of the amount earned by a student shall be paid by the employer, with the actual percentage determined by the school in consultation with the employer. A student shall be paid for hours actually worked at an hourly rate agreed to by the employer and the student, with the approval of the school. However, the student must be paid at least the state minimum wage, if the federal minimum wage is not applicable. Student earnings must be paid according to federal regulations governing payment of student earnings under the federal work-study program.

5 MCAR § 2.2306 Contracts with employers.

A. Off-campus employer contract. Before a student begins work, the school and off-campus employer shall sign a contract affirming the eligibility of the employer and agreeing to abide by applicable law and rules.

B. Contents of work contract. The student, school, and employer shall sign a contract setting forth the nature of the work, number of hours of employment, hourly rate of pay, percentage of earnings to be paid by the employer, maximum payment by the employer, pay and time records, payroll, and workers' compensation. Time records must be signed by the student and the employment supervisor.

C. Review and comment. All contracts signed by the school and employers are subject to review and comment by the executive director.

D. Supervision. The school, with the employer, must develop for each work-study assignment a program of supervision consistent with the nature of the assignment and the needs of the individual student. Upon request of the board, the school must submit the program of supervision to the executive director for review and comment.

5 MCAR § 2.2307. Report by school.

When requested by the board, each school shall report demographic information and program activity about work-study grants.

AVTI Tuition Subsidy

5 MCAR § 2.2401 Scope.

Rules 5 MCAR §§ 2.2401-2.2405 govern the tuition subsidy program for students in area vocational-technical institutes.

5 MCAR § 2.2402 Eligible schools.

Schools eligible for tuition subsidies are area vocational-technical institutes (AVTI's) established pursuant to Minnesota Statutes, section 121.21.

5 MCAR § 2.2403 Application and distribution of funds for tuition subsidies.

A. Application by AVTI. By June 30 an AVTI desiring funds for tuition subsidies must request funds on the participation request form supplied by the board. The AVTI must submit its estimate of the amount needed to meet eligible student needs for the following school year.

B. Allocation formula.

1. Funds shall be allocated to an AVTI according to the following formula:

   a. average daily membership in the AVTI divided by the total average daily membership of all AVTI's;

   b. multiplied by the current fiscal year's appropriation for tuition subsidies; and

   c. multiplied by the percent of funds for tuition subsidies actually used by that AVTI during the prior school year.

2. "Average daily membership" means the average daily membership for an AVTI as approved by the Department of Education for the year prior to the fiscal year the funds are allocated.

C. Notification. The board shall notify each AVTI of the amount allocated to it.

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D. Accountability. Each participating school shall be accountable for any funds disbursed to students for tuition subsidies. Funds may be used only during the fiscal year of disbursement. When a student does not use a subsidy because the student withdraws from the AVTI, the AVTI may use the funds for other eligible students or return the funds to the board.

E. Unused funds. When requested by the board, the AVTI must immediately return funds which the school determines will not be used. The board shall reallocate the funds to other participating AVTI's requesting additional funds.

F. Return of funds. Within 30 days of the end of the fiscal year each AVTI shall return unused funds to the board.

5 MCAR § 2.2404 Eligible students.

A. Determination of eligibility. An AVTI shall determine if a student is eligible for a tuition subsidy. To be eligible a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and both of the following:

1. has not been awarded a state scholarship or grant-in-aid for the time period for which the tuition subsidy is awarded; and

2. demonstrates financial need.

B. Financial need. A student's financial need is that portion of educational costs which remain after subtracting the expected family contribution, the Pell grant, and other assistance the student is receiving or will receive.

C. Application. A student may apply for a tuition subsidy before or while attending an AVTI. A student may defer paying tuition during the application process.

5 MCAR § 2.2405 Tuition subsidy.

A. Amount of subsidy. The amount of a tuition subsidy is based on the student's financial need. A student whose financial need does not exceed five percent of the cost of tuition may not receive a tuition subsidy. A subsidy may not exceed 75 percent of the cost of tuition for the period of the tuition subsidy.

B. How subsidy is credited. An AVTI shall reduce the tuition charged to each recipient by the amount of the tuition subsidy.

C. Educational programs extending across fiscal years. A tuition subsidy is awarded for the fiscal year of disbursement only. For an educational program extending across fiscal years, a tuition subsidy is prorated to the end of the fiscal year. Reapplication is necessary to obtain a tuition subsidy for the remainder of the educational program. A subsequent subsidy is contingent upon availability of funds, continued demonstration of financial need, and continued eligibility.

D. When subsidy begins. For a recipient who applied before the first day of classes, tuition reduction shall begin on the first day of the recipient's classes. For a recipient who applied after the first day of classes, tuition reduction shall begin on the day the recipient applied for a subsidy.

E. Obligation for tuition when tuition payment deferred. If a student defers tuition payment during the application process, the student is responsible for tuition which accrued during the application process. However, if a student does not receive a subsidy and promptly withdraws from school, tuition for the period shall be forgiven. A student who does not receive a subsidy and does not promptly withdraw from school is responsible for tuition which accrued during the application process.

F. Scholarship or grant-in-aid awards. A recipient of a state scholarship or grant-in-aid is eligible for a tuition subsidy only for the period of an educational program which does not coincide or overlap with the period of a state scholarship or grant-in-aid.

G. Transfer to another AVTI. Tuition subsidies are not transferable to other AVTI's. A recipient may apply for another subsidy if the recipient transfers to another AVTI. A recipient must meet the eligibility requirements in 5 MCAR § 2.2404 A.

Assistance for Student Dependents of Minnesota Veterans

5 MCAR § 2.2501 Scope.

Rules 5 MCAR § 2.2501-2.2503 govern state financial assistance for students in postsecondary school who are dependents of prisoners of war and persons missing in action.

5 MCAR § 2.2502 Eligible students and verification.

A. Eligibility. To be eligible for financial assistance for dependents of prisoners of war and persons missing in action, all of the following requirements must be met:

1. The student must be registered for an undergraduate program leading to a bachelor's degree or certificate of completion.

2. The student must attend a school located in Minnesota. The school may be a state university, community college, public area vocational-technical institute, or the University of Minnesota. If the school is a private school it must be eligible to participate in the state student loan program according to 5 MCAR § 2.2602.

3. The student must be one of the following:

a. the spouse of a prisoner of war or person missing in action;

b. a child born before or during the time the parent served as a prisoner of war or was declared a person missing in action; or

c. a child legally adopted or in the legal custody of the parent before and during the time the parent served as a prisoner of war or was declared a person missing in action.

B. Verification of status. In cooperation with the Commissioner of Veterans' Affairs, a school must verify, on behalf of a student applying for assistance, that the student meets the requirements in A.3. A prisoner of war or person missing in action means a person who was a Minnesota resident at the time of entering service of the United States Armed Forces, or whose official residence is within Minnesota, and who, while serving in the United States Armed Forces, has been declared to be a prisoner of war or a person missing in action as established by the Secretary of Defense after August 1, 1958. Verification must include the determination of residency. A discharge form, notarized statement from the student's parent, or other documentation may be required to show residency. In addition, a student may be required to provide a copy of a birth certificate, marriage certificate, or other document showing the student meets the requirement of A.3. No situation, including return or reported death of the parent or spouse, can remove a person who qualifies as a dependent from the provisions or benefits provided by law.

5 MCAR § 2.2503 Amount of assistance.

A. State-supported school. A state-supported school shall waive full tuition and fees for an eligible student.

B. Private school. A private school shall request payment from the board for each eligible student. The payment to the private school for each student shall not exceed $250 per 12 months.

State Student Loans

5 MCAR § 2.2601 Scope.

Rules 5 MCAR §§ 2.2601-2.2605 govern state loans to postsecondary students.

5 MCAR § 2.2602 Eligible schools.

Schools eligible for funds for student loans are public or private postsecondary schools in any state, approved by the United States Secretary of Education in accordance with requirements of the Higher Education Act of 1965, as amended.

5 MCAR § 2.2603 Eligible students.

A. General. To be eligible for a state student loan, a student must meet all of the following requirements:

1. is eligible for the guaranteed student loan program created by the Higher Education Act of 1965, as amended;

2. demonstrates financial need;

3. is enrolled at least half-time;

4. is in good standing, as determined by the school;

5. lives in Minnesota during the school period for which the loan is approved, for a student who is not a Minnesota resident;

6. has a loan refusal letter from a commercial lender when applying for a loan for the first time as an undergraduate student; and

7. is one of the following:

a. enrolled in an eligible school in Minnesota; or

b. a Minnesota resident enrolled in an eligible school in any other state.

B. Loans previously obtained in other states. A student who is not a Minnesota resident and who has previously obtained a student loan from a lender in another state is required to submit evidence that a request for a further loan through that program was denied.

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C. Students in default. A student is not eligible for a loan if the student is currently in default on a student loan or has a default claim filed with the guarantee agency at the time of application unless the student has made repayment arrangements satisfactory to the guarantee agency and the board.

5 MCAR § 2.2604 School agreements and student applications.

A. Origination agreement. Before approving loans to students at a school, the school and executive director shall execute a loan origination agreement. A school is considered to have originated a loan if the school determines who receives a loan and the amount or if the school, at the request of the lender, verifies the identity of the borrower or completes forms normally completed by the lender. The origination agreement must specify the school's responsibility for proper delivery of loans to students. It must also designate a school representative who is responsible for performance of the following activities:

1. complete and certify the school section of a loan application;
2. assist the board by providing loan counseling to students;
3. assist the board by counseling students about their obligations when accepting a loan;
4. deliver loan disbursements to students; and
5. promptly notify the board when a borrower does not attend school at least half-time.

B. Termination. The executive director may terminate an agreement with a school upon determining that continuation of the agreement is not in the best interests of the state student loan program.

C. Application, guarantee, and note. The student and school must complete appropriate parts of the application and send it to the board for its review. The board must complete the lender's part of the application and send it to the guarantee agency. The guarantee agency must determine the loan amount it will guarantee. The board must send a promissory note to a student for a loan amount not to exceed the amount guaranteed. After the student signs and returns the promissory note, the board must send the loan amount to the school made payable to the student.

5 MCAR § 2.2605 Amount, terms, and payment.

A. Maximum and minimum amounts. The maximum loan for a loan period and the aggregate principal balance of loans shall be those prescribed in the Higher Education Act of 1965, as amended. The minimum amount of a loan shall be $250.

B. Duration. A loan shall not be approved for a loan period in excess of 12 months.

C. Repayment. The interest rate, terms, and conditions of repayment shall be that prescribed by the Higher Education Act of 1965, as amended.

D. Date of payments. No check shall be dated more than 30 days before the beginning of the loan period for which the loan is made. A school shall not deliver a check to a student until after the loan period has begun. No payment shall be made after the loan period expires.

E. Failure to enroll, transfer, or withdrawal. The school shall return checks for students who have not enrolled within 30 days of the date enrollment is determined. If a student transfers to another school or withdraws from school before a check is received, the loan is cancelled. A student may reapply for a loan at another school. If a student who has received a check does not attend school for the intended loan period, the loan shall be immediately due and payable.

F. Refunds. Refunds from schools to the board are allocable in a percentage greater than or equal to the percentage of the total cost of education funded by state student loans.

Private College Contracts

5 MCAR § 2.2701 Scope.

Rules 5 MCAR §§ 2.2701-2.2705 govern the state program of contracts with private colleges for education of Minnesota residents.

5 MCAR § 2.2702 Eligible schools.

Annually the board shall adopt by resolution a list of schools eligible for a contract. To be eligible a school must meet all of the following requirements:

1. be a private institution of higher education;
2. be located in Minnesota;
3. not be operated for profit;
4. not be an institution or department or branch of an institution whose program is specifically to prepare students to become ministers of religion, to enter upon some other religious vocation, or to prepare to teach theological subjects;

5. grant an associate degree or higher degree; and

6. be either of the following:

a. fully accredited or making satisfactory progress toward full accreditation by the North Central Association of Secondary Schools and Colleges; or

b. determined by the board to maintain programs and standards substantially equivalent to the institutions in Minnesota which are fully accredited.

5 MCAR § 2.2703 Contracts.

A. Content. The executive director shall offer contracts to all eligible schools. The contract must specify the responsibilities of the school, the services it is to provide, and the terms and conditions of receiving payment for the services.

B. Students eligible. The contract must be for students who meet all the following requirements:

1. are enrolled full-time in the fall term according to the standards of the school, but for not less than 12 credits or the equivalent;

2. are enrolled in an eligible program; and

3. are either one of the following:

a. dependent upon the financial support of parents or guardians who have resided in Minnesota for not less than 12 months prior to admission at the school; or

b. independent of parental or guardian's financial support and have resided in Minnesota, for purposes other than obtaining an education, for not less than 12 consecutive months prior to admission at the school.

C. Eligible programs notarized. As a condition of the contract, the chief executive officer and an officer of the governing board of each school must provide a notarized statement that programs included in the contract meet the following criteria:

1. must lead to an associate or bachelor degree or to a prebaccalaureate diploma;

2. must be at least one academic year in duration;

3. may provide for the scholarly study of religion as a discipline of knowledge in a manner similar to that provided for any field of study, but it may not require a student to:

a. take courses based upon a particular set of religious beliefs;

b. receive instruction intended to propagate or promote any religious beliefs;

c. participate in religious activities;

d. maintain affiliation with a particular church or religious organization; or

e. attest to any particular religious beliefs.

5 MCAR § 2.2704 Certification of the number of eligible students.

The chief executive officer of each school must certify as of the tenth class day of the fall term the exact number of Minnesota residents who are enrolled in programs meeting the criteria in 5 MCAR § 2.2703 C. Each school must maintain adequate records demonstrating the method of calculating the number of students. The records and underlying documents must be available to the board for inspection.

5 MCAR § 2.2705 Payment.

A. Amount of payment. The executive director shall pay, for each eligible student who is not a state grant-in-aid recipient, $120 per student in a school granting an associate degree but not a bachelor's degree and $150 per student in a school granting a bachelor's degree. In addition, the executive director shall pay, for each eligible student who is a state grant-in-aid recipient, $400 per student in a school which grants an associate degree but not a bachelor's degree and $500 per student in a school which grants a bachelor's degree. However, if the appropriation is insufficient to pay the full amount, the executive director shall reduce the payments in a manner which maintains the ratios among the four categories of students.

B. Time of payment. Ninety percent of the payment shall be made in the winter. It shall be calculated by using the number of

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eligible students, certified by the school and verified by the executive director, and the preliminary number of fall grant-in-aid recipients. The final payment shall be made in the spring. It shall be based on the final number of fall grant-in-aid recipients and shall include any required adjustments.

Private Institutions Registration and Approval of Degrees and Names

5 MCAR § 2.2801 Scope.

Rules 5 MCAR §§ 2.2801-2.2811 govern a state program for registration of private and non-Minnesota public postsecondary institutions and approval of degrees granted and names used.

5 MCAR § 2.2802 Definitions.

A. Applicability. For the purposes of 5 MCAR §§ 2.2801-2.2811 the terms defined in this rule have the meanings given them.

B. Degree. "Degree" means any award given by a school which signifies or is generally taken to signify completion of a program or course and which is designated by the terms degree, associate, bachelor, baccalaureate, master, doctor, or education specialist.

C. School.

1. "School" means an individual, partnership, company, firm, society, trust, association, corporation, or any combination thereof operating or doing business in Minnesota which:

a. is, owns, or operates a private, nonprofit postsecondary education institution;

b. provides a postsecondary instructional program or course leading to a degree whether or not for profit;

c. is, owns, or operates a private postsecondary educational institution which uses the term "academy," "college," "institute," or "university" in its name or advertising; or

d. operates for profit and provides programs or courses which are intended to allow an individual to fulfill in part or totally the requirements necessary to maintain a license to practice an occupation.

2. "School" also means, except in 5 MCAR § 2.2804 B., a public or private postsecondary educational institution located outside Minnesota which offers programs, courses, or educational activities to residents of Minnesota and which does not require the student to leave the state for the major portion of the program, course, or activities.

5 MCAR § 2.2803 Who must register.

All schools shall register annually with the Higher Education Coordinating Board. Annually the board shall adopt by resolution and publish a list of registered schools. A school need not be approved to be registered.

