

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : April 23, 1987

TO : STEPHEN SHAKMAN
Special Assistant
Attorney General

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE : 6-4692

SUBJECT : In the Matter of the Adopted Rules Relating to Hazardous Substance Injury Compensation Board Operation Procedure

The above-referenced rule has been approved as to its legality by the Attorney General on April 22, 1987.

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

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

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

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

MJC:nah

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RULE REVIEW CHECKLIST

File No. 1361 Docket No. 05.0009.0488

DATE RECEIVED 4/09/87
REVIEW DATE 4/20/87
DUE DATE ~~4/20/87~~ 4/23/87

APPROVED 4.22.87 mjc
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
Jan 6, 1986 Date published in State Register
one Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule
Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
115B.28 Statutory Authority
Yes Small business statement
Yes Expenditure of public money statement
Yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Feb 12, 1987 Date (30)/25 days before adoption

✓ Publication in State Register
Feb 16, 1987 Date (30)/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting
April 16, 1987 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney
Stephan Shakman Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

Hazardous Substance Injury Compensation Board

Adopted Permanent Rules Relating to Board Operation Procedure

Rules as Adopted

CHAPTER 7190
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD PROCEDURES

7190.0001 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in Minnesota Statutes, chapter 115B and in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Days.** "Days" means calendar days.

Subp. 4. **Director.** "Director" means the executive director of the Hazardous Substance Injury Compensation Board.

Subp. 5. **Professional member.** "Professional member" means the attorney, physician, or health professional member of the board.

BOARD

7190.0002 OFFICERS AND DUTIES.

Subpart 1. **Officers.** At the regular meeting in July, the members shall elect a chair and vice-chair. Each officer shall serve a term of one year. The vice-chair shall discharge the duties of the chair during the absence or disability of the chair.

Subp. 2. **Vacancies.** Upon a vacancy in the office of chair of the board, the vice-chair shall become the chair until the election of new officers at the regular meeting in July. Upon a vacancy in the office of vice-chair, a special election shall be held at the next regular meeting, for a term to end with the election of new officers at the regular meeting in July.

Subp. 3. **Removal.** The chair or vice-chair may be removed

from office by the affirmative vote of the majority of members.

Subp. 4. **Execution of documents.** Contracts and other documents approved by the board pursuant to law shall be executed on the board's behalf by the chair. The chair may delegate to the director authority to execute documents approved by the board. Any delegation shall be filed with the Secretary of State.

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Subp. 2. **Special meetings.** The chair may call a special meeting of the board when the chair deems it necessary. The chair shall call a special meeting when two board members request it.

Subp. 3. **Quorum.** A majority of members of the board shall constitute a quorum, and a quorum must be present for the transaction of business.

Subp. 4. **Presiding officer.** The chair shall preside at board meetings and shall determine the limits of time and the relevancy of discussion or debate on any matter before the board. If both the chair and vice-chair are absent, the members present shall elect a presiding officer to serve for that meeting or until the chair or vice-chair arrives.

Subp. 5. **Voting.** A majority vote of the entire board is necessary to make any decision. All members present shall vote or abstain on every matter presented for decision.

Subp. 6. **Public participation at meetings.** Meetings of the board shall be open to the public, except during the time protected information is to be discussed. Participation by persons other than members of the board and its staff and attorney shall be at the request of the board or with prior authorization from the chair or director.

Subp. 7. **Parliamentary procedure.** Except as specifically

provided in this chapter, Robert's Rules of Order shall govern any question of parliamentary procedure that may arise at any meeting of the board.

Subp. 8. **Record of meetings.** The board shall keep full and accurate minutes of meetings, including a record of votes of individual members.

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A member of the board who has a direct and substantial financial or employment interest relating to any matter before the board shall make known this interest and refrain from participating in or voting upon the matter. If nonparticipation by board members results in the loss of a quorum, the entire board shall select from among themselves a majority of members whose interests are least likely to affect their impartiality or judgment, and these members shall vote upon the matter before the board.

CLAIM APPLICATION

7190.0005 REPRESENTATION.

A claimant may authorize a representative to complete the application for compensation and represent the claimant in all communication and proceedings involving the board. The representative may be an attorney or other individual which the claimant has authorized in writing to the board to act in that capacity. The board will notify the claimant and the claimant's representative of actions pertaining to a claim.

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A claimant must apply for compensation within the time limits established by Minnesota Statutes, section 115B.30, subdivision 3. The application must be on a form supplied by the board, containing substantially the following:

A. the name, address, telephone number, social security number, and age of the claimant;

B. the name, address, and telephone number of the claimant's employer if the claimant is seeking compensation for

personal injury or claiming hardship;

C. the name, address, telephone number, and relationship to the claimant of any representative;

D. the identity of the hazardous substances to which the claimant was exposed;

E. a description of the property damage or personal injury;

F. the date the claimant discovered the property damage or the personal injury;

G. the date the claimant discovered the connection between the injury or property damage and the exposure to hazardous substances and an explanation of how the connection was discovered;

H. the name, address, and phone number of any medical practitioner who examined the claimant regarding the personal injury;

I. in the case of death as a personal injury, the cause of death on the death certificate and the report of an autopsy if performed;

J. the identity of any government agency or official that the claimant contacted concerning the presence of hazardous substances;

K. the identity, if the claimant knows, of the source of the hazardous substances related to the exposure, including the location of the source and the person responsible for the release;

L. the duration and location of the exposure to the substances;

M. the amount of compensation the claimant seeks from the board for the property damage or personal injury including losses for medical expenses, lost wages, or income and lost household labor;

N. the amount of reimbursement the claimant has received for losses and identification of the sources of reimbursement;

O. a description of actions the claimant has taken if

any to recover compensation from the person responsible for the release of the hazardous substance;

P. a statement signed by the claimant, certifying under oath the accuracy and completeness of the information provided;

Q. an authorization signed by the claimant for access to medical and financial records if the compensation requested is for personal injury or hardship; and

R. other relevant information the board or director deems essential to a determination on the application.

7190.0007 CLAIM ACCEPTANCE.

Subpart 1. **Claim acceptance.** A claim shall begin when the director accepts for filing an application for compensation. The director shall accept for filing an application that the director determines is from an eligible person, and cites injury or damage described as eligible for compensation in Minnesota Statutes, chapter 115B.

Subp. 2. **Refusal to accept.** If the director determines that the application is ineligible, the director will forward the application to a professional board member. The board member will review the application and the director's determination and render a written decision on the eligibility of the application within 14 days. If the board member determines the application is ineligible, the director will notify the applicant in writing of the refusal to accept the application for filing and the reasons for finding it ineligible. The director shall report at the regular meeting of the board on the number of applications determined since the previous meeting to be ineligible and the reasons for ineligibility.

Subp. 3. **Refiling an application.** An applicant may not appeal a determination of ineligibility but may submit another application if that application contains new information relevant to determining eligibility.

7190.0008 CLAIM REVIEW.

Subpart 1. **Director's review.** The director shall review a claim to assure the claimant has provided the information required by part 7190.0006.

Subp. 2. **Claims with required information.** If the director determines the claim contains the required information, the director will notify the claimant in writing that the claim has been accepted for filing, and will forward the claim with recommendations for investigation to the chair.

Subp. 3. **Claims lacking required information.** If the director determines the claim lacks required information, the director will provide the claimant written notice describing the required information, the time limits for providing the information, and the consequences of not providing the required information.

Subp. 4. **Extensions of time for providing required information.** If a claimant cannot provide the required information within the designated time limits, the claimant may request from the board an extension of time. The request must be made as soon as reasonably practicable and be in writing. It must give the reasons the extension is needed and the date the information will be provided. The director may approve a request for extension of time. If the director determines a request for extension of time should be denied, the director will submit the request and the director's determination to a professional board member. The board member will issue a written decision to grant or deny the extension. The director will notify the claimant in writing of the decision to grant or deny as soon as practicable after the claimant makes the request.

what are the grounds for approval?

7190.0009 CLAIM ACCESS.

During the time a claim is pending before the board, the application, supporting documents, and information gathered by the board shall be available only to members of the board, the board's staff, attorney, and authorized consultants. Claim data in summary form or other form that does not identify the claimant may be distributed. The final decision of the board

shall be available to the public.

7190.0010 CLAIM AMENDMENT.

A claimant must promptly notify the board in writing upon learning of additional personal injury or property damage potentially related to a pending claim. The board will determine whether to permit an amendment of the pending claim.

