

Minnesota Attorney General: Administrative Rules Proceedings

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~~1044~~ 05.0009.0736

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-4-86
DATE FOR REVIEW 8-13-86
DATE DUE 8-18-86

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

Approved 8/18/86 Disapproved _____ Returned to Agency 9/8/86

Resubmitted _____ Due ~~8/18/86~~
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 9/5 Revisor approved 8-7-86 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed Sep S.R. 4-28-86

✓ Order Adopting 8-1-86 Date Combined w/FF Supplemental FF & order

✓ Notice of Intent to Solicit Outside Opinion S.R. 2-3-86 comments

✓ Order for rulemaking
_____ date of Hearing

NA Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
_____ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
4-25-86 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
4-28-86 At least 30/20 days prior to ~~hearing~~/adoption

NA Hearing Examiner's Report

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

✓ Agency's Findings of Fact Combined w/Order Adopting Supp. FF + order

✓ NA LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

NA 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

NA Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

File

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO: DOROTHY A. McCLUNG, Director
Legal and Legislative Affairs

DATE: 9/8/86

FROM: J. MICHAEL MILES
Assistant Attorney General

PHONE: 296-6555

SUBJECT: Adopted Permanent Rules Relating to Revenue; Property Equalization; Public Utility Valuation

The above-referenced rule has been approved as to its legality by the Attorney General on August 18, 1986.

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.

JMM/rmk
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR#1294

Department of Revenue

Adopted Permanent Rules Relating to Revenue; Property Equalization; Public Utility Valuation

Rules as Adopted

8100.0200 INTRODUCTION.

~~On October 19, 1973, the Minnesota Supreme Court in Independent School District No. 99, et al. v. Commissioner of Taxation, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the "Hatfield Formula," was thus invalidated as a rule of general application.~~

~~These rules are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.~~

~~Since the commissioner of revenue is by statute the assessor of some of the utility property in the state of Minnesota and has supervisory powers over all assessments of property, and may raise or lower values pursuant to Minnesota Statutes, section 270.11,~~ The commissioner of revenue will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts, and utilizing data relating to the cost of the property and the earnings of the company owning or operating the property. The resulting valuation will be allocated or assigned to each state in which the utility company operates. Finally, by the process of apportionment, the portion allocated to Minnesota will be distributed to the various taxing districts within the state.

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Most of the data used in the valuation, allocation, and apportionment process will be drawn from reports submitted to the Department of Revenue by the utility companies. These reports will include Minnesota Department of Revenue Annual Utility Reports (UTL forms), Annual Reports to the Federal Energy Regulatory Commission and Annual Reports to the Interstate Commerce Commission. Periodic examinations of the supporting data for these reports will be made by the Department of Revenue.

The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in parts 8100.0300 to 8100.0600 for 1986 and subsequent years~~, or until, in the opinion of the commissioner of revenue, different conditions justify a change~~.

As in all property valuations the commissioner of revenue reserves the right to exercise his or her judgment whenever the circumstances of a valuation estimate dictate the need for it.

8100.0300 VALUATION.

Subpart 1. **General.** Because of the unique character of public utility companies, such as being subject to stringent government regulations over operations and earnings, the traditional approaches to valuation estimates of property (cost, capitalized income, and market) must be modified when utility property is valued. Consequently, for the 1986 and subsequent assessment years, ~~until economic and technological factors dictate a change,~~ the value of utility company property will be estimated in the manner provided in this chapter.

Subp. 2. [Unchanged.]

Subp. 3. **Cost approach.** The cost factor to be considered in the utility valuation formula is the original cost less depreciation of the system plant, plus improvements to the system plant, plus the original cost of construction work in progress on the assessment date. The original cost of any leased operating property used by the utility must be reported to the commissioner in conjunction with the annual utility

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report. If the original cost of the leased operating property is not available, the commissioner shall make an estimate of the cost by capitalizing the lease payments. Depreciation will not be allowed on construction work in progress. Depreciation will be allowed as a deduction from cost in the amount allowed on the accounting records of the utility company, as such records are required to be maintained by the appropriate regulatory agency.

Depreciation, however, shall not exceed the prescribed percentage of cost: for electric companies, 20 percent; for gas distribution companies, 50 percent; and for pipeline companies, 50 percent. If the amount of depreciation shown on the company's books exceeds these percentages, the company may deduct ten percent of the excess.

A modification to the cost approach to value will be considered by the commissioner when valuing electric utility property. The original cost of an electric utility's major generating plants will be increased if the cost of the plant falls below a certain standard. The standard to be used will be a national average of the cost per kilowatt of installed capacity. The cost per kilowatt of installed capacity is the total construction cost of the generating plant divided by the number of kilowatts the plant is capable of producing. The national average to be used will be computed by totaling the construction costs, excluding the cost of land, for major generating plants within the 48 contiguous United States. The total cost of the plants will be divided by the total generating capacity of the same plants to arrive at an average cost per kilowatt of installed capacity. A separate average will be computed for each type of plant: gas turbine, hydroelectric, and steam-electric. The plants used in the calculation will exclude nuclear electric generating plants.

The information used to compute the average will be drawn from the latest issue of the United States Department of Energy publication, Historical Plant Cost and Annual Production Expenses for Selected Electric Plants. All plants included in this publication will be used in the computation of the national

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average by type of plant.

An example of this computation of the national average cost per kilowatt of installed capacity is as follows:

Steam-Electric Generating Plants

Plant	Plant Cost Excluding Land	Plant Capacity
A	$ 14,000,000	100,000 kw
B	13,000,000	90,000 kw
C	17,000,000	110,000 kw
D	14,500,000	80,000 kw
E	18,000,000	120,000 kw
F	10,000,000	70,000 kw
G	19,000,000	130,000 kw
H	9,000,000	60,000 kw
I	20,000,000	140,000 kw
J	8,000,000	50,000 kw
	$142,500,000	950,000 kw

Total plant cost ($142,500,000) divided by total plant capacity (950,000 kw) equals $150 average cost per kilowatt of installed capacity.

The national average cost per kilowatt of installed capacity will be compared to the specific cost per kilowatt of installed capacity for each of the major generating plants owned by the utility being valued. If the national average cost per kilowatt is greater than the subject plant cost, the subject plant will have additional dollars incorporated into its cost in order to raise its cost per kilowatt to the national average. If the subject plant's cost per kilowatt equals or exceeds the national average, no cost will be added.

The following example illustrates this procedure:

XYZ Utility

Steam-Electric Generating Plants

1.	Plant	#1	#2
2.	Installed Capacity	100,000 kw	50,000 kw
3.	Year in Service	1970	1950
4.	Cost of Plant (Exclusive of Land)	$15,200,000	$5,000,000
5.	Specific Plant Cost per kw	$152	$100
6.	National Average Cost per kw	$150	$150
7.	Deficiency	none	$ 50
8.	Additional Cost (Line 7 x Line 2)	none	$2,500,000

This additional cost to be added to the original cost of the specific plant will be reduced by an allowance for pollution control equipment and an allowance for obsolescence.

The allowance for pollution control equipment will be

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computed annually by totaling the construction costs, exclusive of land, of all major generating plants within Minnesota by type of plant. A total will also be made of the cost of the equipment in these plants which has been approved for tax exempt status in accordance with Minnesota Statutes, section 272.02, subdivision 1, clause (9). This total will also be computed by type of plant. The total of the approved pollution control equipment will be divided by the total construction cost, exclusive of land, of the plants in order to calculate a percentage. This percentage will be the ratio of dollars spent for pollution control equipment to total dollars spent to construct a specific type of power plant. This percentage will then be used to reduce the gross additional cost to be added to the cost of the specific generating plant. An example of this process is as follows:

Steam-Electric Plants Within Minnesota

Plant	Plant Cost Excluding Land	Cost of Approved Pollution Control Equipment
A	$15,200,000	$1,500,000
B	10,000,000	1,000,000
C	5,000,000	700,000
D	20,000,000	2,000,000
E	16,500,000	1,470,000
	$66,700,000	$6,670,000

Total cost of approved pollution control equipment ($6,670,000) divided by total plant cost ($66,700,000) equals ten percent ratio of pollution control equipment expenditures to total expenditures for generating plant construction.

XYZ Utility

Steam-Electric Plant #2

1. Additional Cost Due to Computation of Average Cost per kw of Installed Capacity	$2,500,000
2. 10% Allowance for Pollution Control Equipment	250,000
3. Additional Cost to be Added after Adjustment for Pollution Control Equipment	2,250,000

The allowance for obsolescence which will be applied to the additional plant construction cost will be computed annually for hydroelectric and steam-electric generating plants. The information needed to compute the obsolescence factors will be drawn from the same publication that is used to compute the

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national average cost per kilowatt of installed capacity figure. Gas turbine plants will not have any obsolescence allowance applied to the additional cost added to the plants.

The obsolescence allowance for hydroelectric plants will be calculated through the use of a "plant factor." The plant factor is computed by dividing the number of kilowatt hours a generating plant actually produced in a year by the number of kilowatt hours the plant was capable of producing. The plant factor is normally expressed as a percentage. The mathematical expression of this factor is: net generation (kwh) divided by annual installed capacity (hours in a year multiplied by installed capacity (kw)). A standard plant factor will be computed for hydroelectric plants by averaging the plant factors of the ten plants with the highest plant factors in the average cost per kilowatt of installed capacity study. This standard will then be compared to an average of the most recent three years' plant factor of the subject plant. The amount the subject plant deviates from the standard is the amount of obsolescence which will be applied to the added cost.

An example of this obsolescence allowance computation is shown below.

Hydroelectric Plants

Plant	Net Generation kwh (000)	Plant Capability kwh (000)	Plant Factor
A	400,150	755,000	53 %
B	300,040	577,000	52 %
C	250,000	480,000	52 %
D	600,000	1,250,000	48 %
E	896,000	1,600,000	56 %
F	700,000	1,400,000	50 %
G	507,000	975,000	52 %
H	450,000	1,000,000	45 %
I	376,000	800,000	47 %
J	810,000	1,800,000	45 %
		Average	50 %

XYZ Utility

Hydroelectric Plant #4

Year	Net Generation kwh (000)	Plant Capability kwh (000)	Plant Factor
19XX	400,000	1,000,000	40 %
19XX	500,000	1,000,000	50 %
19XX	450,000	1,000,000	45 %
		Average	45 %

Hydroelectric plant #4 plant factor (45 percent) divided by

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standard plant factor (50 percent) equals 90 percent. Therefore, hydroelectric plant #4 deviates from the standard by ten percent, or is ten percent obsolete.

The obsolescence allowance for steam-electric generating plants will be computed annually using two indicators. The first indicator will be the plant factor. The plant factor for steam-electric plants will be computed and applied in the same manner as the computation specified for hydroelectric plants. The only difference will be that the information used for the computation will be drawn from the latest Fossil-Fueled Steam-Electric Plant Section of the latest Historical Plant Cost and Annual Production and Expenses for Selected Electric Plants publication rather than the Hydro-Electric Plant section. Plant factors of the ten best steam-electric generating plants within the study period will be averaged. This average will be compared to the most recent three-year average plant factor for the subject plant. The subject plant's deviation from the standard plant factor is the amount of indicated obsolescence.

The second indicator which will be used to compute an obsolescence allowance for steam-electric generating plants will be a thermal efficiency factor. The source of information for this computation will also be the latest issue of the United States Department of Energy's publication, Historical Plant Cost and Annual Production Expenses for Selected Electric Plants, Fossil-Fueled Steam Electric Plant Section. Thermal efficiency for a generating plant is measured by the number of British thermal units (Btu's) required to produce one kilowatt hour. This efficiency rating can be obtained by dividing the number of kilowatt hours produced by a generating plant by the number of Btu's needed to produce this power. The number of Btu's used can be obtained by multiplying the units of fuel burned by the generating plant - tons of coal, gallons of oil, or cubic feet of gas - by the average Btu content of the fuel unit. The standard thermal efficiency factor will be computed by averaging the thermal efficiency factor of the ten most efficient steam-electric generating plants within the study period used to

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compute the average cost per kilowatt of installed capacity. This standard thermal efficiency factor will then be compared to the thermal efficiency factor of the subject plant. The amount the subject plant deviates from the standard is the amount of obsolescence indicated by this factor.

The two obsolescence figures for the subject plant as indicated by both the plant and thermal efficiency factors will then be averaged. This resulting average is the obsolescence allowance which will be applied to the cost added to the subject plant as a result of the average cost per kilowatt of installed capacity computation. In no instance shall the original cost of a generating plant be reduced by an allowance for obsolescence unless its cost is increased through the use of the average cost per kilowatt of installed capacity computation. For the 1986 and subsequent assessments the additional cost after adjustments for obsolescence to be added to the cost indicator of value will be multiplied by 85 percent.

The following examples illustrate computation of the standard thermal efficiency factor; obsolescence indicated by the application of this factor to the subject plant; average obsolescence for steam-electric generating plants; and obsolescence allowance adjustment of the added cost due to the use of the average cost per kilowatt of installed capacity for the subject plant.

Steam-Electric Generating Plants

Plant	Net Generation kwh (Millions)	Btu's Used (Millions)	Btu's per kwh
A	2,000	18,400,000	9,200
B	6,000	53,400,000	8,900
C	8,000	72,000,000	9,000
D	5,000	45,500,000	9,100
E	3,000	26,400,000	8,800
F	1,000	9,000,000	9,000
G	4,000	36,600,000	9,150
H	9,000	80,550,000	8,950
I	7,000	61,950,000	8,850
J	5,000	45,250,000	9,050
		Average	9,000

XYZ Utility Company

Steam-Electric Plant #2

Net Generation kwh (Millions)	Btu's Used (Millions)	Btu's per kwh

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2,000	21,600,000	10,800

Steam-electric plant #2 thermal efficiency factor (10,800 Btu's per kwh) divided by standard thermal efficiency factor (9,000 Btu's per kwh) equals 120 percent. Therefore, steam-electric plant #2 deviates from the standard by 20 percent or is 20 percent obsolete.

XYZ Utility Company

Steam-Electric Plant #2

1. Obsolescence Indicated by Plant Factor	10%
2. Obsolescence Indicated by Thermal Efficiency Factor	20%
3. Obsolescence Allowance (Average of 1 and 2)	15%
4. Additional Cost due to Computation of Average Cost per kw of Installed Capacity	$2,500,000
5. 15% Obsolescence Allowance	375,000
6. Additional Cost to be Added after Adjustment for Obsolescence	2,125,000
7. Adjustment factor	85%
8. Net additional cost to be added	$1,806,250

The cost indicator of value computed in accordance with this subpart will be weighted for each type of utility company as follows: electric companies, 85 percent; gas distribution companies, 75 percent; and pipeline companies, 75 percent.

The following example illustrates how the cost indicator of value would be computed for an electric company:

1. Utility Plant			$200,000,000
2. Construction Work in Progress			5,500,000
3. Additional Value from Average Cost Per KW Computation After Factoring			2,000,000
4. Total Plant			207,500,000
5. Nondepreciable Plant (Land, Intangibles, C.W.I.P.)	$ 17,500,000		
6. Depreciable Plant	190,000,000		
7. Book Depreciation		$40,000,000	
8. Maximum Depreciation (20%)		38,000,000	
9. 10% Excess Depreciation Allowance		200,000	
10. Total Allowable Depreciation			$ 38,200,000
11. Total Cost Indicator of Value			169,300,000

Any company for which a modification is made under this subpart due to the average cost per kilowatt adjustment being made to original cost of a plant or plants located in Minnesota shall have an alternative cost indicator computation made without giving effect to the average cost per kilowatt adjustment of such plant or plants.

Subp. 4. to 7. [Unchanged.]

Subp. 8. **Retirements.** Utility operating property may be retired from the utility system while still in place if certain

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criteria are met:

A. The property must be physically disconnected from the utility system. In the case of electrical plants, the disconnection or dismantling of wires, cables, connectors, or transformers would constitute physical disconnection. In the case of pipelines, the disconnection of pipes, valves, or fittings would be evidence of physical disconnection.

B. An affidavit of retirement should be filed by the utility with the commissioner at least 30 days prior to the assessment date. This affidavit shall indicate the facility being retired and the date it was taken out of service.

The utility should make every effort to inform the commissioner of pending major retirements. The commissioner in turn shall notify the county assessor of impending major retirements as soon as this information becomes available to the department.

Utility property which is retired in place shall continue to be taxed for ad valorem purposes. However, its market value shall not be determined on the basis of its value as utility operating property.

If a utility should choose to temporarily retire a facility pending the development of an alternate fuel, greater demand, increased source of supply, or another valid reason, the cost of this facility must be transferred to the appropriate regulatory agency's account entitled "Held for Future Use." Standby facilities will not be considered to be temporarily retired unless their costs are carried in this account. Temporarily retired utility facilities will be valued taking into account a number of factors including age of the facility, type of facility, amount of maintenance and additional costs needed to restore the facility to operational status, length of retirement, and earning potential of the facility. In no instance shall a temporarily retired facility be valued lower than if the facility were considered nonoperating utility property.

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OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP - 5 1986
Joan Anderson Growe
Secretary of State
3:26 PM

APPROVED AS TO FORM AND LEGALITY

8/18 19 86

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

STATE REGISTER

STATE OF MINNESOTA



VOLUME 10, NUMBER 44

Monday 28 April 1986

Pages 2197-2252

STATE REGISTER

Volume 10

Printing Schedule

Submission Deadlines

Vol. 10 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
44	Monday 14 April	Monday 21 April	Monday 28 April
45	Monday 21 April	Monday 28 April	Monday 5 May
46	Monday 28 April	Monday 5 May	Monday 12 May
47	Monday 5 May	Monday 12 May	Monday 19 May

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.
**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.
Instructions for submission of documents may be obtained from the Office of the State Register, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published by the State of Minnesota, Minnesota Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

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

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

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FOR LEGISLATIVE NEWS

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

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
Room 111 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 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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

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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 April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* 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:

Issues 1-13, inclusive
Issues 14-25, inclusive
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PROPOSED RULES

Pursuant to Minn. Stat. of 1984, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

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

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

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

Department of Commerce

Proposed Rules Relating to Cosmetology

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed 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 Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

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.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard C. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 155A.05. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2640.0100 DEFINITIONS.

Subpart 1. to 21. [Unchanged.]

Subp. 22. **Wet disinfector.** "Wet disinfector" means a ~~nonporous~~ receptacle containing a disinfectant solution.

2640.1100 EXAMINATION ADMINISTRATION.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Reexam limit.** ~~No~~ A passing exam score ~~on an examination shall be considered~~ is valid for ~~more than~~ 12 months.

Subp. 5. [Unchanged.]

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of having ~~obtained~~ completed the following professional training, within three years prior to this application:

A. to C. [Unchanged.]

2640.1400 MANAGERS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of a current cosmetologist, esthetician, or manicurist license, and at least 2,700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

2640.1500 INSTRUCTORS.

Subpart 1. **Full instructors.** In addition to the requirements of part 2640.1200, the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

A. to C. [Unchanged.]

D. at least ~~1,800~~ 1,400 hours of experience as a licensed cosmetologist, manicurist, or esthetician in a licensed salon, supervised by a licensed manager, within the three years prior to this application.

Subp. 2. [Unchanged.]

2640.1700 LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Specific requirements for instructor.** An applicant for an instructor's license shall provide evidence of 38 hours of training comparable to the requirement of part 2640.1500, item B, and ~~1,800~~ 1,400 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subpart 1. **Procedure for lapsed licensee.** If ~~after~~ an individual's license ~~expires~~ has expired, the individual shall be reissued a license after submission of a request for renewal, proof of experience or education as required in part 2640.1900, subpart 2, payment of the license fee, and payment of the processing fee. If more than ~~one year~~ three years has elapsed, the applicant shall apply for a new license in accordance with parts 2640.1200 to 2640.1600.

Subp. 2. [Unchanged.]

2640.3100 SCOPE OF RULES.

The provisions of parts 2640.3100 to 2640.4100 apply to ~~both~~ cosmetology, esthetician, and manicure salons~~, except for parts 2640.3700, subpart 5, item B, 2640.3800, items B and C, and 2640.3900, items A to C and G, which do not apply to manicure salons~~. The following are exceptions for estheticians salons: parts 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S. The following are exceptions for manicure salons: parts 2640.3700, subpart 5, item B; 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S.

2640.3200 SALON LICENSURE.

Subpart 1. [Unchanged.]