5 MCAR § 2.2804 Requirements for registration.

A. Fees. The initial registration fee is $200 and the annual renewal fee is $150. Neither fee is refundable.

B. Plan to preserve permanent records. Each school located in Minnesota shall maintain permanent records for all students enrolled at any time. Records include school transcripts, documents, and files containing student data relating to academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan which meets all of the following:

1. at least one copy of the records held in a secure depository;

2. an appropriate official designated to provide a student with copies of records or a transcript upon request;

3. a method of complying with 1. and 2. should the school cease to exist; and

4. if the school has no binding agreement for preserving student records, a continuous surety bond in an amount not to exceed $20,000 or a trust arrangement should the school cease to exist.

C. Information. Each school shall submit the following information accompanied by an affidavit attesting to its accuracy and truthfulness:

1. articles of incorporation, constitution, bylaws, or other operating documents;

2. a duly adopted statement of the school's mission and goals;

3. evidence of current school or program licenses granted by departments or agencies of any state;

4. a fiscal balance sheet on an accrual basis, or a certified audit of the immediate past fiscal year or, if the school is a public institution outside Minnesota, an income statement for the immediate past fiscal year;

5. all promotional and recruitment materials and advertisements;

6. the current school catalog and, if not contained in the catalog:

a. the members of the board of trustees or directors, if any;

b. the current institutional officers;

c. current full-time and part-time faculty with degrees held or applicable experience;

d. a description of all school facilities;

e. a description of all current course offerings;

f. all requirements for satisfactory completion of courses, programs, and degrees;

g. the school's policy about freedom or limitation of expression and inquiry;

h. a current schedule of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

i. the school's policy about refunds and adjustments;

j. the school's policy about granting credit for prior education, training, and experience; and

k. the school's policy about student admission, evaluation, suspension, and dismissal.

D. Additional information. If the board is unable to determine the nature and activities of a school on the basis of the information in C., the board shall notify the school of additional information needed.

E. Verification of information. The board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary.

F. Public information. All information submitted to the board is public information except financial records and information. The board may disclose financial records or information to defend its decision to approve or disapprove granting of degrees or the use of a name or its decisions to revoke such approval at a hearing under Minnesota Statutes, chapter 14, or other legal proceedings.

G. Unauthorized representations. No school or any of its officials or employees shall advertise or represent in any manner that a school is approved or accredited by the board or the state of Minnesota. A school may represent that it is registered with the board by using the following language: "(Name of school) is registered with the Minnesota Higher Education Coordinating Board. Registration is not an endorsement of the institution. Registration does not mean that credits earned at the institution can be transferred to other institutions or that the quality of the educational programs would meet the standards of every student, educational institution, or employer."

5 MCAR § 2.2805 Approval of names and degrees.

A. In General. A school must be registered if it uses the term "academy," "institute," "college," or "university" in its name or if it grants a degree to a student in Minnesota, where the student has not left Minnesota for the major portion of the program or course leading to the degree. It also must substantially meet the criteria in B. In addition, it must meet the requirements in D. and E., as applicable. Annually the board shall adopt, by resolution, and publish a list of the schools approved to use regulated terms in their names and a list of schools approved to grant degrees with a list of the approved specified degrees.

B. Criteria for approval. The information submitted for registration is used to determine whether the following criteria are substantially met:

1. The school has an organizational framework with administrative and teaching personnel to provide the educational programs it purports to offer.

2. The school has financial resources sufficient to meet the school's financial obligations including refunding tuition and other charges consistent with its stated policy if the institution is dissolved or if claims for refunds are made, to provide service to the students as purported, and to provide educational programs leading to degrees as purported.

3. The school operates in conformity with generally accepted budgeting and accounting procedures, such as the standards adopted by the National Association of College and University Business Officers.

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4. The school provides an educational program leading to the degree it purports to offer.

5. The school provides appropriate and accessible library, laboratory, and other physical facilities to support the educational program offered.

6. The school has a policy on freedom or limitation of expression and inquiry for faculty and students which is published or available on request.

7. The school uses for promotion and student recruitment only publications and advertisements which are truthful and do not give any false, fraudulent, deceptive, inaccurate, or misleading impressions about the school, its personnel, programs, services, or occupational opportunities for its graduates.

8. The school's compensated recruiting agents who are operating in Minnesota identify themselves as agents of the school when talking to or corresponding with students and prospective students.

9. The school provides information to students and prospective students concerning:

a. comprehensive and accurate policies relating to student admission, evaluation, suspension, and dismissal;

b. clear and accurate policies relating to granting credit for prior education, training, and experience and for courses offered by the school;

c. current schedules of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

d. policies regarding refunds and adjustments for withdrawal or modification of enrollment status; and

e. procedures and standards used for selection of recipients and the terms of payment and repayment for any financial aid program.

C. Failure to meet criteria. Failure to meet any one of these criteria does not necessarily prevent a school from being approved. Rather, a judgment shall be made on the basis of a pattern which in the whole supports a legitimate educational program, sufficient finances, and sound institutional policies and practices.

D. Requirements for degree approval. The following additional requirements must be met by a school for each degree it offers to a student, where the student does not leave Minnesota for the major portion of the program or course leading to the degree:

1. qualified teaching personnel to provide the educational programs for each degree for which approval is sought;

2. appropriate educational programs leading to each degree for which approval is sought;

3. appropriate and accessible library, laboratory, and other physical facilities to support the educational program for each degree for which approval is sought; and

4. a rationale showing that degree programs are consistent with the school's mission and goals.

E. Requirements for name approval.

1. A school may use the term "academy" or "institute" in its name without meeting any additional requirements.

2. A school may use the term "college" in its name if it offers at least one program leading to an associate degree.

3. A school may use the term "university" in its name if it offers at least one program leading to a baccalaureate, master's, or doctorate degree.

4. A school, organized, operating, and using the term "academy," "institute," "college," or "university" in its name on or before August 1, 1975, may continue using such term whether or not it offers a program leading to a degree.

F. Conditional approval. The board may grant conditional approval for a degree or use of a term in its name for a period of less than one year if doing so would be in the best interests of currently enrolled students or prospective students.

G. Special advisory committee. The executive director may appoint a special advisory committee to review staff recommendations prior to board action upon the request of the school applying for board approval.

5 MCAR § 2.2806 Disapproval and appeal.

If a school's degree or use of a term in its name is disapproved by the board, the school may request a hearing under Minnesota Statutes, chapter 14. The request must be in writing and made to the board within 30 days of the date the school is notified of the disapproval.

5 MCAR § 2.2807 Withdrawal of approval.

A. Notice and hearing. The board may refuse to renew, revoke, or suspend approval of a school's degree or use of a

regulated term in its name by giving written notice and reasons to the school. The school may request a hearing under Minnesota Statutes, chapter 14. If a hearing is requested, no disapproval shall take effect until after the hearing.

B. Reasons for withdrawal. Withdrawal of approval may be for one or more of the following reasons:

1. violating the provisions of Minnesota Statutes, sections 136A.61 to 136A.71 or 5 MCAR § 2.2801-2.2811;

2. providing false, misleading, or incomplete information to the board;

3. presenting to prospective students information about the school which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect;

4. refusing to allow reasonable inspection or to supply reasonable information after a written request by the board has been received.

5 MCAR § 2.2808 Information, forms, and procedures.

The executive director may issue public information, design application forms, review applications, secure information, make recommendations, set guidelines, and approve uses pursuant to 5 MCAR § 2.2805 E.4., and establish visitation teams.

5 MCAR § 2.2809 Schools licensed by another agency or department.

The board shall accept as final and not inquire into the substantive basis for a license granted to a school by any agency or department of the state or any other state.

5 MCAR § 2.2810 Schools licensed by commissioner of education.

A school required to be licensed by the commissioner of education is exempt from registration and approval unless it grants degrees.

5 MCAR § 2.2811 Voluntary compliance.

A school or educational program which is exempt under Minnesota Statutes, section 136A.653 is exempt from 5 MCAR §§ 2.2801-2.2810 but may voluntarily waive its exemption by registering. Upon registration the school or educational program is subject to all applicable requirements of Minnesota Statutes, sections 136A.61 to 136A.71 and 5 MCAR §§ 2.2801-2.2810.

Repealer. Rules 5 MCAR §§ 2.0101-2.0108; 2.0201-2.0209; 2.0301-2.0310; 2.0501-2.0507; 2.0701-2.0706; 2.0801-2.0806; 2.0901-2.0918; 2.0990; 2.1001-2.1008 are repealed.

Department of Labor and Industry
Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standards

Request for Comments

Notice is hereby given that the Department of Labor and Industry proposes to adopt the following revisions to the Minnesota Occupational Safety and Health Codes, as authorized under Minn. Stat. § 182.655 (1982), establishing, modifying or revoking the Occupational Safety and Health Standards described below. This is an action to adopt standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration.

Complete copies of the specific standards, changes, additions, deletions and corrections are available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the standards proposed. Any interested person may file with the commissioner written objections to the proposed standards stating the grounds therefor and such person may request a public hearing on those objections.

Steve Keefe
Commissioner of Labor and Industry

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Rules as Proposed

8 MCAR § 1.7001 Adoption of federal Occupational Safety and Health Standards by reference. The Minnesota Department of Labor and Industry Occupational Safety and Health Codes and rules are amended by incorporating and adopting by reference, and thereby making a part thereof, Title 29 of the Code of Federal Regulations as follows:

Part 1910—Occupational Safety and Health Standards as published in Volume 43, No. 206 of the Federal Register on October 24, 1978 and corrected in Volume 43, No. 216 on November 7, 1978 which incorporates changes, additions, deletions and corrections made up to November 7, 1978; and subsequent changes made prior to ~~December 31, 1981~~ December 31, 1982:

—Federal Register, Vol. 47, No. 173, dated 9/7/82—"Hazardous Materials; Attendant Exemption and Latch-Open Devices: 1910.106(g)(2) and 1910.106(g)(3)(vi)

—Federal Register, Vol. 47, No. 219, dated 11/12/82—"Occupational Exposure to Lead; Respirator Fit Testing: 1910.1025(f)(3)."

—Federal Register, Vol. 47, No. 228, dated 11/26/82—"Exemption of Educational/Scientific Diving from Part 1910, Subpart T."

—Federal Register, Vol. 47, No. 233, dated 12/3/82—"Occupational Exposure to Lead; Administrative Stay of Compliance Plans for Certain Industries: 1910.1025(e)(3)(i)(B) and (E)."

Part 1915—Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the Federal Register on April 20, 1982 consolidating Part 1915, Part 1916 and Part 1917 into one, comprehensive standard designated as Part 1915.

Parts ~~1915, 1916, 1917 and~~ 1918—Safety and Health Regulations for ~~Maritime Employment~~ Longshoring as published in Part II, Volume 39, No. 119 of the Federal Register on June 19, 1974 which incorporates changes, additions, deletions and corrections made up to June 3, 1974; and subsequent changes made prior to ~~February 1, 1980~~ December 31, 1982:

—Federal Register, Vol. 42, No. 141, dated 7/22/77—"Commercial Diving Operations, which added sections ~~1915.59, 1916.59, 1917.59 and~~ 1918.99."

—Federal Register, Vol. 43, No. 88, dated 5/5/78—"Occupational Exposure to Benzene, supersedes standards included in Parts ~~1915, 1916, 1917 and~~ 1918."

Summary of Standards: The following summaries of the standards being proposed for adoption are very brief; complete copies of these standards are available as noted above.

A. "Hazardous Materials; Attendant Exemption and Latch-Open Devices—1910.106(g)(2) and 1910.106(g)(3)(vi) respectively." On September 7, 1982, the Federal Occupational Safety and Health Administration (Federal OSHA) revoked a standard that exempts employers with private service stations (not accessible to the public) from having to provide a service station attendant—1910.106(g)(2). This exemption is unnecessary because there is no provision in the OSHA Standards that requires either public or private service stations to have an attendant. This requirement was originally adopted from the 1969 edition of the National Fire Protection Association Standard (NFPA-30) which contained both the exemption and a requirement that public service stations have an attendant. However, OSHA chose to adopt only the exemption since the requirement for service station attendants in public service stations was considered relevant to public safety and not directly related to employee safety. Therefore, since the standard, as adopted, did not require an attendant, the exemption is unnecessary.

In addition, Federal OSHA revised its standard on gasoline nozzles to permit the use of latch-open devices on delivery nozzles used by the public in self-service gasoline stations—1910.106(g)(3)(vi). The original standard, which prohibited latch-open devices unless dispensing was done by a service station attendant, was part of the National Fire Protection Association Standard (NFPA-30) "Flammable and Combustible Liquids Code, 1969 Edition," adopted by Federal OSHA in 1971. When this standard was adopted, the self-service operation of gasoline pumps was rather limited; gasoline delivery, for the most part, was done by service station attendants. However, since 1969 a significant increase in the number of self-service gasoline outlets in the United States has resulted in changes to national concensus standards for flammable and combustible liquids including the lifting of the ban on the use of approved latch-open devices on pumps to be used by the public at self-service operations. This change became necessary because the public had begun using unapproved or unlisted prop-open devices such as gas caps, penknives, etc. which, in some cases, resulted in the improper function of the atuomatic-closing valve in the gasoline dispensing nozzles creating a potential for a hazardous spill. Therefore, Federal OSHA lifted the ban on latch-open devices because it believed that the ban imposed a burdensome requirement on the American consumer, it was unnecessary for employee safety since employees were already permitted to use latch-open devices on full-service nozzles, and

it addressed the area of public protection which is outside OSHA's jurisdiction. Further, the revised standard does not make the use of latch-open devices mandatory, but merely makes their use permissible; the final decision as to whether these devices will be installed and used will be made by the employer along with applicable local codes.

Minnesota OSHA hereby proposes to adopt the revisions described above; these revisions were adopted by Federal OSHA on September 7, 1982 and published at Federal Register, Volume 47, No. 173, on September 7, 1982.

B. "Occupational Exposure to Lead; Respirator Fit Testing—1910.1025(f)(3)." This amendment to the Occupational Exposure to Lead Standard allows employers to choose between quantitative fit testing or one of three qualitative fit test protocols—isoamyl acetate, saccharin solution aerosol, or irritant fume—to select appropriate and effective negative pressure half-mask respirators for lead-exposed employees.

The Occupational Exposure to Lead Standard, in part, requires employers to provide employees with respirators where engineering and work practice controls do not reduce employee exposure below the permissible exposure limit of 50 ug/m^3 (micrograms of lead per cubic meter of air). Respirators are a primary means of protecting employees under this rule because engineering controls and work practice requirements are phased-in over a period of years.

In order to help assure that respirators will provide employees with necessary protection, the standard requires employers to periodically perform quantitative fit tests (QNFT) on all users of negative pressure respirators. A quantitative fit test is a method for numerically measuring any leakage of the seal between the respirator facepiece and the wearer's face and is used to determine if the respirator assigned to the employee provides the protection factor specified in the respirator selection table found in Section 1910.1025(f)(2)(i). A qualitative fit test (QLFT) assesses the adequacy of the respirator fit by determining whether or not an individual wearing the respirator can detect the odor, taste, or irritation of a contaminant introduced into the vicinity of the wearer's head; if the contaminant is subjectively detected, the respirator fit is considered to be inadequate. Federal OSHA, in promulgating the Occupational Exposure to Lead Standard, decided to require QNFT rather than QLFT based on the conclusion that the former is more accurate than the latter.

In 1980, Federal OSHA was petitioned to reconsider or modify this provision in light of new information on improved forms of QLFT that may be an effective and less burdensome alternative to QNFT. Federal OSHA reopened the record to admit new updated information. All participants in the rulemaking were given an opportunity to comment on specific protocols or to suggest new ones. Only those protocols specified in the final rule have been adequately tested and, therefore, verified as being appropriate procedures. The specific qualitative fit test protocols included in the revised standard are: isoamyl acetate, saccharin solution aerosol, and irritant fume. Very specific protocols are required because the term "qualitative fit testing" would otherwise be so vague as to be virtually unenforceable and would be of little help in determining how to comply with the standard. The testing protocols must be performed exactly as listed in the Appendices to the standard because it is only these protocols which have had their performance substantiated quantitatively; failure to use all the steps and employ all the proper test conditions amounts to the use of different testing protocols with uncertain results and would not comply with the standard.