What are the grounds for permitting an amendment

7190.0011 CLAIM CONSOLIDATION.

The chair may consolidate two or more related claims if:

A. the claims arise from the same release; or

B. the claims present substantially the same issues; and

C. the consolidation would not prejudice the rights of any claimant; and

D. the consolidation is administratively practical.

7190.0012 CLAIM DISMISSAL.

The board may dismiss a claim when:

A. the claimant refuses to supply requested information, including undergoing mental or physical examination;

B. the claimant receives an award from the responsible person;

C. the claimant has falsified or withheld information relevant to the claim; or

D. the claimant refuses to appear before the board when ordered.

7190.0013 EMERGENCY COMPENSATION.

A claimant may submit a written request to the board for emergency compensation for expenses related to a pending claim. The board must respond to the request within 30 days. The board shall determine whether to grant emergency compensation as described in Minnesota Statutes, section 115B.28, subdivision 2, clause (3), using the following criteria:

A. the failure to receive the emergency compensation may create a life-threatening or other seriously disruptive situation such as loss of critical medical care, loss of

residence, or loss of other basic necessities; and

B. the emergency compensation is not likely to be provided by other sources of assistance available to the claimant.

The board may award emergency compensation only to the extent necessary to meet immediate expenses.

7190.0014 CLAIM INVESTIGATION.

Board members other than the member assigned to the investigation shall not discuss with the claimant outside a board meeting the status of the investigation.

7190.0015 CLAIM DETERMINATION.

Subpart 1. **Challenge of preliminary decision.** A board member or claimant who challenges a preliminary decision on a claim must indicate in writing what findings are disputed. Within 14 days after the board receives notice of the challenge the claimant shall be notified of the date of a special meeting of the board at which the claimant shall appear. No later than five days preceding the special meeting the claimant shall provide the board with a list of written material that the claimant will supply at the meeting and the names and addresses of the witnesses that the claimant has asked to speak at the meeting.

Supb. 2. **Claimant appearance.** The member who wrote the preliminary decision shall not preside at the meeting. The claimant and any witnesses at the special meeting shall speak under oath.

Subp. 3. **Claimant review of protected information.** Within 30 days of receiving the final decision of the board, a claimant may request to review protected information relevant to the final determination of the claim. The claimant must agree in writing to maintain the confidentiality of such information under Minnesota Statutes, section 115B.35.

7190.0016 REOPENING A CLAIM.

Within a reasonable time, not to exceed six years from the

final determination of a claim, the board by majority vote may reopen the investigation of a claim upon the presentation of new material evidence which with reasonable diligence could not have been found and produced at the time of the claim determination.

7190.0017 PAYMENT OF COMPENSATION.

Subpart 1. **Claimant payment.** Payment of all compensation shall be directly to the claimant.

Subp. 2. **Subrogation.** An offer of compensation from the board shall be subject to the claimant assigning to the board the claimant's rights to recover losses from other sources. The claimant shall agree to cooperate fully with the board in any subrogation action brought by the board.

Subp. 3. **Acceptance deadline.** A claimant must accept or reject in writing an offer of compensation from the board within 30 days of receiving the offer. If the board receives no response from the claimant, the board shall consider the offer rejected.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 22 1987
Joan Anderson Growe 11:20 AM
Secretary of State
APPROVED AS TO FORM AND LEGALITY
April 22 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

OFFICIAL NOTICES

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

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

Department of Health
Hazardous Substance Injury Compensation Board

Outside Opinion Sought Regarding Proposed Rules Governing Board Practices and Procedures for All Claims and Proposed Rules on Compensable Death Benefits

Minnesota Statutes Sections 115B.25-115B.37 (1985 Supp.) establish a Hazardous Substance Injury Compensation Fund ("Fund") to be administered by the Hazardous Substance Injury Compensation Board ("Board"). The Fund will provide compensation for certain personal injuries and damage to property which may result from the release of hazardous substances into the environment.

Notice is hereby given that the Board is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rules governing (a) practice and procedure before the Board, the form and procedure for applications for compensation, and procedures for claims investigations, and (b) death benefits to dependents which are compensable by the Fund. The adoption of the rules is authorized by Minnesota Statutes section 115B.28 and 115B.34, which require the Board to promulgate rules on its operating procedures and on death benefits.

The State Hazardous Substance Injury Compensation Board requests information concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to:

Dr. Valentine O'Malley
Deputy Commissioner
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

All statements of information and opinions shall be accepted until 30 days after the day this notice appears in the *State Register*. Any written material received by the State Hazardous Substance Injury Compensation Board shall become part of the rulemaking record to be submitted to the Attorney General's Office or Administrative Law Judge in the event that the rules are adopted.

December 20, 1985

Byron E. Starns, Chairperson
Hazardous Substance Injury
Compensation Board

Department of Human Services
Income Maintenance Bureau
Health Care Programs Division

Outside Opinion Sought Concerning Third-Party Liability for Health Services to Medical Assistance Recipients

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing an emergency rule to replace Minnesota Rules, Part 9500.0940, Third-Party Liability.

This rule is authorized by Minnesota Statutes, section 256B.04, Subd. 2 in regard to the Medical Assistance Program and by Minnesota Statutes, secton 14.29, Subd. 1 in regard to the amendment of a rule to comply with a federal law, 42 CFR 433.139. The emergency rule governs liability for collection of benefits available to medical assistance recipients, for reimbursement of medical expenses. The proposed changes under the emergency rule will require health service providers to bill third-party payers before submitting claims to the Medical Assistance Program. Third-party coverage shall be primary and shall be exhausted before payment is made by medical assistance.

CERTIFICATE OF THE
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD
AUTHORIZING RESOLUTION

I, Byron E. Starns, do hereby certify that I am a member and the chairperson of the Hazardous Substance Injury Compensation Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Hazardous Substance Injury Compensation Board duly and properly called and held on the 12th day of January, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

RESOLVED, that Virginia L. Reiner, the executive director of the Hazardous Substance Injury Compensation Board, is hereby granted the authority and directed to sign and to give the Notice of the Board's Proposed Adoption of a rule without a public hearing governing practice and procedure before the Board, the form and procedure for applications for compensation, and procedures for claims investigations to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of January, 1987.

Byron E. Starns
BYRON E. STARNS
Chairperson

Constance A. Pries
Board Member

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Board Operation Procedure

Rules as Proposed (all new material)

CHAPTER 7190

HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

PROCEDURES

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CLAIM APPLICATION

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C. the name, address, telephone number, and relationship to the claimant of any representative;

D. the identity of the hazardous substances to which the claimant was exposed;

E. a description of the property damage or personal injury;

F. the date the claimant discovered the property damage or the personal injury;

G. the date the claimant discovered the connection between the injury or property damage and the exposure to hazardous substances and an explanation of how the connection was discovered;

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I. in the case of death as a personal injury, the cause of death on the death certificate and the report of an autopsy if performed;

J. the identity of any government agency or official that the claimant contacted concerning the presence of hazardous substances;

K. the identity, if the claimant knows, of the source of the hazardous substances related to the exposure, including the location of the source and the person responsible for the release;

L. the duration and location of the exposure to the substances;

M. the amount of compensation the claimant seeks from the board for the property damage or personal injury including losses for medical expenses, lost wages, or income and lost household labor;

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7190.0016 REOPENING A CLAIM.

Within a reasonable time, not to exceed six years from the

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by Revisor _____

final determination of a claim, the board by majority vote may reopen the investigation of a claim upon the presentation of new material evidence which with reasonable diligence could not have been found and produced at the time of the claim determination.

7190.0017 PAYMENT OF COMPENSATION.

Subpart 1. **Claimant payment.** Payment of all compensation shall be directly to the claimant.

Subp. 2. **Subrogation.** An offer of compensation from the board shall be subject to the claimant assigning to the board the claimant's rights to recover losses from other sources. The claimant shall agree to cooperate fully with the board in any subrogation action brought by the board.

Subp. 3. **Acceptance deadline.** A claimant must accept or reject in writing an offer of compensation from the board within 30 days of receiving the offer. If the board receives no response from the claimant, the board shall consider the offer rejected.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Board Operation Procedure

AGENCY: Hazardous Substance Injury Compensation Board

MINNESOTA RULES: Chapter 7190

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Board Operation Procedures

Notice of Proposed Adoption of a Rule Without a Public Hearing

Notice is hereby given that the State Hazardous Substance Injury Compensation Board 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 statutory authority to adopt the rule is Minnesota Statutes § 115B.28 (1986).[1]

All persons 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. Comment is encouraged.[2] Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.[3]

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 unless a sufficient number withdraw their request.[4] 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.[6] If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.[1]

Comments or written requests for a public hearing must be submitted to:

Virginia Reiner
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114
612/642-0455

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.