Subp. 2. **Application.** The person, association, firm, or corporation proposing to establish a cosmetology, esthetician, or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

A. to F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3300 MAINTAINING A SALON ~~OR BOOTH~~ LICENSE.

The following requirements shall be met by all salons ~~and booths~~:

A. to D. [Unchanged.]

2640.3600 SALON REQUIREMENTS.

Subpart 1. **Location.** No cosmetology service shall be provided in a place other than a licensed cosmetology salon, esthetician salon, manicurist salon, cosmetology school, or as otherwise provided by these rules.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Change of name.** The salon manager or owner shall inform the office in writing, within ~~30~~ 60 days, of a name change, including old and new name, and pay the processing fee. A license will be issued in the new name for the remaining term of the old license. The old license shall be returned to the office upon receipt of the license in the new name.

2640.3700 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. There shall be at least 120 square feet of work space exclusive of any restroom, reception, or supply area for a one-practitioner cosmetology salon, 110 square feet of work space for a one-practitioner esthetician salon, and 100 square feet of work space for a one-practitioner manicure salon.

B. There shall be at least 50 additional square feet of work space for each additional licensee simultaneously on duty in a cosmetology salon or an esthetician salon, and at least 35 additional square feet of work space of each additional licensee simultaneously on duty in a manicure salon.

C. The supply area shall not be accessible to the public.

Subp. 2. to 7. [Unchanged.]

2640.3900 OPERATIONAL REQUIREMENTS FOR SALONS.

It is the responsibility of the manager of the salon and of each operator to comply with the following operational requirements:

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A. to J. [Unchanged.]

K. The procedures contained in subitems (1) to (7) shall be used to disinfect items:

(1) and (2) [Unchanged.]

(3) Each item shall be immersed for at least ten minutes in a disinfectant solution comprised of the following: sodium hypochlorite (200 ppm of available chlorine); or iodophor germicidal detergent (200 ppm of available iodine); or quaternary ammonium germicidal detergent solution (~~200~~ 1,600 ppm); or 70 to 95 percent ethyl or isopropyl alcohol.

(4) Metal implements and tools shall be disinfected by immersion in a solution of 70 to 95 percent ethyl or isopropyl alcohol. As an alternative to immersion, electric clippers may be treated by spraying them with a commercial spray containing active ingredients of not less than 0.25 percent o-phenyl phenol, 11 percent isopropl alcohol, and 88.75 percent inert ingredients.

(5) to (7) [Unchanged.]

L. to BB. [Unchanged.]

2640.4000 SALON SUPERVISION.

A. [Unchanged.]

B. Only one person shall be designated as a manager for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence. The responsible person shall be a licensed cosmetologist in a cosmetology salon, esthetician salon or manicurist salon; a licensed esthetician in an esthetician salon or a licensed manicurist in a manicure salon.

C. to F. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Esthetician and manicure services.** ~~Esthetician services shall be provided only in a licensed cosmetology salon.~~ Esthetician services shall not be offered in a manicurist salon. Manicurist services shall not be offered in a licensed esthetician salon.

Subp. 5. to 6. [Unchanged.]

Subp. 7. **~~Booth license~~ Independent contractor.** A ~~Minnesota licensed~~ cosmetologist, esthetician, or manicurist ~~manager,~~ licensed by the state of Minnesota may lease work space from a licensed salon ~~and operate that space~~ for use as an independent business ~~upon obtaining a booth license. An applicant for a booth license shall meet~~ if the following ~~requirements~~ conditions are met:

A. the ~~applicant~~ lessee shall ~~hold~~ have a current Minnesota ~~manager~~ manager's license~~.~~;

B. the ~~applicant shall provide documentation of~~ leased work space ~~from a licensed Minnesota salon. The work space~~ shall be at least 50 square feet for a cosmetologist or esthetician and 35 square feet for a manicurist~~.~~ ~~The lease shall include provisions regarding responsibility for keeping records of hours worked by the booth licensee, maintenance responsibilities of the booth licensee, use of salon equipment, purchase of supplies, professional liability insurance coverage, and other agreements reached by the parties.~~;

C. the ~~applicant~~ lessee shall ~~provide evidence of coverage by~~ have professional liability insurance in the amount required for salon ~~licensees~~ licenses. It ~~shall be~~ is acceptable for the salon owner's professional liability policy to ~~cover the booth licensee.~~ provide coverage to the lessee;

D. the ~~applicant~~ lessee shall ~~be responsible for operating his or her work space in full compliance with these rules~~ comply with all requirements of this chapter regarding the operation of the leased space as if the space were a salon; and

E. the owner and/or manager of the salon from whom the space is leased must confirm that the lessee is in compliance with the requirements of this subpart prior to entering into the lease and at all times during its term.

2640.5100 COMPLIANCE BY PRESENT LICENSEES AND STUDENTS.

Subpart 1. **Scope.** All individual licenses in effect on ~~the effective date of these rules~~ April 1, 1983, shall continue to be valid under the following circumstances.

Subp. 2. [See repealer.]

Subp. 3. **Senior instructor licenses.** Senior instructor licenses are discontinued. Current senior instructor licenses shall be renewed as instructor licenses. Senior instructor licenses which expire before January 1, 1988, shall not be ~~renewed upon compliance with~~ required to satisfy the requirements of part 2640.1900~~, subparts 1 and 3 to 5. Licenses which expire on or after January 1, 1988, shall be renewed upon compliance with part 2640.1900, subparts 1, 2, item B, and 3 to 5~~.

~~In addition to these requirements, all individuals holding licenses as senior instructor or instructor shall comply with the~~

~~requirements of part 2640.1500, item B on or before December 31, 1984. Failure to do so shall result in revocation of license.~~

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. **Salons and booths, temporary exemptions.** Salons and booths licensed on April 1, 1983, shall be exempt from the following provisions until January 1, 1988:

A. Part 2640.3700, subparts 1, 2, and 4, item B until replacement~~, and subpart 7 until July 1, 1984~~;

B. and C. [Unchanged.]

Subp. 7. [See Repealer.]

Subp. 8. **Interpreters.** Foreign language students whose enrollment registration is on file in the office on ~~the effective date of these rules~~ April 1, 1983, may use an interpreter at the examinations, provided that they have first demonstrated to the ~~director~~ office that they have a sufficient grasp of the English language to read, comprehend, and follow chemical product labels and instructions.

Subp. 9. [See repealer.]

Subp. 10. **Variances.** The director may grant a variance from physical requirements to schools ~~a variance from physical requirements~~ not otherwise exempted by this rule upon receipt of documentation demonstrating an existing physical limitation or economic hardship in excess of reasonably anticipated costs of meeting the requirement. ~~All requests for variance shall be submitted prior to May 15, 1983.~~

2640.5200 SCHOOL LICENSURE.

Subpart 1. **Application contents.** The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the office, on forms supplied by the office, giving the following information:

A. to C. [Unchanged.]

D. ~~the daily and weekly class schedule;~~

~~E.~~ evidence of the school's compliance with local zoning requirements and the rules of the Minnesota Department of Health, ~~State Building Code and Standards, and the State Fire Marshall~~ local building codes, fire codes, and ordinances;

~~F.~~ E. the name of the licensed manager who will be employed by the school, including that individual's license number and expiration date;

~~G.~~ F. a roster of all instructors, including license number, designation of employment status (full-time or part-time) and days of the week and hours scheduled for instruction;

~~H.~~ G. a diagram of the school drawn to scale on 8-1/2 inches x 11 inches or 8-1/2 inches x 14 inches paper, providing the dimensions of the school as a whole and designating the size and location of all entrances and exits, and the location and dimensions of all required areas and facilities;

~~I.~~ H. a complete inventory of facilities and equipment supportive of instructional and clinical operations, as required by these rules;

~~J.~~ I. a designation of the licenses for which ~~preparation~~ instruction will be offered;

~~K.~~ J. a detailed outline of the courses of training to be offered, designating the preclinical and clinical curriculum, text materials, and the clinical plan designed for each license category;

~~L.~~ K. the maximum possible number of enrollees the school will be able to accommodate;

~~M.~~ L. copies of all financial aid and refund policies;

~~N.~~ M. copies of all student rules and disciplinary policies;

~~O.~~ N. a copy of the standard enrollment contract;

~~P.~~ O. copies of all written material used to solicit prospective students, including but not limited to tuition, refund, and fee schedules, catalogs, brochures, and all recruitment advertisements; and

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~~Q.~~ P. a current balance sheet, income statement, or evidence of sufficient financial worth to conduct a school and to meet its financial obligations.

Subp. 2. to 5. [Unchanged.]

2640.5300 MAINTAINING A SCHOOL LICENSE.

Subpart 1. [Unchanged.]

Subp. 2. **Notification of changes.** Each school shall notify the office within 30 days of the effective date, unless otherwise indicated below, and in writing, of all alterations, additions, and deletions in the information contained in its original license application, and supply current information, including but not limited to:

A. changes in managerial or instructional staff including additions and terminations, or changes in employment status (full-time, part-time, or number of hours worked). The school shall notify the office of all such changes within ~~three~~ ten days of the effective date of the change;

B. ~~changes in any written material and advertising used to solicit prospective students;~~

~~C.~~ changes in the education services or course of training offered, the curriculum, text materials, or clinical experience plan;

~~D.~~ C. remodeling or significant alteration of the physical plant in which the school is housed~~;~~

~~E. the most current balance sheet, income statement, or evidence of financial worth shall be submitted to the office on January 1 of each year~~.

Subp. 3. [Unchanged.]

2640.5500 DELINQUENT SCHOOL LICENSES.

Failure to renew a school license prior to its expiration date shall result in a delinquent license. The applicant shall comply with the following:

A. If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written application for renewal of license, the license fee, and the ~~required late penalty~~ processing fee.

B. [Unchanged.]

2640.5800 BASIC REQUIREMENTS FOR SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Employment of licensed instructors.** No cosmetology school shall employ an instructor who does not hold a current Minnesota cosmetology instructor license. A school may use ~~occasional~~ guest instructors ~~or lecturers~~ who do not hold a cosmetology license to provide supplemental information to students from related fields, such as medicine, public relations, or law. Guest instruction and extracurricular educational activities shall constitute no more than three percent of the hours of the total course of study.

Subp. 4. [Unchanged.]

Subp. 5. **Change of name.** The school owner or manager shall inform the office, in writing, of a name change~~, in writing, 30~~ within 60 days ~~before~~ of the effective date of the change and pay the school name change fee. A license will be issued in the new name for the unexpired term of the old license, which shall be returned to the office upon receipt of the license in the new name.

Subp. 6. and 7. [Unchanged.]

2640.5900 FACILITIES REQUIREMENTS FOR LICENSURE.

In addition to the requirements of parts 2640.5200 and 2640.5800, the requirements contained in parts 2640.6000 to ~~2640.6200~~ 2640.7500 shall be met by the school before a license will be issued. Compliance with these requirements shall be confirmed by an inspection by cosmetology unit staff. The license shall be issued after a satisfactory initial inspection.

2640.6000 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. to D. [Unchanged.]

~~E. There shall be an instructors' lounge separate from the student lounge.~~

Subp. 2. **Entrances and exits.** ~~Each school shall have at least two entrance/exit points~~ Entrances and exits must comply with the requirements of applicable local building codes and ordinances.

Subp. 3. to 5. [Unchanged.]

2640.6100 FIXTURES, FURNITURE, EQUIPMENT.

A school shall meet the following minimum requirements:

A. and B. [Unchanged.]

C. There shall be at least one facial chair, clean and in good repair, for each ~~six~~ ten enrollees. This may be a work station chair with a reclining back and attachable headrest.

D. to G. [Unchanged.]

H. There shall be at least one time clock or other reliable method of recording time to be used by the students when checking in and out of school. ~~Each student's hours shall be recorded at the beginning and end of each day and before and after lunch.~~

I. and J. [Unchanged.]

2640.6300 ADVANCED TRAINING AND DEMONSTRATIONS.

It is permissible to offer instruction in cosmetology in a place other than a licensed school of cosmetology in the following situations:

A. [Unchanged.]

B. community education classes, as defined ~~by Minnesota Statutes, chapter 155A~~ in part 2640.0100.

2640.6800 ESTHETICIAN TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of ~~approximately~~ 200 hours in the applied sciences.

(1) and (2) [Unchanged.]

E. [Unchanged.]

2640.6900 MANICURIST TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of ~~approximately~~ 150 hours in applied sciences and skills.

(1) and (2) [Unchanged.]

E. [Unchanged.]

2640.7000 REFRESHER COURSES.

A licensed cosmetology school, salon, or a professional association may plan and offer a refresher course taught by licensed instructors of at least 40 hours in length for cosmetologists, estheticians, and/or manicurists. The course shall focus on knowledge, skills, and product types related to chemical services and shall balance lectures, demonstrations, and clinical experiences. It shall be held in a licensed salon or school. Sponsors of a proposed course shall apply for office approval at least ~~45~~ ten business days prior to the course date. ~~The application shall be on a form provided by the office.~~ The course sponsor shall pay the processing fee. The course sponsor shall provide the ~~office with the name and license number of all~~ individuals who successfully pass a final course examination with course completion certificates. The class attendees are then responsible for providing a copy of the completion certificates to the Department of Commerce when required.

2640.7100 CREDIT TOWARDS ANOTHER LICENSE.

A licensed esthetician or manicurist who received his or her training within the last five years may receive the following credit for that training toward another license:

A. to C. [Unchanged.]

D. esthetician training ~~does not produce any credit toward a manicurist license~~ 100 hours credit toward a manicurist license.

2640.7700 MANAGER.

A. There shall be a manager responsible for each school at all times. ~~There shall be only one person designated as manager for each school.~~ No manager may concurrently be responsible for more than one school nor for a school and a salon. When the

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manager is not on duty, he or she shall specify a responsible person on the premises. The responsible person shall be an instructor licensed in accordance with these rules.

B. and C. [Unchanged.]

D. The manager shall ensure that all equipment required by these rules is clean and maintained in proper working condition, that proper supplies are in stock at all times, and that safety, sanitation, and operational requirements are met by the school. ~~The manager shall be responsible for recruitment and advertising materials.~~

2640.7800 INSTRUCTORS.

A. There shall be at least two licensed instructors on the school premises during the time students are present; and each school shall have a minimum ratio of one instructor for each 1 to 20 students to be accommodated; and all students shall be under the ~~direct~~ supervision of an instructor at all times when in a classroom, clinic, or other area in which they are performing cosmetology services.

(1) [Unchanged.]

(2) The school shall notify the office in writing within ~~three~~ ten days of each occurrence of failure to meet the required instructor quota.

B. to C. [Unchanged.]

D. All instructors shall wear identification badges at all times while providing training, stating their ~~full~~ name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white or gold.

2640.7900 ENROLLMENT CONTRACTS.

The student or his or her parent or guardian shall receive a fully executed copy of the contract at the time he or she signs the contract. The contract shall state the starting date of schooling. A notice stating that the licensing examination is given only in English shall accompany the contract copy provided to the student, parent, or guardian.

The school and a student who has enrolled for training because he or she failed the state examination and reciprocity applicants shall enter into a contract which specifies the precise nature of theory and clinical experience to be covered during the training course.

2640.8200 STUDENT RECORDS.

Student records shall be maintained as follows:

A. to C. [Unchanged.]

D. All student records shall be maintained by the school, or a custodian if the school ceases operation, for at least five years from the date of the student's termination or completion of training; or a transcript of the course work of each student may be kept, the transcript to contain the student's name, the date student enrolled, the date of termination of enrollment and the circumstances of termination, the total number of hours completed, and the school owner or manager's notarized signature verifying the contents of the transcript. When requested by a student or former student, copies must be provided at the cost of duplication.

E. The school shall ~~submit to the office~~ maintain the following reports for each student:

(1) a student registration form containing the student's full and correct name, course of training for which enrolled, and start date. The status of the student shall be stated as full-time or part-time, day or night classes~~. This information must be received by the office within ten days of the student's start date and shall be accompanied by the processing fee~~;

(2) [Unchanged.]

(3) certification of completion of preclinical courses. Documentation signed by the school owner or manager shall indicate that the student has successfully completed the required hours of preclinical work. A student shall not be allowed to perform any service or portion thereof in the school clinic on a client until this certification has been ~~sent~~ completed;

(4) [Unchanged.]

(5) certification of readiness to take the written examination. Documentation signed by school owner or manager, shall indicate that the student has successfully completed 1,350, 500, and 315 hours, for cosmetologist, esthetician, and manicurist respectively, of preclinical and clinical training, and is prepared to take the written state licensing examinations. This certification must be received by the ~~office~~ student before the student will be scheduled for the written examinations;

(6) documentation signed by school owner or manager, shall indicate that the student has successfully completed the course of training for which he or she enrolled~~. Included shall be~~, including documentation of the student's completion of the practical exercises, as required by parts 2640.6700, item D, 2640.6800, item D, subitem (1), and 2640.6900, item D, subitem (1), and documentation of the student's successful completion of the skills certification review, on a form provided by the office;

(7) a ~~statement~~ certification shall be ~~sent by the school to the office~~ written and maintained by the school if a student withdraws, is suspended, or expelled from his or her course of training. The certification shall be signed by the school owner or manager, shall indicate the last day on which the student was enrolled, the total number of hours the student has successfully completed as of that date, a transcript detailing the nature of those hours, and the reason for the withdrawal, suspension, or revocation. ~~This certification must be received by the office within ten days of the end of enrollment~~ A copy of a student's termination certification and/or completion of course of training certification must be provided to the student within ten days of the termination from or completion of the cosmetology training.

2640.8400 STUDENTS TO SUCCESSFULLY COMPLETE EXAMINATION WITHIN REQUIRED TIME.

~~Individuals registering as students in a school of cosmetology must complete their training, successfully~~ A license applicant must pass the examination~~,~~ and be licensed within a period of not more than ~~five~~ three years from the date of successful completion of the required training. ~~Otherwise, records of student hours and training received will no longer be considered valid for licensure in Minnesota~~ A student who does not meet this requirement will be required to complete a reactivation course or complete the required training in addition to the skills certification, whichever is greater, before making application for examination.

2640.8500 TRANSFER STUDENTS.

~~A student shall apply to the office in writing for transfer of hours from one school to another. The office shall forward to the receiving school a certified copy of the previous school's certification of withdrawal, suspension or expulsion, or of the transcript of hours completed as indicated on that certification. No school shall give credit to a student for hours completed in another school without a certification of hours from the office or from a non Minnesota licensing authority as to the total number of hours~~ When a student has paid or made arrangement to pay all applicable tuition fees to a school, that school shall certify a student's hours to another school within ten days of the student's written request. The former school may charge a nominal fee for providing this certification and transfer of hours.

2640.8600 FULL COURSE OF INSTRUCTION.

No student~~, unless licensed under provisions of Minnesota Statutes, chapter 155A,~~ shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except ~~for~~ that a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn unregulated services, and reciprocity applicants who require additional schooling may be enrolled for these purposes.

2640.8700 DISPLAY OF LICENSES.

Current licenses of all school personnel shall be conspicuously posted in the reception area ~~at approximately eye level. A two-inch by two-inch photograph of the licensee alone taken within the past three years shall be attached to each license~~.

The school's current ~~school~~ license shall be conspicuously posted ~~with the personnel's licenses~~.

2640.8800 PRE-ENROLLMENT DISCLOSURES.

~~If the school brochure does not contain~~ The following information~~, it~~ shall be given to prospective students along with ~~the brochure and other~~ any materials designed to ~~elicit~~ solicit their enrollment: minimum requirements for licensing in the fields in which the school offers instruction, tuition and all fees, the enrollment contract, refund policy, and student regulations. Prior to enrollment, written materials regarding refund policies must be discussed with and acknowledged as being understood by anyone enrolling in a cosmetology school. All written materials used to solicit prospective students shall comply with part 2640.0600. Copies of all solicitation materials shall be retained by the school for a period of five years from the last date of use.

2640.8900 SCHOOL CLINICS.

All instruction in school clinics and all work performed by students in school clinics shall comply with the operational requirements for a cosmetology salon in part 2640.3900, items A to L. In addition:

A. to D. [Unchanged.]

E. No student shall perform clinic services until he or she has successfully completed the required hours of preclinical training ~~and the school has sent to the office a certification of that completion~~.

F. [Unchanged.]

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G. All students and instructors shall be required to wear an identification badge at all times. The badges shall be at least two inches by one inch; state the student's ~~first and last~~ name; and state that the student is either a "Cosmetologist Trainee," "Esthetician Trainee," or "Manicurist Trainee." ~~A freshman is a student who has not completed the required hours of preclinical training. A senior is a student who has completed the preclinical training. Freshman badges shall be green and senior badges shall be blue. Different shades of blue may be used to designate various degrees or levels of senior students.~~ Badges shall be furnished by the school as part of tuition costs.