Minnesota OSHA hereby proposes to adopt this revision to the Occupational Exposure to Lead Standard, 1910.1025(f)(3), as published in the Federal Register, Volume 47, No. 219 on November 12, 1982.

C. "Educational/Scientific Diving Exemption; Subpart T of Part 1910." By final rule published on November 26, 1982, Federal OSHA is exempting scientific diving from coverage of 29 CFR Part 1910, Subpart T, "Commercial Diving," provided that the scientific diving is under the direction and control of a diving program utilizing a diving safety manual and a diving control board meeting certain specified criteria. This exemption is consistent with U.S. Coast Guard rules which exempt diving performed solely for scientific research and development purposes by educational institutions.

Comments, data and other information submitted to Federal OSHA substantiate a significant difference between commercial diving and scientific diving and verify that diving programs followed by the scientific community have resulted in an effective system of self-regulation. The educational/scientific diver is an observer and data gatherer who chooses the work area and diving conditions which will minimize environmental stresses and maximize the safety and efficiency of gathering data. By contrast, the commercial diver is an underwater construction worker, builder and trouble shooter whose work area and diving conditions are determined by the location and needs of the project.

The final rule defines scientific diving as "diving performed solely as a necessary part of a scientific, research, or educational activity by employees whose sole purpose for diving is to perform scientific research tasks. Scientific diving does not include performing tasks usually associated with commercial diving such as: placing or removing heavy objects underwater; inspection

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of pipelines and similar objects; construction; demolition; cutting or welding; or the use of explosives." The standard also sets forth elements a scientific diving program must have in order to be exempted from Subpart T. First, the diving program must have a diving safety manual which includes, at a minimum, procedures covering all diving operations specific to the program, procedures for emergency care including recompression and evacuation, and criteria for diver training and certification. Secondly, the program shall include a diving control board (with the majority of its members being active divers) which shall have the authority to approve and monitor diving projects, review and revise the diving safety manual, ensure compliance with the manual, certify the depths to which a diver has been trained, take disciplinary action for unsafe practices, and assure adherence to the buddy system for SCUBA diving.

By this notice, Minnesota OSHA proposes to adopt this exemption of educational/scientific data from the requirements of Subpart T of 29 CFR Part 1910 as published in the Federal Register, Volume 47, No. 228, on November 26, 1982.

D. "Occupational Exposure to Lead—Administrative Stay of Compliance Plans for Certain Industries." On December 3, 1982, Federal OSHA administratively stayed the requirements of paragraphs 1910.1025(e)(3)(ii)(B) and (E) for primary and secondary lead smelting industries and the battery manufacturing industry. This portion of the Occupational Exposure to Lead Standard requires, among other things, that employers establish and implement a written compliance program to reduce employee exposures to or below permissible exposure limits by means of engineering and work practice controls in accordance with the implementation schedule included in 1910.1025(e)(1). To prepare such a written plan would involve the development of extensive information about specific means of implementing engineering controls and necessitate the expenditure of substantial monies to obtain the information through engineering studies and the likely expenditure of large sums for construction and implementation of engineering controls. This requirement is being stayed because Federal OSHA is presently reconsidering the Lead Standard which is directed, among other objectives, at improving the cost-effectiveness of the standard and at re-evaluating the feasibility of the standard in some industries. The resultant standard may make current requirements unnecessary. The imposition of this stay does not effect the required permissible exposure limit of 50 ug/m^3 nor will it adversely affect the health of employees whose blood-lead levels have been, and continue to be, reduced by a combination of engineering, work practice and respirator protection controls.

Minnesota OSHA hereby proposes to stay the requirements of 1910.1025(e)(3)(ii)(B) and (E) as published in the Federal Register, Volume 47, No. 233, on December 3, 1982 pending publication of the reconsidered standard.

E. "Occupational Safety and Health Standards for Shipyard Employment—Part 1915." On April 20, 1982 Federal OSHA consolidated the existing standards pertaining to shipyard employment into a single, comprehensive standard in an effort to eliminate duplicative and overlapping provisions. In addition, nonsubstantive changes are also included. This action combines 29 CFR Part 1915 "Ship Repairing," Part 1916 "Shipbuilding," and Part 1917 "Shipbreaking" into one standard designated as Part 1915 "Occupational Safety and Health Standards for Shipyard Employment." The new, consolidated Part 1915 will apply to all three shipyard operations which are presently addressed separately in Parts 1915, 1916 and 1917. Editorial and other nonsubstantive language changes have been made to the individual standards to consolidate requirements pertaining to ship repairing, shipbuilding and shipbreaking. The substantive requirements of the specific standards, as well as their scope and application, have not been changed. Each standard in new Part 1915 will apply equally to ship repairing, shipbuilding and shipbreaking operations; where a certain standard or requirement applies to only one or two shipyard activities, the scope and application language has been added to delineate the precise coverage of the involved standard or requirement. In addition to editorial changes, minor changes include: 1) clarification of statutory authority; 2) changes to reflect the transfer of functions among Federal agencies; and 3) renumbering of the sections.

By this notice, Minnesota OSHA proposes to adopt the new, consolidated Part 1915 as published in the Federal Register, Volume 47, No. 76 on April 20, 1982. Adoption of this revised Part will replace existing Parts 1915, 1916 and 1917.

Department of Revenue
Property Equalization Division

Proposed Amendment to Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be

modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Ronald Cook
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5137

Authority for the adoption of these rules is contained in Minnesota Statutes section 270.06 (14); 270.11, subd. 1 and 6; 273.33, subd. 2; 273.37, subd. 2; and 273.38. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook at the above mentioned address, upon request.

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

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on utilities. The present rules deal generally with the valuation, allocation and apportionment of property of electric, gas distribution, pipelines and cooperative electric companies. The proposed rules if adopted would: modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the notice and the proposed rules are available and may be obtained by contacting Ronald Cook at the above-mentioned address.

March 31, 1983

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.0003 Valuation.

A.-C. [Unchanged.]

D. Income approach to valuation. The income indicator of value will be estimated by weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; and final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the assessment will be: electric companies, ~~8.75~~ 9.75 percent; gas distribution companies, ~~9.0~~ 10.0 percent; and pipeline companies, ~~9.25~~ 10.25 percent. The income indicator of value computed in accordance with D. will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; and pipeline companies, 25 percent.

The following example illustrates how the income indicator of value would be computed for a pipeline company:

	1980	1981	1982
1. Net Operating Income	$468,000	$385,700	$450,000
2. Capitalized Income @ ~~9~~ 10%	~~5,200,000~~	~~4,285,600~~	~~5,000,000~~
	4,680,000	3,857,000	4,500,000

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3. Weighting Factor	25 percent	35 percent	40 percent
4. Weighted Capitalized Income	~~1,300,000~~ 1,170,000	~~1,500,000~~ 1,349,950	~~2,000,000~~ 1,800,000
5. Total Income Indicator of Value			~~4,800,000~~ 4,319,950

E. Unit value computation. The unit value of the utility company will be the total of the weighted indicators of value.

The following is an example of the computation of the unit value for a pipeline company:

1. Cost Indicator of Value:

$$\$5,000,000 \times 75\% = \$3,750,000$$

2. Income Indicator of Value:

~~$4,800,000~~ 4,319,950 × 25% = ~~$1,200,000~~ 1,079,987

3. Unit Value of Pipeline Company:

100% ~~$4,950,000~~ 4,829,987

Any company whose cost indicator was modified under 13 MCAR § 1.0003 C. to reflect the average cost per kilowatt adjustment of a plant or plants located in Minnesota shall have an alternative unit value computation made without giving effect to the modification in respect of such plant or plants.

F.-H. [Unchanged.]

Department of Revenue
Property Equalization Division

Proposed Amendments to Rules Governing the Valuation and Assessment of Railroad Operating Property

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Wayne Gerwing
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5144

Authority for the adoption of these rules is contained in Minnesota Statutes sections 270.06 (14); 270.11, subd. 1 and 6; and 270.81, subd. 1 and 5. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed revised rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Wayne Gerwing at the above mentioned address, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for

review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Wayne Gerwing, at the above mentioned address.

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on railroads. The present rules deal generally with the valuation, allocation and apportionment of operating property of railroads. The proposed rules if adopted would modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the notice and the proposed rules are available and may be obtained by contacting Wayne Gerwing at the above-mentioned address.

March 31, 1983

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.0024 Valuation.

A.-B. [Unchanged.]

C. Income approach to valuation. The income indicator of value will be calculated by averaging the Net Railway Operating Income (as determined by the I.C.C.) of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the Band of Investment Method. This method will consider:

1. The capital structure of railroads.
2. The cost of debt or interest rate paying particular attention to imbedded debt of railroads.
3. The yield on preferred stock of railroads.
4. The yield on common stock of railroads.

For ~~1979~~ 1983 and subsequent years this capitalization rate will be ~~11%~~ 12 percent.

An example of a computation of the capitalized income approach to value is as follows:

XYZ Railroad

Net Railway Operating Income		
1974	$ ~~1,500,000~~	1,712,750
1975	~~2,000,000~~	2,212,750
1976	~~2,600,000~~	2,812,750
1977	~~3,001,000~~	3,213,750
1978	~~2,600,250~~	2,813,000
Total	~~$11,701,250~~	12,765,000
Average	$ ~~2,340,250~~	2,553,000

Five year average Net Railway Operating Income Capitalized at ~~11%~~ 12 percent (~~2,340,250~~ 2,553,000 ÷ ~~11~~ 12%) equals $21,275,000.

The income indicator of value computed in accordance with this rule shall be weighted 50 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in 13 MCAR § 1.0024 F.; and railroads not meeting the requirements for the use of the stock and debt indicator of value. Where no stock and debt indicator of value is used the income indicator will be weighted 75% percent.

D.-F. [Unchanged.]

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Department of Transportation

Proposed Rules Governing Operating Standards for Special Transportation Service

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Transportation proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes sections 14.13-14.20 (1982).

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

Betsy Parker
Office of Motor Carrier Safety and Compliance
Minnesota Department of Transportation
416A Transportation Building
St. Paul, Minnesota 55155
Telephone (612) 296-7108.

Authority for the adoption of these rules is contained in Minnesota Statutes section 174.30. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office of Motor Carrier Safety and Compliance upon request.

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

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

Copies of this notice and the proposed rules are available and may be obtained by contacting Office of Motor Carrier Safety and Compliance.

Dated this 28th day of March, 1983.

Richard P. Braun
Commissioner of Transportation

Rules as Proposed

14 MCAR § 1.7001 Scope.

A. ~~These~~ Service criteria. Except as provided in B. and C., the standards set forth in 14 MCAR §§ 1.7001-1.7013 apply to special transportation service ~~provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation~~ as defined in 14 MCAR § 1.7003 and provided by a person receiving grants or other financial assistance from the state or federal government, or both, to provide or assist in providing the service.

B. Care facilities. The standards set forth in 14 MCAR §§ 1.7001-1.7013 apply to nursing homes licensed under Minnesota Statutes, section 144A.02, boarding care facilities licensed under Minnesota Statutes, section 144.50, and day care and group home facilities licensed under Minnesota Statutes, sections 245.781 to 245.812, when:

1. the facility or program provides special transportation as described in A.;

2. the facility or program transports nonresidents on a regular basis; and

3. the facility receives reimbursement other than per diem payments for that service under rules promulgated by the commissioner of public welfare.

~~B.~~ C. Exemptions. ~~These~~ The standards set forth in 14 MCAR §§ 1.7001-1.7013 do not apply to transportation provided by:

1.-3. [Unchanged.]

4. A school bus as defined in Minnesota Statutes, section 169.01, subdivision 6; or

5. An ambulance providing life support transportation service regulated under Minnesota Statutes, chapter 144. However, these standards ~~shall~~ apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7003 Definitions.

A. Ambulance. "Ambulance" has the meaning given to it in Minnesota Statutes, section 144.801, subdivision 2.

B. Attendant. "Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

C. Commissioner. "Commissioner" means the commissioner of transportation.

D. Common carrier. "Common carrier" means a "regular route common carrier" ~~operating on fixed routes and schedules~~ as defined in Minnesota Statutes, section 221.011, subdivision 9.

~~E.~~ D. Disabled. "Disabled" means handicapped.

~~F. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.~~

~~G.~~ E. Elderly. "Elderly" means age 55 and older.

~~H.~~ F. Handicapped. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

~~I.~~ G. Major life activities. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

~~J.~~ H. Motor vehicle. "Motor vehicle" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 3.

~~K.~~ I. Municipality. "Municipality" has the meaning given to it in Minnesota Statutes, section 466.01, subdivision 1.

~~L.~~ J. Person. "Person" means every natural person, firm, partnership, corporation, association, and body politic.

~~M.~~ K. Physical or mental impairment. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction, and alcoholism.

~~N.~~ L. Provider. "Provider" means a public or private entity or person who operates special transportation service vehicles.

~~O.~~ M. Regular basis. "Regular basis" means providing more than an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month, whichever is less.

~~P.~~ N. School bus. "School bus" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 6.

~~Q.~~ O. Semiambulatory. "Semiambulatory" means having the ability to walk with difficulty or with the aid of an artificial limb or personal assistance device such as a brace, a cane, a crutch, or a walker.

~~R.~~ P. Special transportation service. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, or disabled ~~or economically disadvantaged~~ and who are unable to use regular means of transportation.

~~S.~~ Q. State. "State" has the meaning given to it in Minnesota Statutes, section 3.732, subdivision 1, clause (1).

~~T.~~ R. Variance. "Variance" means permission to comply in a manner other than that specified.

~~U.~~ S. Vehicle. "Vehicle" means a motor vehicle used to provide special transportation service.

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14 MCAR § 1.7005 Certification.

A. Forms. Application for a certificate of compliance ~~shall~~ must be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Department of Transportation district office. All applications ~~shall~~ must be delivered or mailed to the Minnesota Department of Transportation, Division of ~~Public Transportation~~ Program Management, Transportation Building, St. Paul, Minnesota 55155.

B. Required information. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. [Unchanged.]

b. the name, address, telephone number, and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule, or other;

d. ~~the category of passengers served (elderly, handicapped, disabled or economically disadvantaged)~~ whether the passengers served are elderly, handicapped, or disabled;

e. for each vehicle used:

(1)-(3) [Unchanged.]

f. if the vehicle will carry an occupied wheelchair~~;~~:

(1) [Unchanged.]

(2) the date that the wheelchair securement device was approved by the commissioner of public safety, and the number on the certificate issued by the commissioner of public safety;

g. [Unchanged.]

h. the name and address of each driver, stating whether each complies with the standards set forth in ~~these rules~~ 14 MCAR §§ 1.7001-1.7013.

This information ~~shall~~ must be provided annually when the application for a certificate of compliance is filed.

2. [Unchanged.]

C. When granted. A certificate of compliance ~~shall~~ must be granted when the applicant complies with the standards set forth in ~~these rules~~ 14 MCAR §§ 1.7001-1.7013.

D. Processed in 30 days. All applications ~~shall~~ are to be processed and a certificate of compliance issued or denied in writing within 30 days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. Information on certificate. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. Record. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed, or revoked.

14 MCAR § 1.7007 Inspection.

A. Complaint received. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in ~~these rules~~ 14 MCAR §§ 1.7001-1.7013, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection ~~shall~~ must be conducted within four weeks of receipt of the complaint.

B. Record. All complaints ~~shall~~ must be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint, and the result of the inspection.

C. On-site inspection. The commissioner ~~shall notify any provider not less than 1 week in advance of an inspection and~~ shall conduct the inspection at the provider's office or garage.

D. Items examined. Inspections conducted under these standards ~~shall~~ must comprise:

1. [Unchanged.]

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B. and may include inspection of any part of the vehicle subject to regulation under Minnesota Statutes, chapter 169, when a complaint has been made about the condition of any component of the vehicle.

E. Failure to permit inspection. Failure to permit an inspection as provided in this ~~section shall be~~ rule is grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR § 1.7008 Enforcement.