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

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 upon request by writing or telephoning the Board's office at the address or telephone number listed above.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, fix or adjust any fees, have an impact on agricultural land or an impact on small businesses.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 the executive director at the address listed above.

Jan 30, 1987
Date

Virginia L. Reiner
Executive Director
Hazardous Substance Injury
Compensation Board

NOTE: This notice is published in the February 16, 1987 State Register.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Board Operation Procedure

AGENCY: Hazardous Substance Injury Compensation Board

MINNESOTA RULES: Chapter 7190

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Board Operation Procedure

Rules as Proposed (all new material)

CHAPTER 7190

HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD PROCEDURES

7190.0001 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in Minnesota Statutes, chapter 115B and in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Days.** "Days" means calendar days.

Subp. 4. **Director.** "Director" means the executive director of the Hazardous Substance Injury Compensation Board.

Subp. 5. **Professional member.** "Professional member" means the attorney, physician, or health professional member of the board.

BOARD

7190.0002 OFFICERS AND DUTIES.

Subpart 1. **Officers.** At the regular meeting in July, the members shall elect a chair and vice-chair. Each officer shall serve a term of one year. The vice-chair shall discharge the duties of the chair during the absence or disability of the chair.

Subp. 2. **Vacancies.** Upon a vacancy in the office of chair of the board, the vice-chair shall become the chair until the election of new officers at the regular meeting in July. Upon a vacancy in the office of vice-chair, a special election shall be held at the next regular meeting, for a term to end with the election of new officers at the regular meeting in July.

Subp. 3. Removal. The chair or vice-chair may be removed

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from office by the affirmative vote of the majority of members.

Subp. 4. **Execution of documents.** Contracts and other documents approved by the board pursuant to law shall be executed on the board's behalf by the chair. The chair may delegate to the director authority to execute documents approved by the board. Any delegation shall be filed with the Secretary of State.

7190.0003 BOARD MEETINGS.

Subpart 1. **Regular meetings.** The board shall meet monthly at a date, place, and time set by the board. The chair may direct that any regular meeting be canceled, postponed, or advanced.

Subp. 2. **Special meetings.** The chair may call a special meeting of the board when the chair deems it necessary. The chair shall call a special meeting when two board members request it.

Subp. 3. **Quorum.** A majority of members of the board shall constitute a quorum, and a quorum must be present for the transaction of business.

Subp. 4. **Presiding officer.** The chair shall preside at board meetings and shall determine the limits of time and the relevancy of discussion or debate on any matter before the board. If both the chair and vice-chair are absent, the members present shall elect a presiding officer to serve for that meeting or until the chair or vice-chair arrives.

Subp. 5. **Voting.** A majority vote of the entire board is necessary to make any decision. All members present shall vote or abstain on every matter presented for decision.

Subp. 6. **Public participation at meetings.** Meetings of the board shall be open to the public, except during the time protected information is to be discussed. Participation by persons other than members of the board and its staff and attorney shall be at the request of the board or with prior authorization from the chair or director.

Subp. 7. **Parliamentary procedure.** Except as specifically

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provided in this chapter, Robert's Rules of Order shall govern any question of parliamentary procedure that may arise at any meeting of the board.

Subp. 8. **Record of meetings.** The board shall keep full and accurate minutes of meetings, including a record of votes of individual members.

7190.0004 CONFLICT OF INTEREST.

A member of the board who has a direct and substantial financial or employment interest relating to any matter before the board shall make known this interest and refrain from participating in or voting upon the matter. If nonparticipation by board members results in the loss of a quorum, the entire board shall select from among themselves a majority of members whose interests are least likely to affect their impartiality or judgment, and these members shall vote upon the matter before the board.

CLAIM APPLICATION

7190.0005 REPRESENTATION.

A claimant may authorize a representative to complete the application for compensation and represent the claimant in all communication and proceedings involving the board. The representative may be an attorney or other individual which the claimant has authorized in writing to the board to act in that capacity. The board will notify the claimant and the claimant's representative of actions pertaining to a claim.

7190.0006 APPLICATION FOR COMPENSATION.

A claimant must apply for compensation within the time limits established by Minnesota Statutes, section 115B.30, subdivision 3. The application must be on a form supplied by the board, containing substantially the following:

A. the name, address, telephone number, social security number, and age of the claimant;

B. the name, address, and telephone number of the claimant's employer if the claimant is seeking compensation for

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personal injury or claiming hardship;

C. the name, address, telephone number, and relationship to the claimant of any representative;

D. the identity of the hazardous substances to which the claimant was exposed;

E. a description of the property damage or personal injury;

F. the date the claimant discovered the property damage or the personal injury;

G. the date the claimant discovered the connection between the injury or property damage and the exposure to hazardous substances and an explanation of how the connection was discovered;

H. the name, address, and phone number of any medical practitioner who examined the claimant regarding the personal injury;

I. in the case of death as a personal injury, the cause of death on the death certificate and the report of an autopsy if performed;

J. the identity of any government agency or official that the claimant contacted concerning the presence of hazardous substances;

K. the identity, if the claimant knows, of the source of the hazardous substances related to the exposure, including the location of the source and the person responsible for the release;

L. the duration and location of the exposure to the substances;

M. the amount of compensation the claimant seeks from the board for the property damage or personal injury including losses for medical expenses, lost wages, or income and lost household labor;

N. the amount of reimbursement the claimant has received for losses and identification of the sources of reimbursement;

O. a description of actions the claimant has taken if

any to recover compensation from the person responsible for the release of the hazardous substance;

P. a statement signed by the claimant, certifying under oath the accuracy and completeness of the information provided;

Q. an authorization signed by the claimant for access to medical and financial records if the compensation requested is for personal injury or hardship; and

R. other relevant information the board or director deems essential to a determination on the application.

7190.0007 CLAIM ACCEPTANCE.

Subpart 1. **Claim acceptance.** A claim shall begin when the director accepts for filing an application for compensation. The director shall accept for filing an application that the director determines is from an eligible person, and cites injury or damage described as eligible for compensation in Minnesota Statutes, chapter 115B.

Subp. 2. **Refusal to accept.** If the director determines that the application is ineligible, the director will forward the application to a professional board member. The board member will review the application and the director's determination and render a written decision on the eligibility of the application within 14 days. If the board member determines the application is ineligible, the director will notify the applicant in writing of the refusal to accept the application for filing and the reasons for finding it ineligible. The director shall report at the regular meeting of the board on the number of applications determined since the previous meeting to be ineligible and the reasons for ineligibility.

Subp. 3. **Refiling an application.** An applicant may not appeal a determination of ineligibility but may submit another application if that application contains new information relevant to determining eligibility.

7190.0008 CLAIM REVIEW.

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Subpart 1. **Director's review.** The director shall review a claim to assure the claimant has provided the information required by part 7190.0006.

Subp. 2. **Claims with required information.** If the director determines the claim contains the required information, the director will notify the claimant in writing that the claim has been accepted for filing, and will forward the claim with recommendations for investigation to the chair.

Subp. 3. **Claims lacking required information.** If the director determines the claim lacks required information, the director will provide the claimant written notice describing the required information, the time limits for providing the information, and the consequences of not providing the required information.

Subp. 4. **Extensions of time for providing required information.** If a claimant cannot provide the required information within the designated time limits, the claimant may request from the board an extension of time. The request must be made as soon as reasonably practicable and be in writing. It must give the reasons the extension is needed and the date the information will be provided. The director may approve a request for extension of time. If the director determines a request for extension of time should be denied, the director will submit the request and the director's determination to a professional board member. The board member will issue a written decision to grant or deny the extension. The director will notify the claimant in writing of the decision to grant or deny as soon as practicable after the claimant makes the request.

7190.0009 CLAIM ACCESS.

During the time a claim is pending before the board, the application, supporting documents, and information gathered by the board shall be available only to members of the board, the board's staff, attorney, and authorized consultants. Claim data in summary form or other form that does not identify the claimant may be distributed. The final decision of the board

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shall be available to the public.