H. [Unchanged.]

I. Instructors shall ensure that students and instructors maintain the clinic work area in the same manner and degree as is required for salon cleanliness under part 2640.3900, ~~items~~ item O ~~to S~~.

J. Instructors shall ensure that all students working in the school clinic and all instructors observe the same personal hygiene and safety requirements as those imposed on salon practitioners in part 2640.3900, ~~items T to W~~ item P.

K. Cosmetology services shall not knowingly be performed in a school clinic on any person who has a communicable disease~~, condition,~~ or parasite.

L. [Unchanged.]

2640.9100 FEE ADJUSTMENTS, LICENSING.

Subpart 1. **Refunds.** Refunds shall be given in the following situations: overpayment; death or permanent disability before license effective date; or an individual's ineligibility for licensure. ~~Ineligible instructor and manager~~ Applicants ~~shall be refunded the license fee only. Ineligible cosmetologist, manicurist, or esthetician applicants shall~~ determined ineligible to receive a license will be refunded the license fee minus ~~the~~ any processing fee this chapter requires.

Subp. 2. [Unchanged.]

2640.9200 FEE SCHEDULE.

The fee schedule shall be as follows:

A. Three-year license fees:

(1) Cosmetologist, manicurist, esthetician, $30;

(2) Instructor, manager, $45;

(3) Salon, ~~booth,~~ $50;

(4) School, $750.

B. Penalties:

(1) ~~Late penalty, school license renewal, $100; salon and booth license renewal, $50; individual license renewal, $10;~~

~~(2) Reinstatement, $30;~~

~~(3) Insufficient funds checks, $10;~~

~~(4)~~ Reinspection fee, variable;

~~(5)~~ (2) Manager with lapsed practitioner, $25.

C. Administrative fees:

(1) Duplicate license (includes individual name or address change), ~~$10~~ $5;

(2) Certificate of identification, $20;

(3) ~~Examination fees, written exam (cosmetologist, manicurist, esthetician), $8; written exam (manager or instructor), $12; practical exam, $18;~~

~~(4)~~ Processing fee (covers ~~student enrollment, course evaluation, verification of hours/training experience~~ licensing history or certification of licensure, restoration of lapsed license, salon name change, school name change, late renewals), $15;

~~(5) School name change, $100;~~

~~(6)~~ (4) School original application, $150.

2640.9400 REQUEST FOR WAIVER.

A written request for waiver of specific rule requirements may be granted by the commissioner in cases of hardship or medical necessity.

REPEALER. Minnesota Rules, part 2640.5100, subparts 2, 4, 5, 7, and 9 are repealed. Minnesota Rules, part 2640.5100, subparts 6 and 8 are repealed effective January 1, 1988.

Department of Human Services

Proposed Rules Relating to General Assistance Eligibility and Work Readiness

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JUNE 6, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

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

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone (612) 297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 28, 1986.

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

General Assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health." (Minnesota Statutes, section 256D.01, subdivision 1).

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.0512, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency], and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide indi-

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viduals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provision, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories of eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

A copy of this rule is available upon request for your review from:

Mike Sirovy
Assistance Payments Division
Department of Human Services
444 Lafayette Road, 2nd Floor
St. Paul, MN 55101
Telephone (612) 297-2011

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

The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Rae Bly.

10 April 1986

Leonard W. Levine, Commissioner
Department of Human Services

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th floor on June 6, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. 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.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is

to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

General assistance is a public assistance authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health." (Minnesota Statutes, section 256D.01, subdivision 1.)

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created the general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.051, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency] and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the lcoal agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provisions, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories for eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10. The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mike Sirovy, Assistance Payments Division, Department of Human Services, 444 Lafayette Road, 2nd floor, St. Paul, MN 55101, telephone 612/297-2011.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mike Sirovy.

NOTICE: Any person may request notification of the date on which the Administration Law Judge's report will be available,

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after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be 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. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 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 Minnesota Statutes, section 10A.01, subdivision 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 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 communication 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, Minnesota, 55155, telephone 612/296-5615.

10 April 1986

Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed

9500.1200 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 9500.1200 to ~~9500.1256~~ 9500.1270 establish the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance as they pertain to the administration of the general assistance program.

Subp. 2. [Unchanged.]

9500.1206 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1200 to ~~9500.1256~~ 9500.1270 and 9500.1300 to 9500.1320, the following terms have the meanings given them.

Subp. 2. to 19. [Unchanged.]

Subp. 19a. **Local labor market.** "Local labor market" means the geographic area in which a registrant can reasonably be expected to search for suitable employment. The geographic area must be limited to an area within two hours' round trip of the registrant's residence, exclusive of time needed to transport his or her children to and from child care.

Subp. 20. to 31. [Unchanged.]

Subp. 32. **Suitable employment.** "Suitable employment" means a job within the local labor market that:

A. and B. [Unchanged.]

C. pays at least the minimum wage prescribed by state or federal law and provides more than ~~60~~ 80 hours of work per month; and

D. includes employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options, but does not include temporary day labor.

Subp. 33. [Unchanged.]

Rules as Proposed (all new material)

9500.1258 CATEGORIES OF ELIGIBILITY.

Subpart 1. **Categories of ongoing eligibility.** When the local agency determines the composition of an applicant's or recipient's assistance unit under part 9500.1209, subpart 3, as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986) the local agency must determine whether the applicant or recipient meets the conditions of one or more of the categories of eligibility under the following items:

A. The applicant or recipient suffers from a permanent illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment.

B. The applicant or recipient suffers from a temporary illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment for a period of at least 15 days and, if a rehabilitation plan is specified in the medical certification, the applicant or recipient is following the rehabilitation plan. An applicant or recipient is eligible under this item only for the period of the illness, injury, or incapacity.

C. The applicant or recipient is needed at home on a substantially continuous basis because another individual who resides with the applicant or recipient requires care due to the age or medically certified illness, injury, or incapacity of the other individual. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself.

D. The applicant or recipient is residing in a facility licensed under Minnesota Statutes, sections 245.781 to 245.812 and certified under Minnesota Statutes, chapter 144 for purposes of physical or mental health or rehabilitation, or in a chemical dependency domiciliary facility licensed under parts 9530.2600 to 9530.4000 or 4625.0100 to 4625.2300. Residence in the facility must be due to illness or incapacity and based on a plan developed or approved by the director of the local agency.

E. The applicant or recipient resides in a shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3.

F. The applicant or recipient is enrolled as a full-time student and is or may be eligible for displaced homemaker services, programs, or assistance under Minnesota Statutes, section 4.40.

G. The applicant or recipient is unable to communicate in the English language as assessed by an English as a second language specialist, a vocational specialist, or the local agency.

H. The applicant or recipient does not meet the condition in item A, B, or D but is medically certified as having mental retardation or mental illness.

I. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program, or a pending appeal of the denial of an application or termination from those programs.

J. The applicant or recipient is unable to obtain or retain suitable employment due to advanced age.

K. The applicant or recipient is completing high school.

L. The applicant or recipient is a minor child who resides with his or her parent or stepparent, or an adult who resides with one or more of his or her minor children or the minor children of his or her spouse.

M. The applicant or recipient meets one or more of the following:

(1) lives more than two hours round trip from all potential suitable employment, not including time needed to transport his or her children to and from child care;

(2) is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day;

(3) is in the last trimester of pregnancy;

(4) is evaluated by a vocational specialist or a vocational advisor and is found to be unable to obtain or retain suitable employment;

(5) exhibits severe symptoms of chemical dependency but refuses evaluation or treatment;

(6) exhibits evidence of severely diminished functioning in areas of daily living such as social skills or personal relations;

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(7) shows circumstances, at the time of application for general assistance, that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or anticipated receipt of income, and the applicant has not received general assistance under this condition for at least 60 days; or

(8) is completing a GED program, the time commitment of which precludes participation in work readiness.

N. The applicant or recipient is certified under part 3320.0025 [Emergency] by the commissioner of the Department of Economic Security before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment.

O. The applicant or recipient is medically certified as being learning disabled. For purposes of this item, ''learning disabled'' means the individual has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. It does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; of mental retardation; of emotional disturbance; or of environmental, cultural, or economic disadvantage. The condition must severely limit the individual in obtaining, performing, or maintaining suitable employment.

P. The applicant or recipient is functionally illiterate. For purposes of this item, ''functionally illiterate'' means the individual is unable to read at or above the eighth grade level. An applicant or recipient shall be determined functionally illiterate according to subitems (1) to (3):

(1) The local agency may determine that the applicant or recipient is obviously functionally illiterate based on personal observations and information in the applicant's or recipient's case file.

(2) If an applicant or recipient is not determined to be functionally illiterate as provided in subitem (1), but the local agency believes that the applicant or recipient may be functionally illiterate, or if the applicant or recipient asserts or presents evidence that he or she may be functionally illiterate, the local agency shall offer the applicant or recipient the opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the applicant or recipient and in time to allow a determination of eligibility within the time limits prescribed under Minnesota Statutes, section 256D.07, that takes into account the results of the test. The local agency shall either administer the test or offer to make the arrangements for the test. If the applicant or recipient attains a score lower than the eighth grade, he or she shall be considered functionally illiterate unless the local agency determines, through compelling evidence documented in the applicant's or recipient's case file, that there is a substantial likelihood that the test result is inaccurately low.

(3) If, in accordance with subitem (2), the local agency determines that an applicant's or recipient's standardized test score is inaccurately low, the local agency shall inform the applicant or recipient that he or she may seek certification of the functional illiteracy from a licensed psychologist, or an individual licensed under parts 8700.3800, 8700.5300, 8700.5406, 8700.5500, 8700.5800, 8700.6300, or 8700.6310, or an individual with the equivalent or higher qualifications. The local agency shall provide the applicant or recipient with a list of individuals or agencies in the county who are qualified to make the certification. The applicant or recipient is considered functionally illiterate if the certification specifies that he or she cannot read at or above the eighth grade level.

Subp. 2. **Categories providing for six months of eligibility.** An applicant who is not eligible for general assistance under subpart 1, but who meets the conditions of part 9500.1209, subpart 4, as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986) and who has received six months of work readiness services and payments is eligible to receive general assistance for a maximum of six months during any consecutive 12-calendar month period if the conditions in item A or B are met:

A. the individual is medically certified as having borderline mental retardation, as defined in part 9500.1302, subpart 2; or

B. the individual is certified by a qualified professional, as defined in part 9500.1302, subpart 6, as exhibiting perceptible symptoms of mental illness and the mental illness interferes with medical certification of the individual's condition.

After issuing the monthly general assistance payment during the sixth and final month, the local agency shall provide the recipient with written notice of his or her termination from general assistance, of the right to appeal as specified in part 9500.1260, and notice that the recipient may be eligible for work readiness services and payments if he or she meets the criteria of part 9500.1306, subpart 3.

9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subpart 1. **Determination of ineligibility and right to appeal.** Upon determining that an applicant or recipient is ineligible for general assistance, the local agency shall inform the applicant or recipient of the determination and of the right to appeal the determination under Minnesota Statutes, section 256.045.

Subp. 2. **Work readiness notice.** Upon determining that an applicant or recipient is not eligible for general assistance because he or she does not meet a category of eligibility under part 9500.1258, the local agency shall inform the individual of the availability of its work readiness program and shall determine the individual's eligibility for services and payments under part 9500.1306, subpart 3. If an applicant or recipient is eligible for work readiness services and payments, he or she shall be informed that an appeal of the

general assistance determination of ineligibility may be made under Minnesota Statutes, section 256.045 while receiving work readiness services and payments. If the applicant or recipient subsequently wins the appeal, the assistance received under the work readiness program pending appeal must be considered general assistance. The local agency shall also inform the individual that eligibility for work readiness services and payments is time limited.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. **Requirements for continued eligibility for specific categories of ongoing eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 1, item G or L, and who is not eligible under another category of eligibility under part 9500.1258, must comply with the following requirements as conditions for continued eligibility.

A. Recipients who are eligible under part 9500.1258, subpart 1, item G shall participate in an English language skills program if assigned to a program by the local agency. If the recipient does not participate in the assigned English language skills program, the recipient must be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. Adult recipients who are eligible for general assistance under part 9500.1258, subpart 1, item L, must comply with the following:

(1) If all of the minor children are six years of age or older, the adults must participate in and comply with the work readiness program.

(2) If one or more of the minor children are under the age of six and two adults are eligible under part 9500.1258, subpart 1, item L, one adult must participate in and comply with the work readiness program.

(3) An adult who is required to participate in and comply with the work readiness program under subitem (1) or (2) who does not participate in and comply with the requirements of the work readiness program must be disqualified from general assistance as provided in part 9500.1266. The standard of assistance applicable to the disqualified member's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 2. **Requirements for continued eligibility under categories of six-month eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 2 must comply with the following requirements to remain eligible for general assistance:

A. A recipient certified as exhibiting perceptible symptoms of mental illness as provided by part 9500.1258, subpart 2, item B must cooperate with social services, treatment, or other reasonable plans developed by the local agency to address the illness. If the local agency determines that the recipient has failed, without good cause, to comply with the plan, the recipient shall be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. The local agency may assign a recipient who is eligible for general assistance under part 9500.1258, subpart 2 to the work readiness program for work readiness services. A recipient so assigned must comply with the work readiness program requirements established by the local agency. If the local agency determines that the recipient has failed, without good cause, to comply with work readiness requirements, the recipient is disqualified from receiving general assistance as provided in part 9500.1266.

9500.1264 NOTICE OF DISQUALIFICATION.

If the local agency determines that a recipient must be disqualified for failing to comply with the requirements of part 9500.1262, the local agency shall notify the recipient of the determination. The notice must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the recipient not later than ten days before reducing, suspending, or terminating the monthly payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

9500.1266 DISQUALIFICATION.

A recipient who fails, without good cause, to comply with the requirements of part 9500.1262, is disqualified from receiving general assistance as provided in items A to D.

A. The period of disqualification is two months for each occurrence.

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B. The disqualification period begins on the first calendar day of the month following the month in which the recipient is finally determined to have failed to comply. If the determination is made so late in a month that prior notice under part 9500.1264 cannot be given, the disqualification period begins on the first calendar day of the second month following the finding of noncompliance.

If the recipient appeals on or before the proposed disqualification date, the disqualification process must stop and assistance will continue under part 9500.1268 until a final decision is made. If the final decision is that the recipient is disqualified, the disqualification period begins on the first day of the month following the final decision.

C. If an individual who is disqualified applies for general assistance during the period of disqualification, the individual is considered a recipient and the application shall be denied.

D. If a recipient who received a notice of disqualification complies with the requirements of part 9500.1262, on or before the effective date of the disqualification, assistance must be continued without a period of disqualification.

9500.1268 APPEAL OF DISQUALIFICATION.

A recipient who is disqualified from receiving general assistance under part 9500.1266 may appeal the decision. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If appeal is made on or before the effective date of the disqualification and the recipient is otherwise eligible, he or she shall continue to receive general assistance while the appeal is pending.

9500.1270 SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

The local agency may provide general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if the applicant, recipient, or registrant does not have a residence address. The local agency may provide separate vouchers or vendor payments for food, shelter, and other needs and may divide the monthly assistance standard into daily or weekly payments, whether in cash or by voucher or vendor payment, until the applicant, recipient, or registrant has secured an address at which he or she resides. If the local agency elects to use these provisions, the local agency shall either provide for the individual's needs through placement in a negotiated rate facility, or provide for all of the individual's food, shelter, or other daily needs, regardless of the standard of assistance. For purposes of this part, ''address'' includes migrant labor camp as defined in part 4630.4800, subpart 3.

9500.1300 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 9500.1300 to 9500.1318 is to establish standards for the work readiness program provided to eligible registrants by local agencies.

Subp. 2. **Applicability.** Parts 9500.1300 to 9500.1318 apply to applicants and registrants in the work readiness program, to applicants and recipients of general assistance, and to local agencies that are required to administer the work readiness and general assistance programs under Minnesota Statutes, sections 256D.051, 256D.09, subdivision 4, 256D.101, and 256D.111, subdivision 5. Parts 9500.1300 to 9500.1318 must be read together with parts 9500.1200 to 9500.1270. When parts 9500.1300 to 9500.1318 conflict with parts 9500.1200 to 9500.1270, parts 9500.1300 to 9500.1318 prevail.

9500.1302 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1300 to 9500.1318, the following terms have the meanings given them.

Subp. 2. **Borderline mental retardation.** ''Borderline mental retardation'' means the condition of an individual who has demonstrated deficits in adaptive behavior and intellectual functioning that is at least one but less than two standard deviations below the mean of a professionally-recognized standardized test. The condition must limit the individual in obtaining, performing, or maintaining suitable employment.

Subp. 3. **Distressed county.** ''Distressed county'' means a county or a designated portion of a county with an average unemployment rate of ten percent or more as determined annually by the commissioner of the Department of Jobs and Training.

Subp. 4. **Employment assistance programs.** ''Employment assistance programs'' means the Minnesota employment and economic development (MEED) program and other programs offered by public or private agencies that provide services to develop, enhance, or promote an individual's employability, job placement, and training.

Subp. 5. **Misconduct.** ''Misconduct'' means conduct that would result in the disqualification of a claimant for unemployment insurance benefits under Minnesota Statutes, section 268.09, subdivision 1, clauses (2) and (3).

Subp. 6. **Qualified professional.** ''Qualified professional'' means a social worker employed by the local agency, a social worker with a master's degree in social work, a licensed consulting psychologist, a licensed psychologist, a licensed physician or psychiatrist, or a public health nurse.

Subp. 7. **Registrant.** ''Registrant'' means an individual who has applied for work readiness services and payments, who has been

determined eligible for those services and payments by the local agency, and who has elected to begin receiving those services and payments. "Registrant" also means a recipient who is required to participate in the work readiness program under part 9500.1262.

Subp. 8. **Vocational advisor.** "Vocational advisor" means an individual employed by or under contract with the local agency who has sufficient education, training, or experience to identify the types of available suitable employment in a registrant's local labor market and the qualifications required for that employment; to identify the registrant's physical, social, vocational, and educational barriers to obtaining available suitable employment; and to identify the types of services and activities necessary to enable the registrant to overcome the barriers and obtain suitable employment.

9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION.

Subpart 1. **Requirement to provide a work readiness program.** Each local agency shall provide a work readiness program. The program must provide work readiness services and payments to all applicants residing within the local agency's jurisdiction who meet the eligibility conditions of part 9500.1306, and must provide work readiness services to adult recipients of general assistance who are eligible under part 9500.1258, subpart 1, item L. The local agency may continue to provide work readiness services to recipients of general assistance who are categorically eligible under part 9500.1258, subpart 2.

Subp. 2. **Preparation of work readiness program description.** Each local agency shall develop a written description of its work readiness program. The description must:

A. meet the standards established in part 9500.1252;

B. identify the work readiness program's purpose, service components, operating procedures, and service provider;

C. contain a summary of work readiness program requirements including a registrant's responsibility to cooperate when the local agency assesses the registrant's employability and prepares the registrant's employability development plan; and

D. state that a period of disqualification will be imposed for failure to comply with work readiness requirements.

Subp. 3. **Distribution of work readiness program description.** The local agency must give a copy of the work readiness program description to an applicant at the time he or she applies for general assistance or work readiness, and to any individual upon request.

Subp. 4. **Filing of program description.** The local agency must file a copy of its work readiness program description with the commissioner annually, on January 1. The local agency must also file a copy of amendments to its work readiness program description with the commissioner at the time it makes the amendments.

9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

Subpart 1. **Assessment of general assistance eligibility.** Before determining an applicant's eligibility for work readiness services and payments, the local agency must determine the applicant's need for emergency general assistance under Minnesota Statutes, section 256D.07, and the applicant's eligibility for the general assistance program under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the applicant is eligible for general assistance, the applicant is ineligible for work readiness services and payments except as provided in part 9500.1262, subparts 1, item B, and 2. If the applicant is ineligible for general assistance, the local agency shall notify the applicant of the determination and of the right to appeal the decision as provided under part 9500.1260.

Subp. 2. **Work readiness application.** A completed application for general assistance is considered to be a completed application for the work readiness program effective on the date that the local agency determines the applicant ineligible for general assistance. A registrant shall not be required to complete a new application for general assistance when the local agency is determining the registrant's eligibility for general assistance under part 9500.1316, subpart 2, or 9500.1258, subpart 2.