A. Notice. Any provider found in violation of any provision of ~~these rules~~ 14 MCAR §§ 1.7001-1.7013 shall be given a 30-day written notice to correct the violation. When the violation threatens the life or safety of passengers, the commissioner shall require the provider to remove the driver or vehicle from operation immediately.

B. Violation determination. At the expiration of 30 days, the commissioner may conduct an inspection to determine whether the violation has been corrected. ~~In the case of violations other than those involving vehicle equipment,~~ The provider may mail evidence of compliance to the department.

C. Suspension. If the violation has not been corrected, the commissioner shall suspend the certificate of compliance until the provider complies with the provisions of 14 MCAR §§ 1.7001 ~~to 14 MCAR §~~ -1.7013. No suspension shall occur unless the commissioner has held a hearing, after 30 days notice to the provider, at which the provider has had the opportunity to show cause why the certificate of compliance should not be suspended. Repeated violations may result in revocation of the certificate.

D. Enforcement hearing. ~~Any~~ An enforcement hearing conducted ~~pursuant to these~~ under the standards ~~shall~~ set forth in 14 MCAR §§ 1.7001-1.7013 must be conducted in accordance with Minnesota Statutes, chapter ~~15~~ 14.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1.-6. [Unchanged.]

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which ~~shall~~ must include instruction in the elements listed in 14 MCAR § 1.7009 A.6.a., b., c., and f.

8. [Unchanged.]

9. A driver or attendant ~~hired after October 1, 1981,~~ who has not completed the required training prior to providing special transportation service, shall do so within 90 days after beginning to provide ~~such~~ the service. Copies of certificates indicating successful completion of courses ~~shall~~ must be maintained in the provider's files.

10. [Unchanged.]

B. Equipment.

1. Each vehicle when in use ~~shall~~ must carry the following safety equipment:

a. [Unchanged.]

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit ~~shall~~ must contain at least the following items:

(1) [Unchanged.]

(2) two soft roll bandages 3" to 6" × 5 yards;

(3)-(4) [Unchanged.]

c.-h. [Unchanged.]

2.-3. [Unchanged.]

4. A vehicle which is equipped with a wheelchair lift and which carries semiambulatory persons who use the wheelchair lift ~~shall~~ must be equipped with either a wheelchair lift with an adjustable or removable railing which is 28 inches to 36 inches high on one side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

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5. Vehicles which carry occupied stretchers or litters ~~shall~~ must comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR § ~~1.603 C.4. and C.1. b.~~ 1.608 C.

C. Operation.

1. All vehicles ~~shall~~ must be ~~maintained and~~ operated in compliance with Minnesota Statutes, chapter 169, and rules adopted ~~pursuant to~~ under that chapter.

2.-6. [Unchanged.]

D. [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 Commerce
Office of Consumer Services

Adopted Rules Governing the Practice of Cosmetology

The rules proposed and published at *State Register*, Volume 7, Number 17, pages 625-649, October 25, 1982 (7 S.R. 625) are adopted with the following modifications:

Rules as Adopted

4 MCAR § 10.100 Definitions.

M. Demonstration. "Demonstration" means a presentation of less than eight hours duration, conducted by a recognized expert in the field, for the purposes of training cosmetology students or specialization by current licensees. The same demonstration may be repeated successive times which total more than eight hours. Demonstrations pursuant to nonretail sales are ~~not covered by this definition or~~ exempt from these rules.

Q. Licensed services. "Licensed services" means those services defined as the practice of cosmetology under Minnesota Statutes, ~~chapter~~ section 155A.03, subdivision 2 and includes the fitting of wigs and hair pieces on the head and the dressing of wigs and hair pieces while on the head.

U. ~~Unlicensed~~ Unregulated service. "~~Unlicensed~~ Unregulated service" means those services not defined as the practice of cosmetology under Minnesota Statutes, ~~chapter~~ section 155A.03, subdivision 2 and includes ear piercing, body wrapping, permanent depilitation, tattooing, artificial tanning of the skin; personal services incidental to performance in theatrical or musical productions or media appearances; any personal services performed incidental to mortuary practice; and massage services.

4 MCAR § 10.102 Requirements for obtaining individual licenses.

C. Requirement for a manager. In addition to the requirements of A., the applicant shall provide documentation of a current ~~Minnesota~~ cosmetologist or manicurist license, and at least 2700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

D. Requirements for an instructor. In addition to the requirements of A., the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

3. a current ~~Minnesota~~ cosmetologist, manicurist, or esthetician license; and

4. at least 1800 hours of experience as a licensed cosmetologist, manicurist, or esthetician ~~in Minnesota~~ in a ~~Minnesota~~ licensed salon, supervised by a licensed manager, within the three years prior to this application.

5. individuals whose practitioner license is as manicurist or esthetician shall be restricted to instruction in the area of their practitioner license only.

E. Reactivation of license. An individual who has an "inactive" Minnesota license and/or whose most recent active license has expired by more than three years who wishes to resume the practice of cosmetology shall document completion of a refresher program of a minimum of 155 hours for a cosmetologist, 60 hours for an esthetician, or 35 hours for a manicurist in a licensed ~~Minnesota~~ school of cosmetology. The documentation shall include a certification of skills.

4 MCAR § 10.103 Requirements for obtaining a license on the basis of reciprocity.

B. Compliance with state rules. The applicant shall demonstrate compliance with 4 MCAR § 10.102 A.~~2. 6.~~ 2., 3., 5., and 6. and shall successfully complete a written examination demonstrating knowledge of Minnesota Statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

d. Specific requirements for instructor. An applicant for an instructor's license shall provide evidence of 48 hours of training comparable to the requirement of 4 MCAR § 10.102 D.2., and 1800 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

4 MCAR § 10.105 License renewal for individuals.

B. Practical and educational requirements. The licensee shall establish that his or her knowledge and skills are up to date, by meeting the following requirements no later than the expiration of his or her current license:

1. a cosmetologist, manicurist, esthetician, or manager shall provide documentation of having ~~either~~ practiced in a licensed salon, or school for school managers, for at least 1800 hours at any time within the three years prior to the license expiration, or 400 hours acquired through approximately regular weekly experience within each of the last three years, or successfully completed an approved refresher course, of at least 40 hours, within the three years prior to the license expiration;

2. an instructor shall pay the processing fee and shall provide evidence of having successfully completed 45 hours of continuing education approved by the office, including at least 15 hours of teaching-related material and 15 hours related to analysis and use of professional clinical products;

~~3. a salon manager shall pay the examination fee and shall successfully pass a written examination covering Minnesota laws and rules pertinent to cosmetology salons prior to license renewal;~~

~~4. a school manager shall pay the examination fee and shall pass a written examination covering Minnesota laws and rules pertinent to cosmetology schools and salons prior to license renewal.~~

~~D. Health examination. The licensee shall provide evidence on a standardized form from a physician that he or she is free from communicable diseases and parasites.~~

~~E.~~ D. Method of determining timely renewal. The postmark date on the transmittal envelope of the renewal request and fee shall be determinative in ascertaining whether receipt was prior to the current license expiration date.

~~F.~~ E. An applicant who has ceased all practice of cosmetology and who wishes to receive an inactive license shall meet the requirements of A., C., and ~~E~~D. An inactive license shall not authorize any individual to engage in the practice of cosmetology as defined in Minnesota Statutes, ~~chapter~~ section 155A.03, subdivision 2.

4 MCAR § 10.106 Lapsed practitioner license.

A. Failure to renew. Failure to renew a practitioner license prior to its expiration date results in a lapsed license. The applicant shall comply with the requirements of 4 MCAR § 10.105 B. ~~and D.,~~ and:

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2. if more than 30 days have elapsed, the individual shall not practice cosmetology until he or she has applied for and received a new license in accordance with the provisions of 4 MCAR § 10.102 A.3.-6. and, if applicable, E.

C. Penalty. The manager of a salon or school shall pay a penalty of $25 for each ~~licensee whose license is past the expiration date and who is~~ individual practicing in the salon or school who was not properly licensed at the time he or she commenced this practice.

~~4 MCAR § 10.107 Retail sales.~~

~~It is not a violation of Minnesota Statutes, chapter 155A or these rules for an individual to demonstrate the application of a beauty coloring product, incidental to the original retail selling efforts for the product, if:~~

~~1. the individual is employed by a manufacturer, wholesaler, retailer, or distributor;~~

~~2. the individual has received a minimum of 16 hours of color application, safety, and sanitation training before conducting any application demonstrations on the public in accordance with Minnesota law;~~

~~3. the store in which the individual is employed shall maintain documentation of training;~~

~~4. appropriate sanitation procedures are followed:~~

~~a. purchasers themselves apply disposable headbands or other disposable items to secure their hair if necessary for the demonstration;~~

~~b. applicators for the products are either disinfected or disposed of after each purchaser;~~

~~c. the individual who is demonstrating the products cleanses his or her hands immediately before each application;~~

~~d. a used disposable towelette is thrown away or a clean towel is used for each hand cleansing; and~~

~~e. an appropriate receptacle is used for the disposal of items; and~~

~~5. no direct skin contact application of the product is performed on a purchaser or potential purchaser except by the purchaser.~~

~~In the alternative, if the product is applied only to a model who is also employed as part of the sales process, then the product application is not violative of Minnesota Statutes, chapter 155A and these rules.~~

4 MCAR § 10.109 Reinstatement after denial, suspension, revocation of license.

A. after suspension of license, by meeting the following requirements:

4. if the suspended license has expired by no more than 30 days, an individual applicant shall comply with 4 MCAR § 10.105 B. ~~D~~ C.; a salon shall comply with 4 MCAR § 10.120; and a school shall comply with 4 MCAR § 10.135;

B. after revocation or if the suspended license has expired by more than 30 days, by meeting the following requirements:

2. the applicant shall make application for relicensure, in writing and on forms provided by the office ~~as if no license had been previously issued~~;

3. the applicant shall pay the reinstatement fee and the license fee; ~~and~~

4. the salon or school applicant shall meet the requirements for initial licensure; and

5. the individual applicant shall meet the requirements of 4 MCAR § 10.102 A.3.-6. and, if applicable, E., and the renewal requirements of 4 MCAR § 10.105 B.

4 MCAR § 10.111 Requirements for salon licensure.

A. General requirements for all salon licenses. The requirements of 4 MCAR §§ 10.111-10.115~~,~~ and 10.117~~, and 10.118~~ shall be met by all applicants proposing to establish a salon. Upon compliance, the office will issue a provisional license which will enable the salon to open for business. The salon's compliance with all applicable provisions of Minnesota Statutes, chapter 155A and these rules shall be confirmed by an operational inspection by the office staff. A permanent license for the balance of the three-year license cycle shall be issued upon confirmation of the salon's compliance.

B. Application. The person, association, firm, or corporation proposing to establish a cosmetology or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

1. the name of the salon, its address, and names and addresses of all owners of sole proprietorships or partnerships and controlling officers of corporations;

2. notarized signatures of the owners of sole proprietorships or partnerships and the controlling officers of corporations;

4. evidence of the salon's compliance with local ~~fire, zoning, health, and building codes, or in the absence of~~

~~local codes, with the corresponding state codes~~ zoning requirements and the regulations of the Minnesota Department of Health, State Building Code and Standards, and the State Fire Marshall;

D. Evidence of workers' compensation insurance. If applicable, the applicant shall provide evidence of his or her compliance with Minnesota Statutes, section 176.182.

4 MCAR § 10.113 Physical requirements.

B. Entrance and exits. Each salon shall have at least two entrance/exit points ~~which shall comply with state fire code requirements and local building code requirements. A salon located in a basement may have a window for one of its two exits.~~

F. Plumbing, water supply.

1. ~~All plumbing fixtures shall be of impervious material, and installed in accordance with local plumbing ordinances, and shall not constitute a cross-connection.~~

~~2.~~ There shall be clean, hot, and sanitary running water provided in the work area, dispensary area, and toilet facilities.

~~3.~~ 2. Each salon shall provide ~~adequate~~ toilet facilities, on its premises or in an adjacent common area, which are not used for ~~no other~~ any unrelated purpose such as storage or as a dispensary. The toilet facilities shall ~~comply with the requirements of the state building code and the Occupational Safety and Health Administration~~ be clean and sanitary and shall contain, at a minimum, a commode, lavatory, soap dispenser, single-service sanitary towels, and a waste basket. The door shall be kept closed at all times ~~or the rest room shall be screened from view~~.

~~**4 MCAR § 10.115 Supplies and materials.**~~

~~A salon shall meet the following minimum requirements:~~

~~A. brush rollers shall not be allowed; and~~

~~B. there shall be at least two dozen clean towels per operator per day.~~

4 MCAR § 10.116 Operational requirements for salons.

A. Operational requirements. It is the responsibility of the manager of the salon and of each operator to comply with the following operational requirements:

2. all combs and brushes and brush rollers shall be cleaned and disinfected after use on each person. Hair shall be removed from all implements before disinfecting;

8. all electrical tools and implements shall be kept on stands or hangers or otherwise be stored properly when not in use. One six-foot grounded ~~heavy duty~~ extension cord may be used in a work station if necessary to service a client with an implement actually in use. The extension cord shall not extend beyond the area of the work station;

18.

b. the current shop license~~, a copy of the salon's most recent inspection report,~~ and the salon rules shall be conspicuously posted together in the reception area at approximately eye level;

19. no animals, birds, or pets shall be allowed in a salon. This ~~excludes~~ prohibition does not apply to guide dogs;

20. if a salon receives compensation for child care services, the following requirements shall be met:

a. the ~~unlicensed~~ unregulated service shall be identified in compliance with 4 MCAR § 10.122;

B. Salon supervision.

2. Only one person shall be designated as manager for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence. The responsible person shall be a licensed cosmetologist in a cosmetology salon or licensed manicurist in a manicure salon.

5. The manager shall maintain, on the salon premises, the work ~~hour~~ time records of each employee, as required by Minnesota Statutes, section 177.30. Time records shall be provided upon written request to the licensee or to the office.

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4 MCAR § 10.117 Additional requirements for specific types of salon licenses.

In addition to the requirements of 4 MCAR §§ 10.113-10.116, the requirements contained in A.-~~E~~F. shall be met.

D. Licensed health care facilities.

3. If the licensed health care facility chooses to have a licensed salon on the premises, all the requirements for a salon ~~must~~ shall be met.

E. Salons in private residences. Salons may be established in private residences, if the following conditions are met:

3. ~~the salon entrance/exit shall not lead through any residential area or through a garage;~~

~~4.~~ all cosmetology services offered by the salon shall be available within the salon;

~~5.~~ 4. laundry tubs shall not be used as shampoo bowls; and

~~6.~~ 5. the primary residential toilet facilities shall not be used for salon clients.

~~4 MCAR § 10.118~~ F. Requirements for a booth license. A Minnesota licensed cosmetologist or manicurist manager may lease work space from a licensed salon and operate that space as an independent business upon obtaining a booth license. An applicant for a booth license shall meet the following requirements:

~~A.~~ 1. the applicant shall hold a current Minnesota manager license;

~~B.~~ 2. the applicant shall provide documentation of leased work space from a licensed Minnesota salon. The work space shall be at least 50 square feet for a cosmetologist or 35 square feet for a manicurist. The lease shall include provisions regarding responsibility for keeping records of hours worked by the booth licensee, maintenance responsibilities of the booth licensee, use of salon equipment, purchase of supplies, professional liability insurance coverage, and other agreements reached by the parties;

~~C.~~ 3. the applicant shall provide evidence of coverage by professional liability insurance in the amount required for salon licensees. It shall be acceptable for the salon owner's professional liability policy to cover the booth licensee;

~~D.~~ 4. the applicant shall be responsible for operating his or her work space in full compliance with these rules.

4 MCAR § 10.120 Salon license renewal.

D. Workers' compensation insurance coverage. If applicable, the licensee shall provide evidence of continued compliance with Minnesota Statutes, section 176.182.