7190.0010 CLAIM AMENDMENT.

A claimant must promptly notify the board in writing upon learning of additional personal injury or property damage potentially related to a pending claim. The board will determine whether to permit an amendment of the pending claim.

7190.0011 CLAIM CONSOLIDATION.

The chair may consolidate two or more related claims if:

A. the claims arise from the same release; or

B. the claims present substantially the same issues; and

C. the consolidation would not prejudice the rights of any claimant; and

D. the consolidation is administratively practical.

7190.0012 CLAIM DISMISSAL.

The board may dismiss a claim when:

A. the claimant refuses to supply requested information, including undergoing mental or physical examination;

B. the claimant receives an award from the responsible person;

C. the claimant has falsified or withheld information relevant to the claim; or

D. the claimant refuses to appear before the board when ordered.

7190.0013 EMERGENCY COMPENSATION.

A claimant may submit a written request to the board for emergency compensation for expenses related to a pending claim. The board must respond to the request within 30 days. The board shall determine whether to grant emergency compensation as described in Minnesota Statutes, section 115B.28, subdivision 2, clause (3), using the following criteria:

A. the failure to receive the emergency compensation may create a life-threatening or other seriously disruptive situation such as loss of critical medical care, loss of

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residence, or loss of other basic necessities; and

B. the emergency compensation is not likely to be provided by other sources of assistance available to the claimant.

The board may award emergency compensation only to the extent necessary to meet immediate expenses.

7190.0014 CLAIM INVESTIGATION.

Board members other than the member assigned to the investigation shall not discuss with the claimant outside a board meeting the status of the investigation.

7190.0015 CLAIM DETERMINATION.

Subpart 1. **Challenge of preliminary decision.** A board member or claimant who challenges a preliminary decision on a claim must indicate in writing what findings are disputed. Within 14 days after the board receives notice of the challenge the claimant shall be notified of the date of a special meeting of the board at which the claimant shall appear. No later than five days preceding the special meeting the claimant shall provide the board with a list of written material that the claimant will supply at the meeting and the names and addresses of the witnesses that the claimant has asked to speak at the meeting.

Supb. 2. **Claimant appearance.** The member who wrote the preliminary decision shall not preside at the meeting. The claimant and any witnesses at the special meeting shall speak under oath.

Subp. 3. **Claimant review of protected information.** Within 30 days of receiving the final decision of the board, a claimant may request to review protected information relevant to the final determination of the claim. The claimant must agree in writing to maintain the confidentiality of such information under Minnesota Statutes, section 115B.35.

7190.0016 REOPENING A CLAIM.

Within a reasonable time, not to exceed six years from the

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final determination of a claim, the board by majority vote may reopen the investigation of a claim upon the presentation of new material evidence which with reasonable diligence could not have been found and produced at the time of the claim determination.

7190.0017 PAYMENT OF COMPENSATION.

Subpart 1. **Claimant payment.** Payment of all compensation shall be directly to the claimant.

Subp. 2. **Subrogation.** An offer of compensation from the board shall be subject to the claimant assigning to the board the claimant's rights to recover losses from other sources. The claimant shall agree to cooperate fully with the board in any subrogation action brought by the board.

Subp. 3. **Acceptance deadline.** A claimant must accept or reject in writing an offer of compensation from the board within 30 days of receiving the offer. If the board receives no response from the claimant, the board shall consider the offer rejected.

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Hazardous Substance Injury Compensation Board

Rulemaking Mailing List

1. Mark Anfinson
Attorney at Law
Lake Calhoun Professional Bldg.
3109 Hennepin Ave. S.
Minneapolis, MN 55408

2. Susan Biemesderfer
Popham, Haik, Schnobrich,
Kaufmann & Doty, Ltd.
4300 IDS Center
Minneapolis, MN 55402

3. Jack Ditmore, Deputy Dir.
MN State Planning Agency
Rm 100, Capitol Sq. Bldg.
550 Cedar St.
St. Paul, MN 55101

4. Michael Dittberner, Esq.
Sieloff & Bierman, P.A.
Suite 938 Minnesota Bldg.
4th St. & Cedar
St. Paul, MN 55101

5. Nelson French, Director
Project Environment
1313 5th St. SE, Suite 323
Minneapolis, MN 55414

6. Valentine O'Malley, M.D.
Deputy Commissioner
MN Department of Health
717 Delaware St. SE
Minneapolis, MN 55440

7. Deborah Pile
State Planning Agency
100 Capitol Sq. Bldg.
550 Cedar St.
St. Paul, MN 55101

8. Terry Reuther
MN Alliance Against
Toxic Hazards
1400 Crosstown Blvd. NW
Andover, MN 55304

9. Sue Robertson
Executive Director
Legislative Commission
on Waste Management
86 State Office Bldg.
St. Paul, MN 55155

10. Ellen Sampson, Esq.
Dayton, Herman, Graham, Getts
10 S. 5th St.
Minneapolis, MN 55401

11. Diane Jensen
Clean Water Action Project
2385 University Ave.
Suite 306
St. Paul, MN 55115

12. Howard Sussman
701 4th Ave. S., Suite 500
Minneapolis, MN 55415

13. Shirley Brantingham
MACI
300 Hanover Bldg.
480 Cedar St.
St. Paul, MN 55101

14. Mary Ayde
MN Chapter N.S.W.M.A.
4649 Bloomington Ave. S.
Minneapolis, MN 55407

15. Mike Strand
WCCO Television
90 S. 11th St.
Minneapolis, MN 55403

STATE OF MINNESOTA
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

In the matter of the proposed new permanent rules relating to board operation procedure

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Hazardous Substance Injury Compensation Board (Board) was created by the 1985 Legislature (Laws 1985, 1st special session, chapter 8) as part of revisions to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes, Chapter 115B. These revisions were codified as Minn. Stat. §§ 115B.25-115B.37. The Board was established as a new state agency to administer a $2 million Hazardous Substance Injury Compensation Fund (Fund). The Board's primary responsibility is to investigate claims of certain types of property damage or personal injury caused by the release of hazardous substances into the environment, and to compensate eligible persons from the Fund for certain types of losses. The Legislature directed the Board to adopt rules describing various aspects of this compensation system, including rules governing practice and procedure before the board, the form and procedure for applications for compensation, procedures for claims investigations, emergency compensation, the value of household labor lost due to eligible injury or disease, and death benefits.

The Board met for the first time November 26, 1985. It published a Notice of Intent to Solicit Outside Opinion in the State Register on January 6, 1986 (10 S.R. 1509), seeking comments for rules describing practice and procedure before the board,

the form and procedure for applications for compensation, procedures for claim investigations, and death benefits. The Board received one comment letter in response to the notice.

The proposed rules on Board operation procedures describe the organization of the Board, the conduct of its meetings and members, the information required on applications, the processing of claim applications, and challenge and acceptance or rejection of Board determinations on compensation.

II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board statutory authority to adopt rules relating to board operation is set forth in Minn. Stat. § 115B.28, subd. 1 (1986), which provides in relevant part:

> In addition to performing duties specified in sections 115B.25 to 115B.37 or in other law, and subject to the limitations on disclosure contained in section 115B.35, the board shall:
>
> (1) adopt rules as soon as practicable after all members are appointed, including rules governing practice and procedure before the board, the form and procedure for applications for compensation, and procedures for claims investigations;

As a new state agency, the Board is also directed by Minn. Stat. § 14.06 to adopt rules describing its procedures:

> Each agency shall adopt rules in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights or procedures available to the public.

Under these statutes the Board has the statutory authority to adopt rules governing its operation.

III. STATEMENT OF NEED

The need to adopt the proposed Minn. Rules Parts 7190.0001 through 7190.0017 arises from the need of the public and claimants to understand what information is essential to the evaluation of a claim, how claims will be considered at Board meetings, and how Board determinations can be challenged, accepted or rejected. The proposed Minn. Rules Parts 7190.0001 through 7190.0017 are needed to establish the timelines and clarify the responsibilities of the claimant, the Board and the Board staff in the operation of this administrative compensation system.

IV. STATEMENT OF REASONABLENESS

The proposed new rules are reasonable because they describe organizational procedures and standards of Board conduct which are similar to other state boards, such as the Pollution Control Agency Board and the Waste Management Board. They consider the needs of the claimant for a fair, efficient and understandable system of handling claims; they address the right of the public to information while also recognizing the Board's obligation to safeguard protected and confidential information as required by the statute.

