

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

1. Notice - misstates Ag RR period as working days

2. pg 3, line 26 - "in much"

3. written - non-rule

To: Marty.
Date: 5.16.85.
Re: Revenue – Valuation

Statutory Authority.

These rules, now being amended, were duly adopted within the 6-month period following the effective date of the statute authorizing emergency rule-making. Question: are amendments to emergency rules permitted after the expiration of the 6-month period? However, the Notice gives a good Rationale for the need to modify the existing emergency rules.

Notice of Rulemaking

Misstates the A.G. Review period "as" five working days" rather than ending on the "10th working day."

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

P.O. Box 64446
St. Paul, MN 55164

Telephone: 612/296-5134

May 14, 1985

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

Re: Adoption of Certain Modifications to Emergency Rule Relating to the Valuation and Assessment of Railroads

Dear Sir or Madam:

In accordance with Minn. Stat. Section 14.32, I enclose the following documents for your review:

1. Emergency Rule as Adopted (Original and 3 copies)
2. Order Modifying Emergency Rules (2 copies)
3. Order for Notice of Intent to Modify Emergency Rules
4. Notice of Intent to Modify Emergency Rules
5. Affidavit of Mailing (Notice of Intent to Modify Emergency Rules)
6. Certificate of Completeness and Accuracy (Mailing List attached)
7. Rules as Proposed
8. Copy of the State Register, Volume 9, Number 42, April 15, 1985, in which the Modified Emergency Rule was published (9SR2336)
9. Written comments on the Modified Rule
10. Statement of Compliance with Rulemaking Procedures

Please note that there were no changes from the rules as proposed to the rules as adopted and that no one requested to be notified when these rules were submitted to the Attorney General for review.

If you have any questions, please contact me.

Sincerely yours,

G.D. Garski

GERALD D. GARSKI, Manager
State Assessed Properties
Property Equalization Division

GDG:WJG:vh

Enclosures

RECEIVED
MAY 14 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Our File No. 1159

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-14-85
DATE FOR REVIEW
DATE DUE 5-29-85

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

Approved 5.29.85 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 5-29-85 Revisor approved / disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

? Order Adopting 5.14.85 Date statutory authority for emergency rules has expired - it is more than 180 days after effective date of statutory authority cited but - see my note

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency misstates the AG. review period as 5 wkg days rather than "10th wkg day"

✓ Affidavit of Mailing Notice or rulemaking
4.10.85 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
4.15.85 At least ~~30/20~~ 25 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

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

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

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

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: ARTHUR C. ROEMER, Commissioner
Department of Revenue

DATE: 5-29-85

ATTN: DOROTHY A. McCLUNG
Director of Legal Research

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Certain Modifications to Emergency Rules Governing the Valuation and Assessment of Railroads.

The above-referenced rule has been approved as to its legality by the Attorney General on May 29, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:sz

Enclosures

cc: Executive Director
Legislative Commission to Review
Administrative Rules

Chief Administrative Law Judge
Office of Administrative Hearings

Department of Revenue

Property Equalization Division

Adopted Emergency Rules Governing the Valuation of Railroads

Emergency Rules as Adopted

8105.0400 [Emergency] VALUATION.

Subpart 1. [Unchanged.]

Subp. 2. **Cost approach to valuation.** The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

return is computed by dividing the subject's annual net railroad operating income for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income	Net Investment	Indicated Rate of Return
19XX	$2,700,000	$31,500,000	8.57%
19XX	$2,900,000	$32,000,000	9.06%
19XX	$3,100,000	$33,500,000	9.25%
19XX	$3,300,000	$34,000,000	9.70%
19XX	$3,530,700	$35,000,000	10.08%
		Total	46.66%

Five-year Average Rate of Return 9.33%

A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

Year	Railroad	Rate of Return
19XX	ABC	11.50%
19XX	FGH	11.27%
19XX	JKL	10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	54.44%

Five-year Average Blue Chip Rate of Return 10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	10.89%
Indicated Obsolescence	
1 - (9.33% ÷ 10.89%)	14.30%

Second, a five-year average freight traffic density indicator will be calculated. This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases. This indicator is calculated by dividing the subject railroad's ton miles of freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Freight	Average Miles of Road Operated	Indicated Freight Traffic Density
19XX	1,300,000,000	575	2,260,000
19XX	1,402,500,000	550	2,550,000
19XX	1,200,000,000	550	2,180,000
19XX	1,100,000,000	500	2,200,000
19XX	1,000,000,000	500	2,000,000
		Total	11,190,000

Five-Year Average Freight Traffic Density 2,238,000

A five-year study is then made of the major railroads operating within the United States in ~~much~~ the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

Year	Railroad	Freight Traffic Density
19XX	JKL	2,280,000
19XX	FGH	2,600,000
19XX	FGH	2,200,000
19XX	MNO	2,900,000
19XX	ABC	2,280,000

APPROVED IN THE
REVISOR OF STATUTES
OFFICE

Total	12,260,000
Five-year Average Blue Chip Freight Traffic Density	2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence 1 - (2,238,000 ÷ 2,452,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit, and would therefore be an important consideration to an investor. A high percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence. This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue	Indicated Gross Profit Margin
19XX	4,050,000	15,000,000	27.0%
19XX	4,350,000	15,800,000	27.5%
19XX	4,650,000	16,500,000	28.2%
19XX	4,950,000	17,300,000	28.6%

19XX	5,295,000	19,000,000	27.9%
		Total	139.2%

Five-Year Average Gross Profit Margin 27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%
Five-Year Average Blue Chip Gross Profit Margin		31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison	14.30%
Obsolescence Indicated by Freight Traffic Density Comparison	8.70%
Obsolescence Indicated by Gross Profit Margin Comparison	11.50%
Total	34.50%
Average Obsolescence Percentages	11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account		Amount
Road		$24,000,000
Equipment -- Owned and Leased		9,000,000
Construction Work in Progress		4,500,000
General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. to 6. [Unchanged.]

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 29 1985
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
May 29 19 85
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

9:40 AM

AG copy

Department of Revenue

Property Equalization Division

Adopted Emergency Rules Governing the Valuation of Railroads

Emergency Rules as Adopted

8105.0400 [Emergency] VALUATION.

Subpart 1. [Unchanged.]

Subp. 2. **Cost approach to valuation.** The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of

return is computed by dividing the subject's annual net railroad operating income for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

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19XX	$3,530,700	$35,000,000	10.08%
		Total	46.66%
Five-year Average Rate of Return			9.33%

A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

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Five-year Average Blue Chip Rate of Return		10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
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1 - (9.33% ÷ 10.89%)	14.30%

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Subp. 3. to 6. [Unchanged.]

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8105.0400 [Emergency] VALUATION.

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corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

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Year	Railroad	Rate of Return
19XX	ABC	~~10.50%~~ 11.50%
19XX	FGH	~~10.27%~~ 11.27%
19XX	JKL	~~10.85%~~ 10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	~~52.72%~~ 54.44%
Five-year Average Blue Chip Rate of Return		~~10.54%~~ 10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	~~10.54%~~ 10.89%
Indicated Obsolescence	
1 - (9.33% ÷ ~~10.54%~~ 10.89%)	~~11.50%~~ 14.30%

Second, a five-year average freight traffic density indicator will be calculated. This indicator is based on the

premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases. This indicator is calculated by dividing the subject railroad's ton miles of freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Freight	Average Miles of Road Operated	Indicated Freight Traffic Density
19XX	1,300,000,000	575	2,260,000
19XX	1,402,500,000	550	2,550,000
19XX	1,200,000,000	550	2,180,000
19XX	1,100,000,000	500	2,200,000
19XX	1,000,000,000	500	2,000,000
		Total	11,190,000

Five-Year Average Freight Traffic Density 2,238,000

A five-year study is then made of the major railroads operating within the United States in much the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

what kind of "specific" manner is this ?

Year	Railroad	Freight Traffic Density
19XX	JKL	2,280,000
19XX	FGH	2,600,000
19XX	FGH	2,200,000
19XX	MNO	2,900,000
19XX	ABC	2,280,000
	Total	12,260,000

Five-year Average Blue Chip Freight Traffic Density 2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year

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average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence 1 - (2,238,000 ÷ 2,452,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit, and would therefore be an important consideration to an investor. A high percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence. This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue	Indicated Gross Profit Margin
19XX	4,050,000	15,000,000	27.0%
19XX	4,350,000	15,800,000	27.5%
19XX	4,650,000	16,500,000	28.2%
19XX	4,950,000	17,300,000	28.6%
19XX	5,295,000	19,000,000	27.9%
		Total	139.2%
	Five-Year Average Gross Profit Margin		27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the

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same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%
	Five-Year Average Blue Chip Gross Profit Margin	31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison	14.30%
Obsolescence Indicated by Freight Traffic Density Comparison	8.70%
Obsolescence Indicated by Gross Profit Margin Comparison	11.50%

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	Total	34.50%
Average Obsolescence Percentages		11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account		Amount
Road		$24,000,000
Equipment -- Owned and Leased		9,000,000
Construction Work in Progress		4,500,000
General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. to 6. [Unchanged.]