4 MCAR § 10.122 ~~Unlicensed~~ Unregulated services.

A. Disclosure. All services not licensed as the practice of cosmetology offered within a salon or school clinic shall be clearly identified as "~~unlicensed~~ unregulated services" and listed on a sign conspicuously posted in the reception area. The sign shall contain lettering at least two inches high and shall state: "Unregulated services. The following services offered by (salon or school name) are not ~~licensed~~ regulated by the state of Minnesota:

. . . . . .
. . . . . .
. . . . . ."

B. Disclosure of courses relating to ~~unlicensed~~ unregulated services. Each school shall clearly identify those courses and clinical experiences in its curriculum which are not required by the office and which pertain to services not licensed by the state. These courses shall be clearly identified in all recruitment advertising and written material used for the purposes of soliciting prospective students.

Nonrequired courses and ~~unlicensed~~ unregulated services shall be conspicuously identified in all written material, in type of the same size as the course or service name.

Instructional time and clinical experience in ~~unlicensed~~ unregulated services shall not be included in the minimum hours of schooling required for licensure.

4 MCAR § 10.123 Advertising.

D. no salon or school advertisement stating licensure by the state of Minnesota shall include reference to any ~~unlicensed~~ unregulated services;

4 MCAR § 10.124 Inspections.

F. Posting of reports. The most recent inspection report shall be posted in the dispensary area. A 5" × 7" notice shall be posted in the reception area stating in boldface letters: "THIS (SALON OR SCHOOL) HAS BEEN LICENSED AND

INSPECTED BY THE STATE OF MINNESOTA. A COPY OF THE MOST RECENT INSPECTION REPORT IS AVAILABLE FOR YOUR REVIEW UPON REQUEST."

4 MCAR § 10.125 General requirements for schools.

F. Separation of school from ~~business~~ salon.

4 MCAR § 10.126 Requirements for school licensure.

A. Application contents. The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the office, on forms supplied by the office, giving the following information:

1. the name of the school, its address, and the names and addresses of all owners of sole proprietorships or partnerships and controlling officers of corporations;

2. notarized signatures of the owners of sole proprietorships or partnerships, controlling officers of corporations, and manager;

5. evidence of the school's compliance with local ~~fire, zoning, health, and building codes, or in the absence of local codes, with the corresponding state codes~~ zoning requirements and the regulations of the Minnesota Department of Health, State Building Code and Standards, and the State Fire Marshall;

B. Evidence of liability insurance coverage. The applicant shall provide evidence of the school's coverage by professional liability insurance, of at least $25,000 per incident and an accumulation of ~~$75,000~~ $150,000 for each premium year ~~for each teaching station in the clinical operation of the school~~.

D. Surety bond. The applicant shall file with the director of the office a continuous corporate surety bond in ~~an~~ the amount ~~equal to the full tuition for all of the maximum potential enrollees in the school~~ of $10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is cancelled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed ~~the full tuition for all of the maximum potential enrollees in the school~~ $10,000. The surety of the bond may cancel it upon giving 60 days notice in writing to the director of the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

4 MCAR § 10.128 Physical requirements.

B. Entrances and exits. Each school shall have at least two entrance/exit points ~~which meet state fire code requirements and local building code requirements. A school located in a basement shall not be allowed to use a window as one of the required exits~~.

D. Toilet facilities. Each school shall provide adequate toilet facilities on its premises or in an adjacent common area for the use of students, staff, and customers. Separate restroom facilities must be provided for women and men. ~~Each facility shall meet the same requirements designated for those in salons in 4 MCAR § 10.113 F.3.~~

4 MCAR § 10.129 Fixtures, furniture, equipment.

H. there shall be at least one time clock or other reliable method of recording time to be used by the students when checking in and out of school. Each ~~student~~ student's hours shall ~~punch his or her own card~~ be recorded at the beginning and end of each day and before and after lunch;

4 MCAR § 10.131 General operational requirements for schools.

B. Manager.

1. There shall be a manager responsible for each school at all times. There shall be only one person designated as manager for each school. No manager may concurrently be responsible for more than one school nor for a school and a salon. When the manager is not on duty, he or she shall specify a responsible person on the premises. The responsible person shall be an instructor licensed in accordance with these rules.

C. Instructors.

1. There shall be at least two licensed instructors on the school premises ~~for the first~~ during the time students are

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present; and each school shall have a minimum ratio of one instructor for each 1 to 20 students to be accommodated; and ~~one additional licensed instructor for each additional 1 to 20 students to be accommodated~~ all students shall be under the direct supervision of an instructor at all times when in a classroom, clinic, or other area in which they are performing cosmetology services.

4. All instructors shall wear identification badges at all times while providing training, stating their full name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white or gold.

K. Full course of instruction required. No student, unless licensed under provisions of Minnesota Statutes, chapter 155A, shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except for a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn ~~unlicensed~~ unregulated services, and reciprocity applicants who require additional schooling.

4 MCAR § 10.133 School curricula.

B. Cosmetologist training.

1. Cosmetologist training consists of a course of training of at least 1,550 hours. This course shall consist of the full manicurist course content, the full esthetician course content, and the balance in hairdressing, including the approximate breakdown of hours specified in 4.a. and the clinical exercises in provision of cosmetology services specified in 4.a.

2. The first 240 hours shall be preclinical instruction in the sciences of anatomy, dermatology, trichology, manicuring, and chemistry as related to cosmetology; electricity and light; sanitation; safety procedures related to the practice of cosmetology; and Minnesota Statutes and rules which pertain to the regulation of the practice of cosmetology; and elementary service skills.

3. There shall be instruction in applied science and skills in shampooing, scalp and hair conditioning, hair design and shaping, chemical hair control, hair coloring, hair styling, facials, and makeup, and manicuring and nail care of approximately 1130 hours and instruction in related theory and sciences of approximately 420 hours.

4. There shall be planned clinical instruction and experience in the applied sciences.

a. Each student shall be required to complete the following minimum number of clinical exercises in ~~each category:~~ column II. Clinical exercises may be performed upon customers in the school clinic, fellow students, models, or manikins in the classroom.

	Column I Hours	Column II Service Exercises
(1) shampooing	50	300
(2) scalp and hair conditioning	80	150
(3) hair design shaping	150	75
(4) chemical hair control (including 6 chemical relaxing exercises)	200	60
(5) hair coloring	100	50
(6) hair styling	200	300
(7) facials and makeup	200	60
(8) manicures (including 10 applications of artificial nails, of which 3 are sculptured on the nail)	150	50
skill hours	1130	
related theory and lecture	420	
total	1550	

C. Esthetician training.

2. The first 120 hours shall be preclinical instruction in the sciences of anatomy, dermatology, and chemistry as related to skin care; electricity and light; sanitation; safety procedures related to the practice of skin care; and Minnesota Statutes and rules which pertain to the regulation of the practice of skin care; and elementary service skills.

4. There shall be planned clinical instruction and experience of approximately 200 hours in the applied sciences.

D. Manicurist training.

2. The first 50 hours shall be preclinical instruction in the sciences of anatomy, dermatology, and chemistry as related to manicuring; electricity and lights; sanitation; safety procedures related to the practice of manicuring; and Minnesota Statutes and rules which pertain to the practice of manicuring; and elementary service skills.

4. There shall be planned clinical instruction and experience of approximately 150 hours in applied sciences and skills.

G. A licensed esthetician or a licensed manicurist who returns to school for an additional license shall not perform any clinical services in the area for which he or she is already licensed.

4 MCAR § 10.134 Requirements for maintaining a school license.

A. Display of documents. Each school license and all personnel licenses shall be conspicuously displayed in the school or clinic reception area~~. A copy of the school's most recent inspection report shall be conspicuously posted~~ at approximately eye level ~~in the clinic reception area~~.

4 MCAR § 10.142 Intoxicants and controlled substances.

No licensee or student shall perform cosmetology services while consuming or under the influence of an intoxicant or controlled substance~~, or serve them to a client during business hours~~.

4 MCAR § 10.143 Compliance by present licensees and students.

A. General requirements. All individual licenses in effect on the effective date of these rules shall continue to be valid under the following circumstances.

1. cosmetologist, manicurist, and esthetician and manager licenses shall be valid until their expiration date. Licenses which expire before July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.~~F~~E. Licenses which expire on or after July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A., B.1., and C.~~F~~E.;

2.

a. Senior instructor licenses shall be renewed as instructor licenses. Licenses which expire before January 1, 1988 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.~~F~~E. Licenses which expire on or after January 1, 1988 shall be renewed upon compliance with 4 MCAR § 10.105 A., B.2., and C.~~F~~E.

4.

~~a. Current salon manager licenses shall remain valid until expiration. Licenses expiring before July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C. F. Licenses expiring on or after July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A., B.3., and C. F.~~

~~b.~~ In addition to the provisions of ~~4.a.~~ A.1., licenses of manager of schools shall be conditioned upon the licensee's successful passage of a written examination covering Minnesota laws and rules related to cosmetology schools before December 31, 1983;

5. Salons and booths licensed on April 1, 1983 shall be exempt from the following provisions:

a. Rule 4 MCAR § 10.113 A.-B.; D.2. until replacement; ~~F.3. provided that the toilet facilities are used for no other purposes, the door is kept closed, the room is clean and sanitary, and it contains a commode, lavatory, soap dispenser, single service sanitary towels, and a waste basket;~~ G. until July 1, 1984.

c. Rule 4 MCAR § 10.117 A. continuous footage provision only; E.2. permanent solid partition requirement only; ~~E.3.;~~ E.65. ~~provided that the toilet facilities meet the requirements of A.5.a. of this section.~~;

~~d. Rule 4 MCAR § 10.118 B.~~ F.2. square footage requirement and lease provision requirements until expiration of current lease;

6. Schools licensed on April 1, 1983 shall be exempt from the following provisions:

a. Rule 4 MCAR § 10.128 A.4.-5.; ~~D. provided that there are separate toilet facilities for men and women and that~~

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~~they meet the requirements of A.5.a. of this rule;~~ E. ~~school~~ schools shall have the same time extensions for compliance with 4 MCAR § 10.113 D.2. and G. as provided for salons in A.5.a. of this rule.

B. Interpreter for certain students. Foreign language students whose enrollment registration is on file in the office on the effective date of these rules may use an interpreter at the examinations, provided that they have first demonstrated to the director that they have a sufficient grasp of the English language to read, comprehend, and follow chemical product labels and instructions.

C. Students enrolled on effective date. Cosmetology and manicure students whose enrollment registration is on file in the office on the effective date of these rules and who graduate after July 1, 1983 shall be exempt from the requirement of 4 MCAR § 10.102 A.2. and shall be required to complete 1500 hours for a cosmetologist license and 250 hours for a manicurist license. The minimum number of clinical exercises they will be required to complete will be adjusted in relation to their date of graduation, but shall not be less than 75 percent of the requirements stated in 4 MCAR § 10.133 B.4.a. or D.4.a.

D. Variances. The director may grant to schools a variance from physical requirements not otherwise exempted by this rule upon receipt of documentation demonstrating an existing physical limitation or economic hardship in excess of reasonably anticipated costs of meeting the requirement. All requests for variance shall be submitted prior to May 15, 1983.

4 MCAR § 10.144 Separability of rules.

If any provision of these rules or the application thereof to any party or circumstances is held invalid, the remainder of the rules and the application of these provisions to other parties or circumstances shall not be affected thereby.

Repealer. 4 MCAR §§ 10.001, 10.002, 10.003, 10.004, 10.005, 10.006, 10.007, 10.008, 10.020, 10.021, 10.022, 10.023, 10.024, 10.025, 10.026, 10.027, 10.028, 10.029, 10.030, 10.040, 10.041, 10.042, 10.060, 10.061, 10.062, 10.063, 10.065, 10.081, 10.082, 10.083, 10.084, 10.085, 10.086, 10.087, 10.088, 10.089, and 10.90 are repealed.

Effective dates. ~~Rules 4 MCAR §§ 10.106; 10.107; 10.110; 10.111; 10.112; 10.113; 10.114; 10.115; 10.116; 10.117; 10.118; 10.119; 10.120; 10.121; 10.125; 10.126; 10.127; 10.128; 10.129; 10.130; 10.131; 10.132; 10.134; 10.135; 10.136; 10.137; 10.138; and 10.142, are effective April 1, 1983.~~

Rules 4 MCAR §§ 10.102; 10.103; 10.104; 10.105; 10.108 A.-C.; 10.109; 10.122; 10.123; ~~10.124;~~ and 10.133, are effective July 1, 1983.

Department of Natural Resources

Commissioner's Order No. 2139

Regulations for the Taking of Bear during 1983

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of bear during 1983.

Section 1. DEFINITIONS.

a. Legal firearms. A firearm or ammunition may be used to take bear if it meets the following requirements:

(1) Handguns, rifles, shotguns and all projectiles used therein shall be at least 23/100ths of an inch in caliber;

(2) All firearms shall be loaded only with ammunition containing single projectiles;

(3) All projectiles shall be of a soft point or an expanding bullet type;

(4) All ammunition shall have a case length of at least 1.285 inches; and

(5) Muzzleloaders must be incapable of being loaded at the breech. Smooth-bore muzzleloaders shall be at least .45 caliber and rifled muzzleloaders shall be at least .40 caliber.

It is unlawful to take bear with a .30 caliber M-1 carbine cartridge or with any other firearm or ammunition which does not meet the requirements set forth in this section.

b. Legal bow and arrow. Bows must have a pull of no less than 40 pounds at or before full draw. It shall be unlawful to hunt bear with a bow and arrow while in possession of or having under control any firearm, to hunt with any bow drawn, held, or released by a mechanical device, or to hunt with any poisoned arrow or arrow with explosive tip. Arrow heads must be made of all steel barbless design, the blade or blades of hicarbon steel not less than one inch wide for single two edge blade and not less than three inch circumference for three or more blades, minimum weight of all types of 110 grain. Provided, that arrow

heads with blades of mill tempered spring steel containing a plastic core or ferrule, conforming to the above dimensions, and with a minimum weight of 90 grain may be used. All arrow heads used for bear hunting shall be kept sharp.

c. Drawing. Computerized random drawing conducted by the Department of Natural Resources to determine those who will be eligible to apply for a bear license.

Sec. 2. BEAR HUNT DRAWING AND LICENSING.

a. Persons desiring to hunt bear must take part in one of the license application drawings. A drawing will be held for each of the permit areas described in Section 3, and will be subject to the quotas set forth in Section 4.

b. Anyone, resident or nonresident, who is at least 12 years old prior to September 1, 1983, and whose big game hunting privileges are not suspended pursuant to M.S. Section 98.52 is eligible to enter the drawing. Preference will be given to applicants who applied correctly for a bear hunting license in 1982 but were not selected.

c. Applications for the drawing must be made on the form provided by the Department of Natural Resources and all information requested must be supplied. A driver's license number or a Department of Public Safety identification number is necessary if an unsuccessful applicant is to gain preference in the next season's drawing.

d. Each applicant may apply only once and for only one of the permit areas. Any person who submits more than one application in any one year shall be ineligible to receive a bear license in that year and shall be guilty of a misdemeanor.

e. Applications must be returned to the DNR License Center in St. Paul. If mailed, applications must be submitted in envelopes and postmarked no later than May 2, 1983. If hand-delivered, applications must be delivered no later than 4:30 p.m., May 2, 1983.

f. Persons may apply individually or as part of a group totaling no more than four persons. Those who wish to apply as a group must submit their applications for the drawing together in one envelope. All applications submitted in one envelope will be treated as a group provided they are all for the same permit area. The individual within a group with the lowest preference rating will determine the preference rating of the group. Either all members of the group will be drawn or none will.

g. Successful drawing applicants will receive a license application with instructions for obtaining their licenses. Successful applicants who do not return the license application and the fee by the deadline specified on the application or who do not provide all of the requested information will be disqualified and replaced from a list of alternate applicants. Anyone 15 years of age and under must have a firearms safety certificate before applying for the license. No person may hunt bear without having first received a bear hunting license.