Part 7190.0001 Definitions

This proposed rule sets forth five definitions of words or phrases used in the rule. It is reasonable to define these terms to shorten the language in the rule and clarify possible ambiguity such as the meaning of "days".

Part 7190.0002 Officers and Duties

Minn. Stat. § 115B.27, subd. 1 provides that one member of the five member Board shall be elected to serve as chair for a term of one year. It is reasonable to clarify the statute as to when this election will occur so that members can anticipate the election and give consideration to their choice. Since the chair is invested with the responsibility for assigning claims (Minn. Stat. § 115B.35), it is reasonable to provide for procedures to ensure the chair's responsibilities in investigation can continue to be performed in the chair's absence. The establishment of the position of vice chair is a commonly accepted means of providing for a chair's absence. The establishment of procedures for filling vacancies in these positions is reasonable to ensure that the Board's investigative work can continue without interruption. Since the chair and vice chair are elected by the members, it is reasonable to provide that if a majority of the members so vote, these officers may be removed from office. To simplify the administration of Board actions it is reasonable to assign responsibility for execution of documents to the chair and for the chair to be able to delegate to the director this responsibility. Having such delegation filed with the secretary of state is consistent with the procedures applicable to other state agencies provided in Minn. Stat. § 15.06, subd. 6.

Part 7190.0003 Board Meetings

This proposed rule is divided into eight subparts which clarify that the Board will adhere to common parliamentary proce-

dures in the conduct of its business.

Subpart 1 establishes that the Board will have a predictable meeting date and place to ease the public access to Board meetings. In order to eliminate unnecessary meetings if the Board lacks claims for consideration and to accommodate special needs of the members which may arise, the rule allows the chair the flexibility to cancel, postpone or advance a meeting.

Subpart 2 provides the chair the power to call a special meeting in addition to the regularly scheduled meeting if necessary in the chair's judgment or on request of two Board members. It is reasonable to give the chair this discretion to address unanticipated needs for the Board to meet and to provide other members with recourse to assembling the Board.

Subpart 3 makes it clear that three members of the five member Board constitute a quorum and that no business will be conducted without a quorum. It is reasonable to require that the majority of members be present for business because any decision requires the vote of the majority.

Subpart 4 invests in the chair the responsibility to preside at meetings and control the conduct of the meeting. It is reasonable that the chair be the presiding officer because the chair is elected by a majority of the members.

Subpart 5 clarifies that three votes from the five member Board are needed for a Board decision.

Subpart 6 emphasizes that the Board meetings shall be open to the public with one exception: those portions of meetings when the Board is discussing "protected information" are closed

to the public. Since Minn. Stat. § 115B.35, subd. 2 requires the Board to "examine protected information outside of the presence of the claimant, the claimant's attorney, or any other person except staff to the board", it is reasonable to close the Board's meeting to the public when the Board discusses protected information. Because most of the Board's discussions will be consideration of claims from specific individuals, and not determinations that have general applicability to large numbers of parties, it is reasonable for the Board to limit participation at its meetings to those people the Board has requested to speak or to those people the chair or director in their judgment have authorized to address the Board.

Subpart 7 provides that the Board will use the widely accepted Robert's Rules of Order to determine proper parliamentary procedures.

Subpart 8 makes it clear that the Board's activities will be documented in the minutes, which is reasonable to inform the public.

Part 7190.0004 Conflict of Interest

This proposed rule makes clear that Board members have a responsibility to report a direct and substantial financial or employment interest in any matter the Board has under consideration, and remove themselves from voting on the matter. However, since there are only five members on the Board, and the participation of three are required to conduct business, it is reasonable to provide a mechanism that enables the Board to function if more than two Board members disqualify themselves. The choice of members whose interests are least likely to affect their

impartiality to participate in the decision is reasonable so that the Board can fulfill its responsibilities.

Part 7190.0005 Representation

This proposed rule makes clear that a claimant can seek the services of an attorney or other individual to represent the claimant in dealings with the Board, and that the Board will inform both the claimant and the representative of Board activity on a claim. It is reasonable that a claimant who feels inadequate to handle the claim process delegate the handling to a representative of the claimant's choice.

Part 7190.0006 Application for Compensation

This proposed rule details the information that a claimant must supply for the Board on the claim form. It is reasonable to require the information in this part because it enables the Board:

1) to evaluate the claimant's eligibility for compensation under Minn. Stat. §§ 115B.29 and 115B.30;

2) to investigate the claim and verify the evidence supplied;

3) to determine the amount of proper compensation under Minn. Stat. § 115B.36;

4) to determine the feasibility of a subrogation action as provided in Minn. Stat. § 115B.31, subd. 3; and

5) to collect and report data on exposure to hazardous substances as required by Minn. Stat. § 115B.28, subdivisions 3 and 4.

Minn. Stat. § 115B.32 provides that the Board describe the form in rule and outlines the required information to be

supplied on the form. It is reasonable to clarify for the claimant in rule what is broadly required by statute.

Item A, the name, address, telephone number, social security number (optional), and age of the claimant requires the personal information essential to processing a claim and distinguishing among claimants;

Item B, the name, address, and telephone number of the claimant's employer, is reasonable in the cases of hardship or personal injury because the Board must verify income of the claimant to determine eligibility to file a claim for hardship and to determine proper compensation for lost wages if an award is made for personal injury;

Item C, the name, address, telephone number and relationship to the claimant of a representative is reasonable to enable the Board to communicate with the claimant's representative;

Item D, the identify of the hazardous substance,is reasonable to determine eligibility to file a claim and to investigate health impacts;

Item E, the description of the damage or injury, is reasonable to determine eligibility to file a claim;

Items F and G, the dates of discovery, are reasonable to determine if a claim is filed within the timeframe required by Minn. Stat. § 115B.30, subd. 3;

Item H, the name, address and phone number of medical practitioners who examined the claimant are reasonable for the Board to seek medical information on the claimant;

Item I, the cause of death, is reasonable to enable the

Board to investigate the likelihood of that injury or disease being connected to hazardous substances;

Item J, the identify of a government agency or official that the claimant has contacted concerning the presence of hazardous substances provides the Board the ability to investigate and verify the claimant's description;

Item K, the identity of the source of the hazardous substances, including its location and the responsible person, enables the Board to investigate how the claimant may have been exposed to the hazardous substance;

Item L, the duration and location of the exposure, is reasonable for the Board to determine if the exposure can cause or contribute to a claimant's injury;

Item M, the amount of compensation the claimant is seeking, is reasonable for the Board to determine liability against the Fund and evaluate if requested compensation is proper and within statutory limits;

Item N, the amount of reimbursement the claimant has received from other sources, is reasonable to determine proper compensation under Minn. Stat. § 115B.36;

Item O, a description of actions taken by the claimant to recover compensation from the person responsible for the release, enables a determination on eligibility to file a claim as described in Minn. Stat. § 115B.31;

Item P, a sworn statement by the claimant, is consistent with the statutory requirement for "a sworn verification by the claimant of the facts set forth in the claim to the best

of the claimant's knowledge;" Minn. Stat. § 115B.32, subd. 2(1);

Item Q, a release to view medical and financial records, permits the Board to investigate the injury and determine proper compensation; and

Item R, other relevant information which the director or Board deems essential to a determination on the application, permits the Board to elicit information unique to a specific claim that may be important to the determination of eligibility, or compensation, or the progress of the investigation.

Part 7190.0007 Claims Acceptance

This proposed rule describes how a claim is initiated with the Board and provides safeguards to prevent wrongful determinations on eligibility.

Subpart 1 provides that the director can accept the claim if the director determines that the claimant and the damage or injury for which compensation is being sought are described as eligible in Minn. Stat. Chapter 115B. It is reasonable that to speed the processing of claims the director be empowered to accept the claim if the claim complies with the requirements described in detail in Minn. Stat. §§ 115B.29, 115B.30, and 115B.31.

Subpart 2 ensures that a claim will not be refused solely on the review of one person. It is reasonable to require that an application be refused only after both the director and a Board member who routinely investigates claims concur on the finding in order to prevent an erroneous determination for a claimant. It is reasonable to inform the claimant of the reasons

the application is ineligible, so that the claimant can evaluate if refiling is feasible.

Subpart 3 allows a claimant to refile an application with the Board with new information. It is reasonable to allow the claimant another chance to file an application because upon receipt of the reasons for ineligibility the claimant may become aware of information not considered by the director or Board member in issuing the determination of ineligibility.