Subp. 3. **Eligibility criteria.** If the local agency determines that the applicant is ineligible for general assistance, it must determine the applicant's eligibility for the work readiness program. An applicant or registrant is eligible for the work readiness program if the applicant or registrant meets the conditions in items A to D:

A. The applicant or registrant is not categorically eligible for general assistance under part 9500.1209, subpart 3, item A as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986).

B. The applicant or registrant meets the eligibility requirements under part 9500.1209, subpart 4 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the applicant or registrant is married and resides with his or

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her spouse, the income and property of the applicant or registrant and his or her spouse shall be considered in accordance with part 9500.1209, subpart 4, as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986).

C. The applicant or registrant has not exhausted his or her eligibility period as provided by part 9500.1312.

D. The applicant or registrant is not in a disqualification period under part 9500.1254, 9500.1266, or 9500.1316.

9500.1308 REQUIREMENT TO INFORM APPLICANTS.

Subpart 1. **Duty to inform applicants of ineligibility for the work readiness program.** Upon determining an applicant ineligible for the work readiness program, the local agency must inform the applicant of the determination and the right to appeal as provided in part 9500.1318.

Subp. 2. **Duty to inform eligible applicants of work readiness requirements.** At the time the local agency determines that an applicant is eligible for the work readiness program, the local agency must provide the applicant with a notice of the determination on a form prescribed by the commissioner, a copy of the program description prescribed under part 9500.1304, subpart 2, and a written notice meeting the standards established in part 9500.1252, which informs the applicant of:

A. the limited time during which the applicant may be eligible for work readiness services and payments;

B. the applicant's right to choose the months in which he or she will receive work readiness services and payments, including the option to elect to receive work readiness services and payments immediately; and

C. the disqualification that will be imposed if a registrant is terminated from suitable employment for misconduct, quits suitable employment without good cause, refuses without good cause to accept an offer of suitable employment, or fails, without good cause, to comply with other work readiness program requirements.

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. **Requirement of concurrent services and payments.** In order for a monthly work readiness payment or a month of work readiness services to count toward the two or six month limitation on eligibility for the work readiness program, as provided by part 9500.1312, the registrant must receive work readiness services during the month that work readiness payments are made. Upon an eligible applicant's election to begin receiving work readiness services and payments, the local agency shall provide the services and payments to the registrant. If the written employability assessment and the employability development plan are not completed within the first month of an election to receive work readiness services or payments, that month must not be counted against a registrant's total months of work readiness eligibility, provided the registrant did not fail, without good cause, to cooperate with the assessment and plan development. A month during which a registrant fails to comply with the requirements of the work readiness program but for which the registrant receives a work readiness payment shall be considered a month during which work readiness services and payments were received.

Subp. 2. **Work readiness services.** The following services must be provided to a work readiness registrant;

A. In consultation with the registrant, a vocational advisor shall complete a written employability assessment. The assessment must include an examination of the registrant's education, training, prior work experience, and suitable employment that is or may become available, and must identify barriers to the registrant successfully seeking and securing suitable employment.

B. The vocational advisor shall develop a written employability development plan for each registrant within the first 30 days that work readiness services are provided to a registrant. The plan must be based on the assessment provided under item A and the vocational advisor's knowledge of the level of competition for employment that is or may become available, and must be designed to address the registrant's barriers to employment and prepare the registrant for suitable employment. The registrant must be given a copy of his or her plan and the plan must:

(1) include an estimation of the length of time it will take the registrant to obtain suitable employment;

(2) require the registrant to accept any offer of suitable employment;

(3) provide for referral to appropriate employment assistance programs;

(4) require a registrant to spend at least eight but no more than 32 hours per week in job search or other work readiness activities;

(5) specify that the registrant's job search requirements, which must be limited to the local labor market, must be reasonable, and must be based upon the assessment performed under item A;

(6) specify any other reasonable activities designed to prepare the registrant for permanent suitable employment that are required of the registrant; and

(7) include provisions for assessing the registrant's progress in securing suitable employment.

C. No work readiness program shall require a registrant to travel to a potential job, training, or other activity site unless the local agency provides funds to the registrant, in addition to the monthly program payment, to cover the cost of the transportation or unless transportation is otherwise available to the registrant without cost, or is unnecessary.

D. A registrant who is categorically eligible under part 9500.1258, subpart 1, item L, and who is the sole parent or stepparent residing with one or more children under the age of 12 shall not be required to participate in any work readiness program activities during hours in which the child is at home unless the local agency provides funds to the registrant, in addition to the monthly program payment, to cover the cost of child care, or unless child care is otherwise available to the individual without cost.

E. A local agency that requires a registrant to participate in any type of employment experience program shall require that the employment experience program meet the standards established in Minnesota Statutes, section 256D.113, and that the work to be done is not work ordinarily performed by a regular public employee.

F. A local agency may contract with a public or private entity to perform any or all of the services prescribed by this subpart if the entity can document that it has the resources and expertise necessary to perform the services. A contract entered into under this item must contain a description of the services to be performed under the contract. The local agency must monitor the entity to ensure that it is performing the services required under this subpart and specified in the contract. Upon request, the local agency shall provide the department with a copy of the contract and a description of the resources and expertise of the entity under contract with the local agency.

Subp. 3. **Work readiness payments.** A registrant who meets the eligibility conditions of part 9500.1306, subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility. If the registrant is married and lives with his or her spouse, the couple is considered a filing unit comprised of two individuals. If the registrant's spouse is also a registrant, the couple shall be considered one assistance unit composed of two persons for purposes of determining the applicable standard of assistance, the amount of countable income, the amount of real and personal property, and the monthly work readiness payment amount.

The payment amount must be equal to the amount of assistance that would be paid to the registrant's assistance unit if the assistance unit was eligible for general assistance under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the registrant resides with his or her spouse and the spouse receives general assistance, the monthly work readiness payment to the registrant under this part must be equal to the amount the general assistance monthly payment made to the registrant's spouse would increase if the registrant were added to the spouse's general assistance grant.

The first work readiness payment must be prorated for the period beginning with the effective date of the completed application for the work readiness program, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services and payments, whichever is later, and ending with the last day of that month. Subsequent work readiness payments must be made monthly on the first day of the month. A registrant shall continue to receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306. The final payment must be prorated to cover the number of days equal to the number of days in the registrant's first month of work readiness services and payments which were not covered by the registrant's first work readiness payment. Emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

9500.1312 ASSESSMENT DURING SECOND MONTH; NOTICES TO REGISTRANTS.

Subpart 1. **Required assessment.** Except for registrants participating in work readiness under part 9500.1262, the local agency shall conduct an assessment of the registrant's progress in securing suitable employment and an assessment of the registrant's eligibility for an additional four months of work readiness services and payments during the registrant's second month of work readiness services and payments under part 9500.1310.

The local agency must offer the registrant an opportunity to meet with the local agency and to provide information relevant to the assessment. If the registrant does not meet with the local agency or provide information relevant to the assessment, the local agency must complete the assessment based on the information contained in the registrant's case file.

Subp. 2. **Notice of assessment.** When the second work readiness payment is mailed or given to the registrant, the local agency shall provide a written notice meeting the standards established under part 9500.1252 to inform the registrant that the local agency will be assessing the registrant's eligibility for an additional four months of work readiness services and payments. The notice must include the following:

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A. The notice must identify the conditions that must be met in order for the registrant to be eligible for an additional four months.

B. The notice must inform the registrant that the registrant will not receive work readiness payments beyond the second month until the assessment has been completed and the registrant found eligible for four additional months.

C. The notice must offer the registrant an opportunity to meet with the local agency in order to provide information relevant to the assessment.

D. The notice must inform the registrant that the registrant has a right to submit to the local agency information relevant to the determination within ten days from the date that the notice is mailed or given to the registrant.

Subp. 3. **Assessment of additional eligibility.** A registrant is eligible for four additional months of work readiness services and payments if the registrant meets one or more of the following conditions:

A. The registrant lives in a distressed county.

B. The registrant is medically certified as having borderline mental retardation.

C. The registrant is certified by a qualified professional as exhibiting perceptible symptoms of mental illness but the registrant is not eligible for general assistance under part 9500.1258, subpart 1, because the mental illness interferes with the medical certification process.

D. The registrant, as determined by a vocational advisor, cannot reasonably be expected to secure suitable employment given the registrant's work history, skills, education, physical and mental ability, and the availability of suitable employment.

If the local agency believes that the registrant may have borderline mental retardation, or if the registrant or a representative of the registrant asserts that he or she has borderline mental retardation, the local agency shall seek medical certification of the registrant's condition. If medical certification establishes that the registrant has borderline mental retardation, the condition in item B is met.

If the registrant's behavior, mood, conduct, or appearance suggests or demonstrates that the individual has a mental illness, or if the registrant or a representative of the registrant asserts that the registrant has a mental illness, the local agency shall seek medical certification of the registrant's condition. If the registrant's mental illness interferes with the medical certification, the local agency shall seek an assessment of the registrant's condition from a qualified professional. If the qualified professional certifies that the registrant exhibits symptoms of mental illness, the condition in item C is met.

Subp. 4. **Notice of determination.** If the local agency determines through the assessment that the registrant meets one or more of the conditions in subpart 3, items A to D, the local agency must notify the registrant that he or she is eligible for work readiness services and payments for a combined total of six months in any consecutive 12-calendar month period. If the local agency determines, upon completion of the assessment under subpart 1, that the registrant does not meet one or more of the conditions in subpart 3, items A to D, the local agency must terminate the registrant's work readiness services and payments effective at the end of the registrant's second month of participation in the work readiness program. If the local agency determines that the registrant is ineligible for continued work readiness services and payments, the local agency shall notify the registrant of its determination and that the registrant is not eligible to receive work readiness services and payments for more than two months during any consecutive 24-calendar month period.

Subp. 5. **Registrant moves to another county after second month assessment is completed.** If a registrant moves to another county after the second month assessment required under subpart 1 is completed, the new county of residence must complete another second month assessment and determine the registrant's eligibility for additional work readiness services and payments. A registrant shall not receive more than a total of six months of work readiness services and payments in any consecutive 12-month period, regardless of the number of assessments conducted.

Subp. 6. **Notice of termination.** A registrant who is in the last month of his or her two or six months of work readiness services and payments shall be notified of the termination of services and payments and of the appeal rights in accordance with the procedures specified in part 9500.1318.

9500.1314 REGISTRANT DUTIES.

A registrant shall comply with all requirements of the local agency work readiness program as explained under part 9500.1308, subpart 2, and specified in the employability development plan provided under part 9500.1310, subpart 2, item B. Except for registrants participating in work readiness under part 9500.1262, a registrant who fails, without good cause, to comply with the local agency work readiness requirements shall be disqualified from the receipt of work readiness services and payments under part 9500.1316.

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1. **Determination and notice of failure to comply.** If a local agency determines that a registrant has failed to comply with the requirements of the work readiness program, the local agency must notify the registrant of its determination. The notice must

meet the standards established in part 9500.1252, and must contain the information in items A to E.

A. The notice must state the specific work readiness requirement the registrant has failed to meet and the facts that support the local agency's determination.

B. The notice must specify the particular action the registrant must take to meet the requirements.

C. The notice must specify a certain date by which the action must be taken. The registrant must be given a minimum of 15 calendar days to take the specified action following the date the notice is mailed or given to the registrant.

D. The notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date.

E. The notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency.

Subp. 2. **Disqualification.** A registrant who is notified of the local agency determination as provided in subpart 1 shall comply with the requirements of the work readiness program as stated in the notice by the specified date.

If the local agency determines that a registrant has taken the required action on or before the date specified in the notice, a period of disqualification must not be imposed. If the local agency determines that the registrant failed, without good cause, to take the required action by the specified date, the local agency must assess the registrant's eligibility for general assistance under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986), before disqualifying the registrant for not meeting the requirements.

If the local agency determines that the registrant is eligible for general assistance, the registrant shall be terminated from work readiness services and payments and shall be eligible for general assistance.

If the local agency determines that the registrant is ineligible for general assistance under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986), the registrant shall be disqualified from receiving work readiness services and payments.

Subp. 3. **Notice of disqualification.** The local agency shall notify the registrant of the disqualification from receiving work readiness services and payments under subpart 2 and of the registrant's appeal rights as provided in part 9500.1318.

Subp. 4. **Period of disqualification.** A registrant disqualified under subpart 2 is ineligible during the period of disqualification for any remaining or additional work readiness services or payments for which he or she would otherwise be eligible in accordance with the provisions in items A to F.

A. The period of disqualification shall be two months.

B. The disqualification period begins on the first day of the work readiness payment period following the date on which the determination was made. If the notice of disqualification is given or mailed so late in a payment period that ten-day prior notice required under part 9500.1318 cannot be given, the disqualification period begins on the first day of the second work readiness payment period following the date the determination was made. If the registrant appeals on or before the proposed disqualification date, the disqualification process must stop and work readiness payments and services must continue until a final decision is made or until the registrant's period of eligibility is exhausted, whichever is earlier. If the registrant loses the appeal, the disqualification period must begin on the first day of the next work readiness payment period.

C. If an individual who is disqualified applies for the work readiness program during the period of disqualification, eligibility for work readiness services and payments must be denied.

D. Disqualification under subpart 2 must not affect a registrant's eligibility for general assistance or general assistance medical care.

E. The period of disqualification under subpart 2 must not be counted against a registrant's two months or six months of work readiness eligibility. Following a period of disqualification a registrant who has been disqualified under subpart 2 must complete a new application for work readiness and the local agency must determine if the registrant is eligible for any additional or remaining work readiness services or payments.

F. If a registrant is disqualified under subpart 2, the local agency may use vouchers and vendor payments, or both, to meet

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the financial needs of the remaining eligible members of the registrant's assistance unit. The assistance standard used must be based on the number of remaining eligible members in the registrant's assistance unit.

9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

Subpart 1. **Actions requiring notice.** The local agency shall notify an applicant or registrant of the following determinations before taking any adverse actions:

A. a determination of ineligibility for work readiness services or payments under part 9500.1306, subpart 3;

B. a determination of ineligibility for four additional months of work readiness services or payments under part 9500.1312, subpart 1;

C. a determination of disqualification from receiving work readiness services and payments under part 9500.1316, subpart 2; and

D. a determination that the registrant has exhausted eligibility to receive work readiness services and payments under part 9500.1312, subpart 3.

Subp. 2. **Notice requirements.** The notice required under subpart 1 must meet the standards established in part 9500.1252, and must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the applicant or registrant no later than ten days before the suspension, termination, or reduction of the work readiness payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which work readiness services and payments can be continued pending an appeal.

Subp. 3. **Appeal of adverse action.** An applicant or registrant who is the subject of an adverse action under subpart 1 may appeal the local agency determination. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If a registrant appeals on or before the effective date of the adverse action, the registrant, if otherwise eligible, shall continue to receive work readiness services and payments while the appeal is pending. If the registrant's appeal of an action specified under subpart 1, item A, B, or D is not upheld, the registrant shall pay back to the local agency the amount of work readiness payments received during the pendency of the appeal.

Bureau of Mediation Services

Proposed Rule Relating to Transfer of Exclusive Representative Status

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Director, Bureau of Mediation Services, proposes to amend the above-entitled rules without a public hearing. The Director has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

Persons interested in this rule are encouraged to submit comment in support of or in opposition to the proposed rule and shall have 30 days to do so. Each comment should identify the portion of the proposed rule being addressed, the reason the comment is being made, and any changes in the proposed rule which are being suggested. The proposed rule may be modified if the modifications are supported by the date and comments received by the Bureau and do not result in substantial change in the intent and purpose of the proposed rule.

Unless 25 or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing must state their name and address, and are encouraged to identify the portion of the proposed rule addressed by their request, the reason for the request, and any changes in the proposed rule which are being suggested. In the event a public hearing is required, the Bureau will proceed pursuant to Minnesota Statutes, sections 14.11-14.20.

Comments or written requests for a public hearing on these proposed rules should be submitted to:

Paul W. Goldberg, Director
Minnesota Bureau of Mediation Services
205 Aurora Avenue
St. Paul, MN 55103
(612) 296-2525

Authority to adopt this rule is contained in Minnesota Statutes, section 179A.04, subdivision 3(f). A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule and the information relied upon to support the amendment has been prepared and is available upon request from the Bureau at the above address or telephone number.

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 Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final Rule as Adopted, should submit a written request to Mr. Goldberg.

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

Copies of this notice and the proposed rule are available and may be obtained by contacting the Bureau at the above address or telephone number.

April 4, 1986

Paul W. Goldberg,
Director
Bureau of Mediation Services

Rule as Proposed

5510.1210 TRANSFER OF EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Notice.** The exclusive representative must provide advance written notice of the proposed transfer to each ~~employee~~ member of the exclusive representative in the appropriate unit. The notice must state the time and location of the meeting or meetings to be held by the exclusive representative relating to the proposed transfer.

Subp. 4. **Meeting.** The exclusive representative must hold a meeting or meetings to permit discussion of the proposed transfer at a time and location which is reasonably convenient for the majority of the ~~employees~~ members of the exclusive representative in the appropriate unit.

Subp. 5. **Election.** The exclusive representative must conduct a secret ballot election among ~~all employees~~ its members in the appropriate unit to determine approval or rejection of the proposed transfer in accordance with ~~their~~ the constitutional requirements of the exclusive representative.

Subp. 6. **Petition.** If all employees in the appropriate unit have been afforded the opportunity to become members of the exclusive representative, and if a majority of the ~~employees~~ members of the exclusive representative voting in the election required by subpart 5 vote in favor of the transfer, a petition shall be filed by the exclusive representative with the director.

Subp. 7. and 8. [Unchanged.]

Department of Revenue

Proposed Rules Relating to Revenue; Property Equalization; Public Utility Valuation

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Revenue, Property Equalization Division proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

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

Unless twenty-five or more persons submit written requests for a public hearing on the proposed rules within the 30-day com-

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ment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

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

Ronald Cook
Property Equalization Division
Minnesota Department of Revenue
P.O. Box 64446
St. Paul, MN 55164
(612) 642-0486

Authority for the adoption of these rules is contained in Minnesota Statutes, section 270.06 (14). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook, at the above mentioned address, upon request.

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

The rules proposed for adoption relate to the following matters:

1. A partial recognition of excess depreciation for utility companies which have reached maximum allowable depreciation levels.

2. A reduction in the gross amount to be added to the cost approach to value as a result of the average cost per kilowatt of installed capacity study as applied to the valuation of electric generating plants.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Ronald Cook.

Arthur C. Roemer,
Assistant to Commissioner of Revenue

Rules as Proposed

8100.0200 INTRODUCTION.

On October 19, 1973, the Minnesota Supreme Court in Independent School District No. 99, et al. v. Commissioner of Taxation, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the "Hatfield Formula," was thus invalidated as a rule of general application.

These rules are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.

Since the commissioner of revenue is by statute the assessor of some of the utility property in the state of Minnesota and has supervisory powers over all assessments of property, and may raise or lower values pursuant to Minnesota Statutes, section 270.11, ~~he~~ the commissioner will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts, and the resulting valuation will be allocated or assigned to each state in which the utility company operates. Finally, by the process of apportionment, the portion allocated to Minnesota will be distributed to the various taxing districts within the state. Most of the data used in the valuation, allocation, and apportionment process will be drawn from reports submitted to the Department of Revenue by the utility companies. These reports will include Minnesota Department of Revenue Annual Utility Reports (UTL forms), Annual Reports to the Federal Energy Regulatory Commission and Annual Reports to the Interstate Commerce Commission. Periodic examinations of the supporting data for these reports will be made by the Department of Revenue.

The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in parts 8100.0300 to 8100.0600 for ~~1982~~ 1986 and subsequent years, or until, in the opinion of the commissioner of revenue, different conditions justify a change.

As in all property valuations the commissioner of revenue reserves the right to exercise his or her judgment whenever the circumstances of a valuation estimate dictate the need for it.

8100.0300 VALUATION.

Subpart 1. **General.** Because of the unique character of public utility companies, such as being subject to stringent government

regulations over operations and earnings, the traditional approaches to valuation estimates of property (cost, capitalized income, and market) must be modified when utility property is valued. Consequently, for the ~~1985~~ 1986 and subsequent assessment years, until economic and technological factors dictate a change, the value of utility company property will be estimated in the manner provided in this chapter.