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD741E

Agency: Department of Revenue

Division: Property Equalization Division

Agency Contact: Wayne J. Gerwing

Minnesota Rules: Part 8105.0400

Title: Proposed Emergency Rules Governing
The Valuation of Railroads

Type of Rules: Emergency

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Janet C. Rahm
Senior Assistant Revisor
Phone: 296-0952
Date: March 15, 1985

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF CERTAIN MODIFICATIONS TO EMERGENCY RULES OF THE STATE OF MINNESOTA GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

ORDER MODIFYING EMERGENCY RULES

The above-entitled matter was published in the State Register on April 15, 1985, as a proposed modification to Emergency Rules pursuant to Minnesota Statutes, Sections 14.29 to 14.36. After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned modifications are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these modified rules identified as Minnesota Department of Revenue Emergency Rules Governing the Valuation and Assessment of Railroads are adopted this 14th day of May, 1985, pursuant to authority vested in me by Minnesota Statutes, Section 270.84, subdivision 1.

STATE OF MINNESOTA

Arthur C. Roemer

COMMISSIONER OF REVENUE

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Certain Modifications To Emergency Rules of The State of Minnesota Governing the Valuation and Assessment of Railroads

ORDER FOR NOTICE OF INTENT TO MODIFY EMERGENCY RULES

IT IS ORDERED this 1st day of April, 1985, that a Notice of Intent to Modify Emergency Rules be given to all persons who have registered their names with the State Department of Revenue for that purpose and for the Notice and Modified Rules to 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 Certain Modifications
To Emergency Rules of
The State of Minnesota Governing
the Valuation and Assessment of
Railroads

NOTICE OF INTENT TO
MODIFY EMERGENCY RULES

Notice is hereby given that the Minnesota Department of Revenue, Property Equalization Division, proposes to modify emergency Minnesota Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." Acting under authority given to him by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue proposed and adopted an emergency rule governing the valuation and assessment of railroads. The notice of adoption of these emergency rules was published at State Register, Monday, September 10, 1984 (9 S.R. 555). Subsequently the rules were extended for 180 days as provided for in Minn. Stat. Section 14.35. Notice of this intention was published at State Register, Monday, February 4, 1985 (9 S.R. 1754); therefore, the emergency valuation rules are currently in effect.

The agency now proposes to modify these extended emergency rules. The intent of the proposal is that the term of the modified rules will expire with the termination of the 180 day extension period obtained for the original emergency rules. The agency bases its proposal on Laws of 1984, Chapter 502, Article 9, Section 2, which states,

> "The commissioner shall give a report to the legislature in February, 1985 and in February, 1986 on the formula which he has used to determine the value of railroad operating property pursuant to this article. This report shall also contain the valuation for payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary."

This report has been given to the Legislature as required. A portion of the report reads as follows:

"For the 1985 assessment of railroad operating property used in determining property tax amounts in 1986, the department will be focusing on:

> revising the capitalization rate that is applied to the earnings of the railroad companies as a method for determining the values of their properties to take into account reduced interest rates in the last couple of years;
>
> expanding from one to three the number of factors used to determine the amount of economic obsolescence of railroad operating property; and
>
> eliminating allowances for the obsolescence of personal property.

SP:N45

The purpose of the changes is to update as well as improve the factors used by the department in determining the values of railroads. This will result in estimates of values that are more defensible and accurate."

The Legislature has accepted this report, and has suggested no further modifications from those listed above. Therefore, in order to comply with the intent of the Laws of 1984 the agency proposes to modify the existing extended emergency valuation rules by incorporating the revisions articulated in our report to the legislature into the body of the emergency rule.

This notice of intent to modify these emergency rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General for his review prior to adoption of the modifications. Additionally the notice of intent to adopt the modified rule together with the modified rule itself is being published in the State Register.

All interested persons shall have 25 days to submit, in writing, data and comments on the proposed modification to the rule. Persons who wish to submit such comments should direct them to:

Wayne J. Gerwing
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
P. O. Box 64446
St. Paul, MN 55164
(612) 296-5144

The proposed modification may be revised if the revisions are supported by the data and views submitted to the agency.

Upon completion of the 25-day comment period, this Notice, the proposed modified emergency rule, all written comments received, a copy of the agency's findings of fact and conclusions setting forth the reasons for changes between the rule as proposed and the rule as adopted (if applicable), the final emergency rule as adopted, the order adopting, and any other pertinent or required documents will be submitted to the Attorney General for review as to form and legality.

Within five working days the Attorney General will either approve or disapprove the proposed modified emergency rule. The modified emergency rule shall become effective upon approval of the Attorney General; failure of the Attorney General to approve or disapprove a rule within five working days is deemed approval. The final adopted emergency rule will be published in the State Register.

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 rule as proposed for adoption should submit a written statement of such request to Wayne Gerwing at the address listed above.

Additional copies of this Notice and the proposed rule are available and may be obtained by contacting Wayne Gerwing.

STATE OF MINNESOTA

Arthur C. Roemer

COMMISSIONER OF REVENUE

SP:N45

In the Matter of the Proposed
Adoption of Certain Modifications
to Emergency Rules of the
State of Minnesota Governing
the Valuation and Assessment
of Railroads

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Wayne J. Gerwing, being first duly sworn deposes and says:

That on the 10th day of April, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to modify Emergency Rules 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 Modification of Rules by this Department.

Wayne J. Gerwing
Wayne J. Gerwing

Subscribed and sworn to before me
this 10th day of April, 1985.

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 CERTAIN MODIFICATIONS TO EMERGENCY RULES OF THE STATE OF MINNESOTA GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages number 1 through 29 consisting of 331 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 1st day of April, 1985, have requested pursuant to Minn. Stat. Section 14.14, subd. 1, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

STATE OF MINNESOTA
ARTHUR C. ROEMER
COMMISSIONER OF REVENUE

BY: Donna Walbridge
Donna Walbridge
Commissioner's Staff

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Executive Director

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Attn: Glenn Thomasen

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Attn: Calvin Jacks, Jr.
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Attn: Bookkeeper

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Country Furniture
D. J. Meyer Inc.
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NOTICE

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

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

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the Minnesota Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before July 31, 1983 are published in the *Minnesota Rules 1983*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules 1983* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

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

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Issues 14-25, inclusive
Issue 26, cumulative for 1-26
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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

State Board of Education
Department of Education
Division: Personnel Licensing and Placement

Proposed Amendment to Proposed Rules on Staffing Requirements for Principals

Notice of Hearing

Notice is hereby given that a public hearing concerning the proposed rules will be held at Capitol Square Building, Conference Room A, First Floor, 550 Cedar Street, St. Paul, Minnesota on May 22, 1985, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

NOTICE: This is a subsequent hearing of proposed rules that were reviewed at a hearing held on January 30, 1985. The purpose of this hearing is to focus primarily on:

—cost implications of the proposed rules

—exemption clause.

Testimony and correspondence submitted for the January 30, 1985, public hearing will be incorporated into the record of this hearing. It will not be necessary to resubmit any testimony or documents on the proposed rules if they were submitted for the January 30, 1985, public hearing.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written comments may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612) 341-7606 either before the hearing or within five working days after the close of the hearing. The Administrative Law Judge may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. In addition, following the close of the initial comment period, interested persons and the agency will be allowed to submit responses to any new information submitted in the comments received during the initial comment period. The responses must be filed within three working days of the close of the initial comment period. Additional evidence may not be submitted during this three-day period. The rule hearing procedure is governed by Minn. Stat. §§ 14.02 to 14.57, and by Minnesota Rules Parts 1400.0200-1400.1200. If you have any questions about the procedure, call or write the Administrative Law Judge.

Notice is hereby given that an amended Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the agency or the Office of Administrative Hearings at the cost of reproduction.

The agency intends to present only a short summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing.

The rules will establish standards for the provision of administrative services and leadership to elementary, middle, and secondary

schools; repeal obsolete language governing the renewal of a two-year entrance administrative license; and add clarifying language to the rule governing licensure of administrators prepared outside of Minnesota.

The Board's statutory authority to adopt the proposed rules is provided by Minn. Stat. §§ 121.11, subds. 7, 12; 123.34, subd. 10 and 125.05.

It is estimated that the cost of the total rules proposed may range from $700,000 to $1,000,000 annually for the two years immediately following the adoption of the proposed rule, depending on the implementation decisions made by local school districts. See attached fiscal statement. These proposed rules will not directly affect small businesses within the meaning of Minn. Stat. § 14.115.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to George B. Droubie, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rules, contact George B. Droubie, (612) 296-2046.

Notice: Any person may request notification of the date on which the Administrative Law Judge's Report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. The agency will give notice of the adoption of and the filing of the rules with the Secretary of State. Any person wishing to have notice of the adoption and filing may so indicate at the hearing or send a written request to the agency.

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

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

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

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

March 12, 1985

Ruth E. Randall, Secretary
State Board of Education

FISCAL STATEMENT

When the Department of Education issued its Notice of Hearing on this proposed rule, it was not anticipated or expected that the total cost to local school districts would exceed $100,000 for the first two years immediately following its adoption. However, at the January 30, 1985, hearing on this proposed rule, testimony was submitted by several local school districts indicating that the total cost to some local school districts in the state may exceed $100,000 for the first two years immediately following its adoption.