Part 7190.0008 Claim Review

This proposed rule clarifies Minn. Stat. § 115B.32, subd. 1 as to how a claim will be processed.

Subpart 1 provides that the director reviews the claim to assure all required information is provided.

Subpart 2 requires the director to notify the claimant in writing that a claim with required information is accepted. It is reasonable to notify the claimant of acceptance because the claimant's rights to commence a court action are restricted during the time a claim is pending before the board. (Minn. Stat. § 115B.31, subd. 9.)

Subpart 3 assures that a claimant who must provide further information is informed in writing of what that information is, how long he has to supply it and what will happen if he does not supply it. It is reasonable to require that a claimant be informed of all of the above factors which affect the processing of the claim so that the claimant can ensure the claim progresses.

Subpart 4 allows a claimant to request an extension of

time to provide required information, explaining in writing the reasons the extension of time is needed and when the information will be supplied. Since the statute provides that the Board can consider "serious extenuating circumstances" when required information is not received within the timeframe, it is reasonable to provide for an extension of time if the claimant describes in writing the conditions creating the need. To speed the processing of the extension, it is reasonable that the director be given authority to grant the request. To protect the claimant, it is also reasonable that the judgment of the director be reviewed by a Board member when the decision is to deny the extension.

Part 7190.0009 Claim Access

This proposed rule clarifies how the Board intends to implement Minn. Stat. § 115B.28, subd 2(4), which says in relevant part that the Board may:

> limit access to information collected and maintained by the Board and take any other action necessary to protect privileged or confidential information in accordance with the limitations contained in section 115B.35.

The Board has the responsibility under Minn. Stat. § 115B.35 to ensure that "protected information" as defined by Minn. Stat. § 115B.25, subd. 8 is not accessible to anyone other than the Board or the Board's staff. Information related to the claimant's medical and financial conditions is temporarily classified under the Minnesota Government Data Practices Act, Minn. Stat § 13.06, as confidential while the investigation is proceeding and private after the Board makes a determination on a claim. The permanent classification of these data under Minn. Stat. Chapter 13 is being sought during the 1987 legislative session.

Since the Board has the responsibility to protect these types of information from distribution to the public, it is reasonable for the proposed rule on claim access to limit access to the claim form, supporting documents and information collected to the Board and its staff, since these documents contain both protected and confidential information.

However, in order to accommodate the right of the public to know about public health hazards and consistent with the directive from the Legislature to report data on actual cases, "but excluding identification of the claimants" [Minn. Stat. § 115B.28, subd. 1(4)], the proposed rule provides that data in summary form or other form which does not identify the claimant may be distributed. Release of information concerning a claim in summary form informs the public of health hazards while ensuring that protected and confidential information remains so.

The final sentence of this proposed rule clarifies that the public shall have access to the final decision of the Board. Under Minn. Stat. § 115B.35, subdivision 6, the "decision must be in writing and include the reasons for the decision, subject to the limitations on disclosure of protected information." Because the public has a legitimate interest in being informed of the expenditure of public funds, and in understanding what factors were considered in the Board's determination of personal injury or property damage associated with exposure to hazardous substances, it is reasonable to allow the public access to the final decision.

Part 7190.0010 Claim Amendment

This proposed rule imposes on the claimant a responsibility to notify the Board of additional personal injury or property damage associated with a pending claim, and states the Board will decide whether to amend the claim. Minn. Stat. § 115B.31, subd 1(c) provides:

> A person who files a claim with the Board for personal injury or property damage must include all known claims eligible for compensation in one proceeding before the Board.

Because of this requirement, it is reasonable for the Board to allow the claimant an opportunity to amend the claim.

Part 7190.0011 Claim Consolidation

If claims arise from the same release or present the same issues, and the consolidation would not prejudice the rights of any claimant and consolidation is administratively practical, this proposed rule reasonably allow the chair to speed the investigation and processing of claims by consolidating them.

Part 7190.0012 Claim Dismissal

This proposed rule provides four reasons the Board can dismiss a claim from consideration. It is reasonable to dismiss a claim if the claimant refuses to supply information or refuses to appear before the Board because the Board will lack information essential to the determination of personal injury or property damage. If the claimant has falsified or withheld relevant information it is reasonable to dismiss a claim because the determination of the Board will not be based on accurate or complete information and the dismissal will serve as a sanction for false claims. If the claimant receives an award from the

responsible party, is is reasonable to dismiss the claim because Minn. Stat. § 115B.31, subd. 1, prohibits the filing of a claim with the Board if the claimant has settled with the responsible party.

Part 7190.0013 Emergency Compensation

This proposed rule clarifies how the Board will respond to requests for emergency compensation as allowed by Minn. Stat. § 115B.28, subd. 2(3). That section provides the Board may grant emergency compensation if "undue hardship will result to the claimant if immediate payment is not made." The creation of a life-threatening or other seriously disruptive situation such as loss of critical medical care, loss of residence or basic necessities reasonably describe situations of undue hardship for the claimant. Since the Board is allowed to grant emergency compensation only for claims for which an award will probably be made and this may be difficult to determine early in an investigation, it is reasonable to limit the potential demand for such compensation by requiring the claimant to investigate other sources of assistance. Since such an emergency award would be made prior to the determination on the claim, it is also reasonable to limit it to the extent the claimant demonstrates immediate expenses.

Part 7190.0014 Claim Investigation

This proposed rule limits direct involvement with a claimant during the investigation to the Board member assigned the claim. This limitation is reasonable to prevent duplication of effort and confusion.

Part 7190.0015 Claim Determination

This proposed rule clarifies the timelines and more fully describes procedures outlined in Minn. Stat. § 115B.35, subd. 6.

Subpart 1 requires a written challenge which must indicate which findings are disputed. It is reasonable for the Board to know which part of the Board's determination is disputed so that it can review or gather further information in that area. It is reasonable for the Board to provide the claimant, within a short time, a date for the special Board meeting so that the claimant can prepare witnesses and gather further evidence. It is reasonable to require the claimant to supply the Board prior to the special meeting information on the evidence the claimant will present so that the Board members can schedule adequate time to hear the evidence and consider questions for the claimant regarding the evidence.

Subpart 2 requires that the member who wrote the preliminary decision not preside at the special meeting. This is reasonable to remove any appearance of bias in the conduct of the meeting. It also requires the claimant and witnesses to speak under oath. This is reasonable to assure the Board receives accurate information and consistent with the requirement of Minn. Stat. § 115B.32, subd. 2(1), that the claimant provide "a sworn verification...of the facts."

Subpart 3 clarifies a timeline for the review of protected information as allowed by law. It is reasonable to provide a timeline to speed resolution of the claim. It is reasonable to require the claimant sign a written statement to protect

the confidentiality of such information because Minn. Stat. § 115B.35, subd. 9 provides civil penalties for the release of this information.

Part 7190.0016 Reopening a Claim

This proposed rule allows the Board to reopen an investigation if new evidence is discovered relevant to the claim. It is reasonable to allow the Board to reexamine a claim because ongoing scientific investigations of release sites and epidemiological studies, animal studies or risk assessment studies which are being initiated in the area of hazardous substances may provide critical information the Board lacked during its determination.

Part 7190.0017 Payment of Compensation

This proposed rule clarifies how the Board will award compensation and the responsibility of the claimant if accepting the offer.

Subpart 1 clarifies that all compensation shall be paid directly to the claimant and not to providers of service to the claimant. This is reasonable to ease administration of the Fund.

Subpart 2 requires the claimant to assign the rights to recover for losses to the Board and to cooperate with the Board in a subrogation action. This is reasonable because Minn. Stat. § 115B.31, subd. 3 provides that the State is subrogated to the claimant's rights.

Subpart 3 requires the claimant to accept or reject in writing the Board's offer of compensation within 30 days. This is reasonable because during the time a claim is pending before

the Board, a claimant cannot begin a court action to recover for the same injuries or damage (Minn. Stat. § 115B.31, subd. 4). A person who receives an award from the Board and accepts it, cannot bring an action in court for the same eligible injury or damage. Because of these limitations on a claimant's rights, and to facilitate accurate accounting against the Fund, it is reasonable to have the final status of the claim determined in writing.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Because the Board awards compensation only to eligible persons with eligible injuries or eligible property damage at the person's principal residence, and the statute explicitly excludes occupational exposure the rules have no impact on small business. The proposed rules are exempted from small business considerations in rulemaking under Minn. Stat. § 14.115, subd. 7(b).