Subp. 2. [Unchanged.]

Subp. 3. **Cost approach.** The cost factor to be considered in the utility valuation formula is the original cost less depreciation of the system plant, plus improvements to the system plant, plus the original cost of construction work in progress on the assessment date. The original cost of any leased operating property used by the utility must be reported to the commissioner in conjunction with the annual utility report. If the original cost of the leased operating property is not available, the commissioner shall make an estimate of the cost by capitalizing the lease payments. Depreciation will not be allowed on construction work in progress. Depreciation will be allowed as a deduction from cost in the amount allowed on the accounting records of the utility company, as such records are required to be maintained by the appropriate regulatory agency.

Depreciation, however, shall not exceed the prescribed percentage of cost: for electric companies, 20 percent; for gas distribution companies, 50 percent; and for pipeline companies, 50 percent. If the amount of depreciation shown on the company's books exceeds these percentages, the company may deduct ten percent of the excess.

A modification to the cost approach to value will be considered by the commissioner when valuing electric utility property. The original cost of an electric utility's major generating plants will be increased if the cost of the plant falls below a certain standard. The standard to be used will be a national average of the cost per kilowatt of installed capacity. The cost per kilowatt of installed capacity is the total construction cost of the generating plant divided by the number of kilowatts the plant is capable of producing. The national average to be used will be computed by totaling the construction costs, excluding the cost of land, for major generating plants within the 48 contiguous United States. The total cost of the plants will be divided by the total generating capacity of the same plants to arrive at an average cost per kilowatt of installed capacity. A separate average will be computed for each type of plant: gas turbine, hydroelectric, and steam-electric. The plants used in the calculation will exclude nuclear electric generating plants.

The information used to compute the average will be drawn from the latest issue of the United States Department of Energy publication, Historical Plant Cost and Annual Production Expenses for Selected Electric Plants. All plants included in this publication will be used in the computation of the national average by type of plant.

An example of this computation of the national average cost per kilowatt of installed capacity is as follows:

Steam-Electric Generating Plants

Plant	Plant Cost Excluding Land	Plant Capacity
A	$ 14,000,000	100,000 kw
B	13,000,000	90,000 kw
C	17,000,000	110,000 kw
D	14,500,000	80,000 kw
E	18,000,000	120,000 kw
F	10,000,000	70,000 kw
G	19,000,000	130,000 kw
H	9,000,000	60,000 kw
I	20,000,000	140,000 kw
J	8,000,000	50,000 kw
	$142,500,000	950,000 kw

Total plant cost ($142,500,000) divided by total plant capacity (950,000 kw) equals $150 average cost per kilowatt of installed capacity.

The national average cost per kilowatt of installed capacity will be compared to the specific cost per kilowatt of installed capacity for each of the major generating plants owned by the utility being valued. If the national average cost per kilowatt is greater than the

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subject plant cost, the subject plant will have additional dollars incorporated into its cost in order to raise its cost per kilowatt to the national average. If the subject plant's cost per kilowatt equals or exceeds the national average, no cost will be added.

The following example illustrates this procedure:

XYZ Utility

Steam-Electric Generating Plants

1. Plant	#1	#2
2. Installed Capacity	100,000 kw	50,000 kw
3. Year in Service	1970	1950
4. Cost of Plant (Exclusive of Land)	$15,200,000	$5,000,000
5. Specific Plant Cost per kw	$152	$100
6. National Average Cost per kw	$150	$150
7. Deficiency	none	$ 50
8. Additional Cost (Line 7 x Line 2)	none	$2,500,000

This additional cost to be added to the original cost of the specific plant will be reduced by an allowance for pollution control equipment and an allowance for obsolescence.

The allowance for pollution control equipment will be computed annually by totaling the construction costs, exclusive of land, of all major generating plants within Minnesota by type of plant. A total will also be made of the cost of the equipment in these plants which has been approved for tax exempt status in accordance with Minnesota Statutes, section 272.02, subdivision 1, clause (9). This total will also be computed by type of plant. The total of the approved pollution control equipment will be divided by the total construction cost, exclusive of land, of the plants in order to calculate a percentage. This percentage will be the ratio of dollars spent for pollution control equipment to total dollars spent to construct a specific type of power plant. This percentage will then be used to reduce the gross additional cost to be added to the cost of the specific generating plant. An example of this process is as follows:

Steam-Electric Plants Within Minnesota

Plant	Plant Cost Excluding Land	Cost of Approved Pollution Control Equipment
A	$15,200,000	$1,500,000
B	10,000,000	1,000,000
C	5,000,000	700,000
D	20,000,000	2,000,000
E	16,500,000	1,470,000
	$66,700,000	$6,670,000

Total cost of approved pollution control equipment ($6,670,000) divided by total plant cost ($66,700,000) equals ten percent ratio of pollution control equipment expenditures to total expenditures for generating plant construction.

XYZ Utility

Steam-Electric Plant #2

1. Additional Cost Due to Computation of Average Cost per kw of Installed Capacity	$2,500,000
2. 10% Allowance for Pollution Control Equipment	250,000
3. Additional Cost to be Added after Adjustment for Pollution Control Equipment	2,250,000

The allowance for obsolescence which will be applied to the additional plant construction cost will be computed annually for hydroelectric and steam-electric generating plants. The information needed to compute the obsolescence factors will be drawn from the same publication that is used to compute the national average cost per kilowatt of installed capacity figure. Gas turbine plants will not have any obsolescence allowance applied to the additional cost added to the plants.

The obsolescence allowance for hydroelectric plants will be calculated through the use of a ''plant factor.'' The plant factor is computed by dividing the number of kilowatt hours a generating plant actually produced in a year by the number of kilowatt hours the plant was capable of producing. The plant factor is normally expressed as a percentage. The mathematical expression of this factor is: net generation (kwh) divided by annual installed capacity (hours in a year ~~X~~ multiplied by installed capacity (kw)). A standard

plant factor will be computed for hydroelectric plants by averaging the plant factors of the ten plants with the highest plant factors in the average cost per kilowatt of installed capacity study. This standard will then be compared to an average of the most recent three years' plant factor of the subject plant. The amount the subject plant deviates from the standard is the amount of obsolescence which will be applied to the added cost.

An example of this obsolescence allowance computation is shown below.

Hydroelectric Plants

Plant	Net Generation kwh (000)	Plant Capability kwh (000)	Plant Factor
A	400,150	755,000	53 %
B	300,040	577,000	52 %
C	250,000	480,000	52 %
D	600,000	1,250,000	48 %
E	896,000	1,600,000	56 %
F	700,000	1,400,000	50 %
G	507,000	975,000	52 %
H	450,000	1,000,000	45 %
I	376,000	800,000	47 %
J	810,000	1,800,000	45 %
		Average	50 %

XYZ Utility

Hydroelectric Plant #4

Year	Net Generation kwh (000)	Plant Capability kwh (000)	Plant Factor
19XX	400,000	1,000,000	40 %
19XX	500,000	1,000,000	50 %
19XX	450,000	1,000,000	45 %
		Average	45 %

Hydroelectric plant #4 plant factor (45 percent) divided by standard plant factor (50 percent) equals 90 percent. Therefore, hydroelectric plant #4 deviates from the standard by ten percent, or is ten percent obsolete.

The obsolescence allowance for steam-electric generating plants will be computed annually using two indicators. The first indicator will be the plant factor. The plant factor for steam-electric plants will be computed and applied in the same manner as the computation specified for hydroelectric plants. The only difference will be that the information used for the computation will be drawn from the latest Fossil-Fueled Steam-Electric Plant Section of the latest Historical Plant Cost and Annual Production and Expenses for Selected Electric Plants publication rather than the Hydro-Electric Plant section. Plant factors of the ten best steam-electric generating plants within the study period will be averaged. This average will be compared to the most recent three-year average plant factor for the subject plant. The subject plant's deviation from the standard plant factor is the amount of indicated obsolescence.

The second indicator which will be used to compute an obsolescence allowance for steam-electric generating plants will be a thermal efficiency factor. The source of information for this computation will also be the latest issue of the United States Department of Energy's publication, Historical Plant Cost and Annual Production Expenses for Selected Electric Plants, Fossil-Fueled Steam Electric Plant Section. Thermal efficiency for a generating plant is measured by the number of British thermal units (Btu's) required to produce one kilowatt hour. This efficiency rating can be obtained by dividing the number of kilowatt hours produced by a generating plant by the number of Btu's needed to produce this power. The number of Btu's used can be obtained by multiplying the units of fuel burned by the generating plant - tons of coal, gallons of oil, or cubic feet of gas - by the average Btu content of the fuel unit. The standard thermal efficiency factor will be computed by averaging the thermal efficiency factor of the ten most efficient steam-electric generating plants within the study period used to compute the average cost per kilowatt of installed capacity. This standard thermal efficiency factor will then be compared to the thermal efficiency factor of the subject plant. The amount the subject plant deviates from the standard is the amount of obsolescence indicated by this factor.

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The two obsolescence figures for the subject plant as indicated by both the plant and thermal efficiency factors will then be averaged. This resulting average is the obsolescence allowance which will be applied to the cost added to the subject plant as a result of the average cost per kilowatt of installed capacity computation. In no instance shall the original cost of a generating plant be reduced by an allowance for obsolescence unless its cost is increased through the use of the average cost per kilowatt of installed capacity computation. For the 1986 and subsequent assessments the additional cost after adjustments for obsolescence to be added to the cost indicator of value will be multiplied by 85 percent.

The following examples illustrate computation of the standard thermal efficiency factor; obsolescence indicated by the application of this factor to the subject plant; average obsolescence for steam-electric generating plants; and obsolescence allowance adjustment of the added cost due to the use of the average cost per kilowatt of installed capacity for the subject plant.

Steam-Electric Generating Plants

Plant	Net Generation kwh (Millions)	Btu's Used (Millions)	Btu's per kwh
A	2,000	18,400,000	9,200
B	6,000	53,400,000	8,900
C	8,000	72,000,000	9,000
D	5,000	45,500,000	9,100
E	3,000	26,400,000	8,800
F	1,000	9,000,000	9,000
G	4,000	36,600,000	9,150
H	9,000	80,550,000	8,950
I	7,000	61,950,000	8,850
J	5,000	45,250,000	9,050
		Average	9,000

XYZ Utility Company

Steam-Electric Plant #2

Net Generation kwh (Millions)	Btu's Used (Millions)	Btu's per kwh
2,000	21,600,000	10,800

Steam-electric plant #2 thermal efficiency factor (10,800 Btu's per kwh) divided by standard thermal efficiency factor (9,000 Btu's per kwh) equals 120 percent. Therefore, steam-electric plant #2 deviates from the standard by 20 percent or is 20 percent obsolete.

XYZ Utility Company

Steam-Electric Plant #2

1. Obsolescence Indicated by Plant Factor	10%
2. Obsolescence Indicated by Thermal Efficiency Factor	20%
3. Obsolescence Allowance (Average of 1 and 2)	15%
4. Additional Cost due to Computation of Average Cost per kw of Installed Capacity	$2,500,000
5. 15% Obsolescence Allowance	375,000
6. Additional Cost to be Added after Adjustment for Obsolescence	2,125,000
7. Adjustment factor	85%
8. Net additional cost to be added	$1,806,250

The cost indicator of value computed in accordance with this subpart will be weighted for each type of utility company as follows: electric companies, 85 percent; gas distribution companies, 75 percent; and pipeline companies, 75 percent.

The following example illustrates how the cost indicator of value would be computed for an electric company:

~~1. Utility Plant (Cost)~~		~~$200,000,000~~
~~2. Construction in Progress~~		~~5,500,000~~
~~3. Additional Value From Average Cost per kw Computation~~		~~2,000,000~~
~~4. Total Plant~~		~~207,500,000~~
~~5. Nondepreciable Plant (Land, Intangibles, C.W.I.P.)~~	~~17,500,000~~	
~~6. Depreciable Plant~~	~~190,000,000~~	
~~7. Book Depreciation or Maximum 20%~~		~~36,100,000~~
~~8. Total Cost Indicator of Value~~		~~171,400,000~~

1. Utility Plant			$200,000,000
2. Construction Work in Progress			5,500,000
3. Additional Value from Average Cost Per KW Computation After Factoring			2,000,000
4. Total Plant			207,500,000
5. Nondepreciable Plant (Land, Intangibles, C.W.I.P.)	$ 17,500,000		
6. Depreciable Plant	190,000,000		
7. Book Depreciation		$40,000,000	
8. Maximum Depreciation (20%)		38,000,000	
9. 10% Excess Depreciation Allowance		200,000	
10. Total Allowable Depreciation			$ 38,200,000
11. Total Cost Indicator of Value			169,300,000

Any company for which a modification is made under this subpart due to the average cost per kilowatt adjustment being made to original cost of a plant or plants located in Minnesota shall have an alternative cost indicator computation made without giving effect to the average cost per kilowatt adjustment of such plant or plants.

Subp. 4. to 7. [Unchanged.]

Subp. 8. **Retirements.** Utility operating property may be retired from the utility system while still in place if certain criteria are met:

A. The property must be physically disconnected from the utility system. In the case of electrical plants, the disconnection or dismantling of wires, cables, connectors, or transformers would constitute physical disconnection. In the case of pipelines, the disconnection of pipes, valves, or fittings would be evidence of physical ~~disconnections~~ disconnection.

B. An affidavit of retirement should be filed by the utility with the commissioner at least 30 days prior to the assessment date. This affidavit shall indicate the facility being retired and the date it was taken out of service.

The utility should make every effort to inform the commissioner of pending major retirements. The commissioner in turn shall notify the county assessor of impending major retirements as soon as this information becomes available to the department.

Utility property which is retired in place shall continue to be taxed for ad valorem purposes. However, its market value shall not be determined on the basis of its value as utility operating property.

If a utility should choose to temporarily retire a facility pending the development of an alternate fuel, greater demand, increased source of supply, or another valid reason, the cost of this facility must be transferred to the appropriate regulatory agency's account entitled "Held for Future Use." Standby facilities will not be considered to be temporarily retired unless their costs are carried in this account. Temporarily retired utility facilities will be valued taking into account a number of factors including age of the facility, type of facility, amount of maintenance and additional costs needed to restore the facility to operational status, length of retirement, and earning potential of the facility. In no instance shall a temporarily retired facility be valued lower than if the facility were considered nonoperating utility property.

Secretary of State

Proposed Rule Governing Optional Proof of Residence

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minnesota Statutes section 14.14., subdivision 1, in the above-entitled matter in Room 5, State Office Building, St. Paul, Minnesota 55155, on June 10, 1986 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements, briefs or written material may be submitted within the comment period described in this notice without appearing at the hearing by sending them to the administrative law judge assigned to conduct the hearing, Administrative Law Judge Peter C. Erickson, Office of Administrative Hearings, 400 Summit Bank, 310 4th Ave. S., Mpls, MN 55415, (612) 341-7606. The rule hearing procedure is governed by Minnesota Statutes, sections 14.14-14.20 and by Minnesota Rules, parts 1400.0200-.1200. Questions regarding procedures may be directed to the Administrative Law Judge at the above-listed address and phone number.

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PLEASE NOTE, HOWEVER, THAT THIS HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A HEARING PUBLISHED IN THE SAME *STATE REGISTER* AND MAILED THE SAME DATE AS THIS NOTICE.

Minnesota Statutes, section 201.221 authorizes the Secretary of State to adopt rules for the implementation of the voter registration provisions of Minnesota Statutes, chapter 201. The Secretary proposes to adopt an amendment to the Rules of the Secretary of State for Voter Registration. Minnesota Statutes, section 201.061, subdivision 3(2) provides that an individual registering on election day at the polling place may provide proof of residence by "showing any document approved by the Secretary of State as proper identification." The proposed rule amendment is attached hereto.

Notice is hereby given that a Statement of Need and Reasonableness is now available at Election Division, Room 174, State Office Building and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all of the evidence and arguments which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Election Division or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

You are advised, pursuant to Minnesota Statutes, section 14.115 "Small Business Consideration in Rulemaking," that the proposed rules will not have an impact on small business in Minnesota. Also, pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking," the adoption of these rules will not have any impact upon agricultural land nor cost local public bodies any money for two years immediately following the adoption of these rules, within the meaning of that law.

All interested or affected persons will have an opportunity to participate by presenting oral and/or written evidence at the hearing. Questioning of agency representatives and persons making oral statements will be permitted for purposes material to the evaluation or formulation of the proposed rules. As a result of the hearing process, the proposed rule may be modified. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during the comment period will be available for review at the Office of Administrative Hearings. Following the five to twenty day comment period, there will be a three day period in which the Secretary and interested persons may respond in writing to any new information submitted. During the three day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three day period. The written responses will be added to the record of the proceeding.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Secretary of State 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. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Election Division at any time prior to the filing of the rules with the Secretary of State.

Minnesota Statutes, chapter 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 Minnesota Statutes, section 10A.01, subdivision 11 as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including 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 $350, 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, 625 N. Robert Street, St. Paul, Minnesota 55101 telephone (612) 296-5148.

One free copy of this notice and the proposed rule may be obtained by contacting Grace Haukoos, Election Director, Office of the Secretary of State, Election Division, 180 State Office Building, St. Paul, MN 55155. Additional copies will be available at the door on the date of the hearing.

16 April 1986

Elaine Voss
Deputy Secretary of State

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

The Secretary proposes to adopt an amendment to the Rules of the Secretary of State for Voter Registration. Minnesota Statutes § 201.061, Subd. 3(2) provides that an individual registering on election day at the polling place may provide proof of residence by "showing any document approved by the Secretary of State as proper identification." The amendment will approve an additional document and provide for the manner of its use by county option.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

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

Grace Haukoos
Election Division Director
180 State Office Bldg.
St. Paul, MN 55155
(612) 296-9217

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 201.061, Subd. 3(2) and 201.221, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules had been prepared and is available from the Election Division upon request.

You are advised, pursuant to Minnesota Statutes, section 14.115 "Small Business Consideration in Rulemaking," that the proposed rules will not have an impact on small business in Minnesota. Also, pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking," the adoption of these rules will not have any impact upon agricultural land nor cost local public bodies any money for two years following the adoption of these rules, within the meaning of that law.

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

Copies of this Notice and the proposed rules are available and may be obtained by request to the Election Division.

Elaine Voss
Deputy Secretary of State

Rule as Proposed

8200.5100 REGISTRATION AT PRECINCT ONLY.

Subpart 1. **Procedure; proof.** Any person otherwise qualified but not registered to vote in the precinct in which ~~he~~ the person resides may register to vote on election day at the polling place of the precinct in which ~~he~~ the person resides in areas with voter registration. To register on election day a person must complete and sign the original card, sign the duplicate card, and provide proof of ~~his~~ residence. A person may prove ~~his~~ residence on election day only (1) by presenting (i) a valid Minnesota driver's license, learner's permit, or a receipt for either that contains the voter's valid address in the precinct~~,~~; (ii) a valid Minnesota identification card issued by the Minnesota Department of Public Safety or a receipt ~~thereof~~ for the identification card that contains the voter's valid address in the precinct; or (iii) a current student identification card that contains the student's valid address in the precinct, a current student fee statement that contains the student's valid address in the precinct, or a copy of a current student registration card that

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.

contains the student's valid address in the precinct; (2) by having a valid registration in the same precinct under a different address; (3) by presenting an "ineffective registration notice" mailed by the county auditor or municipal clerk; or (4) by having a person who is registered to vote in the precinct and knows the applicant is a resident of the precinct sign the oath in part 8200.9939.

The oath ~~shall~~ in (4) must be attached to the voter registration card until the address of the applicant is verified by the county auditor. The oath ~~shall~~ must be printed on a four-inch by six-inch card by the county auditor. After every election day the county auditor shall file the oaths and maintain them for one year.

Subp. 2. **Optional proof of residence allowed.** In a precinct including student housing, the county auditor may provide that an eligible voter may also prove residence by presenting a current valid photo identification issued by a postsecondary educational institution in Minnesota if the voter's name, student identification number (if available), and address within the precinct appear on a current list of persons residing in the institution's housing certified to the county auditor by the educational institution.

This optional proof of residence must not be allowed unless the educational institution submits to the county auditor no later than 60 days prior to the election a written agreement that the educational institution will certify for use at the election accurate updated lists of persons residing in housing owned, operated, leased, or otherwise controlled by the institution.

An updated list must be certified to the county auditor no earlier than 20 days prior to each election. The certification must be dated and signed by the chief officer or designee of the institution and must state that the list is current and accurate and includes only the names of persons residing as of the date of the certification in housing controlled by the institution.