The State Board of Education estimates that there will in fact be some costs to local school districts in the state in order to implement the proposed administrative staffing rule for the first two years immediately following its adoption within the meaning of Minnesota Statute Section 141.11, subdivision 1.

Because the costs vary from school district to school district depending upon licensure and enrollment figures, it is difficult to reasonably estimate costs to begin in 1987. Such cost will be determined by efforts made by school districts to share administrative staff, school district consolidation efforts, as well as any future open enrollment policies. Under present administrative staffing rules Minnesota Rules, parts 3500.1400 and 3500.1500 of the State Board of Education, school districts should be employing licensed school administrators. Therefore, there would be increased costs to local school districts if full compliance were attained under present rules.

Because of the variables mentioned above, it is not possible to reasonably estimate cost. However, we can reasonably estimate that perhaps the full-time equivalent of 50 additional principals may be needed if the only option open to school districts was to hire

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additional administrators. The State Board has added an exemption clause to the proposed rule which would permit exemptions in certain hardship situations. If the exemption is adopted, the number of additional principals needed under the proposed rule could be reduced, thereby, reducing any anticipated cost increase in excess of $100,000.

Costs could further be reduced if pupil enrollment limits are increased, such as increasing enrollment limits from 350 to 400 pupils in Minnesota Rules, part 3500.0605 Subparts 1.A. and B. of the proposed rule. Further reductions in cost may be obtained by different enrollment limits in Subparts 1.D. and E. such as 200 and 400 pupils rather than the proposed 150 and 350 pupils. In small schools, those addressed in Subparts 1.F. and G. of the proposed rule, a change from 150 pupils to 200 pupils and a change from one-half to one-third for administrative duties may result in reduced costs to local school districts. Subparts 1.H. and I. address combinations of buildings and an increase from 350 to 400 pupils in these categories may also reduce cost increases to school districts.

In summary, the estimate of costs must be considered in terms of the factors described above and the factors enumerated in Minnesota Rules, part 3500.0605, subp. J.

The Department of Education estimates that the total cost to the state could range from $700,000 to $1,000,000 annually.

Proposed Amendment to Rule as Proposed

3500.0605 STAFFING REQUIREMENTS FOR PRINCIPALS.

Subpart 1. Licensed principal required. Every elementary, middle, and secondary school must be under the immediate direction of an appropriately licensed principal.

A. to I. [Unchanged from *State Register*, volume 9, page 1401, December 24, 1984.]

J. The commissioner of education may grant to a school district an assignment exemption from the requirements of items A, B, and D to I, based on demonstrated hardship. Such hardship shall consist of unique school district situations involving geography, sparsity of population, distance, and enrollment problems. The exemption shall be granted for a school year or a portion of a school year. A request for the hardship assignment exemption must be submitted by the superintendent to the commissioner of education with full documentation detailing the problems involved in full compliance and becomes effective upon review by the State Board of Education.

Subp. 2. [Unchanged from *State Register*, volume 9, page 1401, December 24, 1984.]

EFFECTIVE DATE. [Unchanged from *State Register*, volume 9, page 1401, December 24, 1984.]

3510.0600 [Unchanged from *State Register*, volume 9, page 1401, December 24, 1984.]

REPEALER. [Unchanged from *State Register*, volume 9, page 1401, December 24, 1984.]

Department of Health

Proposed Rules Relating to Relocation of Residents from Nursing Homes and Certified Boarding Care Homes

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State Department of Health 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 14.22 to .28.

Persons interested in this rule shall have 30 days to submit comments. Persons interested in this rule are encouraged to submit written comments identifying the portion of the rule addressed, the reason for the comment, and any change proposed. 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 substantial change in the rule as proposed.

Unless twenty-five or more persons submit written requests for a public hearing on this rule within the thirty day comment period, a public hearing will not be held. Any person requesting a hearing should state their name and address and should identify: the portion of the rule addressed, the reason for requesting a hearing, and any change proposed. The comment period will close on May 15, 1985. In the event that a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes sections 14.131 to .20.

Persons who wish to submit comments or a written request for a public hearing should submit such requests to: Robert Eelkema, Minnesota Department of Health, P.O. Box 9441, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440.

Authority for the adoption of these rules is found in Minn. Stat. §§ 144.56, 144A.02 to .08, 144A.16, and 144A.31, Subd. 4. A

Statement of Need and Reasonableness has been prepared for this rule. The Statement of Need and Reasonableness is available for review at the Minnesota Department of Health Building, 717 Delaware Street S.E., Room 228, Minneapolis, Minnesota, or may be obtained at a minimal charge by calling (612) 623-5473. A copy of this notice and of this proposed rule, may be obtained by calling (612) 623-5473 or by writing to Mr. Eelkema at the address noted above.

This rule will not result in any increased expenditure to local public bodies. Nor will it result in a fiscal impact in excess of $100,000 annually. *See* Minn. Stat. § 14.11, Subdivision 1 and § 14.065. Promulgation of rules by the Department of Health is exempt from Minn. Stat. § 14.115, Small Business Considerations in Rulemaking, by virtue of subd. 7(c) of that law.

The following information is being provided to comply with the provisions of Minn. Stat. § 144A.29, subd. 4 which requires that each rule promulgated by the Department contain a short statement of the costs and benefits to be derived from the rule. Development of this rule is required by a mandate given to the Interagency Board for Quality Assurance to develop a relocation plan. *See* Minn. Stat. § 144A.31. Promulgation of this rule will assure compliance with that mandate as well as with other relevant provisions of Minnesota Statutes applicable to Nursing Homes and Boarding Care Homes.

A major benefit of this rule is that specific relocation policies and procedures will be developed. This rule establishes the procedures to be followed by a nursing home or boarding care home in the event that relocation of some or all of the residents becomes necessary. The rule provisions are designed to ensure that proper and sufficient notice is given to residents and other affected parties and to require that the necessary assistance is provided to properly prepare for the relocation.

The costs associated with this rule will be minimal as many of this rule's requirements are a compilation of existing requirements of Minnesota Statutes and Minnesota Rules. The Department believes that placement of the relocation procedure into one rule will help assure that the necessary steps are taken to safeguard the health, safety, and well-being of residents during the relocation process.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rule as Adopted will be submitted 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 rule as proposed for adoption, should submit a written statement of such request to Mr. Eelkema.

The text of the proposed rule follows this notice. Additional copies may be obtained by calling (612) 623-5473.

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

RELOCATION OF RESIDENTS FROM NURSING HOMES AND CERTIFIED BOARDING CARE HOMES

4655.6810 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 4655.6810 to 4655.6830 have the meanings given them in this part.

Subp. 2. Certified boarding care home. "Certified boarding care home" means a facility licensed pursuant to Minnesota Statutes, sections 144.50 to 144.56, and certified as an intermediate care facility as defined in United States Code, title 42, section 1396d, as amended through December 31, 1982.

Subp. 3. Facility. "Facility" means a nursing home or certified boarding care home.

Subp. 4. Nursing home. "Nursing home" means a facility licensed pursuant to Minnesota Statutes, section 144A.01, subdivision 5.

Subp. 5. Relocation. "Relocation" means a situation when residents are to be discharged from a nursing home or certified boarding care home as the result of the closing of the facility or the curtailment, reduction, or change of operations or services offered there.

Subp. 6. Service offered in the facility. "Service offered in the facility" includes participation in the Medicare and Medicaid programs, or both programs, pursuant to United States Code, title 42, sections 1395 et seq., and 1396 et seq., as amended through December 31, 1982.

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Subp. 7. Social service agency. "Social service agency" means the county or multicounty agency authorized under Minnesota Statutes, sections 393.01, subdivision 7 and 393.07, subdivision 2, for the county in which the facility is located.

4655.6820 NOTICE TO DEPARTMENT OF HEALTH.

Subpart 1. Notice required. The licensee of the facility shall notify the Department of Health, in writing, at least 90 days prior to the cessation or the curtailment, reduction, or change of operations or services which would result in the relocation of residents.

Subp. 2. Notice information. The written notice shall include the following:

A. the date of the closing, curtailment, reduction, or change of operations or services;

B. the number of residents to be relocated; and

C. the names and telephone numbers of the persons in the nursing home responsible for coordinating the relocation of residents.

4655.6830 FACILITY RESPONSIBILITIES.

Subpart 1. Cooperation. The licensee of the facility and facility staff shall cooperate with representatives from the Department of Health and from the social service agency in planning for the relocation of residents.

Subp. 2. Interdisciplinary team. The administrator of a facility shall establish an interdisciplinary team which shall be responsible for coordinating and planning the steps necessary to relocate the residents. The interdisciplinary team shall consist of members involved in providing direct care services to residents.

Subp. 3. Advance notice. The facility shall send the written notice in items A to C at least 60 days in advance of the date by which the relocation of residents is to be completed.

A. Notice shall be sent to the resident who will be relocated and to the individual responsible for the resident's care. This notice must include the name, address, and telephone number of: the individual in the facility to be contacted for assistance and further information; the social service agency; and the area long-term care ombudsman, provided under section 307(a)(12) of the Older Americans Act, United States Code, title 42, section 3027, as amended through December 31, 1982.

B. Notice shall be sent to the attention of the commissioner of human services and to the social service agency. This notice must include the name of each resident to be relocated and the name, address, and telephone number of the individual responsible for the resident's care and the individual in the facility to be contacted for further information.