Sec. 3. BEAR HUNT PERMIT AREAS.

a. North East (NE) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on U.S. Highway 53 at the eastern boundary of the state; thence along U.S. Hwy. 53 to State Trunk Highway (STH) 37; thence along STH 37 to STH 135; thence along STH 135 to STH 169 at Tower; thence along STH 169 to County State Aid Highway (CSAH) 18, Lake County; thence along CSAH 18 to Forest Route 438; thence along Forest Route 438 to the public access at Moose Lake; thence due north to the northwestern shore of Moose Lake; thence northeasterly along the shores of Moose Lake, Newfound Lake and Sucker Lake to the northern boundary of the state near prairie portage; thence along the northern and eastern boundaries of the state to the point of beginning.

b. North Central (NC) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on U.S. Hwy. 53 at the junction with State Trunk Hwy. (STH) 194; thence along U.S. Hwy. 53 to STH 37; thence along STH 37 to STH 135; thence along STH 135 to STH 169 at Tower; thence along STH 169 to County State Aid Highway (CSAH) 18, Lake County; thence along CSAH 18 to Forest Route 438; thence along Forest Route 438 to the public access at Moose Lake; thence due north to the northwestern shore of Moose Lake; thence northeasterly along the shores of Moose Lake, Newfound Lake and Sucker Lake to the northern boundary of the state near prairie portage; thence along the northern boundary of the state to a point due north of the junction of U.S. Hwy. 71 and STH 11 at Pelland; thence due south to said junction; thence along U.S. Hwy. 71 to STH 6; thence along STH 6 to U.S. Hwy. 2; thence along U.S. Hwy. 2 to STH 194; thence along STH 194 to the point of beginning.

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c. North West (NW) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning at the junction of U.S. Hwy. 71 and State Trunk Highway (STH) 11 at Pelland; thence along U.S. Hwy. 71 to STH 6; thence along STH 6 to STH 1; thence along STH 1 to the western boundary of the state; thence along the western and northern boundaries of the state to a point due north of the point of beginning; thence due south to the point of beginning.

d. West Central (WC) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on State Trunk Highway (STH) 1 at the western boundary of the state; thence along STH 1 to STH 6; thence along STH 6 to STH 18; thence along STH 18 to U.S. Hwy. 169; thence along U.S. Hwy. 169 to STH 101; thence along STH 101 to Interstate Highway 94; thence along I-94 to the western boundary of the state; thence along the western boundary of the state to the point of beginning.

e. East Central (EC) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on U.S. Hwy. 53 on the eastern boundary of the state; thence along U.S. Hwy. 53 to State Trunk Highway (STH) 194; thence along STH 194 to U.S. Hwy. 2; thence along U.S. Hwy. 2 to STH 6; thence along STH 6 to STH 18; thence along STH 18 to U.S. Hwy. 169; thence along U.S. Hwy. 169 to STH 101; thence along STH 101 to Interstate Highway 94; thence along I-94 to U.S. Hwy. 12; thence along U.S. Hwy. 12 to the eastern boundary of the state; thence along the eastern boundary of the state to the point of beginning.

Sec. 4. BEAR HUNT PERMIT AREA QUOTAS.

The following quotas on hunter numbers are established for each bear hunt permit area:

Permit Area	Quota
North East (NE)	480
North Central (NC)	780
North West (NW)	610
West Central (WC)	830
East Central (EC)	850
TOTAL	3,550

The quota of licenses listed for any permit area may be modified in order to accommodate party members if the last applicant to be selected is a member of a party.

Sec. 5. SEASON DATES, METHOD AND HOURS.

Bear may be taken by licensed hunters using legal firearms or legal bow and arrow from September 1, 1983 to October 16, 1983, both dates inclusive, between one-half hour before sunrise and sunset each day. However, no person shall hunt bear while having in possession or having under control both a firearm and a bow and arrow. Each hunter may hunt only within the permit area designated in his or her license.

Sec. 6. BAG LIMIT.

a. No person shall take more than one bear during any calendar year whether by firearm or bow and arrow. Bear taken may be of either sex or any age except that cub bear may not be taken. Cub bear are any bear less than one year of age.

b. Party hunting for bear is not permitted. No hunter shall affix the locking seal provided with his or her license to a bear which he or she did not take. No hunter shall affix to a bear the locking seal of another hunter.

Sec. 7. BAIT STATIONS.

A bait station is defined as any location at which any materials are placed for the purpose of attracting or attempting to attract bear. This definition shall not be construed to include a dump regularly and primarily used for the disposal of garbage or other refuse.

a. No person shall establish, service or maintain any bait station prior to August 19, 1983.

b. No person shall establish a bait station without first registering the site by mailing the following information to the Division of Enforcement, Department of Natural Resources, Box 47, Centennial Building, Saint Paul, Minnesota 55155:

(1) Name, address and telephone number of person establishing the bait station.

(2) County, township, range and section in which the bait station is located.

c. Any person placing bait for bear shall display a sign at the site as follows:

(1) The sign shall be made of plastic, wood or metal and shall be at least 6 inches by 10 inches in size.

(2) The sign shall contain the full name and Minnesota driver's license number or the full name, address and telephone number, all in the English language, of the person placing the bait.

(3) Letters and numbers shall be legibly printed and either painted or impressed on the sign material.

(4) The sign shall be prominently displayed between 6 and 10 feet above the natural ground level and within 20 feet of the bait.

d. No person shall hunt bear within 100 yards of a bait station that is not registered and marked with a sign pursuant to this order.

Sec. 8. SPECIAL PROVISIONS.

a. Locking Seal. Every person killing a bear must affix to the carcass the locking seal provided with his or her bear hunting license. The seal must be fastened around the bear's sternum (breast bone) in such a way that the seal cannot be removed without breaking the lock. The seal must be so affixed at the time the bear is brought into any hunting camp, dwelling, farm yard, or other place of abode of any kind occupied overnight, or before the bear is placed wholly or partially on a motor vehicle of any kind, or upon a conveyance towed by a motor vehicle of any kind.

b. Registration. Every person taking a bear shall register it at an official bear registration station, obtain at the registration station a Big Game Possession Tag and attach the possession tag to the bear in the same manner as the locking seal is attached, all within 48 hours after the bear is taken.

c. Garbage Dumps. No person shall take or attempt to take bear within one-half mile of a garbage dump or a designated municipal or county garbage collection point. No person who is licensed to take bear may be in possession of an uncased weapon legal for taking bear while within one-half mile of a garbage dump or a designated municipal or county garbage collection point.

d. Solid Waste. No person shall take or attempt to take bear by using solid waste containing bottles, cans, plastic, paper, metal or any other materials that are not readily biodegradable as a bait or lure for attracting the bear.

e. No person shall take or molest any bear in a den.

f. No person shall take or attempt to take bear with the aid of dogs.

g. No bear shall be taken in any manner in any area of the state except as herein expressly provided or as otherwise provided by Commissioner's Order.

h. None of the provisions of this order shall be construed as modifying or superseding any order establishing game refuges within the state nor as permitting the taking of any wild animals within such refuges or within state parks.

i. All animals taken pursuant to this order must be killed before being removed from the site where taken.

Dated at Saint Paul, Minnesota, this 18th day of March, 1983.

Joseph N. Alexander, Commissioner
Department of Natural Resources

SUPREME COURT

Decisions Filed Friday, April 1, 1983

Compiled by Wayne Tschimperle, Clerk

C2-82-1624 State of Minnesota, Appellant, v. Steven Leonard Boyd. Faribault County.

In prosecution of defendant for criminal sexual conduct in the third degree for sexually penetrating a 14-year-old girl, scientific evidence that defendant is the father of a baby which was subsequently born to the victim is admissible to prove that sexual penetration occurred, provided however that the expert evidence must not take the form of statistical evidence suggesting, by quantification, satisfaction of the requirement that guilt be established beyond a reasonable doubt.

Remanded for trial. Amdahl, C. J.

C4-82-1642 State of Minnesota v. Glenn Melvin Peterson, Appellant. Ramsey County.

Trial court, in computing defendant's criminal history score for the purpose of determining defendant's presumptive sentence, properly assigned defendant one point for his juvenile record.

Affirmed. Amdahl, C. J.

C0-82-102 In Re the Marriage of: Judith M. Janssen, Petitioner, v. George R. Janssen, Appellant. Hennepin County.

A nonvested, unmatured pension right is marital property within the meaning of Minn. Stat. § 518.54, subd. 5 (1982), and this contingent interest may be divided in a proceeding for marital dissolution.

The judgment is affirmed in part, vacated in part, and remanded for further proceedings not inconsistent with this opinion. Peterson, J.

C1-82-609 Waseca Mutual Insurance Company, Appellant, v. David Noska and Donald Noska, individually and d.b.a. Don's Store, *et al.*, Lawrence John Smith and Iona Marie Smith, Harlan F. Killian and Myrna Killian, State Farm Fire and Casualty Company and George A. Melin, Jr., and Sylvia Melin, Shelby Mutual Insurance Company, State of Minnesota, Melvin Etzler, *et al.* Todd County.

Under the unusual circumstances of this case, where the injury is causally connected both to the use of a motor vehicle and to nonvehicle-related acts at the insured's homestead, both the automobile liability policy insurer and the homeowner's policy insurer have a duty to defend insured and to indemnify him, up to their respective policy limits, for judgments which may be rendered against him.

The amount of coverage under the homeowner's policy is limited to the preexisting coverage rather than coverage in an increased amount which was procured following a fire giving rise to a claim against the insured, since the finding of the trial court negativing fraud on the part of the insured necessarily precludes a finding of the meeting of the minds essential to formation of a contract of insurance.

Affirmed in part as modified; reversed in part. Peterson, J. Took no part, Simonett, J.

C4-82-927 Shirlee Maland, as personal representative of the Estate of Thilmer J. Maland, Relator, v. The Commissioner of Revenue. Minnesota Tax Court.

There is a presumption in favor of the constitutionality of any tax.

This court will not find that a differentiation between residents and non-residents violates the Privileges and Immunities Clause, U.S. Const. art. IV, § 2, cl. 1, where there is a substantial reason for the differing treatment.

The denial of a partial marital deduction to spouses for non-residents reflected a legitimate concern on the part of the legislature that, since non-residents are only taxed on tangible personal property located in Minnesota, such non-residents might be taxed at a lower rate than residents on assets of equivalent value.

The concern that non-residents would enjoy a lower tax rate than residents constitutes a substantial reason for a statutory differentiation that, in turn, does not violate the Privileges and Immunities Clause.

Affirmed. Yetka, J.

C1-81-1345 State of Minnesota v. Michael Risken, Appellant. Dakota County.

Court did not err in accepting guilty plea where defendant freely admitted his guilt and thereby established a factual basis for the plea, and postconviction court did not err in refusing to permit petitioner to withdraw his plea 6½ years later notwithstanding the claim of recantation by certain witnesses who would have testified against petitioner if he had gone to trial rather than pleaded guilty.

Affirmed. Scott, J.

C0-82-469 Milbank Mutual Insurance Company v. United States Fidelity and Guaranty Company, *et al.*, Appellants, Philip Carlton Solum, Township of Cromwell, Charles Virgil Jensen, by Delores Winjum, his guardian ad litem, Rebecca Marie Jensen, by Charles B. Odegaard, her guardian ad litem, *et al.* Clay County.

Under Minn. Stat. § 170.54 (1982), when an owner of a motor vehicle, either himself or by an authorized agent, initially consents to its use by a permittee, subsequent use by the permittee, short of conversion or theft, remains permissive, notwithstanding the subsequent use was not within the contemplation of the parties or was outside any limitations placed uopn the initial grant of permission. Thus, under the statute the owner is vicariously liable for the permittee's negligence in the operation of the vehicle.

When an automobile liability insurance policy contains an omnibus clause extending coverage to persons who have permission

of the named insured to operate the insured vehicle, Minnesota follows the "initial permission" rule which makes the insurer liable to defend and indemnify the permittee, absent conversion or theft.

Affirmed. Kelley, J.

C5-82-1214, C7-82-1215 State of Minnesota v. Robert Junior Banks, Appellant. Ramsey County.

In sentencing defendant for two offenses using the so-called *Hernandez* method of computing defendant's criminal history score, the trial court properly concluded that the two offenses were not committed as part of a single behavioral incident or course of conduct.

Comments by the prosecutor to the trial court at the time of sentencing, while technically in violation of a promise by the prosecutor not to make any recommendation as to the sentence defendant should receive, clearly did not affect the sentence defendant received and therefore do not require a remand for resentencing.

Affirmed. Kelley, J. Dissenting, Wahl, J., and Coyne, 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.

Governor's Residence Council

Request for Letter of Interest for Interior Design Contract

The Governor's Residence Council is seeking proposals from interior design firms for implementation of an interior design plan for the residence. The amount available for this contract can not exceed $10,000. The contract period will be from June 1, 1983-May 31, 1984.

Prospectus and copies of the master plan may be obtained from: Marnie Luknic, Coordinator; 1006 Summit Avenue, St. Paul, MN 55155, or telephone 612/296-2961. Proposals will be accepted until May 1, 1983. There will be no extensions to the deadline.

March 31, 1983

Department of Public Welfare
Anoka State Hospital

Notice of Request for Proposal for Medical Services

Notice is hereby given that the Anoka State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking services which are to be performed as requested by the administration of Anoka State Hospital. Contracts may be written for the period of July 1, 1983 through June 30, 1984, with option to renew for the one year period ending June 30, 1985 or they may be written for the period of July 1, 1983 through June 30, 1985.

1) Services of a consulting firm to furnish:

A) A qualified EEG technician and equipment necessary to give EEG tests at Anoka State Hospital.

B) A tracing and neurological interpretation of each EEG test, and

C) A qualified neurologist to conduct examinations and consultations at Anoka State Hospital. Neurologist must be

accepted as a member of the clinical staff of Anoka State Hospital. The estimated amount of the contract will not exceed $10,000 annually.

2) Services of a radiologist to interpret x-rays, do fluoroscopy examinations and special procedures as required, consult with members of medical staff regarding problem patients, provide emergency services as requested by medical director. Radiologist providing services must be board certified and accepted as a member of the clinical staff of the hospital. Service is required 8 hours per week, total estimated amount of contract will not exceed $16,000 annually.

3) Psychiatric services. Responsibilities will include psychiatric assessments, psychiatric treatment, attendance at Medical Staff meetings, participation in the Utilization Review program, appearances at Special Review Board hearings, probate court hearings off campus, and in-service education. The estimated total amount for all psychiatric contracts will not exceed $105,000 annually.

Responses must indicate whether services are offered for one year with option to renew, or for two years.

Responses must be received by May 2, 1983. Direct inquiries to:

Mark Wilcox, Deputy Administrator
Anoka State Hospital
3300 4th Avenue North
Anoka, MN 55303

Department of Public Welfare
Cambridge State Hospital

Notice of Request for Proposals for Medical Services

Notice is hereby given that the Cambridge State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking services which are to be performed as requested by the Administration of Cambridge State Hospital. Contracts may be written for the period July 1, 1983 through June 30, 1984, with option to renew for one year period ending June 30, 1985, or they may be written for the period July 1, 1983 thru June 30, 1985.

1. Services of a neurologist to provide consultation in neurology to the residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed $8,000 for the two-year period.

2. Services of an orthopedist to provide consultation in orthopedics on the residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed $6,000 for the two-year period.

3. Services of a pathologist to provide pathological services and autopsies as needed by the Cambridge State Hospital and to provide a review of the hospital's laboratory tests, check quality control and provide consultation and supervision of the hospital laboratory. Estimated amount of the contract will not exceed a total of $12,000 for the two-year period.

4. Services of a physiatrist to provide consultation in physical medicine and rehabilitation on residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed a total of $7,500 for the two-year period.

5. Services of a psychiatrist to provide consultation on residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed a total of $48,000 for the two-year period.

6. Services of a radiologist to interpret x-rays of Cambridge State Hospital residents as requested. The estimated amount of the contract will not exceed a total of $13,000 for the two-year period.

Responses must indicate whether for one year with option to renew, or for two years.

Responses must be received by Monday, May 2, 1983.

Direct inquiries to:

Norbert K. Johnson, Assistant Administrator
Cambridge State Hospital
Cambridge, MN 55008
Phone: (612) 689-2121, Ext. 204

Department of Public Welfare
Faribault State Hospital

Notice of Request for Proposals for Radiological Services and Physician Services

Notice is hereby given that Faribault State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period of July 1, 1983-June 30, 1984; these services as requested by the Chief Executive Officer of the Faribault State Hospital.