The auditor shall instruct the election judges of the precinct in procedures for use of the list in conjunction with photo identification. The auditor shall supply a list to the election judges with the election supplies for the precinct.

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 Commerce

Adopted Rules Relating to Coordination of Benefits for Group Health and Accident Insurance

The rules proposed and published at *State Register*, Volume 10, Number 29, pages 1528-1536, January 13, 1986 (10 S.R. 1528) are adopted with the following modifications:

Rules as Adopted

2742.0200 DEFINITIONS.

Subp. 2. **Plan.** "Plan" is a form of coverage with which coordination is allowed. The definition of plan in the group contract must state the types of coverage which will be considered in applying the coordination of benefits provision of that contract. The right to include a type of coverage is limited by the rest of this subpart.

The definition in part 2742.0300 is an example of what may be used. Any definition that satisfies this subpart may be used.

Parts 2742.0100 to 2742.0400 use the term "plan." However, a group contract may, instead, use "program" or some other term.

The term "plan" does not include individual or family:

A. ~~individual or family~~ insurance contracts;

Subp. 7. **Allowable expense.** "Allowable expense" is the necessary, reasonable, and customary item of expense for health care, when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition. However, items of expense under coverages such as dental care, vision care, prescription drugs, or hearing aid programs may be excluded from the definition of allowable expense. A plan which provides benefits only for any items of expense may limit its definition of allowable expenses to like items of expense.

When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered as both an allowable expense and a benefit paid.

~~The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.~~

Subp. 9. **Claim determination period.** "Claim determination period" means a period of time, which must not be less than 12 consecutive months, over which allowable expenses are compared with total benefits payable in the absence of coordination of benefits, to determine whether overinsurance exists; and how much each plan will pay or provide. Claim determination period does not mean the period of time in which a plan may take to pay.

A claim determination period usually is a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person may be covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during that claim determination period.

As each claim is submitted, each plan is to determine its liability and pay or provide benefits based upon allowable expenses incurred to that point in the claim determination period. A determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.

2742.0300 MODEL COORDINATION OF BENEFITS CONTRACT PROVISION.

Subp. 4. **Text of model coordination of benefits provision.**

COORDINATION OF THE GROUP CONTRACT'S BENEFITS WITH OTHER BENEFITS

(V) RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION.

Certain facts are needed to apply these coordination of benefits rules. [The XYZ Company] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [The XYZ Company] need not tell, or get the consent of, any person to do this unless applicable federal or state law prevents disclosure of the information without the consent of the patient or the patient's representative. Each person claiming benefits under this plan must give [The XYZ Company] any facts it needs to pay the claim.

Subp. 5. **Conditions for use of alternatives 2 and 3.** Alternatives 2 and 3 in subpart 4 permit a secondary plan to reduce its benefits so that total benefits may be less than 100 percent of allowable expenses.

A plan using alternatives 2 and 3 in subpart 4 must comply with the following conditions:

C. The plan must permit a person to be enrolled for its health care coverage when that person's eligibility for health care coverage under another plan ends for any reason; if the person is eligible for coverage under the plan, and the enrollment is made before the end of the 31-day period immediately following either the date when health care coverage under the other plan ends; or the end of any continuation period elected by or for that person.

This unrestricted enrollment is not required if a person remains eligible for coverage under that other plan, or a plan which replaces it, without interruption of that person's coverage.

Minnesota Pollution Control Agency

Adopted Rules Relating to Processing 401 Certifications and Other Amendments

The rules proposed and published at *State Register*, Volume 10, Number 25, pages 1358-1360, December 16, 1985 (10 S.R. 1358) are adopted as proposed.

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.

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.

Board of Animal Health

Notice of Special Board Meeting

A Special Meeting of the Board of Animal Health has been scheduled for Friday, June 13, 1986 at the Holiday Inn, New Ulm, MN at 9:30 A.M.

Information about this meeting may be obtained by calling the Board office at 612-296-5000.

Dr. Thomas J. Hagerty
Executive Secretary

Department of Energy and Economic Development Business Financial Management Division

Notice of Tax Exempt Financing Issuance Authority

Notice of Availability

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 22

The Department gives notice that the amounts of tax exempt financing issuance authority available to qualified issuers as of April 14, 1986, is as follows:

Competitive Pool (Existing Law)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13

Total Pool Available (Priority to Manufacturing Projects)	$305,522,800
For:	
Pollution Control/Waste Management Projects	$ 70,064,560
Commercial Redevelopment Projects	$129,845,260

Competitive Pool (Federal Volume Limitation Act)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 19

Total Pool Available (Priority to a-General Obligation Pojects, b-Manufacturing Projects)	$299,281,237
For:	
Pollution Control/Waste Management Projects	$ 59,856,247
Commercial Redevelopment/Multifamily Housing Projects	$104,748,432

Qualified 501(c)(3) Bond Pool (Federal Volume Limitation Act)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 20

Total Pool Available	$ 83,250,000

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13, Subd. 2, Section 19, Subd. 2, Section 20, Subd. 3, and Section 21, Subd. 2, issuers requesting allocations of issuance authority must submit applications, any applicable deposit and any other supporting documents required. Application forms are available from the Department upon request.

Environmental Quality Board

Outside Opinion or Information Sought Regarding Proposed Amendments to Rules Governing Environmental Review of Large Electric Power Generating Plants and High Voltage Transmission Lines

Notice is hereby given that the Environmental Quality Board (Board) is seeking information or opinions from sources outside the agency in preparing to propose the adoption, amendment, suspension, or repeal of the rules governing environmental review of large electric power generating plants and high voltage transmission lines. The adoption of the rules is authorized by Minnesota Statutes, section 116D.04. The Environmental Quality Board is considering amending Minnesota Rules pts. 4410.7100 and 4410.7500 governing environmental report preparation at the certificate of need stage for large electric power generating plants and high voltage transmission lines, respectively.

The Environmental Quality Board requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Larry B. Hartman
Power Plant Siting Program
Minnesota Environmental Quality Board
110 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-5089 and in person at the above address.

All statements of information and comment shall be accepted until June 2, 1986. Any written material received by the Environmental Quality Board shall become part of the rulemaking record in the event that the rules are adopted.

18 April, 1986

John C. Ditmore
Chairman

Office of the Secretary of State

Notice of Vacancies in the Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155–1299; (612)296-2805. Application deadline is May 20, 1986.

MATERNAL AND CHILD HEALTH ADVISORY TASK FORCE has 1 vacancy open for a representative of the local board of health. No members shall be employees of the State Department of Health. The task force shall meet on a regular basis to perform the following duties: review and report on health care needs of mothers and children throughout the state of Minnesota; review and report on the type, frequency and impact of maternal and child health care services provided to mothers and children under existing maternal and child health care programs, including programs administered by the commissioner of health; establish, review and report to the commissioner a list of program guidelines and criteria which the advisory task force considers essential to providing an effective maternal and child health care program to low income-populations and high risk persons. Members are appointed by the Commissioner of Health. Members receive expenses. For specific information contact the Maternal and Child Health Advisory Task Force, Dept. of Health, Community Services Division, 717 Delaware St. S.E., Mpls 55440; (612)623-5265.

MUNICIPAL BOARD has 1 vacancy open for a member who is learned in the law. The board acts on all boundary adjustments between a city and the adjacent land, and rules on incorporations. Members are appointed by a Governor. Members must file with the Ethical Practices Board. Monthly meetings; members receive $50 per diem plus expenses. For specific information contact the Municipal Board, 165 Metro Square Bldg., St. Paul 55101; (612)296-2428.

MINNESOTA SENTENCING GUIDELINES COMMISSION has 5 vacancies open for the following members: a) 1 public defender; b) 1 county attorney; c) 1 peace officer; d) 2 public members. The function of the commission is to reduce disparity in sentencing practices throughout the state in terms of length of imprisonment as well as imprisonment versus probation and local incarceration. The commission is required to monitor and modify the guidelines once operational and evaluate their effectiveness.

In addition, the commission is required to conduct ongoing research, make periodic recommendations to the legislature regarding improvement of sentencing, criminal code, or criminal procedures. Members are appointed by the Governor. Members receive $50 per diem; all commission members will be reimbursed for travel expenses. For specific information contact the Minnesota Sentencing Guidelines Commission, 51 State Office Bldg., St. Paul 55155; (612)296-0144.

ADVISORY COUNCIL ON BATTERED WOMEN has 1 vacancy open for a public member. The council advises the Dept. of Corrections on funding for emergency shelters and programs for battered women. Members are appointed by the Commissioner of Corrections. Monthly meetings. For specific information contact the Advisory Council on Battered Women, Dept. of Corrections, 300 Bigelow Bldg., 450 N. Syndicate Ave., St. Paul 55104; (612)642-0253.

METROPOLITAN AIRPORTS COMMISSION has 2 vacancies open for members. Must be a resident of appropriate Metropolitan Airports Commission precinct. The commission promotes air transportation locally, nationally and internationally, by developing the Twin Cities as an aviation center; coordinates with all other governmental agencies to provide economical and effective use of aeronautic facilities and services; may acquire, build and operate an airport within a thirty-five mile radius of the City Hall of Minneapolis or St. Paul; adopts and enforces regulation to manage all metropolitan airports; controls airport land use and provides for airport noise control. Members are appointed by the Governor. Members must file with the Ethical Practices Board. Monthly meetings; members receive $50 per diem. For specific information contact the Metropolitan Airports Commission, Lynn Tischler, 6040 28th Ave. S., Mpls 55450; (612)726-5108.

COMPULSORY SCHOOL ATTENDANCE TASK FORCE has 12 vacancies open for at least one member from each congressional district and shall be composed of the following: a parent of a private school pupil, a parent of a public school pupil, a home educator, a representative of private sectarian schools, a representative of private nonsectarian schools, a public school teacher, a public school administrator, a representative of a private school accrediting association, a representative of the Home Educators Association, a representative of the State Board of Education, a representative of the Board of Teaching, and the Commissioner of Education. The task force shall study and make recommendations about various issues related to compulsory attendance. Members are appointed by the Commissioner of Education. Members' compensation shall be the same as provided to state employees under the Commissioner of Employee Relations' compensation plan. For specific information contact the Compulsory School Attendance Task Force, 709 Capitol Square Bldg., 550 Cedar St., St. Paul 55101; (612)296-6595.

WORKERS COMPENSATION COURT OF APPEALS has 1 vacancy open for a member who must be learned in the law. Must be selected on the basis of experience with and knowledge of workers' compensation and the workers' compensation laws of Minnesota. The court of appeals has appellate jurisdiction on all workers compensation claims and original jurisdication on peace officers dependent claims. Members are appointed by the Governor and confirmed by the Senate. Members serve 6 year terms. Members must file with the Ethical Practices Board. Full time position; members receive $54,450 per year. For specific information contact the Workers Compensation Court of Appeals, M.E.A. Bldg., 55 Sherburne Ave., St. Paul 55103; (612)296-6526.

TASK FORCE ON LONG-TERM CARE HEALTH PLANNING has 6 vacancies open for the following members: a) 2 members of legislative commission on long-term care; b) 2 representatives of nursing home trade associations; c) 2 members of long-term care consumer groups. The task force shall plan for rational development of additional long-term care facilities, examine need to amend moratorium law, examine intermediate care facilities class II, address need modernize and renovate long-term care facilities. Members are appointed by the Governor. Members receive no per diem or compensation. One to two meetings per month. For specific information contact the Task Force on Long-Term Care Health Planning, State Planning Agency, 100 Capitol Square Bldg., St. Paul 55101; (612)296-3865.

METROPOLITAN PARKS AND OPEN SPACE COMMISSION has 1 vacancy open for a public member. The commission assists the Metropolitan Council in planning the regional recreation open space system, and in making grants for the acquisition and development of facilities in that regional system; reviews master plan for regional facilities prepared by metropolitan area park districts and counties to make sure they are consistent with the Metropolitan Council regional plan for parks. Members may not be members of the Metropolitan Council, or any other metropolitan agency, board or commission, or hold judicial office. Members are appointed by the Metropolitan Council. Members must file with the Ethical Practices Board. Members receive $50 per diem; meetings twice monthly at Metro Square Bldg. For specific information contact the Metropolitan Parks and Open Space Commission, 300 Metro Square Bldg., St. Paul 55101; (612)291-6401.

MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION has 1 vacancy open for a member who is a citizen of Minnesota. The commission makes recommendations on the use, development and protection of the corridor of the St. Croix and Mississippi rivers that forms the interstate border of Minnesota and Wisconsin. The commission also assist the 2 states in their participation in federal programs affecting the river and coordinates St. Croix National Scenic Riverways Programs. Members are appointed by the Governor. Terms are staggered; bi-monthly meetings; Members are reimbursed for expenses. For specific information contact the Minnesota-Wisconsin Boundary Area Commission, 619 2nd St., Hudson, WI 54016; (612)436-7131.

Department of Transportation

Petition of City of Mendota Heights for a Variance from State Aid Standards for Design Speed

Notice if hereby given that the City Council of the City of Mendota Heights has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a construction project on Municipal State Aid Street 108 (Chippewa Avenue) Dodd Road to Annapolis Street.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a design speed of 26.8 mph instead of the required 30 MPH.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

22 April 1986

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of County of Otter Tail for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Otter Tail County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a bituminous resurfacing project on County State Aid Highway (CSAH) 35 from CSAH 82 at Dalton, Mn. to 2.7 miles south of Underwood, Mn.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a design speed of 36 miles per hour on four sag vertical curves instead of the required 40 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

22 April 1986

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under Minn. Stat. § 169.825.

Whereas, the Commissioner of Transportation has made his Order Nos. 69226, 69269, 69270, 69344, 69353, 69595, 69770, 69796, 70006, 70031, 70152, 70455, 70520, 70580, 70652, 70698, 70747, 70749, 70765, and 71011 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, and

Whereas, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

CITY STREETS

Mankato —North Front Street from Main Street to Lafayette Street. (12 month.)

COUNTY ROADS

Blue Earth —C.S.A.H. 5 (Third Avenue) from Front Street to C.S.A.H. 12 (Industrial Road). (12 month.)

—C.S.A.H. 12 (Industrial Road) from C.S.A.H. 5 (Third Avenue) to a point approximately 2,300 feet easterly. (Railroad tracks.) (12 month.)

15 April 1986

Richard P. Braun
Commissioner

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 completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

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

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Explore MN Arts & Attractions Color Separations	April 29, 1986	Tourism	St. Paul	22-400-01182-7536
Explore MN Arts & Attractions	April 29, 1986	Tourism	St. Paul	22-400-01183-7537
1986 Big Game Hunting Regulations with Map	April 29, 1986	Natural Resources	St. Paul	29-000-43640-7277
Water Safety Coloring Book	April 29, 1986	Natural Resources	St. Paul	29-000-43964-7482
Halon System	April 29, 1986	Mankato State University	Mankato	26-071-16549
Cook & Ely Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976
Duluth Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-1
Bemidji Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-2
Mankato Pole Buildings	April 29, 1986	Transportation	Mn/DOT	79-050-17976-8
Owatonna Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-7
Rochester Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-6
St. Cloud Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-5
Detroit Lakes Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-4
Crookston Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-3
Windom Pole Building	April 29, 1986	Transportation	Mn/DOT	79-050-17976-9

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Genuine Gresen Hydraulic Pump Repair Parts	April 29, 1986	Various	Various	Price-Contract
Used Farm Tractor	April 29, 1986	Worthington Community College	Worthington	27-146-49806
VAX Memory	April 29, 1986	St. Cloud State University	St. Cloud	26-073-18523
Dictating System	April 30, 1986	Cambridge Regional Service Center	Cambridge	55-201-06580
Repair Roadway	April 30, 1986	Inver Hills Community College	Inver Hills Community College	27-000-27587
Wing Push Pole	April 30, 1986	Transportation	St. Paul	79-990-00386
Electric Forklift—Rebid	April 30, 1986	Transportation	Minneapolis	79-000-49944
Liquid Petroleum Gas	April 30, 1986	Various	Various	Sch.-93A-Rebid
Industrial Power Sweeper—Addendum #2	April 30, 1986	Transportation	Various	79-382-01079
Electronic Typewriters	April 30, 1986	Various	Various	21-200-12313 etc.
Self-propelled aerial work platform	May 1, 1986	Transportation	Golden Valley	79-382-01085
Outboard Motors	May 1, 1986	Natural Resources	Various	21-001-9936 etc.
Bar Soap	May 1, 1986	Various	Various	Price-Contract
Aluminum Light Poles	May 1, 1986	Transportation	St. Paul	79-050-52568
Traffic Signal System	May 1, 1986	Transportation	St. Paul	79-000-52573
1986-7 Undergraduate Bulletin	May 2, 1986	Mankato State University	Mankato	26-071-16574-7674
Recruiting Folders	May 2, 1986	Bemidji State University	Bemidji	26-070-11607-7617
Van	May 2, 1986	Vocational Rehabilitation	Plymouth	21-607-36337
Repair Skid Pad	May 2, 1986	St. Cloud State University	St. Cloud	26-073-18815
Pintle Hooks	May 2, 1986	Transportation	St. Paul	79-990-00385
Aluminum Boats & Canoes	May 2, 1986	Natural Resources	Various	29-002-11780 etc.
Diaries, Appointment Books & Calendars	May 5, 1986	Administration Dept. Central Stores	St. Paul	Central-Stores
Lockers	May 5, 1986	MN Correctional Facility	St. Cloud	78-830-07917
Petri Dishes	May 5, 1986	Agriculture	St. Paul	04-661-34774
Central Processing Unit Upgrade	May 5, 1986	St. Cloud State University	St. Cloud	26-137-03533
General Office Pencils & Mechanical Pencil	May 5, 1986	Administration Dept. Central Stores	St. Paul	Price-Contract

Department of Corrections
Oak Park Heights Correctional Facility

Request for Proposals for Providing Educational Services

Notice is hereby given that the Minnesota Correctional Facility—Oak Park Heights, Stillwater, MN, is requesting proposals for providing a full range of educational services to inmates at MCF-OPH. The contract period will run from July 1, 1986 through June 30, 1987 at an estimated cost not to exceed $275,000. The proposal should include all instructional and administrative salaries, travel and administrative charges. The proposals must be submitted by 4:30 p.m., May 16, 1986 to: Lou Stender, Resident Program Manager. Please contact Mr. Stender at (612) 779-1491, to obtain Request for Proposal information if interested.

Department of Health
Health Resources Division
Emergency Medical Services Section

Request for Proposal for Emergency Medical Services/Motor Vehicle Injury Research Project

The Minnesota Department of Health is requesting proposals from organizations or individuals for coordination of and assistance with implementation of a research project to describe the relationship between pre-hospital emergency care systems and motor vehicle related morbidity and mortality. Funding for this project will total $20,000 and will be available from July 1, 1986-June 30, 1987. The Department is seeking a contractor to conduct the following tasks:

1. Review the research literature on the subject of the relationship between pre-hospital emergency care systems and motor vehicle related morbidity and mortality.

2. Design data abstract forms using data elements as defined by staff from the Department of Health and Department of Public Safety. Data abstract forms shall be compatible with data entry procedures and will consist of EMS system data and crash/driver related data.

3. Design interview format for use in collecting special follow-up data on those cases that require additional information.

4. Directing analysis of data in a manner that will provide answers to the questions contained in the objectives of the study.

5. Interpret the findings in relationship to the questions contained in the objectives of the study.

6. Document the results of the project in the form of a primary project report with emphasis on a model system which can be adopted in other regions of the state.

Applicants for funding must respond with proposals in the form of a proposal to enter into a contract with the Department of Health. THE FORM AND CONTENT REQUIREMENTS FOR PROPOSALS ARE AVAILABLE THROUGH THE DEPARTMENT OF HEALTH. IN ORDER FOR A PROPOSAL TO BE ELIGIBLE FOR FUNDING, APPLICANTS MUST APPLY ACCORDING TO THE TERMS OF THE REQUEST FOR PROPOSAL. COPIES OF THE REQUEST FOR PROPOSAL AND OTHER INFORMATION ARE AVAILABLE FROM:

Peter Carr, Chief
Emergency Medical Services Section
Minnesota Department of Health
717 Delaware St. S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
(612)623-5284

The deadline for proposals is May 30, 1986.