C. Notice shall be sent to the attending physician of the resident to be relocated. The resident's attending physician shall be requested to furnish any medical information needed to update the resident's medical records and to prepare transfer forms and discharge summaries. This written notice must include the name and telephone number of the individual in the facility to be contacted for further information.

Subp. 4. Bed list. A list of available beds to which the resident can be relocated must be prepared. This list must contain the name, address, and telephone number of the facility, the certification level of the available beds, the type of services available, and the number of beds that are available. This list must be made available to the resident, the individual responsible for the resident's care, the area long-term care ombudsman, and the social service agency.

Subp. 5. Informational meetings. The facility shall conduct small group meetings for the residents and the individuals responsible for the care of the residents, to notify them of the steps being taken in arranging for the transfer. Individual residents shall be assisted as necessary.

Subp. 6. Resident inventory. The inventory of the resident's personal possessions must be updated and a copy of the final inventory provided to the resident, the individual responsible for the resident's care, or both. A final accounting of personal funds held in the facility must be completed in accordance with part 4655.4170. Arrangements must be made for the transfer of the resident's possessions and personal funds.

Subp. 7. Site visits. Unless it is medically inadvisable, as documented by the attending physician in the resident's care record, the resident shall be assisted in making site visits to facilities to which they may be transferred.

Subp. 8. Administrative duties. All administrative duties must be completed prior to the actual relocation of the resident. Personnel in the facility to which the resident will be moved shall be provided with the information necessary to provide care and services to the resident, in accordance with part 4655.3500.

Subp. 9. Final notice. Unless otherwise agreed to by the resident or the individual responsible for the resident's care, at least a 14-day notice shall be provided to a resident prior to the actual relocation.

Subp. 10. Transportation. The resident shall be assisted in making arrangements for transportation to the new facility.

Subp. 11. Ease in transition. There must not be a disruption in the provision of meals, medications, or treatments of the resident during the relocation process.

Subp. 12. Notice to physician. If not previously notified, the resident's attending physician shall be informed of the new location of the resident within 24 hours after the actual relocation.

Subp. 13. Status reports. Commencing the week following the relocation notice to the Department of Health required in part 4655.6820, subpart 1, the facility shall provide weekly written status reports to the Department of Health as to the progress being made in arranging for the relocation. The initial status report must include the relocation plan developed by the facility, the identity of the interdisciplinary team members, and a schedule for the completion of the various elements of the plan. Subsequent status reports must note the progress being made, any modifications to the relocation plan, any change of interdisciplinary team members, and must include the names of residents who have been relocated during the time period covered by the report. Once relocation has been completed, a listing of the residents who have been relocated and the identity of the facilities or other locations to which the residents were moved must be provided to the Department of Health.

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends, without a public hearing, to adopt amendments to the rules governing the classification of waste as hazardous, Minn. Rules Parts 7045.0135 and 7045.0214, and the denial of interim status for hazardous waste facilities, Minn. Rules Part 7001.0650. The Agency will follow the procedures set forth in Minn. Stat. §§ 14.22-14.28 (1984).

The proposed amendments change the status of warfarin, its chemical form of 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide from their current listing as acute hazardous wastes to being listed as toxic hazardous wastes. However, warfarin and its chemical form and zinc phosphide will continue to be listed as acute hazardous wastes if the concentration exceeds certain limits. The proposed amendments would also exclude lime stabilized pickle liquor sludge from the iron and steel industry from regulation as a hazardous waste. The final amendment would provide a 30 day response period to owners and operators who have been denied interim status for a hazardous waste treatment, storage or disposal facility. The proposed amendments are set forth below.

Persons interested in these amendments have until 4:30 p.m. on May 17, 1985, to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Agency and the modifications do not result in a substantial change in the proposed amendments.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. § 14.14-14.20 (1984). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

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

Carol Rogers
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7247

Authority for adoption of these rules is contained in Minn. Stat. § 116.07, subd. 4 (1984). Additionally, the Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the

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Statement of Need and Reasonableness and of the proposed amendments are available for review in the Agency's office in Roseville and in each of the Agency's Regional Offices:

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

Detroit Lakes Regional Office
116 East Front Street
Telephone: (218) 847-1519

Marshall Regional Office
1104 East College Drive
Telephone: (507) 537-7146

Duluth Regional Office
Duluth Government Services Center
Room 704
320 West 2nd Street
Telephone: (218) 723-4660

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

Upon adoption of the amendments by the Agency, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General 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 of the final adoption of the amendments, should submit a written statement of such request to Carol Rogers at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small Business Considerations in Rulemaking," that the proposed amendments will have no significant impact on small businesses in Minnesota. The proposed amendments reduce the requirements which are applicable to the management of hazardous waste containing warfarin, its chemical form 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, or zinc phosphide, delist certain lime stabilized waste pickle liquor sludge, and provide a response period for facilities denied interim status. These reduced requirements may make it easier for all generators of such wastes, including small businesses, to manage such wastes.

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7001.0650 INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Notification of failure to qualify for interim status. If the director determines that an owner or operator of an existing hazardous waste facility does not qualify for interim status under subpart 1, the director shall notify the owner or operator in writing of the failure to qualify for interim status and the reason for the failure. The notification must also include a statement that the owner or operator is subject to agency remedies for violation of agency rules, including the requirement of part 7001.0520 to obtain a permit. The owner or operator has 30 days from receipt to respond to the notification and to explain or cure the alleged deficiency in the Part A application. If after such notification and opportunity for response, the director determines that the application is deficient, appropriate enforcement action may be taken.

Subp. 4. to 7. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Discarded commercial chemical products, off-specification species, containers, and spill residues. The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

A. to D. [Unchanged.]

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

Hazardous Waste No.	Substance	Hazard Code
P023 to	Acetaldehyde, chloro-	[Unchanged.]

P066	Acetimidic acid, N-[(methylcarbamoyl)oxy] thio-, methyl ester	
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts when present at concentrations greater than 0.3 percent	
P002 to P120	1-Acetyl-2-thiourea Vanadium(V) oxide	[Unchanged.]
P001	Warfarin when present at concentrations greater than 0.3 percent	
P121	Zinc cyanide	
P122	Zinc phosphide when present at concentrations greater than 10 percent	(R,T)

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

Hazardous Wastes from Commerical Chemical Products

Hazardous Waste No.	Substance	Hazard Code
U001 to U003	Acetaldehyde Acetonitrile	(I) [Unchanged.] (I, T)
U248	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts when present at concentrations of 0.3 percent or less	
U004 to U043	Acetophenone Vinyl chloride	[Unchanged.]
U248	Warfarin when present at concentrations of 0.3 percent or less	
U239	Xylene	(I)
U200	Yohimban-16-carboxylic acid, 11, 17-di-methoxy-18-[(3,4,5-trimethoxy-benzoyl)oxy]-, methyl ester,	
U249	Zinc phosphide when present at concentrations of 10 percent or less	

Subp. 5. [Unchanged.]

7045.0214 EVALUATION OF WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Wastes generated by treatment, storage, or disposal. Wastes generated by treatment, storage, or disposal of hazardous waste are as follows:

A. Except as provided in item B, any waste generated from the treatment, storage, or disposal of hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate, but not including precipitation run-off, is a hazardous waste if it meets the criteria of subpart 2 or if it is derived from a waste that is listed in part 7045.0135.

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.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, standard industrial classification codes 331 and 332, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

Department of Revenue
Property Equalization Division

Proposed Emergency Rules Governing The Valuation of Railroads

Notice of Intent to Modify Emergency Rules

Notice is hereby given that the Minnesota Department of Revenue, Property Equalization Division, proposes to modify emergency Minnesota Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." Acting under authority given to him by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue proposed and adopted an emergency rule governing the valuation and assessment of railroads. The notice of adoption of these emergency rules was published at *State Register*, Monday, September 10, 1984 (9 S.R. 555). Subsequently the rules were extended for 180 days as provided for in Minn. Stat. Section 14.35. Notice of this intention was published at *State Register*, Monday, February 4, 1985 (9 S.R. 1754); therefore, the emergency valuation rules are currently in effect.

The agency now proposes to modify these extended emergency rules. The intent of the proposal is that the term of the modified rules will expire with the termination of the 180 day extension period obtained for the original emergency rules. The agency bases its proposal on Laws of 1984, Chapter 502, Article 9, Section 2, which states,

"The commissioner shall give a report to the legislature in February, 1985 and in February, 1986 on the formula which he has used to determine the value of railroad operating property pursuant to this article. This report shall also contain the valuation for payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary."

This report has been given to the Legislature as required. A portion of the report reads as follows:

"For the 1985 assessment of railroad operating property used in determining property tax amounts in 1986, the department will be focusing on:

revising the capitalization rate that is applied to the earnings of the railroad companies as a method for determining the values of their properties to take into account reduced interest rates in the last couple of years;

expanding from one to three the number of factors used to determine the amount of economic obsolescence of railroad operating property; and

eliminating allowances for the obsolescence of personal property.

"The purpose of the changes is to update as well as improve the factors used by the department in determining the values of railroads. This will result in estimates of values that are more defensible and accurate."