1. A radiological consultant group to provide services at the Faribault State Hospital upon the request of the medical director, at times mutually agreed upon by both parties. The duties shall involve radiological consultations for residents/patients of Faribault State Hospital, which consists of interpretation and diagnosis of x-ray films of chest, skull, skeleton, abdomen, gall bladder, kidneys, etc., performance of fluoroscopic examination of chest, stomach, intestines, colon, etc., as requested by staff physicians. In addition, supervision of the X-Ray department in regard to equipment, methodology, safety, etc., will be included in this consultation service. The estimated amount of this contract will not exceed $13,000.00.

2. The services of a physician or physician group to provide weekend coverage at Faribault State Hospital upon request of the medical director, by making rounds in the medical hospital and taking all emergency calls, the preceding service to be performed at the Faribault State Hospital. The estimated amount of this contract will not exceed $15,000.00.

Response for the above services must be received by May 3, 1983. Direct inquiries to:

Richard Fick, Accounting Supervisor
Faribault State Hospital
Faribault, Minnesota 55021
(507) 332-3530

Department of Public Welfare
Moose Lake State Hospital

Notice of Request for Proposals for Medical Services

Notice is hereby given that the Moose Lake State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the services which are to be performed as requested by the administration of the Moose Lake State Hospital. Contracts may be written for the period July 1, 1983 through June 30, 1984, with option to renew for one year period ending June 30, 1985 or they may be written for the period July 1, 1983 through June 30, 1985.

1) Services of a radiologist to interpret X-Ray films taken by the hospital's X-Ray technician. The estimated amount of the contract will be $11,000.00 for the first year with an option to renew for the second year.

2) Services of a psychiatrist to perform consultation services in psychiatry two days each week at the Moose Lake State Hospital. Other consultations will occur via phone or mail as needed and as deemed appropriate. The estimated amount of the contract is $41,500.00 for the first year with an option to renew for the second year.

3) Services of a specialist in physical and internal medicine to perform consultation services at the Moose Lake State Hospital. The estimated amount of the contract is $21,000.00 for the first year with an option to renew for the second year. Responses to the above services must be received by May 2, 1983.

Direct inquiries to:

Frank R. Milczark
Chief Executive Officer
Moose Lake State Hospital
Moose Lake, MN 55767
(218) 485-4411, Ext. 242

Department of Public Welfare
Willmar State Hospital

Notice of Request for Proposals for Medical Services and Chaplain Services

Notice is hereby given that the Willmar State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period July 1, 1983 through June 30, 1984 with option to renew for one year period ending June 30, 1985. These services are to be performed as requested by the Administration of the Willmar State Hospital:

1. Services of radiologists to interpret X-ray films; provide radiological supervision and X-ray consultation; provide specialized X-ray procedures. Estimated amount of the contract will not exceed $11,440.00, first year, with option to renew for one year.

2. Services of physicians to provide medical and surgical consultations, as needed to patients/residents of Willmar State Hospital at Willmar State Hospital. Estimated amount of the contract will not exceed $14,000.00, first year, with option to renew for one year.

3. Services of psychiatrist to provide consultation to Adolescent Treatment Unit, Psychiatric Rehabilitation Unit and Chemically Dependent Unit; special skills in adolescent and chronic mental illness psychiatry. Estimated amount of the contract will not exceed $26,790.00, first year, with option to renew for one year.

4. Services of a full time Protestant Chaplain; to conduct services and other ministries to mentally ill, mentally retarded and chemically dependent patients. Estimated amount of the contract will not exceed $11,340.00, first year, with option to renew for one year.

5. Services of a part-time Catholic Chaplain; to conduct services and other ministries to mentally ill, mentally retarded and chemically dependent patients. Estimated amount of the contract will not exceed $5,035.00, first year, with option to renew for one year.

Responses for the above services must be received by May 4, 1983.

Direct Inquiries to:

Lester E. Johnson, Chief Executive Officer
Willmar State Hospital
Box 1128
Willmar, MN 56201
(612) 231-5100, Ext. 205

Iron Range Resources and Rehabilitation Board

Notice of Request for Proposals for a Municipal Refuse Incineration Study

The Commissioner of Iron Range Resources and Rehabilitation Board is seeking proposals to examine the financial, technical, legal, environmental and social feasibility of establishing a facility to incinerate municipal refuse.

Estimated cost of the study should not exceed $40,000.00. For formal *Request For Proposal* documents, interested parties should contact:

Mr. Phillip Landborg
Deputy Commissioner
Iron Range Resources and Rehabilitation Board
P.O. Box 441
Eveleth, Minnesota 55734

Proposals must be submitted no later than 3:00 p.m., May 10, 1983.

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 Health
Emergency Medical Services Section

Notice of Request for Proposals for Regional Emergency Medical Services Implementation Grants

The Commissioner of Health is requesting proposals for one year regional emergency medical services (EMS) grants for the EMS regions of Minnesota. These regions are defined in the map attached as Exhibit I. Grants for the first year of a three year implementation period will be available for the southeastern, south central, and west central regions of the state, at an annual rate of $100,000, following successful completion of current planning projects.

Regional EMS implementation grants will provide financial support for the initial implementation and development of regional systems of emergency care. Development of these regional EMS projects must be based on a recently developed or updated regional EMS plan. The end product of these grants, a regional system of emergency care, will be a functional organization incorporating trained personnel, transportation, communications, public involvement, public safety coordination, and continued system management into ongoing EMS program.

Transitional implementation grants will be available for the northeastern, northwestern, central, and southwestern regions of the state at an annual rate of $50,000, beginning June 30, 1983. Transitional EMS regional grants will provide financial support for regional EMS projects that have completed three years of regional EMS system development (as described above) and are in the process of developing a structure that will provide on-going EMS system maintenance. These projects will therefore be in transition between regional EMS development and regional EMS system maintenance. Transitional grants will be awarded for a one year period, following which these regions will be eligible for on-going maintenance grants.

A regional EMS maintenance grant will be available to the metropolitan region of the state at an annual rate of $25,000. Regional EMS maintenance grants will provide funding for on-going system maintenance for those regions that have fully completed the regional EMS system development process.

This request for proposal (RFP) does not obligate the commissioner to fund the projects and the commissioner reserves the right to cancel the solicitation if she considers it to be in the best interest of the state to do so.

I. Scope of the Project.

The purpose of these grants is to implement and maintain regional EMS programs in the aforementioned regions of the state. Additional funding in subsequent years will presumably be available to complete the implementation of, and maintain regional EMS programs.

II. Objective

The ultimate objective of these grants is to reduce death and disability due to medical emergencies by promoting the prevention of medical emergencies and by improving the quality of emergency medical care. In particular, improvements are expected in the cost-effective care of trauma and out-of-hospital cardiac arrest patients.

III. Grantee Qualifications

Applications will be considered from not-for-profit corporations or governmental entities. Proprietary corporations are ineligible as the primary grantee under the federal block grant legislation which supports this program. The regional EMS project must provide services in all counties in the region, and will have demonstrated support of most local boards of health/CHS agencies and other organizations and agencies that are actively involved in EMS in the region.

IV. Proposal Contents

Respondents must include the following minimum contents in proposals. Please note that item D., Updated Regional EMS plan, pertains only to transitional and maintenance grants.

A. Executive Summary

B. Grantee Information

1. Project Administration/Management

a. Administrative structure

b. Qualifications of:

(1) Project Staff

(2) Medical Director

(3) Clinical Consultants (trauma, cardiac)

c. Regional Advisory Committees

C. Budget

1. Program Budget—task and line item breakdown

2. Budget narrative

D. Updated Regional EMS Plan (Transitional and Maintenance grants only)

1. Updated regional EMS plans should address the following EMS program components as identified in the State EMS Plan:

a. Trained personnel (physicians, nurses, EMTs, EMT-Is, paramedics, first responders, dispatchers)

b. Transportation

c. Public safety coordination

d. Communications

(1) Systems access (911)

(2) Regional EMS radio communications planning approach

(3) Regional medical control

(4) Medical control resource hospital

e. Public involvement

f. Facilities access (address critical care systems planning for trauma and cardiac illness)

g. System management

In addressing the program components listed under 1, above, respondents should include sections on: current status; desired status; needs/problems; steps in progress; objectives; and evaluation measures (input, process, outcome) for each program component.

E. Work plan

1. Description of methods proposed to achieve the objectives listed in the regional EMS plan

2. Timetable for completing objectives

F. Appendices (all grants)

1. Letters of support

2. Articles of incorporation, joint powers agreements, etc. (if appropriate)

V. Submission of Proposals

Interested parties must submit proposals to the commissioner according to the schedule described in Table 1 below. Proposals should be addressed directly to Mr. Stoffels in the EMS Section. Three copies of the proposal must be submitted to the Minnesota Department of Health. Prices and terms of the proposal as stated must be valid for the length of the program.

Table 1

Proposal Submission Schedule for Regional EMS grants by EMS Region

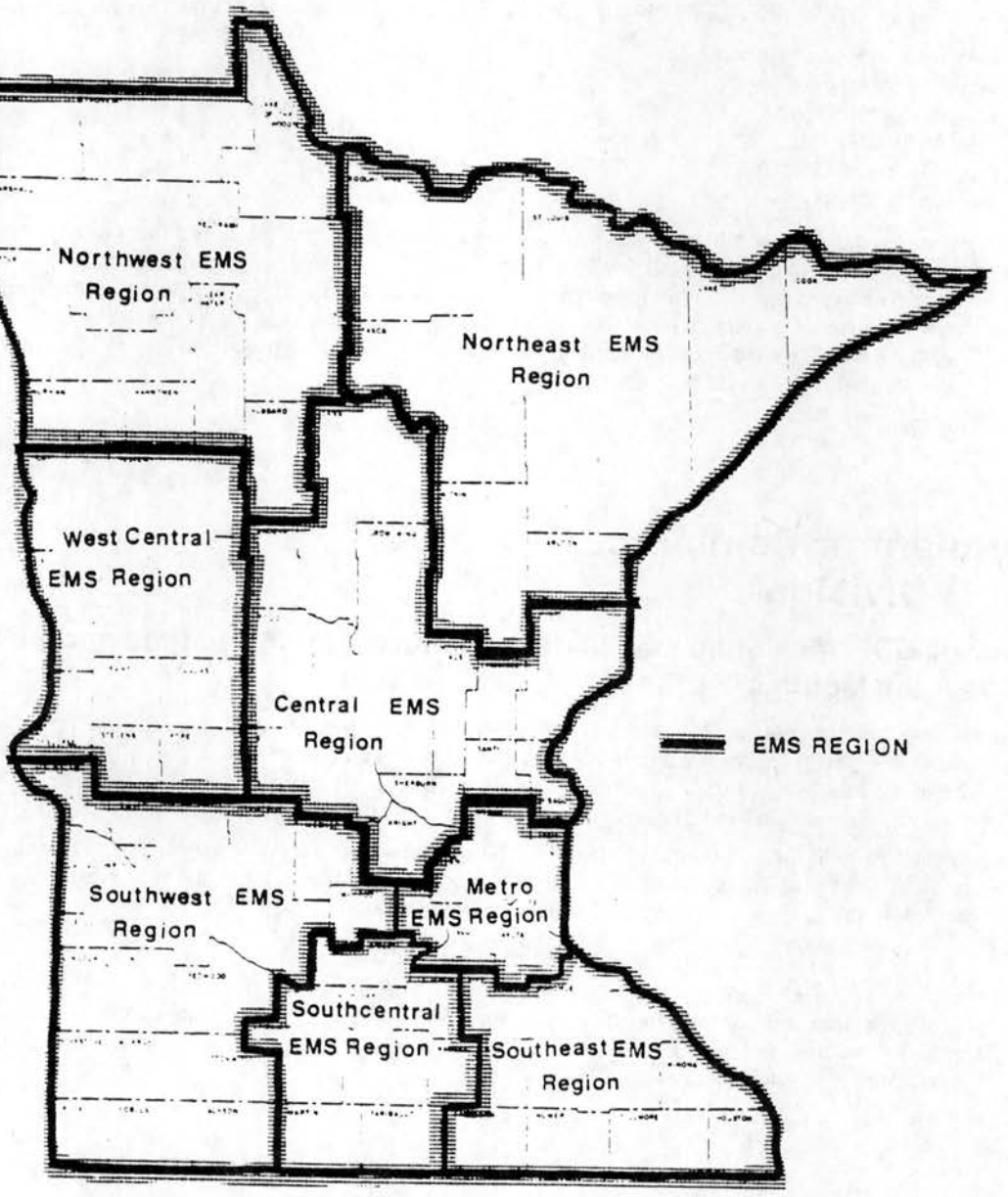
EMS Region	Submission Date
West Central	December 31, 1983
South Central	December 16, 1983
Southeast	February 17, 1984
Northwest	May 13, 1983
Northeast	May 13, 1983
Central	May 13, 1983
Southwest	May 13, 1983
Metro	November 12, 1983

VI. Department Contacts

Prospective responders who have questions regarding this RFP may call or write:

Jim Stoffels, Chief
Emergency Medical Services Section
Minnesota Department of Health
717 Delaware S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
612/623-5518

Exhibit I
Minnesota EMS Regions



Department of Agriculture
Agronomy Services Division

Notice of Special Local Need (SLN) Registration for "D-B Green plus Vitavax"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture, on March 24, 1983, issued a Special Local Need (SLN) Registration for "D-B Green plus Vitavax," manufactured by Agsco, Inc. and Uniroyal Chemical respectively.

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

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the blending of these two individual products into one ready-to-use seed treatment formulation.

The application and other data required under Minnesota Statutes §§ 18A.22, subdivision 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN No. MN83-0007) is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
Saint Paul, Minnesota 55107
Telephone: (612) 296-8312

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, Chapter 15, for the purposes of revoking, amending, or upholding this registration.

March 24, 1983.

Jim Nichols, Commissioner

Department of Commerce
Banking Division

Bulletin No. 2737: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of April 1983

Notice is hereby given that pursuant to section 47.20, subd. 4a, Minnesota Statutes 1982, the maximum lawful rate of interest for conventional home mortgages for the month of April 1983 is thirteen and three-quarters (13.75) percentage points. Further, pursuant to section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of April 1983 is thirteen and three-quarters (13.75) percentage points. This is the same rate as set for March 1983.

It is important to note that this maximum lawful 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.

IMPORTANT NOTICE

The Federal National Mortgage Association has discontinued its biweekly free-market auctions on which Minnesota's conventional mortgage loan and contract for deed maximum rates have been based. Therefore, as provided in section 47.20, subd. 4a, Minnesota Statutes, the rate of 13.75 percent will remain the maximum lawful interest rate until Minnesota law is amended to replace the rate setting mechanism.

March 29, 1983

John D. Chisholm
Commissioner of Banks

Department of Education
Instruction Division

Public Meeting Notice

The Minnesota Special Education Advisory Council will hold a meeting on April 22nd. The meeting is scheduled to begin at 9:00 a.m. in the Walnut Room of the Capp Towers Best Western Hotel in Downtown St. Paul. Agenda items include: Review Public Hearing Comments on the Draft of FY84-86 State Plan; Legislative Update; Review of Rules Hearing; Report on Complaint Proceedings; Review of Developmental Adaptive Physical Education Guidelines; Update on Discretionary/Low Incidence Priorities and Planning Efforts.

For additional information contact Barbara S. Burke, Special Education Section, at (612) 296-8588.

Department of Energy, Planning and Development
Energy Division

Notice Regarding Cycle V of the Institutional Building Grants Program

Schools and hospitals are eligible to compete for approximately $3.5 million in maxi-audit (Technical Assistance) and Energy Conservation Measures grants. Federal grants for fifty percent of project costs will be awarded on a competitive basis. The remaining fifty percent must be provided by local, non-federal resources. Some hardship grants of up to ninety percent federal funding will be available. Local governments and public care institutions are NOT eligible for grants in this cycle. The Cycle V application deadline is Friday, May 13, 1983 at 4:30 p.m.