Department of Health
Acute Disease Epidemiology Section
AIDS Unit

Solicitation of Letters of Intent from Public and Private Agencies Interested in AIDS Prevention and Risk Reduction

Notice of Availability of Funds

Solicitation of Letters of Intent

A Letter of Intent (see form attached) must be received by the Department of Health no later than 4:30 p.m., Friday, May 16, 1986. Submit to:

Commissioner of Health
Minnesota Department of Health
717 Southeast Delaware St.
Minneapolis, Minnesota 55414

Attention: AIDS Unit, Acute Disease Epidemiology Section

As published in the *State Register*, today the Minnesota Department of Health will have funds available for a ten month period, September 1, 1986 to June 30, 1987 for AIDS prevention and risk reduction programs targeted at three high-risk groups: 1) gay and bisexual men, 2) present persons with a history of intravenous drug abuse since 1977 and 3) other risk groups as defined by the Centers for Disease Control (see Morbidity and Mortality Weekly Report, March 14, 1986). Proposals addressing at least one of these groups will be funded on a competitive basis. The greatest portion of funds will be awarded to innovative programs targeted at the gay and bisexual male risk group. Upon receipt of a completed Letter of Intent, the RFP will be mailed no later than May 20, 1986. Approximately $165,000 is available for Fiscal Year 1987.

Eligibility Criteria:

1. Any public or private agency (not-for-profit and for profit) that can demonstrate administrative, organizational, programmatic and fiscal capability to deliver a proposed program.

2. Demonstrated support from the at-risk and medical communities.

3. Demonstrated current and/or future potential for additional complimentary resources/revenues for development, implementation and/or evaluation and continuation of proposed program.

Minimum Expectations:

1. Demonstration of community-wide and preferably state-wide coordination of training and service delivery.

2. Evidence of specific risk group focus and intervention strategies which can demonstrate success in increasing knowledge among high risk persons of methods of HTLV-III/LAV transmission, facilitate behavioral changes to reduce the risk of HTLV-III/LAV transmission, and encourage voluntary HTLV-III antibody testing and follow-up education where appropriate.

3. Implementation of carefully developed data collection and reporting systems which include service level or process data, client outcome data, and an assessment of programs effectiveness.

Proposal Timeline:

May 16	Letters of Intent Due
May 1-20	RFP's Mailed
July 1	Proposals Due
July 31	Final Decision(s) Announced
September 1	Grant Period Begins
June 30, 1987	Grant Period Ends

22 April 1986

Sister Mary Madonna Ashton
Commissioner of Health

LETTER OF INTENT
AIDS Prevention and Risk Reduction

Agency _____ Date _____

Organizational Status (i.e, public, non-profit, etc.) _____

Program Title _____ New _____ Ongoing _____

Risk Group(s) _____

Address: _____

_____

Contact Person _____ Telephone No. _____

Program Summary—Briefly describe: 1) targeted risk group, 2) geographic area, 3) intervention strategies, 4) evaluation methods and capability and, 5) community support. Description is not binding for full proposal.

Agency Mission—Briefly describe.

Please Return to: Minnesota Department of Health
Acute Disease Epidemiology Section
AIDS Unit
717 S.E. Delaware St.
Minneapolis, Minnesota 55440
Telephone: (612)623-5414

Letter of Intent Due: May 16, 1986

Proposals Due: July 1, 1986

Minnesota Historical Society

Request for Proposals for Operation and Management of Historic Sites

The Minnesota Historical Society is seeking proposals from counties, municipalities, county and local historical societies, and other interested parties, pursuant to Minnesota Statutes, Sections 138.66, for the operation and management of each of two historic sites owned by the Society.

The first of these sites is the W. W. Mayo House, located at 118 North Main Street, Le Sueur, Minnesota: the other is Harkin Store, located on Nicollet County Highway 21, eight miles northwest of New Ulm, Minnesota.

Said operation and management will be under contract, for a period of at least five years, and in accordance with terms and conditions prescribed by the Society which are outlined in detail in the Request for Proposal. If interested in the operation and management of either of these sites, the formal Request for Proposal may be requested and inquiries directed to: Mark Schwartz, Contract Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, MN. 55101, (612) 296-8378. The deadline for submitting completed proposals is the close of the business day (5:00 p.m.), June 1, 1986.

Department of Human Services Oak Terrace Nursing Home

Request for Proposal for Medical Services

Notice is hereby given that the Oak Terrace Nursing Home, Residential Facilities Division, Department of Human Services, is seeking the services, which are to be performed as requested by the Administration of Oak Terrace Nursing Home. The contract is written for the period July 1, 1986 through June 30, 1987.

Services of a psychiatrist to provide psychiatric assessments, psychiatric treatment, psychiatric consultation to designated resident living units, medication review, attendance at Medical Administrative Committee meetings and unit staff meetings, participation in the utilization review and quality assurance programs, appearances at court hearings when applicable, and inservice education. The estimated amount of the contract will not exceed a total of $15,600. annually.

Responses must be received by May 19, 1986. Direct inquiries to:

Faye Christensen, Assistant Administrator
Oak Terrace Nursing Home
14500 County Road 67
Minnetonka, Minnesota 55345

Department of Human Services Faribault Regional Center

Request for Proposals for Services to be Performed on a Contractual Basis

Notice is hereby given that Faribault Regional Center; Mental Health Division; Department of Human Services, is seeking the following services for the period of July 1, 1986-June 30, 1987; these services as requested by the Chief Executive Officer of the Faribault Regional Center.

1. A radiological consultant group to provide services at the Faribault Regional Center upon the request of the Medical Director, at times mutually agreed upon by both parties. The duties shall involve radiological consultations for residents/patients of Faribault Regional Center, which consists of interpretation and diagnosis of x-ray films of chest, skull, skeleton, abdomen, gall bladder, kidneys, etc., performance of fluoroscopic examination of chest, stomach, intestines, colon, etc., as requested by staff physicians. In addition, supervision of the X-Ray Department in regard to equipment, methodology, safety, etc., will be included in this consultation service. The estimated amount of this contract will not exceed $14,000.00.

2. The services of a physician or physician group to provide weekend coverage at Faribault Regional Center upon request of the Medical Director, by making rounds in the Medical Hospital and taking all emergency calls, the preceding service to be performed at the Faribault Regional Center. The estimated amount of this contract will not exceed $20,000.00.

Response for the above services must be received by June 3, 1986. Direct Inquiries to:

Richard Fick
Faribault Regional Center
Faribault, Minnesota 55021
(507) 332-3530

Department of Human Services
Willmar Regional Treatment Center

Request for Proposal for Various Patient/Resident Services

Notice is hereby given that the Willmar Regional Treatment Center, Mental Health Division, Department of Human Services, is seeking the following services for the period July 1, 1986, through June 30, 1987. These services are to be performed as requested by the Administration of the Willmar Regional Treatment Center:

1. Services of Radiologists to interpret X-ray films; provide radiological supervision and X-ray consultation; provide specialized X-ray procedures. Estimated amount of the contract will not exceed $13,000.

2. Services of Psychiatrist to provide consultation to Adolescent Treatment Unit, Psychiatric Rehabilitation Unit and Chemically Dependent Unit; special skills in adolescent and chronic mental illness psychiatry. Estimated amount of the contract will not exceed $34,500.

3. Services of a full time Protestant Chaplain; to conduct services and other ministries to Mentally Ill, Mentally Retarded and Chemically Dependent Patients. Estimated amount of the contract will not exceed $12,634.

4. Services of a Psychiatrist, to provide consultation for newly admitted mentally ill patients, consultative services in the clinical management of mentally retarded residents and related educational guidance to treatment staff. Estimated amount of contract will not exceed $34,048.

5. Services of Nurse Practitioner. Responsibilities will include health assessment, management consultations to medical staff, and services to residents in the area of annual physical and admission exams. Estimated amount of contract will not exceed $22,000 annually.

6. Services of Physicians to provide medical and surgical consultations, as needed to Patients/Residents of Willmar Regional Treatment Center. Estimated amount of the contract will not exceed $15,000.

RESPONSES FOR THE ABOVE SERVICES MUST BE RECEIVED BY MAY 19, 1986.

Direct Inquiries to:

Gregory G. Spartz, Acting Chief Executive Officer
Willmar Regional Treatment Center
Box 1128
Willmar, MN 56201
(612) 231-5100

Metropolitan Council of the Twin Cities Area

Request for Proposals (RFP) to Assist in an I-494 Corridor Study

The Metropolitan Council solicits a proposal for entering into a contract for services to assist in the preparation of an I-494 Corridor Study. The purpose of the study is to recommend solutions to the transportation problems in the I-494 corridor. This will include development of design concepts for the metropolitan roadways in the I-494 Corridor between CSAH 62 on the west and TH 5 on the east, a strategy for travel demand management and identification of development levels and land use types which could be served by the transportation infrastructure.

A combined 10 percent disadvantaged/women business enterprise participation goal has been set for this contract.

Questions and requests for copies of the RFP should be directed to Constance Kozlak (612) 291-6346.

Supreme Court

Request for Proposals for Family Farm Legal Assistance Program

The Supreme Court through its Legal Services Advisory Committee requests proposals from nonprofit legal assistance providers for the delivery of legal assistance relating to farm financial problems for Minnesota family farmers pursuant to Minn. Stat. 480.250. Statutory restrictions limit the organizations which can qualify as legal service providers.

APPLICATION DEADLINE: May 9, 1986.

FOR APPLICATION INFORMATION, CONTACT JUDITH L. REHAK, ADMINISTRATIVE SERVICES DIRECTOR, (612) 296-6822.

1 April 1986

Department of Transportation
Office of Surveying and Mapping

Notice of Availability of Contract for Photogrammetric Services for Fiscal Year 1987 (July 1, 1986 to June 30, 1987)

The Minnesota Department of Transportation desires an aerial surveys firm or firms to provide the following photogrammetric services conforming to Mn/DOT specifications:

1. Aerial Vertical Photography

Provide negatives taken by the contractor(s) using precision aerial camera. The negatives shall be suitable for printing photographs and transparencies and for use in the State's photogrammetric instruments for analytical aerial triangulation and map compilation. The state may call for the use of panchromatic, color negatives or infrared color emulsions in obtaining the photography.

2. Aerial Oblique Photography

Provide negatives taken by the contractor(s) suitable for printing photography for illustrative purposes.

3. Photographic Laboratory Services

Provide, from aerial negatives, rectified, ratioed and controlled photographic enlargements and mosaics 9½'' × 9½'' diapositives on glass or film suitable for photogrammetric compilation of topographic mapping and screened photographic film positives from mosaic negatives.

4. Map Compilation

Provide map compilation by Wild A-10 Autograph or equivalent type instrument for the compilation of topographic maps or photogrammetric cross-sections.

All topographic mapping must be provided in digital format compatible with existing input formats for the Intergraph interactive graphic drafting system in use in the Department.

The State anticipates that the total value of work ordered will not exceed $230,000.00. The State reserves the option to enter into agreements with more than one firm.

Firms desiring consideration shall express their interest and submit their Federal Forms 254 and 255 on or before May 12, 1986.

This is not a request for proposal. Send your response to:

Minnesota Department of Transportation
Surveying and Mapping Section
Room 711 Transportation Building
St. Paul, Minnesota 55155

SUPREME COURT DECISIONS

Decisions Filed Friday 18 April 1986

Compiled by Wayne O. Tschimperle, Clerk

C6-85-829 The Fairview Cemetery Association of Stillwater, Minnesota v. David W. Eckberg and Paine, Webber, Jackson & Curtis, Inc., Appellant. Court of Appeals.

Minn. Stat. § 80A.23, subd. 10 (1984), and *Keihne v. Purdy*, 309 N.W.2d 60 (Minn. 1981), are preempted by *Southland Corp. v. Keating*, 465 U.S. 1 (1984), for arbitration agreements falling within the Federal Arbitration Act.

SUPREME COURT DECISIONS

A question of fact exists concerning whether appellant waived its rights to compel arbitration is this case. This question is for the trial court to decide.

The district court is the proper tribunal to decide claims raised by respondent concerning the validity of the contract in this case.

Further proceedings under both the arbitrable and nonarbitrable claims in this case need not be delayed. Both can proceeded on their own, independent of each other.

Reversed and remanded. Amdahl, C.J.

C3-82-1521 In the Matter of the Alleged Psychopathic Personality of John Anton Joelson. Hennepin County.

The probate court's findings that the patient is receiving treatment, adequate to satisfy the statutory and any constitutional right to treatment, at the Minnesota Security Hospital are not clearly erroneous.

Affirmed. Coyne, J.

ERRATA

Department of Commerce

Correction of Proposed Rules Relating to Coordination of Benefits for Group Health and Accident Insurance

In vol. 10 State Register, page 1533, the paragraph following Rule Part 27242.0300, Subd. 4 (III) (B) (iii) (c) should read: "However, if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. This paragraph does not apply with respect to any claim determination period or plan year during which any benefits are actually paid or provided before the entity has the actual knowledge."

Department of Health
Environmental Health

Correction of Proposed Rules Relating to Licensing Fees

In Rules proposed at 10 State Register 1028-1032, 4 Nov. 1985, and adopted at 10 State Register 1687, 10 February 1986, an error is contained in the Rule 4730.0600 Subp. 2. The reference is to Rule 4715.3160, but it should be to Rule 4730.0500.

Department of Human Services
Moose Lake Regional Treatment Center

Correction to Deadline for Proposals for Medical Services

The deadline for response to the Request for Proposal for Medical Services published in the *State Register* on April 7, 1986 on page 2086 (CITE 10 S.R. 2086) should have been May 12, 1986, not June 30, 1986.

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NEW PUBLICATIONS:

Airport Directory, 1986 Minnesota Department of Transportation (MnDOT). Compact and comprehensive. List of airports throughout the state. Includes approaches, detailed markings, elevation, latitude, longitude, repair potential and Public Seaplane Bases. Paperbound. 178 pp. Code #1-8. $4.50.

Banking Laws Supplement 1985. Department of Commerce. Statutes governing banks, savings banks, trust companies and other financial institutions. Looseleaf. Code #2-76s1. $5.00.

RELATED PUBLICATIONS:

Aeronautical Chart, 1983. Map of Minnesota (folded 7½″ × 10¾″; open 31″ × 25″) showing all airports in the state. Airport data includes radio facilities. Code #1-10. $2.00.

Pilot's Handbook of Aeronautical Knowledge, 1980, U.S. Department of Aeronautics. Essential pilot training. How to use (a) flight information publications; (b) the Aircraft Flight Manual and Pilot's Operation Handbook. Paperback. 257 pp. Code #16-28. $10.00.

Banking Laws and Related Statutes, 1984. Department of Commerce. Complete basic text of state law. Looseleaf. Code #2-76. $26.00.

Banking Rules 1985. Department of Commerce. Chapter 2675 from the Minnesota Rules containing the complete rules relating to loans, investments and banking procedures. Saddlestitched. Code #3-81. $5.00.

Minnesota Guidebook to State Agency Services 1984-85. Department of Administration. A 623-page guide describing all agencies in the three branches of state government, listing services, maps, guides, reports available from each. Includes explanation of administrative rulemaking, legislative lawmaking, and judicial processes in state. Paperback. Code #1-4. $12.50 plus 75¢ tax.

Minnesota Laws 1985. All laws passed in the Regular and Special Sessions. Code #18-3. $37.00, plus $2.22 tax.

Minnesota Rules 1985. 10-volume set. Code #18-200. Single volumes: $13.00 plus 78¢ tax; Full set: $125.00 plus $7.50 tax.

Minnesota Statutes 1985 Supplement. Pocket part supplement to Minnesota Statutes 1984. Code #18-7. $25.00 plus $1.50 tax.

State Register Index. Contains cumulative finding aids to Volume 9 of the *State Register*, including Minnesota Rules Amendments and Additions, Executive Orders list & index, Agency & Subject Matter indices. Code #13-9 SR INDEX. $5.00.

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E

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

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

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING PERMANENT RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing together with the proposed rules was published in the State Register on April 28, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14 subdivision 1 on this same day. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments and making a complete and thorough review of the proposed rule, I find the following:

1. The proposed rules are needed and reasonable revisions to the existing body of valuation rules.

2. Portions of the rules contain language which consists of statements of fact or commentary. Such language is inappropriate for rules under the current standards set for rules by the Attorney General's Office and must be deleted. Consequently, the following words and phrases have been deleted from the proposed rule.

   a. Part 8100.0200

~~On October 19, 1973, the Minnesota Supreme Court in Independent School District No. 99, et al. v. Commissioner of Taxation, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the "Hatfield Formula," was thus invalidated as a rule of general application.~~

~~These rules are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.~~

~~Since the commissioner of revenue is by statute the assessor of some of the utility property in the state of Minnesota and has supervisory powers over all assessments of property, and may raise or lower values pursuant to Minnesota Statutes, section 270.11,~~

3. The proposed rule has two phases which could be interpreted to be ambiguous or vague and do not meet the usual standards for rules as prescribed by the Attorney General's Office. These phrases listed below are therefore deleted from the rule.

   a. Part 8100.0200 "... ~~or until, in the opinion of the commissioner of revenue, different conditions justify a change.~~"

   b. Part 8100.0300 "... ~~until economic and technological factors dictate a change, ...~~"

4. In order to make the rule clear and concise, certain words and phrases must be added to the body of the rule in order to retain the same intent after making the deletions listed in Findings 2 and 3. These additions are enumerated below together with their appropriate citation. These additions in no way alter the original intent of the rule, attempt to impose a new meaning to any part of the rule or add a new rule to the original body of the proposed rule.

   a. Part 8100.0200 "The commissioner <u>of revenue</u> will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts, and <u>utilizing data relating to the cost of the property and the earnings of the company owning or operating the property.</u>

CONCLUSIONS

1. The revisions to the proposed rule are necessary and reasonable in order to make the rule conform to the standards for rules set by the Attorney General.

2. The revisions to the proposed rule are needed and reasonable in order to eliminate unnecessary and ambiguous language and preserve the meaning and intent of the rule.

3. The changes to the proposed rule listed in Findings 2, 3 and 4 above are not substantive material changes, do not affect the intent and meaning of the rules nor are they an attempt to add a new rule to the already published proposed rules; therefore, these changes do not warrant notification of any or all interested parties.

NOW, THEREFORE, IT IS ORDERED that this modified rule incorporating the specific revisions shown above and identified as Minnesota Department of Revenue Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies be adopted this 1st day of August, 1986 pursuant to the authority vested in me by Minnesota Statutes 270.06, Subdivision 14.

STATE OF MINNESOTA

COMMISSIONER OF REVENUE

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

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

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 14th day of April, 1986 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Revenue for that purpose and be published in the State Register.

STATE OF MINNESOTA

Arthur C. Roemer

Assistant To Commissioner Of Revenue

SP:N8

I

Department of Revenue
Property Equalization Division

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

Notice of Intent to Adopt Rules Without A Public Hearing

Notice is hereby given that the State Department of Revenue, Property Equalization Division proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

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

Unless twenty-five or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

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

Ronald Cook
Property Equalization Division
Minnesota Department of Revenue
P. O. Box 64446
St. Paul, MN 55164
(612) 642-0486

Authority for the adoption of these rules is contained in Minnesota Statutes, section 270.06 (14). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook, at the above mentioned address, upon request.

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

SP:N7

The rules proposed for adoption relate to the following matters:

1. A partial recognition of excess depreciation for utility companies which have reached maximum allowable depreciation levels.

2. A reduction in the gross amount to be added to the cost approach to value as a result of the average cost per kilowatt of installed capacity study as applied to the valuation of electric generating plants.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Ronald Cook.

STATE OF MINNESOTA

Arthur C. Roemer

Assistant to Commissioner of Revenue

SP:N7

J

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

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss.

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

That on the 25th day of April 19 86, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the prupose of receiving notice of the proposed adoption of rules by this Department.

Ronald K Cook
Ronald K. Cook

Subscribed and sworn to before me this 30th day of May, 19 86.