The Legislature has accepted this report, and has suggested no further modifications from those listed above. Therefore, in order to comply with the intent of the Laws of 1984 the agency proposes to modify the existing extended emergency valuation rules by incorporating the revisions articulated in our report to the legislature into the body of the emergency rule.

This notice of intent to modify these emergency rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General for his review prior to adoption of the modifications. Additionally the notice of intent to adopt the modified rule together with the modified rule itself is being published in the *State Register*.

All interested persons shall have 25 days to submit, in writing, data and comments on the proposed modification to the rule. Persons who wish to submit such comments should direct them to:

Wayne J. Gerwing
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
P.O. Box 64446
St. Paul, MN 55164
(612) 296-5144

The proposed modification may be revised if the revisions are supported by the data and views submitted to the agency.

Upon completion of the 25-day comment period, this notice, the proposed modified emergency rule, all written comments received, a copy of the agency's findings of fact and conclusions setting forth the reasons for changes between the rule as proposed and the rule as adopted (if applicable), the final emergency rule as adopted, the order adopting, and any other pertinent or required documents will be submitted to the Attorney General for review as to form and legality.

Within five working days the Attorney General will either approve or disapprove the proposed modified emergency rule. The modified emergency rule shall become effective upon approval of the Attorney General; failure of the Attorney General to approve or disapprove a rule within five working days is deemed approval. The final adopted emergency rule will be published in the *State Register*.

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 rule as proposed for adoption should submit a written statement of such request to Wayne Gerwing at the address listed above.

Additional copies of this notice and the proposed rule are available and may be obtained by contacting Wayne Gerwing.

Arthur C. Roemer
Commissioner of Revenue

Emergency Rules as Proposed

8105.0400 [Emergency] VALUATION.

Subpart 1. [Unchanged.]

Subp. 2. Cost approach to valuation. The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of return is computed by dividing the subject's annual net railroad operating income ~~each year~~ for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income	Net Investment		Indicated Rate of Return
19XX	$2,700,000	$31,500,000		8.57%
19XX	$2,900,000	$32,000,000		9.06%
19XX	$3,100,000	$33,500,000		9.25%
19XX	$3,300,000	$34,000,000		9.70%
19XX	$3,530,700	$35,000,000		10.08%
			Total	46.66%
Five-year Average Rate of Return				9.33%

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A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

Year	Railroad	Rate of Return
19XX	ABC	~~10.50%~~ 11.50%
19XX	FGH	~~10.27%~~ 11.27%
19XX	JKL	~~10.85%~~ 10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	~~52.72%~~ 54.44%
Five-year Average Blue Chip Rate of Return		~~10.54%~~ 10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	~~10.54%~~ 10.89%
Indicated Obsolescence	
1 - (9.33% ÷ ~~10.54%~~ 10.89%)	~~11.50%~~ 14.30%

Second, a five-year average freight traffic density indicator will be calculated. This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases. This indicator is calculated by dividing the subject railroad's ton miles of freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Freight	Average Miles of Road Operated	Indicated Freight Traffic Density
19XX	1,300,000,000	575	2,260,000
19XX	1,402,500,000	550	2,550,000
19XX	1,200,000,000	550	2,180,000
19XX	1,100,000,000	500	2,200,000
19XX	1,000,000,000	500	2,000,000
		Total	11,190,000
Five-Year Average Freight Traffic Density			2,238,000

A five-year study is then made of the major railroads operating within the United States in much the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

Year	Railroad	Freight Traffic Density
19XX	JKL	2,280,000
19XX	FGH	2,600,000
19XX	FGH	2,200,000
19XX	MNO	2,900,000
19XX	ABC	2,280,000
	Total	12,260,000
Five-year Average Blue Chip Freight Traffic Density		2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence 1 - (2,238,000 ÷ 2,542,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit, and would therefore be an important consideration to an investor. A high percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence. This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue	Indicated Gross Profit Margin
19XX	4,050,000	15,000,000	27.0%
19XX	4,350,000	15,800,000	27.5%
19XX	4,650,000	16,500,000	28.2%
19XX	4,950,000	17,300,000	28.6%
19XX	5,295,000	19,000,000	27.9%
		Total	139.2%
Five-Year Average Gross Profit Margin			27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%
Five-Year Average Blue Chip Gross Profit Margin		31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

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XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison		14.30%
Obsolescence Indicated by Freight Traffic Density Comparison		8.70%
Obsolescence Indicated by Gross Profit Margin Comparison		11.50%
	Total	34.50%
Average Obsolescence Percentages		11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account		Amount
Road		$24,000,000
Equipment—Owned and Leased		9,000,000
Construction Work in Progress		4,500,000
General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. to 6. [Unchanged.]

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Agriculture Planning Division

Adopted Rule Governing Vacuum Processing of Smoked Fish

The rules proposed and published at *State Register*, Volume 9, Number 31, pages 1676-1678, January 28, 1985 (9 S.R. 1676) are adopted as proposed.

Higher Education Coordinating Board

Adopted Rules Relating to State Scholarships and Grants; Adding Eligible Schools

The rule proposed and published at *State Register*, Volume 9, Number 29, pages 1613-1614, January 14, 1985 (9 S.R. 1613) is adopted as proposed.

Department of Natural Resources

Adopted Rule Relating to Mississippi River Land Use District, Amendment

The rule proposed and published at *State Register*, Volume 9, Number 28, pages 1555-1556, January 7, 1985 (9 S.R. 1555) is adopted as proposed.

Pollution Control Agency

Adopted Rules Governing Hazardous Waste Fees

The rules proposed and published at *State Register*, Volume 9, Number 20, pages 1051-1057, November 12, 1984 (9 S.R. 1051) are adopted with the following modifications:

Rules as Adopted

7046.0010 DEFINITIONS.

Subp. 25. Waste stream. "Waste stream" means all wastes of a particular composition generated by the same process at a generator's site.

7046.0030 NONMETROPOLITAN AREA GENERATOR FEES.

Subp. 3. Initial fees. Initial fees must be paid by a nonmetropolitan generator who is a new generator after February 5, 1984, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure. Waste streams consisting of less than 165 gallons per year or 1,650 pounds per year of unsewered solid or liquid waste which is recycled, reused, or recovered off-site are not subject to the initial fees for that waste stream.

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Subp. 7. Failure to submit fees. If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay the fees plus late fees for each 30-day period or fraction that the fee remains unpaid. The late fee for each of the three 30-day periods or fraction between the due date and 90 days beyond the due date is ten percent of the total of the annual fee. Beyond 90 days, the late fee for each 30-day period or fraction beyond 90 days is 15 percent of the annual fee.

If a nonmetropolitan area generator fails to submit the requested fees within 90 days of the due date, the generator becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees. ~~These additional expenses include but are not limited to additional agency staff expenses (on a per hour basis, including staff fringe benefits and indirect charges), mileage charges, litigation expenses (including the attorney general's expenses), and collection agency or other fees.~~

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 Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Prohibiting Discrimination in Insurance Due to Blindness Including the Impact of the Rules on Small Businesses

This Notice is being re-published due to a print error regarding the end of the information and comment accepting period.

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing Prohibiting Discrimination in Insurance Due to Blindness. Promulgation of these rules is authorized by Minnesota Statutes, sections 45.023 and 72A.19.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes, sections 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until May 22, 1985. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Education
Program Effectiveness Division

Nominations Solicited for Special Education Advisory Committee

The Department of Education, Special Education Section is soliciting nominations of persons to serve on the Special Education Advisory Committee (SEAC).

The purpose of SEAC is to assist the State in developing plans and practices that will help assure effective and efficient implementation of Special Education Programs for handicapped students in local school districts.

There are five vacancies for the 1985-88 term. The Committee meets four times from September through June each year.

To ensure appropriate representation special consideration will be made to recommendations of: 1) Handicapped Individuals, 2) Special Education Administrator, 3) School Board Member, 4) Superintendent, 5) Related Services Personnel (nurse, psychologist, social worker, audiologist, physical or occupational therapist, etc., 6) Congressional districts: 2, 3, 4, 6, 7, and 8.

Please send your recommendations by May 7, 1985 to:

Dr. Norena Hale
813 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

For additional information contact Dr. Norena Hale, Special Education Section at (612) 296-1793.

Department of Education
Program Effectiveness Division

Public Meeting Notice

The Minnesota Special Education Advisory Council will hold its next meeting on May 13 and 14, 1985. The meeting is scheduled to begin at 9:00 a.m. at the Sheraton Midway Hotel in St. Paul. Agenda topics include: Special Education licensure; Coordination of regular and special education training programs, Total Special Education System (TSES), Special Education Section's Annual Work Plan; Legislative Update; Learner Outcomes, Least Restrictive Environment (LRE); and SEAC Year-End Report.

For additional information contact Dr. Norena Hale, Special Education Section at (612) 296-1793.

Department of Human Services

Informational Hearing, Interagency Board for Quality Assurance, April 23, 1985

Notice is hereby given that the Interagency Board for Quality Assurance will hold an informational hearing on Tuesday, April 23, 1985 (9 a.m. to 4 p.m.) in Room A, Fourth Floor, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55101. The hearing is designed to afford interested persons an opportunity to comment on proposed Department of Human Services Rules, Minnesota Rules, parts 9549.0050 to 9549.0059 [Temporary] effective July 1, 1985 and proposed Department of Health Rules, Minnesota Rules, parts 4656.0010 to 4656.0070 [Temporary] effective July 1, 1985. These rules outline a system of reimbursing nursing homes operating costs based on "case mix" on resident needs within the nursing home.