VI. CONCLUSION

Based on the foregoing, the proposed rules for Board operation procedures are both needed and reasonable.

January 30, 1987
Dated

Virginia L. Reiner
Executive Director

In the Matter of the Proposed Adoption of the Rule of the State Hazardous Substance Injury Compensation Board Relating to Board Operation Procedure

AFFIDAVIT OF MAILING THE NOTICE OF PROPOSED ADOPTION OF A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA
COUNTY OF RAMSEY

Janice Wiehle, being first duly sworn deposes and says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Hazardous Substance Injury Compensation Board rulemaking mailing list, is accurate, complete, and current as of this 12th day of February, 1987.

That on the 12th day of February, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Proposed Adoption of a Rule Without a Public hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Janice Wiehle
Signature

Subscribed and sworn to before me
this 12 day of February, 1987.

Arlayne J. Nelson
(Notary Public)

ARLAYNE J. NELSON
NOTARY PUBLIC
HENNEPIN COUNTY, MN
MY COMMISSION EXPIRES
APRIL 14, 1987

to fund comprehensive grants~~, including the second and third years of comprehensive grants approved for funding under parts 4300.1100 and 4300.1900~~. However, the office may modify the proportions of funds available for single purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

At least 30 percent of the funds made available for single purpose grants shall be awarded for applications in each of the two categories: housing and public facilities. However, no application with a rating below the median score for its category shall be funded by the office solely for the purpose of meeting this requirement.

If there are unawarded economic development funds available at the end of the application year, two-thirds of the remaining funds will be available for competitive single purpose projects and one-third will be available for economic development projects during the next application year.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **Grant ceilings.** No competitive single purpose grant may be approved for an amount over $600,000. No comprehensive grant may be approved for an amount over ~~$700,000 from any single grant year or for more than a total of~~ $1,400,000 ~~over three grant years~~. No economic development grant may be approved for an amount over $500,000.

4300.3100 GRANT AGREEMENTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Use of program income.** Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for ~~project-related costs within 12 months from the time it is earned~~ eligible activities. The office shall reduce future grant payments by the amount of any unobligated program income that an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

Subp. 4. to 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. [Unchanged.]

Subp. 2. **Audits.** Grant recipients must arrange for and pay for an acceptable independent audit ~~before grant close-out~~ prepared in compliance with OMB Circular A-128, which was published in the Federal Register, volume 50, number 188, page 39083, on September 27, 1985, and the Single Audit Act of 1984, Public Law Number 98-502, codified as 31 U.S.C. sections 7501-7507. ~~Audits will usually be done annually, but no less frequently than every two years. In the case of two- and three-year comprehensive programs, the office shall require an audit after two years;~~ Costs incurred pursuant to this requirement are eligible under this program.

Subp. 3. to 5. [Unchanged.]

REPEALER. Minnesota Rules, part 4300.1100, subpart 3 is repealed.

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Board Operation Procedure

Notice of Proposed Adoption of a Rule Without a Public Hearing

Notice is hereby given that the State Hazardous Substance Injury Compensation Board 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 statutory authority to adopt the rule is Minnesota Statutes § 115B.28 (1986).

All persons 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. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change 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.

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 unless a sufficient number withdraw their request. 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.

Comments or written requests for a public hearing must be submitted to:

Virginia Reiner
Hazardous Substance Injury Compensation Board
2700 University Avenue West, #115
St. Paul, Minnesota 55114
612/642-0455

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.

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

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 upon request by writing or telephoning the Board's office at the address or telephone number listed above.

Promulgation of the proposed rule will not result in the expenditure of public monies by local public bodies, fix or adjust any fees, have an impact on agricultural land or an impact on small businesses.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 the executive director at the address listed above.

Virginia L. Reiner, Executive Director
Hazardous Substance Injury Compensation Board

Rules as Proposed (all new material)

CHAPTER 7190
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD PROCEDURES

7190.0001 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in Minnesota Statutes, chapter 115B and in this part.

Subp. 2. **Board.** "Board" means the Hazardous Substance Injury Compensation Board created by Minnesota Statutes, section 115B.27, subdivision 1.

Subp. 3. **Days.** "Days" means calendar days.

Subp. 4. **Director.** "Director" means the executive director of the Hazardous Substance Injury Compensation Board.

Subp. 5. **Professional member.** "Professional member" means the attorney, physician, or health professional member of the board.

BOARD

7190.0002 OFFICERS AND DUTIES.

Subpart 1. **Officers.** At the regular meeting in July, the members shall elect a chair and vice-chair. Each officer shall serve a term of one year. The vice-chair shall discharge the duties of the chair during the absence or disability of the chair.

Subp. 2. **Vacancies.** Upon a vacancy in the office of chair of the board, the vice-chair shall become the chair until the election of new officers at the regular meeting in July. Upon a vacancy in the office of vice-chair, a special election shall be held at the next regular meeting, for a term to end with the election of new officers at the regular meeting in July.

Subp. 3. **Removal.** The chair or vice-chair may be removed from office by the affirmative vote of the majority of members.

Subp. 4. **Execution of documents.** Contracts and other documents approved by the board pursuant to law shall be executed on

the board's behalf by the chair. The chair may delegate to the director authority to execute documents approved by the board. Any delegation shall be filed with the Secretary of State.

7190.0003 BOARD MEETINGS.

Subpart 1. **Regular meetings.** The board shall meet monthly at a date, place, and time set by the board. The chair may direct that any regular meeting be canceled, postponed, or advanced.

Subp. 2. **Special meetings.** The chair may call a special meeting of the board when the chair deems it necessary. The chair shall call a special meeting when two board members request it.

Subp. 3. **Quorum.** A majority of members of the board shall constitute a quorum, and a quorum must be present for the transaction of business.

Subp. 4. **Presiding officer.** The chair shall preside at board meetings and shall determine the limits of time and the relevancy of discussion or debate on any matter before the board. If both the chair and vice-chair are absent, the members present shall elect a presiding officer to serve for that meeting or until the chair or vice-chair arrives.

Subp. 5. **Voting.** A majority vote of the entire board is necessary to make any decision. All members present shall vote or abstain on every matter presented for decision.

Subp. 6. **Public participation at meetings.** Meetings of the board shall be open to the public, except during the time protected information is to be discussed. Participation by persons other than members of the board and its staff and attorney shall be at the request of the board or with prior authorization from the chair or director.

Subp. 7. **Parliamentary procedure.** Except as specifically provided in this chapter, Robert's Rules of Order shall govern any question of parliamentary procedure that may arise at any meeting of the board.

Subp. 8. **Record of meetings.** The board shall keep full and accurate minutes of meetings, including a record of votes of individual members.

7190.0004 CONFLICT OF INTEREST.

A member of the board who has a direct and substantial financial or employment interest relating to any matter before the board shall make known this interest and refrain from participating in or voting upon the matter. If nonparticipation by board members results in the loss of a quorum, the entire board shall select from among themselves a majority of members whose interests are least likely to affect their impartiality or judgment, and these members shall vote upon the matter before the board.

CLAIM APPLICATION

7190.0005 REPRESENTATION.

A claimant may authorize a representative to complete the application for compensation and represent the claimant in all communication and proceedings involving the board. The representative may be an attorney or other individual which the claimant has authorized in writing to the board to act in that capacity. The board will notify the claimant and the claimant's representative of actions pertaining to a claim.

7190.0006 APPLICATION FOR COMPENSATION.

A claimant must apply for compensation within the time limits established by Minnesota Statutes, section 115B.30, subdivision 3. The application must be on a form supplied by the board, containing substantially the following:

A. the name, address, telephone number, social security number, and age of the claimant;

B. the name, address, and telephone number of the claimant's employer if the claimant is seeking compensation for personal injury or claiming hardship;

C. the name, address, telephone number, and relationship to the claimant of any representative;

D. the identity of the hazardous substances to which the claimant was exposed;

E. a description of the property damage or personal injury;

F. the date the claimant discovered the property damage or the personal injury;

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.