For more information call (612) 297-2103 or write: IBGP, Energy Division, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

Minnesota Pollution Control Agency
Water Quality Division

Notice of Approval of Metropolitan Council's 208 Plan (Part 2) and Recommendation for Certification by the Governor

On March 22, 1983, pursuant to Section 208(a)(4) and 40 CFR Part 35, the Minnesota Pollution Control Agency (MPCA) approved the Metropolitan Council's 208 Water Quality Management Plan (WQMP), Part 2, and recommended it to the governor for certification as conditioned. The MPCA approval of the plan is conditioned on the fact that it is to be a guidance document for Watershed Management Organizations in the development of watershed plans pursuant to Minn. Stat. § 473.875 *et seq.* (1982).

It is expected that the governor will certify the plan and forward it to the U.S. Environmental Protection Agency (EPA) by April 21, 1983. Once the plan has been certified by the governor the plan becomes the state certified plan which is to be used as guidance material by Watershed Management Organizations in the Metropolitan Area. The plan contains discretionary guidance material by the Watershed Management Organizations which may be of assistance in the development of their watershed plans pursuant to Minn. Stat. § 473.875 *et. seq.* (1982). The plan also includes policies that will be used by the Metropolitan Council in their review of project proposals.

Copies of the Metropolitan Council's 208 Plan (Part 2) are on file at the MPCA (contact Dave L. Johnson, 296-7209) and the Metropolitan Council (Marcel Jouseau, 291-6402).

March 31, 1983

Sandra S. Gardebring
Executive Director

STATE OF MINNESOTA

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

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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

In the Matter of the Proposed Rules of the Department of Revenue Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

Statement of Need and Reasonableness

The above-captioned rules are being proposed in order to update and revise the current Rules and Regulations of the Department of Revenue Relating to Ad Valorem (Property) Taxes. The current rules have been in effect since 1975. They have been revised three times. Once in 1976, and once in 1979 and again in 1982; however, it is the announced intention of the Department of Revenue to revise the rules whenever conditions, economic or otherwise, dictate a need for revision. This intention is clearly expressed in 13MCAR § 1.0001, Introduction, of the current rules, "The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in 13MCAR §§ 1.0003 - 1.0007 for 1982 and subsequent years, or until, in the opinion of the Commissioner of Revenue, different conditions justify a change." (emphasis supplied) It is now the opinion of the Commissioner of Revenue that the rules should be revised.

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

A Notice of Intent to Solicit Outside Information or Opinions in the preparation of these proposed rules was published in the State Register on March 14, 1983, Volume 7, Number 37, page 1295-96 (7 S.R. 1295). An open forum type discussion meeting was held on January 25, 1983. This meeting was attended by members of the Department of Revenue together with city and county assessors and representatives of various utility companies. A list of those in attendance, the agenda, meeting notes, and correspondence received relative to this meeting is available in the Department of Revenue. Various suggestions and comments made at these meetings were received and duly considered by the agency.

Authority to Adopt Rules

Minn. Stat. § 270.06 (14) states that the ..."Commissioner of Revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law..." The above captioned rules are encompassed within this authority.

Further, Minn. Stat. § 270.11, Subd. 1 and 6 gives the Commissioner of Revenue the authority to review, modify, revise, raise or lower the assessed valuation of any real or personal property of any individual, copartnership, company, association or corporation. The Commissioner of Revenue is also charged with the responsibility under Minn. Stat. §§ 273.33, Subd. 2; 273.37, Subd. 2; and 273.38 of assessing the... "personal property, consisting of the pipeline system of mains, pipes and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline or other petroleum products by pipelines... transmission lines of less than 69kv, transmission lines of 69kv and above

located in an unorganized township and distribution lines, (of electric companies) and equipment attached thereto, having a fixed situs outside the corporate limits of cities... the distribution lines, and the attachments and appurtenances thereto, (of electric companies) used primarily for supplying electricity to farmers at retail...". Such assessments are best discharged through the promulgation of such rules as are being proposed here.

Adoption of Proposed Rules
Need and Reasonableness

The agency is currently proposing only one revision to the existing body of the valorem rules for utility property. That revision concerns 13MCAR § 1.0003 Valuation D. Income approach to valuation.

This approach utilizes the capitalization of income in a mathematical process in an attempt to derive a value which represents the present worth of the future earnings of the property. The capitalization process has two major factors: 1) the income to be capitalized and 2) the captialization rate. We propose to change one of these factors to more accurately reflect current economic conditions.

We currently use three years of net utility operating income as the income to be capitalized. This is the income after expenses, depreciation and taxes, but before interest expense. This level of income is usually referred to as the income developed by the regulatory agency. It excludes all income from operations and investments that are not directly related to the operation of the company. This particular income stream is preferred by most utility appraisers, and has the most acceptance throughout the country.

The agency uses three years of these net utility operating earnings in order to level out the peaks and valleys inherent in income determination. This leveling out provides for a relatively stable value, rather than a value which would vary widely from year to year. At present the three years are weighted 40% for the first year's income, 35% for the second and 25% for the third. This weighting of income provides for the most attention to be paid to the most recent performance of the company and attempts to strike a balance between stable income and the recognition of current economic conditions effecting a company.

A capitalization rate is then applied to this weighted income. The capitalization rate is an anticipated rate of return from an investment; a rate at which income is processed (capitalized) to indicate the probable capital value. Usually this rate is commensurate with the risk of the business venture.

In developing a capitalization rate three basic methods are available. They are:

1. The Summation Method - which uses the "safe rate" (usually that of government bonds) and adds to it an allowance for management, non-liquidity, and risk. This method is usually considered to be the least reliable and is not in common use by appraisers of utility property.

2. The Comparative Method - which computes a capitalization rate by measuring the actions of purchasers in the market place. However, since utilities very seldom sell as a unit there are few market transactions from which a rate can be developed. For this reason this method is rarely used in the field of utility valuation.

3. The Band of Investment Method - which is the combination of the rate applicable to the portion of the capital structure represented by debt with the rate applicable to the portion of the capital structure represented by equity. The rate developed is a weighted average, the weighting representing percentages of the mortgage and equity position or bands of investment. This method, which is currently used by the agency, is the most generally accepted method of developing a capitalization rate for use in the appraisal of utilities.

The computation of the capitalization rate using the band of investment method is done on the basis of an average utility within an industry; that is, all companies within one industry (i.e. electric, gas distribution, pipeline) share the same rate. This is done as a matter of convenience due to the agency's lack of time and personnel. It is common practice for utility appraisers all across the country to apply a single capitalization rate to companies within the same industry.

The information used in the computation of the cap rate is taken from the latest edition of Moody's Public Utility Manual and includes the following techniques:

1. A determination of what percent of the capital structure of the average utility is made up of long term debt, preferred stock and common equity.
2. A determination of the average interest rate for contracted indebtedness, commonly referred to as the embedded cost of debt. This average interest rate will make up the debt portion of the capitalization rate.
3. A determination of the average dividend rate of the outstanding preferred stock. This dividend rate will make up the preferred stock portion of the capitalization rate.
4. A determination of the rate of return for common equity; which will make up the equity portion of the cap rate.
5. The application of the determined rate to the various bands of investment to develop the capitalization rate for the average utility.
6. The final step is to assign a risk factor to each type of utility to establish a cap rate for that particular industry.

Attached to this document is an example of the application of these techniques. You will note that the average utility cap rate as computed is 10%. We have adjusted this rate to allow for risk as follows:

1. Electric utilities - adjusted to 9.75% because they have lower than average interest rates and better than average earnings stability.
2. Gas distribution utilities - no adjustment made. This group represents the average utility.
3. Pipeline companies - adjusted to 10.25% because they have a higher risk factor than the average utility. Pipelines usually pay a slightly higher rate of interest, and because they do not have a monopoly, as do electric and gas companies, their earnings are less stable.

The revision proposed by the agency is occasioned by the fact that the last calculation of the capitalization rate in 1981 - using the same sources and methodology as shown in our Exhibit - resulted in a 9% average utility capitalization rate. As is evidenced by the Exhibit the data now results in the calculation of a 10% average utility capitalization rate.

The agency believes that the amending of the present rules to incorporate these revisions to the current capitalization rates is both reasonable and logical. The major factor causing the proposed changes in the capitalization rates, over those currently in use, is the increase in the interest rates. It is a matter of record that these rates have risen steadily over the past few years.

Interest rates may be advertised which would tend to indicate that our proposed capitalization rates are too low and should be adjusted to even higher levels; however, it must be kept in mind that the interest rates in question are those currently in effect. The income which comprises the income stream is an average of three year's historical income. The capitalization rate proposed by the agency is also based on historical information. It is paramount in appraisal practice to match the correct income stream to the corresponding capitalization rate. In the agency's judgment the rates as now proposed accurately reflect the proper capitalization rate to be applied to the weighted income stream. The combination of these two elements into the income indicator of value will produce an equitable estimate of the worth of a utility. The agency is committed to a policy of review and change, as it witnessed by our introductory statement on page 1 of this document. As economic conditions change, the computation of both the capitalization rate and the income stream may well change. At this time, however, the agency believes the rates as proposed should be adopted.

EXHIBIT I

STATEMENT OF NEED AND REASONABLENESS

CAPITALIZATION RATE WORK-UP

A. The figures used in the study on the capitalization of the average utility were obtained from the Moodys Public Utility Manual Special Features Section and represent historic value figures. The results showed a make-up of 53% debt, 9% preferred stock and 38% common stock for the average utility.

B. The rates used in the Cost of Money Study represent the average of three different kinds of utility bonds. This study considered the imbedded debt of utilities and calculated a rate of 9.12%.

C. The indicated rates shown in the Common Stock Yield and Growth Study represent yields obtained by adding the dividend yield to the percent of earnings per share increase over a ten year moving average. This study not only considers dividend yield but appreciation in per share prices. The average indicated rate was calculated to be 12.29%.

D. The rate shown in Preferred Stock Study is the dividend yield only and does not reflect appreciation in the stock price. The average yield rate is shown as 10%.

E. The resulting capitalization rate calculation was obtained by adding a weighted debt cap rate percentage, a weighted preferred stock cap rate percentage, and a weighted common stock yield percentage.

CAPITALIZATION OF AVERAGE UTILITY WORKSHEET

ALL INFORMATION FROM 1981 MOODY'S PUBLIC UTILITY MANUAL
SPECIAL FEATURES SECTION

10 YEAR STUDY - HOW THE AVERAGE UTILITY IS CAPITALIZED

	YEAR	PERCENT OF DEBT	PERCENT OF PREFERRED	PERCENT OF COMMON
Electric Companies	1972	53.8%	12.4%	33.8%
	1973	53.8%	12.4%	33.8%
	1974	55.0%	12.7%	32.3%
	1975	53.5%	12.8%	33.7%
	1976	52.5%	12.9%	34.6%
	1977	50.9%	13.1%	36.1%
	1978	50.5%	12.9%	36.6%
	1979	51.4%	12.7%	35.8%
	1980	51.3%	12.7%	36.2%
	1981	51.8%	11.9%	36.3%
	Average	52.5%	12.7%	34.9%
Transmission Companies	1972	60.4%	6.5%	33.0%
	1973	60.2%	6.3%	33.4%
	1974	59.6%	5.8%	34.6%
	1975	58.3%	5.3%	36.4%
	1976	55.5%	5.5%	39.1%
	1977	51.9%	4.9%	43.2%
	1978	52.4%	5.5%	42.1%
	1979	51.3%	5.3%	42.3%
	1980	51.5%	5.7%	42.8%
	1981	52.1%	4.9%	43.0%
	Average	55.3%	5.6%	39.0%
Distribution Companies	1972	54.0%	9.1%	36.9%
	1973	53.8%	8.5%	37.7%
	1974	56.0%	8.3%	35.8%
	1975	54.9%	8.8%	36.4%
	1976	53.0%	9.4%	37.6%
	1977	51.0%	9.9%	39.1%
	1978	48.3%	10.3%	41.3%
	1979	47.1%	9.8%	43.1%
	1980	47.5%	9.0%	43.5%
	1981	50.2%	7.9%	41.9%
	Average	51.6%	9.1%	39.3%
Rounded Average of Three Industry Averages		53 %	9 %	38 %

10 YEAR PREFERRED STOCK YIELD

YEAR	YIELD IN PERCENT
1972	7.53%
1973	7.50%
1974	9.95%
1975	10.63%
1976	9.12%
1977	8.43%
1978	9.03%
1979	9.76%
1980	12.82%
1981	15.11%
Average	10%

SP:N2

CAPITALIZATION OF AVERAGE UTILITY WORKSHEET

ALL INFORMATION FROM 1981 MOODY'S PUBLIC UTILITY MANUAL SPECIAL FEATURES SECTIONS

10 YEAR STUDY - COMMON STOCK YIELD AND GROWTH IN EARNINGS

YEAR	AVERAGE MARKET PRICE	DIVIDEND PER SHARE	DIVIDEND YIELD PER CENT	EARNINGS PER SHARE	5 YEAR MOVING % AVERAGE EARNINGS PER SHARE	EARNINGS PER SHARE	INDICATED RATE
1972	$80.20	$4.87	6.07%	$ 7.73	$7.07	3.06%	9.13%
1973	$71.21	$5.01	7.04%	$ 7.55	$7.25	2.54%	9.58%
1974	$48.26	$4.83	10.01%	$ 7.63	$7.39	1.93%	11.94%
1975	$51.25	$4.97	9.70%	$ 7.77	$7.56	2.30%	12.00%
1976	$60.10	$5.18	8.62%	$ 7.86	$7.71	1.98%	10.60%
1977	$67.55	$5.54	8.20%	$ 8.83	$7.93	2.85%	11.05%
1978	$63.54	$5.81	9.14%	$ 8.59	$8.16	2.64%	11.78%
1979	$60.28	$6.22	10.32%	$ 8.95	$8.42	3.19%	13.51%
1980	$54.80	$6.58	12.01%	$ 8.98	$8.64	2.62%	14.63%
1981	$55.41	$6.99	12.62%	$10.46	$9.16	6.02%	18.64%
Average	$61.26	$5.60	9.37%	$ 8.44	$7.93	2.91%	12.29%

15 YEAR COST OF MONEY STUDY

YEAR	AVR. YIELD ALL UTILITY BONDS	AVR. YIELD NEWLY ISSUED BONDS	AVR. YIELD NEW GAS LIGHT & POWER
1967	6.01%	5.35%	6.07%
1968	6.72%	6.41%	6.80%
1969	7.99%	7.07%	7.98%
1970	8.85%	8.76%	8.79%
1971	7.71%	7.47%	7.70%
1972	7.46%	7.16%	7.50%
1973	7.88%	7.45%	7.91%
1974	9.21%	8.36%	9.59%
1975	9.76%	8.90%	9.97%
1976	8.80%	9.06%	8.92%
1977	8.38%	8.17%	8.43%
1978	9.22%	9.21%	9.30%
1979	10.64%	10.39%	10.85%
1980	13.09%	13.23%	13.46%
1981	16.30%	16.28%	16.31%
	9.20%	8.88%	9.30%
Average Cost of Three Money Indicators			9.12%

COMPUTATION OF AVERAGE CAP. RATE		CAP. RATE
1.	Average Utility Debt Cost	9.12%
2.	Average Debt Percent of Capitalization	.53%
3.	Weighted Debt Cap. Rate Factor	4.83%
4.	Aug. Utility Preferred Stock Yield	10. %
5.	Aug. Preferred Stock Percent of Capitalization	9. %
6.	Weighted Preferred Stock Cap. Rate Factor	.9 %
7.	Average Utility Equity Return	12.29%
8.	Aug. Equity Percent of Capitalization	38. %
9.	Weighted Equity Capitalization Rate Factor	4.67%
	Aug. Utility Cap. Rate	10.40%
	Rounded to	10 %

SP:N2

In the Matter of the Proposed Adoption of Rules of) STATEMENT OF
The State of Minnesota Department of Revenue) COMPLIANCE WITH
Governing the Valuation and Assessment of Electric) RULEMAKING PROCEDURES
Gas Distribution, and Pipeline Companies (Utility)
Companies))

I, Director of Legal Research, Dorothy A. McClung, 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 Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Dorothy A. McClung
Director of Legal Research

Dated May 11, 1983