The hearing is being held to comply with Minnesota Statutes 256B.431, subdivision 6 which provides that the Interagency Board for Quality Assurance shall conduct public hearings as appropriate with respect to development of Temporary rules necessary for implementation and enforcement of the nursing reimbursement system established under Minnesota Statutes 256B.431, sections 10 to 20.

Persons or groups wishing to make verbal presentation should contact Pam Parker, (612) 297-3209 to be placed on the schedule. Participants should provide the Board with at least one written copy of their comments.

Written comments are also welcomed. They may be sent to:

Interagency Board for Quality Assurance
6th Floor, Space Center
444 Lafayette Road
St. Paul, MN 55101

Written comments should be received by April 23, 1985. Copies of the proposed rule may be requested by calling (612) 296-2738 or writing to the Interagency Board at the above address.

Labor and Industry Department
Prevailing Wage Division

Correction to Prevailing Wage Rates

The prevailing wage rate certified June 1, 1984 for Piledrivermen, code number 416, in Stearns county for Highway and Heavy construction projects was certified in error.

The correct rate, effective April 4, 1985, may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Steve Keefe, Commissioner
Department of Labor & Industry

Minnesota State Retirement System

Board of Directors Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, April 19, 1985 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

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.

Commodities contracts with an estimated value of $5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
29-001-08475	Resurfacing Douglas Lodge Service Court	DNR Parks	Itasca State Park	Contact buyer
55-303-10673	Laundry Spreader/Feeder	Faribault Hospital	Faribault	Contact buyer
79-000-46685	Bituminous Distributors	Transportation	St. Paul	Contact buyer
26-071-15017 Rebid	Plasma Etching System	Mankato State University	Mankato	Contact buyer
02-310-13397	Steam Traps	Moose Lake State Hospital	Moose Lake	Contact buyer
26-074-09958	Exercise System	Winona State University	Winona	Contact buyer
99-720-28205	Lease of Automobiles	Racing Commission	Minneapolis	Contact buyer
26-073-17538	Copy System	St. Cloud State University	St. Cloud	Contact buyer
29-000-37783, 7273	1985 Summer State Park Maps	Natural Resources	St. Paul	Contact buyer
55-000-90794	Vending Machines	Human Resoures—Services for the Blind	Fridley	Contact buyer

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-071-14989	Computer Ware	Mankato State University	Mankato	Contact buyer
29000-37869	Floating Docks	Natural Resources	Various	Contact buyer
26-073-17534 & 17503	Purchase of Printers & Accessories	St. Cloud University	St. Cloud	Contact buyer
78-620-20788	Conveyor Chain, Links and Drive Chain	MN Correctional Facility	Stillwater	Contact buyer
29-000-37703	Lease/Purchase IBM Word Processing System		St. Paul	Contact buyer
Contract	Remanufactured Transmissions		Various	$40,000-$50,000
07-500-33688, 7387	PS-01801-02 Violation Report	Public Safety	St. Paul	Contact buyer
Contract	Rubbish Disposal	MN Zoological Garden	Apple Valley	Contact buyer
Contract	Sponges & Scouring Pads	Various	Various	$13,000-$15,000
32-100-12370, etc.	Truck	Various	Various	Contact buyer
Sch. 93A	L.P. Gas	Various	Various	Contact buyer
Contract	Ribbons, Typewriter	Administration—Central Stores	St. Paul	$14,000-$15,000
43000-05970	Upgrade Road at Mott Pit	Iron Range Resources & Rehabilitation Board	Calumet	Contact buyer
Contract	Rental for Brush Cutter	Natural Resources	Bemidji	$10,000-$11,000
26074-09986	Furnish & install Demountable Part	Winona State University	Winona	Contact buyer
78630-06275	Heating Elements	MN Correctional Facility	Oak Park Heights	Contact buyer
26073-17483	Video Equipment	St. Cloud State University	St. Cloud	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Corrections Minnesota Correctional Facility Oak Park Heights

Request for Proposals for Dental Services

I. The purpose of this request is to solicit proposals for the provision of on-going dental services including the following:

1. Routine dental care such as restorations, root canal therapy, oral surgery, and denture problems.
2. Handle dental emergencies with a prescription or personal visit to the Dental Clinic.
3. Maintain charts and records so that accurate data is available in the future.
4. Refer patients which cannot be handled in the Dental Clinic.
5. Delegate those services which the dental assistant is trained to perform.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

II. Questions regarding this Request for Proposal should be directed to:

Director of Health Services
Minnesota Correctional Facility—Oak Park Heights
Box 10
Stillwater, Minnesota 55082
(612) 779-1400

All proposals must be received by 4:30 p.m. May 3, 1985. Late proposals will not be accepted. Proposals are to be sealed in mailing envelopes with the responders' name and address clearly written on the outside. Each proposal must be signed by an authorized member of the firm.

III. The Department has estimated that the cost of this contract should not exceed $20,800 for FY86 and $22,000 for FY87.

IV. The contract will run from July 1, 1985 to June 30, 1987.

V. The following will be considered minimum contents of the proposal:

A. A restatement of the objectives to show the responder's view of the nature of the contract.

B. A Curriculum Vita with proof of licensure in the State of Minnesota.

VI. All proposals received by the deadline will be evaluated by representatives of the Department of Corrections.

VII. Factors upon which proposals will be judged include the following:

A. Examination of the Curriculum Vita

B. Communication with references

C. Personal interview

VIII. Evaluation and selection will be completed by Director of Health Services. Results will be sent to all responders immediately by mail.

Department of Corrections
Minnesota Correctional Facility
Oak Park Heights

Request for Proposals for Pharmacy Services

I. The purpose of this request is to solicit proposals for the provision of on-going pharmacy services including the following:

To provide part time on-site pharmacy services at MCF-Oak Park Heights. This includes the maintenance of an on-site pharmacy and its operations program. Regular daily services will be provided Monday through Friday, excluding holidays, according to a mutually acceptable schedule. Minimum on-site coverage will be 25 hours per week. Additional services will include back-up emergency services 24 hours a day and access to emergency medicines.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

II. Questions regarding this request for Proposal should be directed to:

Director of Health Services
Minnesota Correctional Facility—Oak Park Heights
Box 10
Stillwater, Minnesota 55082
(612) 779-1400

All proposals must be received by 4:30 p.m. May 3, 1985. Late proposals will not be accepted. Proposals are to be sealed in mailing envelopes with the responder's name and address clearly written on the outside. Each proposal must be signed by an authorized member of the firm.

III. The Department has estimated that the cost of this contract should not exceed $30,000 for FY86; $32,000 for FY87.

IV. The contract will run from July 1, 1985 to June 30, 1987.

V. The following will be considered minimum contents of the proposal:

A. A restatement of the objectives to show the responder's view of the nature of the contract.

B. A Curriculum Vita with proof of licensure in the State of Minnesota.

VI. All proposals received by the deadline will be evaluated by representatives of the Department of Corrections.

VII. Factors upon which proposals will be judged include the following:

A. Examination of the Curriculum Vita

B. Communication with references

C. Personal interview

VIII. Evaluation and selection will be completed by Director of Health Services. Results will be sent to all responders immediately by mail.

Department of Economic Security

Request For Proposals for Operation of Dislocated Worker Program

In accordance with Laws of 1979, Chapter 336, The Minnesota Department of Economic Security, Governor's Job Training Office is requesting proposals from qualified bidders to operate dislocated worker programs in the State of Minnesota. Approximately $425,000 will be available for dislocated worker programs to operate in Federal Program Year 1985.

Request For Proposal Application is available upon request. Inquiries and request should be directed to:

Ed Retka
State Job Training Office
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: (612) 296-7918

Proposals must be recevied by the State Job Training Office no later than Friday, May 10, 1985, at 4:30 p.m.

Higher Education Coordinating Board

Request for Proposals for Auditing Services for the State Student Loan Programs

Notice is hereby given that the Minnesota Higher Education Coordinating Board intends to engage the services of a certified public accounting firm to examine and report upon the financial statements of the State Student Loan Programs for the fiscal year ending June 30, 1985 with the option to renew the contract for the fiscal years ending June 30, 1986 and June 30, 1987. The audit must comply with generally accepted auditing standards which encompass the AICPA's industry's audit guide, ''Audits of State and Local Governmental Units.''

Information contained in the audit report should be of sufficient detail to include in Official Statements of subsequent Student Loan Revenue Bond issues and the Statewide Audit Report. The cost estimate for this audit is approximately $20,000.

Those interested in receiving requests for proposals should contact:

Arlon J. Haupert
Director of Administrative Services
400 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-9685

Proposals will be accepted until 4:00 p.m. May 3, 1985.

Metropolitan Waste Control Commission

Bids Requested for Design of Seneca Maintenance, Computer Center and Dispatch Building, Project No. 72-07

Notice is hereby given that until 10:00 A.M., on Friday, the 3rd day of May, 1985, at the Metropolitan Waste Control Commission Offices, 350 Metro Square Building, St. Paul, Minnesota, the Chief Administrator of the Metropolitan Waste Control Commission will receive and publicly open sealed proposals for the Design/Build Construction of the Seneca Maintenance, Computer Center and Dispatch Building.