Patricia Zentzis

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

D

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

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

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages number 1 through 30 consisting of 334 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 18th day of April, 1986, 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
T. J. TRIPLETT
COMMISSIONER OF REVENUE

By: Donna J. Walbridge
Donna Walbridge
Commissioner's Staff

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319 So. Dewey Street
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Attn: H. W. Patchin

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Attn: J. J. Knip, Jr., Treasurer

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Pickands Mather & Co.
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Englewood Cliffs, NJ 07632
Attn: R. Jerry Alba
Planning Coordinator
State and Local Taxes

Prentice-Hall, Inc.
Englewood Cliffs, NJ 07632
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Washington, D.C. 20005
Attn: Regulatory Department

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Attn: Joel A. Huser

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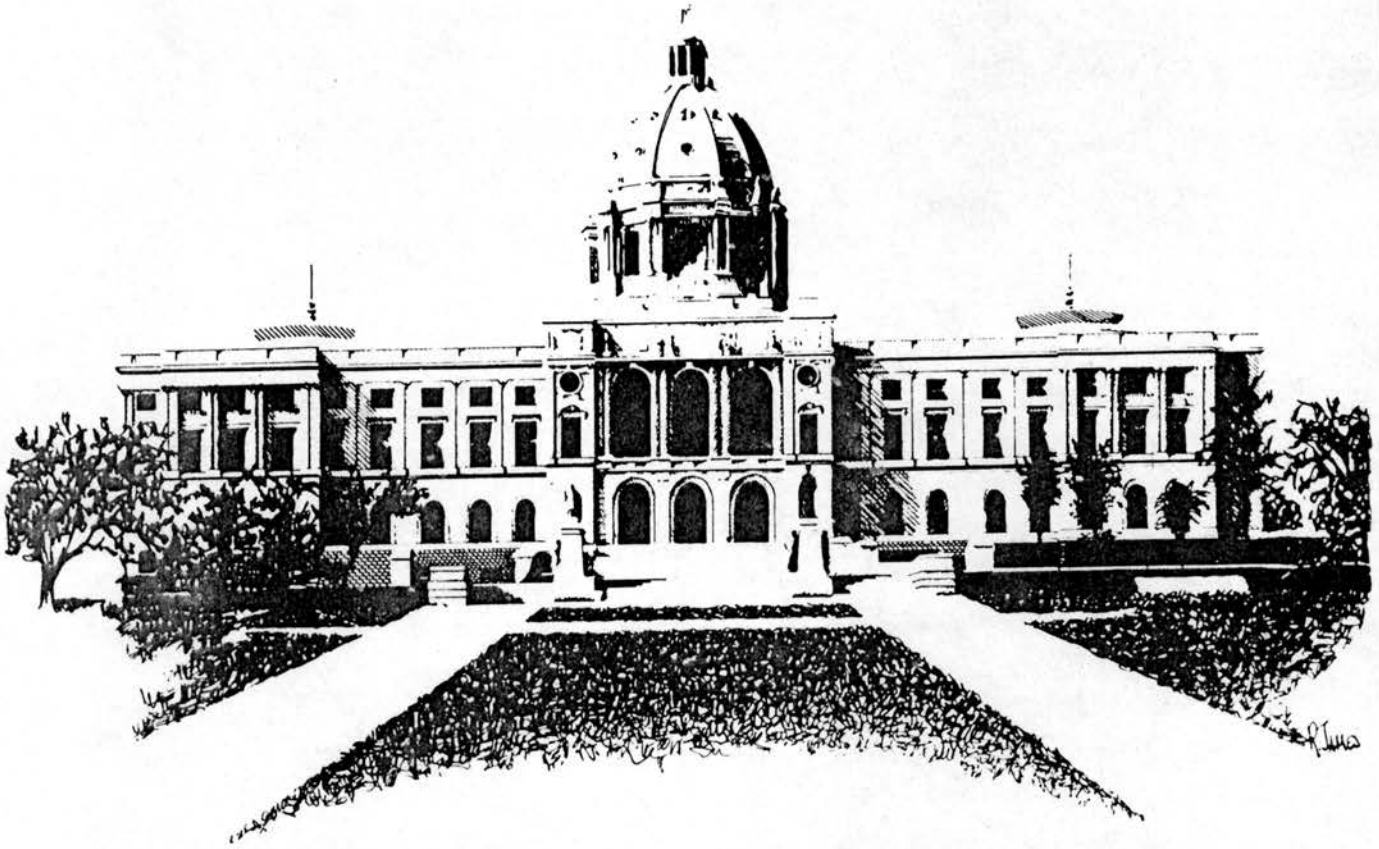
A

STATE REGISTER

STATE OF MINNESOTA



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Pages 1605-1636

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Concerning Amendments to Rules Governing Hazardous Waste

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information and opinions from sources outside the MPCA regarding possible amendments to Minn. Rules ch. 7045 governing hazardous waste.

Consideration is being given to the addition of mixtures and blends of waste solvents to the list of hazardous wastes from non-specific sources. Mixtures and blends of spent solvents containing ten percent or more by volume of one or more of the currently listed solvents and still bottoms from the recovery of spent solvents and solvent mixtures will be added to the list of hazardous waste. These amendments are considered in response to similar amendments to the federal hazardous waste regulations.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until February 25, 1986. Written statements should be addressed to:

Carol Nankivel
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113

Oral statements will be received during regular business hours at 612/296-7260.

January 27, 1986

Barbara Lindsey Sims
for
Thomas J. Kalitowski
Executive Director

Department of Revenue
Property Equalization Division

Outside Opinion Sought Regarding Proposed Rules Governing Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)

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

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

Ronald Cook
Property Equalization Division
Minnesota Department of Revenue
P. O. Box 64446
St. Paul, Minnesota 55164

Oral statements will be received during regular business hours over the telephone at (612) 642-0486 and in person at:

Brown and Bigelow Building
Garden Level, Suite 10
450 North Syndicate Street
St. Paul, Minnesota 55104

All Statements of information and comment shall be accepted until February 28, 1986. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

Lyle H. Ask, Director
Property Equalization Division

E

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

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

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING PERMANENT RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing together with the proposed rules was published in the State Register on April 28, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14 subdivision 1 on this same day. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments and making a complete and thorough review of the proposed rule, I find the following:

1. The proposed rules are needed and reasonable revisions to the existing body of valuation rules.

2. Portions of the rules contain language which consists of statements of fact or commentary. Such language is inappropriate for rules under the current standards set for rules by the Attorney General's Office and must be deleted. Consequently, the following words and phrases have been deleted from the proposed rule.

   a. Part 8100.0200

~~On October 19, 1973, the Minnesota Supreme Court in Independent School District No. 99, et al. v. Commissioner of Taxation, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the "Hatfield Formula," was thus invalidated as a rule of general application.~~

~~These rules are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.~~

~~Since the commissioner of revenue is by statute the assessor of some of the utility property in the state of Minnesota and has supervisory powers over all assessments of property, and may raise or lower values pursuant to Minnesota Statutes, section 270.11,~~

3. The proposed rule has two phases which could be interpreted to be ambiguous or vague and do not meet the usual standards for rules as prescribed by the Attorney General's Office. These phrases listed below are therefore deleted from the rule.

   a. Part 8100.0200 "... ~~or until, in the opinion of the commissioner of revenue, different conditions justify a change.~~"

   b. Part 8100.0300 "... ~~until economic and technological factors dictate a change, ...~~"

4. In order to make the rule clear and concise, certain words and phrases must be added to the body of the rule in order to retain the same intent after making the deletions listed in Findings 2 and 3. These additions are enumerated below together with their appropriate citation. These additions in no way alter the original intent of the rule, attempt to impose a new meaning to any part of the rule or add a new rule to the original body of the proposed rule.

   a. Part 8100.0200 "The commissioner <u>of revenue</u> will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts, and <u>utilizing data relating to the cost of the property and the earnings of the company owning or operating the property.</u>

CONCLUSIONS

1. The revisions to the proposed rule are necessary and reasonable in order to make the rule conform to the standards for rules set by the Attorney General.

2. The revisions to the proposed rule are needed and reasonable in order to eliminate unnecessary and ambiguous language and preserve the meaning and intent of the rule.

3. The changes to the proposed rule listed in Findings 2, 3 and 4 above are not substantive material changes, do not affect the intent and meaning of the rules nor are they an attempt to add a new rule to the already published proposed rules; therefore, these changes do not warrant notification of any or all interested parties.

NOW, THEREFORE, IT IS ORDERED that this modified rule incorporating the specific revisions shown above and identified as Minnesota Department of Revenue Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies be adopted this 1st day of August, 1986 pursuant to the authority vested in me by Minnesota Statutes 270.06, Subdivision 14.

STATE OF MINNESOTA

COMMISSIONER OF REVENUE

F.

State of Minnesota
Department of Revenue

In the Matter of the Proposed Rules of the Department of Revenue Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

STATEMENT OF NEED AND REASONABLENESS

The above-captioned rules are being proposed in order to update and revise the current Rules and Regulations of the Department of Revenue Relating to Ad Valorem (Property) Taxes. The current rules have been in effect since 1975. They have been revised many times. Once in 1976, 1979, 1982, 1983, 1984 and again in 1985; however, it is the announced intention of the Department of Revenue to revise the rules whenever conditions, economic or otherwise, dictate a need for revision. This intention is clearly expressed in Minn. Rule 8100.0200, Introduction, of the current rules, "The methods, procedures, indicators of value, capitalization rates, weighing percents, and allocation factors will be used as described in Minn. Rules Parts 8100.0300 to 8100.0600 for 1985 and subsequent years, or until, in the opinion of the Commissioner of Revenue, different conditions justify a change." (emphasis supplied) It is now the opinion of the Commissioner of Revenue that the rules should be revised.

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for, and reasonableness of the proposed new rules. It is submitted pursuant to Minn. Rule 1400.0500 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Information or Opinions in the preparation of these proposed rules was published in the State Registar on February 3, 1986 (10 S.R. 1617). Written comments were received from a number of utilities and were considered by the agency in the preparation of these rules. Additionally, an open forum type discussion meeting was held on March 18, 1986. This meeting was attended by members of the Department of Revenue together with city and county assessors and representatives of various utility companies. A list of those in attendance, the agenda, meeting notes, and correspondence received relative to this meeting is available in the Department of Revenue. Various suggestions and comments made at these meetings were received and duly considered by the agency.

Authority to Adopt Rules

Minn. Stat. § 270.06 (14) states that the ..."Commissioner of Revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law..." The above captioned rules are encompassed within this authority.

Further, Minn. Stat. § 270.11, Subd. 1 and 6 gives the Commissioner of Revenue the authority to review, modify, revise, raise or lower the assessed valuation of any real or personal property of any individual, co-partnership, company, association or corporation. The Commissioner of Revenue is also charged with the responsibility under Minn. Stat. §§ 273.33, Subd. 2; 273.37, Subd. 2; and 273.38 of assessing the... "personal property, consisting of the pipeline system of mains, pipes and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline or other petroleum products by pipe-

lines... transmission lines of less than 69kv, transmission lines of 69kv and above located in an unorganized township and distribution lines, (of electric companies) and equipment attached thereto, having a fixed situs outside the corporate limits of cities... the distribution lines, and the attachments and appurtenances thereto, (of electric companies) used primarily for supplying electricity to farmers at retail...". Such assessments are best discharged through the promulgation of such rules as are being proposed here.

Adoption of Proposed Rules
Need and Reasonableness

The agency is currently proposing two revisions to the existing body of the ad valorem rules for utility property. These revisions concern Minn. Rules 8100.0300, Subd. 3, Cost approach.

The first proposed change in the rules concerns the amount of depreciation which will be allowed as a reduction of the cost of the utility's property. There are several types of cost which are used in the appraisal of utilities:

1. Original Cost - Original cost is the actual cost of a property when it was first acquired or constructed.
2. Book Cost - Book cost is the original cost of a property less accrued depreciation.
3. Reproduction Cost - Reproduction cost is the present dollar cost to reproduce a replica of the existing property, i.e. what the property would cost today. Reproduction cost is obtained by trending known costs up or down, depending on whether current construction costs are greater or less than when the property was first constructed.
4. Replacement Cost - Replacement cost is the present dollar cost to replace a property with one having similar or equal usefulness.

The estimation of value by use of the cost approach requires the use of the proper type of cost, and then computing the loss in value due to depreciation.

Depreciation is made up of three factors:

1. Physical deterioration which is the loss in value from original cost caused by normal use and wearing out of the property.
2. Functional obsolescence which is a loss in value because of functional deficiencies or inadequacies within the property itself. Normally, functional obsolescence would result from technological changes which result in better, more efficient techniques.
3. Economic obsolescence which is a loss in value caused by factors outside the property itself.

In the case of electric utilities the various elements of depreciation are considered by the Federal Energy Regulatory Commission which then specifies what rates of depreciation are to be used by the various utilities for different classes of assets.

The four major electric utilities operating within Minnesota are currently at the following depreciation level:

Original Cost of Plant in Service	$5,950,437,955
Accrued Depreciation	1,519,966,025
Book Cost of Plant in Service	4,430,471,930
Ratio of Depr. to Original Cost	(Approx.) 26%

The rules now in effect allow the electric companies a maximum of 20% depreciation. The proposed rules would give the companies a partial allowance for the depreciation they show on their books in excess of the maximum depreciation allowance of 20%. This partial allowance is proposed at 10% of the excess depreciation. The difference between the companies' actual book depreciation and the maximum depreciation rate of 20% plus 10% of the excess depreciation is the agency's method of calculating a replacement cost for the utilities' property and also a hedge against inflation.

Minn. Stat. § 273.11, Subd. 1 requires that ..."all property shall be valued at its market value." With most types of property the concept of market value equates to replacement cost. The owner of a 20 year old three bedroom, 1000 square foot rambler does not have his property valued by the local assessor at the original cost of $20,000; neither does the assessor use book cost. The assessor would use some form of either reproduction or replacement cost. When the house was built in 1965 construction costs must have been approximately $20 per square foot; hence, the selling price, (market value, original cost) of $20,000. Today, inflation has pushed these same construction costs to $70 per square foot, so the market value or replacement cost of the property is $70,000.

The agency recognizes that a multimillion dollar utility does not sell in the same way a three bedroom rambler might. It also recognizes that in most instances the utility is limited in its earnings by its rate base; (rate base is normally original cost less depreciation). However, it is readily apparent that because of inflation the cost of replacing the facilities at today's prices would be more than the original cost at the time of installation. Our holding of the depreciation at a specified maximum attempts to recognize both the wearing out and obsolescence of the facilities together with the fact that to replace or reproduce the facility would produce more value. The agency believes that the proposed maximum depreciation allowance is a reasonable and viable method of accomplishing both these objectives.

The major pipeline and gas distribution companies have the following depreciation levels.

Original Cost of Plant in Service	$4,601,992,654
Accrued Depreciation	2,166,952,823
Book Cost of Plant in Service	2,435,039,831
Ratio of Depr. to Original Cost	(Approx.) 47%

The rules now in effect allow pipeline and gas distribution companies a maximum of 50% depreciation. We propose to retain this maximum but once more allow 10% of the excess depreciation to be used as a reduction of the original cost of the plant in service. The overall industry average depreciation rate of 47% does not exceed the maximum allowable depreciation as in the case of electric utilities. The agency is aware of this difference. We believe that because of the dissimilarity between the industries that the depreciation rates are proper. The electric industry is constantly updating and replacing its property so that overall depreciation rate is fairly low. In the pipeline industry, on the other hand, it is common practice to build a line and leave it in place for years. Since the pipes are normally buried they are not easily accessible as are electric wires. In addition, the state of the

art in the pipeline industry changes much more slowly than in the electric industry. There are only so many ways you can design a pipe, while new and different ways for transmitting electricity are regularly being discovered. (Witness the change from transporting electricity in A.C. form to the D.C. mode.) There is very little replacement and updating in the pipeline field. Minnesota has operating pipelines which were built in the 1940's. Because of this longer life span of pipeline property, a larger depreciation allowance is necessary to adequately reflect the loss in value of the property. The same rationale holds true in most instances for gas distribution companies.

There is a further consideration to be looked at as well. It is an acknowledged fact that the need for electricity will go on for the foreseeable future. The demand for electric power can be met in a number of ways; by hydro power, nuclear energy or coal fired generating plants. In short, the electric industry is here to stay. Gas and oil in the other hand are not quite as stable or certain. It may well be that a pipeline may not have nearly as long a life as the builder intended either because the source of supply is exhausted, or is cut off for political or economic reasons. This of course, has a decided effect on the market value of the property. A prospective buyer would be much more willing to pay a higher price for a long term monopoly utility, than for a relatively short term speculative utility. The larger depreciation allowance given to pipelines and gas distribution companies is one of the agency's methods of recognizing this fact. We believe the proposal to be reasonable in its concept, and necessary if we are to find a realistic estimate of market value for these types of utilities.

The second change in Minn. Rules 8100 concerns adjusting electric utility property to take into account the effect of inflation on property values. This change is aimed at a specific type of electric utility asset, the major generating plants. The adjustment is accomplished through the use of a special study called the "Average Cost per Kilowatt of Installed Capacity."

The "Average Cost per Kilowatt of Installed Capacity" is a method of replacement cost which computes the national average cost of building a major generating plant. This average is then applied to all major plants operated by a utility. If the national average is higher than the original cost of the plant the original cost is increased to that of the average; if the national average is lower no adjustment is made.

The reason this average is computed and used can best be explained by again using the homeowner as a comparison. The appraiser can best estimate the value of the three bedroom rambler by using two methods; 1) comparable sales, and 2) cost per square foot of construction. It is apparent that major utility generating plants do not sell frequently on the open market. Therefore the comparable sales avenue of appraisal is not generally available to us. Major generating plants are not built on a square foot basis, but rather on a capacity basis. They are measured and classified as to how many kilowatts they can produce operating at maximum capacity. Therefore, instead of using the square foot construction costs of generating plants to estimate current worth, as we would in the case of a house, we utilize cost per kilowatt.

We feel that this is a fair and workable technique of calculating an accurate measure of replacement cost for a number of reasons.

1. It follows accepted appraisal techniques of comparing construction costs for like properties.

2. It makes no adjustment on smaller standby units which are often kept in working condition by a utility for emergency use only.
3. By using the national average, the utility in Minnesota receives the benefit of warm weather building methods which are usually less costly.
4. The method gives the utility the advantage of the most advanced technology used in building power plants, and refutes the argument "We wouldn't build a plant like that today."
5. It typically produces an additional value only for older plants and does not produce an across the board increase for the newer plants.

Notwithstanding the arguments listed above the agency believes that the amount of additional value added to the cost indicator as a result of this average cost study must be tempered in order to achieve an equitable valuation. For this reason the agency proposes to increase the cost indicator of value by only 85% of the gross additional adjustment calculated through the use of the average cost per kilowatt of installed capacity study.

The results of this study have shown a rapid increase in recent years and the agency has proposed various methods to limit the increases so as to retain a reasonable value for older electric generating plants. These methods have included increasing the number of samples used in the study so as to broaden the study base, granting an allowance for pollution control equipment as a deduction from the gross added value, and computing various measures of functional obsolescence which are also used to reduce the gross value added to each generating plant. These measures have proved effective in past years; however, now the agency believes it is time to place a further restriction on the amount of value added to the generating plants, namely factor the increase by 85%. We believe this proposal is reasonable in both its concept and application and is necessary to continue our history of equitable, defensible utility valuation.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

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

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Dorothy A. McClung, Director of Legal and Legislative Affairs, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Dorothy A McClung

DOROTHY A. MC CLUNG, Director
Legal and Legislative Affairs

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

Office Memorandum

TO: Attorney General
Department of Administration

DATE: 7/31/86

FROM: G. D. Garski
Manager of State Assessed Property

PHONE: 642-0355

SUBJECT: Documents necessary for review of non-controversial rules

Attached please find the following documents necessary for your review of proposed revision to Department of Revenue rules governing the valuation and assessment of utility companies.

A. Notice of intent to solicit outside opinions regarding the proposed revision.
B. Written comments received in response to the above notice.
C. Notice of intent to adopt rules without a public hearing.
D. Mailing list certificate and mailing list.
E. Findings of fact, conclusion and order adopting rules
F. Statement of Need and Reasonableness.
G. All requests for a public hearing received by the Agency.
H. Certificate of Compliance with Rulemaking Procedures.
I. Notice of intent to adopt rules without a public hearing.
J. Affidavit of mailing notice of intent.
K. Rule as proposed as it appeared in the State Register.
L. Rule as adopted by the Agency.

No person requested that they be given notice when the rule was submitted to the Attorney General for his review.

If you have any questions in this matter please contact me.

To Mike
From Paula
Date 8-5-86
Re Revenue Rules

- Supplemental Findings of Fact, Conclusions & Order Adopting Permanent Rules enclosed but not a non Supplemental Findings etc.

- Notice of Intent
  - no statement on how to comment
  - none of the statements about how to comment re: rules or hearing are included
  - citation for hearing - incorrect?
  - rule not attached to Notice statement summarizing ok?
  - no small biz statement