G. the date the claimant discovered the connection between the injury or property damage and the exposure to hazardous substances and an explanation of how the connection was discovered;

H. the name, address, and phone number of any medical practitioner who examined the claimant regarding the personal injury;

I. in the case of death as a personal injury, the cause of death on the death certificate and the report of an autopsy if performed;

J. the identity of any government agency or official that the claimant contacted concerning the presence of hazardous substances;

K. the identity, if the claimant knows, of the source of the hazardous substances related to the exposure, including the location of the source and the person responsible for the release;

L. the duration and location of the exposure to the substances;

M. the amount of compensation the claimant seeks from the board for the property damage or personal injury including losses for medical expenses, lost wages, or income and lost household labor;

N. the amount of reimbursement the claimant has received for losses and identification of the sources of reimbursement;

O. a description of actions the claimant has taken if any to recover compensation from the person responsible for the release of the hazardous substance;

P. a statement signed by the claimant, certifying under oath the accuracy and completeness of the information provided;

Q. an authorization signed by the claimant for access to medical and financial records if the compensation requested is for personal injury or hardship; and

R. other relevant information the board or director deems essential to a determination on the application.

7190.0007 CLAIM ACCEPTANCE.

Subpart 1. **Claim acceptance.** A claim shall begin when the director accepts for filing an application for compensation. The director shall accept for filing an application that the director determines is from an eligible person, and cites injury or damage described as eligible for compensation in Minnesota Statutes, chapter 115B.

Subp. 2. **Refusal to accept.** If the director determines that the application is ineligible, the director will forward the application to a professional board member. The board member will review the application and the director's determination and render a written decision on the eligibility of the application within 14 days. If the board member determines the application is ineligible, the director will notify the applicant in writing of the refusal to accept the application for filing and the reasons for finding it ineligible. The director shall report at the regular meeting of the board on the number of applications determined since the previous meeting to be ineligible and the reasons for ineligibility.

Subp. 3. **Refiling an application.** An applicant may not appeal a determination of ineligibility but may submit another application if that application contains new information relevant to determining eligibility.

7190.0008 CLAIM REVIEW.

Subpart 1. **Director's review.** The director shall review a claim to assure the claimant has provided the information required by part 7190.0006.

Subp. 2. **Claims with required information.** If the director determines the claim contains the required information, the director will notify the claimant in writing that the claim has been accepted for filing, and will forward the claim with recommendations for investigation to the chair.

Subp. 3. **Claims lacking required information.** If the director determines the claim lacks required information, the director will provide the claimant written notice describing the required information, the time limits for providing the information, and the consequences of not providing the required information.

Subp. 4. **Extensions of time for providing required information.** If a claimant cannot provide the required information within the designated time limits, the claimant may request from the board an extension of time. The request must be made as soon as reasonably practicable and be in writing. It must give the reasons the extension is needed and the date the information will be provided. The director may approve a request for extension of time. If the director determines a request for extension of time should be denied, the director will submit the request and the director's determination to a professional board member. The board member will issue a written decision to grant or deny the extension. The director will notify the claimant in writing of the decision to grant or deny as soon as practicable after the claimant makes the request.

7190.0009 CLAIM ACCESS.

During the time a claim is pending before the board, the application, supporting documents, and information gathered by the

board shall be available only to members of the board, the board's staff, attorney, and authorized consultants. Claim data in summary form or other form that does not identify the claimant may be distributed. The final decision of the board shall be available to the public.

7190.0010 CLAIM AMENDMENT.

A claimant must promptly notify the board in writing upon learning of additional personal injury or property damage potentially related to a pending claim. The board will determine whether to permit an amendment of the pending claim.

7190.0011 CLAIM CONSOLIDATION.

The chair may consolidate two or more related claims if:

A. the claims arise from the same release; or

B. the claims present substantially the same issues; and

C. the consolidation would not prejudice the rights of any claimant; and

D. the consolidation is administratively practical.

7190.0012 CLAIM DISMISSAL.

The board may dismiss a claim when:

A. the claimant refuses to supply requested information, including undergoing mental or physical examination;

B. the claimant receives an award from the responsible person;

C. the claimant has falsified or withheld information relevant to the claim; or

D. the claimant refuses to appear before the board when ordered.

7190.0013 EMERGENCY COMPENSATION.

A claimant may submit a written request to the board for emergency compensation for expenses related to a pending claim. The board must respond to the request within 30 days. The board shall determine whether to grant emergency compensation as described in Minnesota Statutes, section 115B.28, subdivision 2, clause (3), using the following criteria:

A. the failure to receive the emergency compensation may create a life-threatening or other seriously disruptive situation such as loss of critical medical care, loss of residence, or loss of other basic necessities; and

B. the emergency compensation is not likely to be provided by other sources of assistance available to the claimant.

The board may award emergency compensation only to the extent necessary to meet immediate expenses.

7190.0014 CLAIM INVESTIGATION.

Board members other than the member assigned to the investigation shall not discuss with the claimant outside a board meeting the status of the investigation.

7190.0015 CLAIM DETERMINATION.

Subpart 1. **Challenge of preliminary decision.** A board member or claimant who challenges a preliminary decision on a claim must indicate in writing what findings are disputed. Within 14 days after the board receives notice of the challenge the claimant shall be notified of the date of a special meeting of the board at which the claimant shall appear. No later than five days preceding the special meeting the claimant shall provide the board with a list of written material that the claimant will supply at the meeting and the names and addresses of the witnesses that the claimant has asked to speak at the meeting.

Supb. 2. **Claimant appearance.** The member who wrote the preliminary decision shall not preside at the meeting. The claimant and any witnesses at the special meeting shall speak under oath.

Subp. 3. **Claimant review of protected information.** Within 30 days of receiving the final decision of the board, a claimant may request to review protected information relevant to the final determination of the claim. The claimant must agree in writing to maintain the confidentiality of such information under Minnesota Statutes, section 115B.35.

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.

7190.0016 REOPENING A CLAIM.

Within a reasonable time, not to exceed six years from the final determination of a claim, the board by majority vote may reopen the investigation of a claim upon the presentation of new material evidence which with reasonable diligence could not have been found and produced at the time of the claim determination.

7190.0017 PAYMENT OF COMPENSATION.

Subpart 1. **Claimant payment.** Payment of all compensation shall be directly to the claimant.

Subp. 2. **Subrogation.** An offer of compensation from the board shall be subject to the claimant assigning to the board the claimant's rights to recover losses from other sources. The claimant shall agree to cooperate fully with the board in any subrogation action brought by the board.

Subp. 3. **Acceptance deadline.** A claimant must accept or reject in writing an offer of compensation from the board within 30 days of receiving the offer. If the board receives no response from the claimant, the board shall consider the offer rejected.

Housing Finance Agency

Proposed Permanent Rules Relating to Apartment Renovation Mortgage Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as a result of comments received 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 rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. Sec. 14.14 *et. seq.* 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.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9794

Authority for the adoption of these rules is contained in Minn. Stat. Sec. 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson 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 a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. Sec. 10A.01, Subd. 11 as any individual:

CERTIFICATE OF THE
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD
RESOLUTION ADOPTING THE RULE

I, Byron E. Starns, do hereby certify that I am a member and the chairperson of the Hazardous Substance Injury Compensation Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the board, duly and properly called and held on the 6th day of April, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to board operation procedure is approved and adopted, pursuant to authority vested in the Hazardous Substance Injury Compensation Board by Minnesota Statutes, section 115B.28. Virginia L. Reiner, the executive director of the board, is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general when such modification does not raise significant new legal issues and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of April, 1987.

Byron E. Starns

BYRON E. STARNS
Chairperson

Board Member

STATE OF MINNESOTA
HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

In the Matter of the Proposed Adoption of the Rule of the State Hazardous Substance Injury Compensation Board Governing Board Operation Procedure	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Board's proposed adoption of the above-entitled rule was published in the State Register on February 16, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on February 12, 1987. The statement of need and reasonableness was prepared before the date of the notice of proposed adoption of a rule without a public hearing and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Board Operation Procedure is adopted this 6th day of April, 1987, pursuant to authority vested in the Board by Minnesota Statutes, section 115B.28.

Virginia L. Reiner

VIRGINIA L. REINER
Executive Director

In the Matter of the Adoption
of the Rule of the State
Hazardous Substance Injury
Compensation Board Governing
Board Operation Procedure

DECLARATION OF
COUNSEL

I, Stephen Shakman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0488.

Stephen Shakman

STEPHEN SHAKMAN
Special Assistant
Attorney General

April 6, 1987
Dated

Notice of Intent ok

Rule

See AG Copy
p 6 + 7

Authorization 115B.28 ok