The project consists of the Design and Construction of a building facility and related appurtenances to provide vehicle and equipment repair facilities, Computer Data Collection Center, Dispatching of Maintenance Personnel and Related Offices and Support

Facilities. The building will provide approximately 37,300 square feet of floor space, partially one story and partially two story with a common flat roof. Preliminary schematics and outline specifications have been prepared and are available to qualified bidders.

The bids must be submitted on the proposal forms provided and in accordance with Contract Documents, schematic drawings, outline specifications and design criteria for the Seneca Maintenance, Computer Center and Dispatch Building, as prepared by Bonestroo, Rosene, Anderlik & Associates, Inc., 2335 W. Highway 36, St. Paul, Minnesota 55113, which are on file and may be seen at the office of the Metropolitan Waste Control Commission or at the Consulting Engineer's office.

Copies of proposal forms, contract documents, schematic drawings, outline specifications and design criteria for use by contractors submitting a Design/Build proposal may be obtained from the Consulting Engineers, Bonestroo, Rosene, Anderlik & Associates, Inc., 2335 W. Highway 36, St. Paul, Minnesota 55113, upon payment of $50.00 per set.

Due to the nature of the documents, no refund will be made on these documents.

Proposals arriving after the designated date and time will be returned unopened. Bids will not be considered unless sealed and filed with the Chief Administrator of the Metropolitan Waste Control Commission and accompanied by a certified check drawn on a national bank or trust company, or by a bid bond duly executed by the bidder on a national bank or trust company, or by a bid bond duly executed by the bidder as Principal and having as surety thereon a company qualified to act as Surety in the State of Minnesota, or other form of bid proposal guarantee, for not less than five percent (5%) of the total price, payable to the Metropolitan Waste Control Commission, said bid security to be returned as hereinafter provided unless retained under the conditions stipulated herein.

A pre-bid meeting will be held at the Commission offices on Thursday, April 25, 1985, at 10:00 a.m., to discuss the scope of the project and other requirements relating to the project.

No bids shall be withdrawn for a period of Sixty (60) days after opening of bids. The Metropolitan Waste Control Commission reserves the right to reject any or all bids and to waive informalities.

March 8, 1985

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

Department of Military Affairs
The Adjutant General

Contract Available for Cultural Resource Survey for Three Proposed Construction Projects, Camp Ripley

The Department of Military Affairs will select a consultant to provide a cultural resource survey for the proposed construction of the following projects at Camp Ripley, Minnesota: Range Control Office; M-16 Record Firing Range; Anti-Armor Tracking and Live Fire Range. The survey will include site specific field work and a detailed technical report. The estimated cost of the project is $6,000-$8,000.

The consultant selected must have a master's degree in archeology or anthropology with a specialty in archeology, plus the following obtained after the master's degree:

a. At least 2 years of professional experience or specialized training in the archeology field, laboratory experience, and experience with library research.

b. At least 1 year of experience in general North American archeology.

c. At least 1 year of experience in a supervisory role.

d. A proven ability to work independently, to understand archeological resources management techniques and to complete research. Competence in designing and carrying out archeological projects is shown by one or more of the following:

(1) Doctorate dissertation.

(2) Research reports.

(3) Similar documents.

e. For work involving prehistoric archeology, at least 1 year of experience working with prehistoric archeological resources.

f. For work involving historic archeology, at least 1 year of experience working with archeological resources of the historic period.

g. A proven familiarity with the archeological resources of the region where the consultant is to work.

Qualified consultants who wish to submit proposals should contact Mr. John Ebert, Environmental Coordinator-Department of Military Affairs, P.O. Box 348, Camp Ripley, Little Falls, Minnesota 56345-0348; telephone (612) 632-6631, Extension 447. Further information, a detailed Scope Of Work, and proposal forms will be provided upon request. Proposal forms and resume must be submitted to the above address on or before 4:00 p.m., 8 May 1985. The Department of Military Affairs reserves the right to accept or reject any or all bids and/or parts of bids and waive informalities therein.

Minnesota Counties Research Foundation and State Auditor's Office: COFARS Council

Request for Proposals to Study and Report Accounting and Financial Reporting Requirements Imposed on County Government

The COFARS (County Financial Accounting & Reporting Standards) Council and the Minnesota Counties Research Foundation (MCRF), have jointly issued a Request for Proposals (RFP) for a study and report on the concerns of the COFARS Council regarding accounting and financial reporting requirements imposed by the State of Minnesota and its agencies on county government units. The general scope of the study is as such:

1. Performance of an appraisal of the areas of concern identified by the COFARS Council in creating a standardized and efficient accounting and reporting environment for the counties within Minnesota.

2. Identification of areas of operation which require additional review and research. (Such review and research to be conducted during a subsequent project, contingent on availability of funding.)

3. Preparation of a general work plan and cost estimate of the respective areas identified as requiring additional efforts.

The deadline for the receipt of submitted proposals is Friday, May 17, 1985. The project duration is expected to be June 10, 1985, through August 31, 1985. The maximum amount of funding available for this initial project is $8,000.00.

Copies of the RFP and further information can be obtained from Dennis C. Anderson, COFARS Council, c/o Minnesota Department of Corrections, 430 Metro Square Building, St. Paul, Minnesota 55101. Telephone inquiries may be made by calling (612) 296-1330 during the hours of 7:30 a.m. through 4:00 p.m. weekdays.

Minnesota Job Skills Partnership

Meeting Notice & Grant Proposals Solicited for Customized Business Training Programs

The May 20, 1985 meeting of the Minnesota Job Skills Partnership Board has been rescheduled to June 3, 1985. The Minnesota Job Skills Partnership Board solicits grant proposals from educational and other non-profit organizations for customized training programs designed for specific businesses. To receive consideration at the June 3 meeting, proposals must be submitted by April 26, 1985. For additional information, call 612/296-0388.

Supreme Court Legal Services Advisory Committee

Request for Proposals for Legal Services for Low Income People

The Legal Services Advisory Committee is requesting proposals for legal services and alternative dispute resolution programs for low income people.

Grant funds are contingent on the extension by the Legislature of the civil filing fee surcharge.

Inquiries should be directed to:

J. L. Rehak
230 State Capitol
St. Paul, MN 55155
(612) 296-6822

Application Deadline: May 15, 1985.

2/27/85

SUPREME COURT

Decisions Filed Friday, April 5, 1985

Compiled by Wayne O. Tschimperle, Clerk

C1-84-758 Bradley J. Odenthal v. Nordeast Carpet Service, Inc., and Iowa Kemper Insurance Company. Relators. Workers' Compensation Court of Appeals.

Where an election is made to cover corporate officers under Minn. Stat. § 176.012, that coverage continues in effect as long as a policy or renewal policy of the same insurer is in effect, unless termination of said election is provided in writing to the insurer.

Affirmed. Scott, J.

C5-83-543 State of Minnesota v. Alice Cermak, Appellant. Douglas County.

Defendant received a fair trial, was properly found guilty of four counts of criminal sexual conduct in the first degree and five counts of criminal sexual conduct in the second degree, and was properly sentenced according to the Sentencing Guidelines.

Affirmed. Wahl, J.

CX-82-1225 State of Minnesota v. Stanley Cermak, Appellant. Scott County.

Defendant received a fair trial and was properly convicted of five counts of criminal sexual conduct in the first degree.

Affirmed. Wahl, J.

C0-82-1136 State of Minnesota v. Richard W. Laird, Appellant. Hennepin County.

Defendant received a fair trial and was properly found guilty of arson in the second degree.

Affirmed. Simonett, J.

C8-83-1444 In Re: the Arbitration of : Richard G. Fryer v. National Union Fire Insurance Company, Appellant. Court of Appeals.

The arbitration panel did not err in proceeding to arbitrate an uninsured motorist claim over an ojbection that there was no arbitrable claim before it.

When a liability carrier first denies coverage but then before arbitration retracts the denial, there is no uninsured motorist arbitration claim under a policy defining an uninsured motor vehicle as one where the liability insurer ''denies coverage.''

Here, however, the tortfeasor's vehicle qualifies as an ''uninsured motor vehicle'' under an alternative policy definition. Consequently, the arbitration award is confirmed, subject to modification on remand pursuant to the policy's exhaustion clause.

Payments under uninsured motorist coverage are not subject to a workers' compensation subrogation claim; neither can the uninsured motorist carrier require in its policy that uninsured motorist payments be reduced by workers' compensation paid or payable.

Affirmed in part and reversed in part and remanded. Simonett, J.

C1-83-1186, C7-83-1189 Jodi Lynn Maas; Roger E. Lund, as Trustee for the Heirs and Next of Kin of Janice Marie Lund, Decedent v. Allstate Insurance Company, Appellant. Hennepin County.

If an insurer certifies pursuant to Minn. Stat. § 65B.50 (1984) that it will provide the Minnesota minimum liability coverage under an out-of-state liability insurance policy that facially fails to meet Minnesota minimum requirements, the vehicle is not uninsured.

Where an automobile insurance policy insuring five separate vehicles specifically provides that enumerated coverage will be

provided only on payment of a premium therefor, and when underinsured coverage is purchased on only one of the vehicles, the insurer's liability for underinsured coverage is limited to the coverage purchased.

Reversed in part; affirmed in part. Kelley, J.

C3-84-1510 Curtis Ledford, Relator, v. Midland Electric and American Home Assurance Company. Workers' Compensation Court of Appeals.

Affirmed. Coyne, J.

C5-83-1143 Elsie Hilden, as Personal Representative of the Estate of Alfred A. Hilden, Deceased, and Jayme Scott Lynne, Plaintiffs/Appellants, v. Iowa National Mutual Insurance Company, and Boyd Services, Inc., a/k/a Stone's Insurance Agency, and Ronald Stone, Individually and as Agent of All. County of Yellow Medicine.

The limits of residual liability insurance coverage applies separately to each automobile described in a policy of automobile insurance, and the liability coverage applicable to one automobile may not be stacked on that applicable to another automobile.

Affirmed. Coyne, J.

C0-82-1654 In Re: Petition for Disciplinary Action Against Paul L. Simonson, an Attorney at Law in the State of Minnesota. Supreme Court.

Publicly reprimanded. Per Curiam.

Took no part, Coyne, J.

C9-67-39495 In the Matter of the Application for the Discipline of Tilmer Eugene Thompson, an Attorney at Law of the State of Minnesota. Supreme Court.

Petition denied. Per Curiam.

TAX COURT

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

State of Minnesota Tax Court
County of Brown, Regular Division

City of Springfield, Appellant, v. Commissioner of Revenue and County of Brown, Appellees, Tax Court Docket No. 3929 (District Court: C-83-0595 and C-84-339)

Findings of Fact, Conclusions of Law, and Order for Judgement Dated March 29, 1985

The above matter was tried by the Minnesota Tax Court, Judge Carl A. Jensen presiding, at the Brown County Courthouse in New Ulm, Minnesota on February 8, 1985. A written stipulation of facts was submitted together with oral testimony. Briefs were subsequently filed by the parties.

Paul N. Muske, Attorney with Muske, Muske and Boyle, appeared on behalf of appellant.

James W. Neher, Special Assistant Attorney General, appeared on behalf of appellees.

Syllabus

A medical clinic owned by a city and used by doctors to provide medical services to the general public on a fee basis is not exempt from real property taxes even though the clinic is on property adjacent to the municipal hospital and the clinic is managed by the hospital administrator.

Findings of Fact

1. The subject property is legally described as Lots 1, 2, 3, 4 and 5, Block 11, Schwarzrock's Fifth Addition, City of Springfield, Brown County, Minnesota. Lots 1, 2 and 3 comprise the clinic proper; Lots 4 and 5 are used as a public park. The parties

have stipulated and agreed that Lots 4 and 5 are exempt from real property taxes pursuant to Minn. Stat. § 272.02, subd. 1 (7), as public property exclusively used for a public purpose.

2. The clinic is owned by the City of Springfield and is on property adjacent to the municipal hospital. The clinic is operated by the hospital board.

3. The property was assessed for real estate tax purposes in 1982 for taxes payable in 1983. Appellant applied for an abatement of taxes and an abatement was granted by the Brown County Board of Commissioners on April 5, 1983. In accordance with the statutes, this abatement was submitted to the Minnesota Commissioner of Revenue, who denied the abatement on June 8, 1983, and ruled that the property was not exempt from real estate taxes. This action is an appeal from that determination of the Commissioner of Revenue.

4. In the Answer to the Notice of Appeal, the Commissioner alleged that the Minnesota Tax Court did not have jurisdiction of the subject matter pursuant to Minn. Stat. § 270.02, subd. 1 (1982). At the trial the Commissioner waived his claim of lack of jurisdiction.

5. At the trial it was stipulated and agreed that the finding of the Court in this appeal would also apply to the assessment for 1983, taxes payable in 1984, on the subject property.

6. The subject property is used by three doctors. The clinic is open to the public. The doctors provide the usual medical services to their patients and the patients are billed for such services in accordance with a fee schedule which is adopted by agreement between the hospital board and the doctors. Each of the doctors receives 60 percent of the charges that he bills. This amount is received by the doctor in the month following the billings. The hospital has complete responsibility for the collections of all billings. The hospital receives the other 40 percent of billings. The hospital absorbs the loss of any uncollectible accounts. The doctors have no responsibility for collection of accounts and the doctors receive the 60 percent of billings regardless of whether or not they are subsequently collected. The hospital has the responsibility for the operation of the clinic including maintenance, employees, equipment, taxes, and any other expenses in connection with the clinic. The doctors receive their 60 percent free and clear of any charges or expenses. The doctors consider themselves to be self employed and no state or federal taxes of any kind are withheld from the amounts paid to the doctors. The doctors do not receive any of the ordinary employee benefits provided to hospital employees.

7. The subject property should not be exempt from real estate taxes.

Conclusions of Law

1. The subject property which is described as Lots 1, 2 and 3 of Block 11, Schwarzrock's Fifth Addition, City of Springfield, Brown County, Minnesota, contains a medical clinic which is used by three doctors to provide medical services to the general public on a fee basis and is not exempt from real property taxes.

2. The subject property which is described as Lots 4 and 5, Block 11, Schwarzrock's Fifth Addition, City of Springfield, Brown County, Minnesota, is used as a public park and the parties have stipulated that this property is exempt from real property taxes as public property exclusively used for a public purpose under Minn. Stat. § 272.02, subd. 1 (7).

3. The County of Brown is directed to change its books and records relative to the subject property in accordance with this decision.

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

March 29, 1985

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

State of Minnesota Tax Court
County of Hennepin, Regular Division

Kenneth K. Plunkett, Appellant, v. Commissioner of Revenue, Appellee, Docket No. 4086

Findings of Fact, Conclusions of Law and Order for Judgement Dated April 2, 1985

The above matter was tried by the Minnesota Tax Court on February 21, 1985 at the Hennepin County Government Center in

Minneapolis, Minnesota, Chief Judge Earl B. Gustafson presiding. Post-trial briefs were submitted by the parties.

Amy D. Grady, of Larkin, Hoffman, Daly & Lindgren, Ltd., appeared on behalf of appellant.

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

Syllabus

Appellant is a responsible ''person'' subject to personal liability for non-payment of sales taxes under Minn. Stat. § 297A.01, subd. 2.

Minn. Stat. § 297A.01, subd. 2 does not limit the personal liability of a responsible ''person'' to directors or officers of a retailer-corporation.

Findings of Fact

1. Furniture Ventures, Inc. failed to remit sales and withholding taxes to the State of Minnesota for the periods August and September, 1982.

2. The appellant was the controlling shareholder of Furniture Ventures, Inc. and had final authority to pay creditors including August, 1982 taxes payable to the State of Minnesota in September, 1982.

3. The appellant was a person individually or jointly responsible for the remittance of taxes to the State of Minnesota and is personally liable for the unpaid August, 1982 sales taxes under Minn. Stat. Ch. 297A.

Conclusions of Law

1. The Commissioner's Notice of Personal Liability dated December 14, 1984 is affirmed for the taxable period August, 1982.

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

April 2, 1985

By the Court,
Earl B. Gustafson, Chief Judge
Minnesota Tax Court

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

(612) 297-3000
(toll-free # for MN:
1-800-652-9747)

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Contact: Senate Public Information Office
B29 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
Room 8 State Capitol, St. Paul, MN 55155
(612) 296-2146

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF CERTAIN MODIFICATIONS TO EMERGENCY RULES OF THE STATE OF MINNESOTA GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING MODIFIED EMERGENCY RULES

The above-entitled matter was published in the State Register on April 15, 1985, as a proposed modification to Emergency Rules pursuant to Minnesota Statutes, Sections 14.29 to 14.36. After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned modifications were needed and reasonable, the rule together with the entire body of documentation concerning this matter was sent to the Attorney General for his review.

NOW, acting upon the advice of the Attorney General's Office, I find the following:

1. The proposed modified emergency rule has one instance of vague, ambiguous language contained in M.R. 8105.0400 Subdivision 2.

2. This language can be revised to conform with the suggestions of the Attorney General by striking the word "much" on line 26 of page 3 of the proposed modification. This revised language then reads; "A five year study is then made of the major railroads operating within the United States in ~~much~~ the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads."

3. The striking of the word "much" is not a substantive, material change and does not warrant notification of all interested parties.

CONCLUSIONS

1. The revision of the proposed rule is necessary and reasonable in order to make the rule conform to the standards for rules set by the Attorney General's Office.

2. The body of the proposed modifications to the existing emergency rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that this modified rule incorporating the one specific revision shown above and identified as Minnesota Department of Revenue Emergency Rules Governing the Valuation and Assessment of Railroads are adopted this 24th day of May, 1985 pursuant to the authority vested in me by Minnesota Statutes, Section 270.84, subdivision 1.

STATE OF MINNESOTA

Arthur C. Roemer

COMMISSIONER OF REVENUE

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY TAX DIVISION

STATE ASSESSED PROPERTIES

IN THE MATTER OF THE PROPOSED ADOPTION OF CERTAIN MODIFICATIONS TO EMERGENCY RULES GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

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

Dorothy A McClung

DOROTHY A. McCLUNG,

Dated: May 14, 1985