

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1449 Docket No. 05.0009.0698

DATE RECEIVED 2/3/88 ADOPTED W/O HEARING ____

REVIEW DATE 2/22/88 EMERGENCY RULE X

DUE DATE ____ REVISOR APPROVED ✓

APPROVED ✓ JAZ 2/22/88 REVISOR DISAPPROVED ____

DISAPPROVED ____ FIELD W/SEC.STATE ____

WITHDRAWN ____ RETURNED TO AGENCY ____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion

8/17/87 Date published in State Register

✓ Comments

— Petition for Adopting of a Rule

✓ Board's Authorizing Resolution

✓ Proposed rule

✓ Revisor's Certificate

— Notice of Intent to Adopt Rule

✓ Statutory Authority

— Small Business Statement

— Expenditure of public money statement

✓ Signature

— Statement of Need and Reasonableness

— Small Business Statement

— Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

11/23/87 Date 30/25 days before adoption

— Publication in State Register

11/30/87 Date 30/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting

1/28/88 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

Bev. Corerton Name of SAAG representing agency

— Notice of Submission to Attorney General

— Affidavit of Mailing Notice to Attorney General

ATTORNEY GENERAL

March 1, 1988

BEVERLY CONNERTON
Special Assistant
Attorney General

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Municipal Project List and Corrective Action Grants

The above-referenced rule has been approved as to its legality by the Attorney General on February 22, 1988.

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, submissions 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
Duane Harves

A.G. Copy

Pollution Control Agency

Adopted Emergency Amendments to Permanent Rules and Emergency Rules Relating to Municipal Project List and Corrective Action Grants Program

Rules as Adopted

7075.0409 MUNICIPAL PROJECT LIST.

Subpart 1. **Adoption of municipal project list.** The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which independent state grants will be awarded from current appropriations. The municipal project list shall also contain those projects for which state financial assistance will be available for combined sewer overflow abatement projects. The municipal project list shall also list any nonproject uses of the state's allotment of federal grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration. The municipal project list may, but need not, list projects to be funded under the corrective action grants program authorized in Minnesota Statutes, section 116.181 and further described in parts 7075.1010 to 7075.1095 [Emergency].

Subp. 2. **Requirements for placement on list.** A municipality that requests project placement on the municipal project list shall meet the following requirements:

A. If the grant sought is a Step 1, 2, 2+3, or 3 grant, the municipality must be listed on the municipal needs list.

B. If the grant sought is a Step 2, 2+3, or 3 grant, the municipality shall submit by December 1 prior to the beginning of the fiscal year for which the municipal project list is prepared:

(1) a facilities plan in conformance with part

7075.0200, subpart 9; and

(2) if the municipality is proposing to change the selected treatment method or any other major element of a previously approved facilities plan, a facilities plan addendum in conformance with part 7075.0200, subpart 9.

C. If the grant sought is a Step 3 grant, the municipality shall submit the following items by September 1 during the state fiscal year, and prior to the beginning of the federal fiscal year, for which the municipal project list is prepared. If the municipality fails to submit the required items by September 1, the agency shall remove the municipality from the municipal project list.

(1) plans and specifications in conformance with part 7075.0200, subpart 18, and based on a facilities plan previously approved by the agency;

(2) if the city is proposing to change the selected treatment method or any other major element of previously approved plans and specifications, a plans and specifications addendum in conformance with part 7075.0200, subpart 18, and based on a previously approved facilities plan;

(3) a sewer service charge system comprised of a user charge system, including a proposed financial management system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user

class, but the manner in which the charge will be distributed must be described.

(4) documentation of how the public has been informed of the proposed sewer service charge system; and

(5) a sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

D. The municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, make all necessary corrections to the documents in item B if the grant sought is a Step 2, 2+3, or 3 grant, so as to make them approvable. If the grant sought is a Step 3 grant, the municipality shall also submit a council resolution agreeing to submit, by the following September 1, the documents listed in item C and a schedule for construction.

E. If the grant sought is a Step 2+3 or 3 grant, the municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, indicate its preferred funding source, if it has one, in writing to the director.

F. A municipality seeking a Step 3 federal grant for combined sewer overflow abatement projects or state financial assistance for combined sewer overflow abatement projects shall not be subject to the conditions contained in items C and D. The municipality shall submit by June 1 prior to the beginning of the fiscal year for which the grant or financial assistance is sought, a list and schedule of construction projects to be initiated in the following fiscal year. If the municipality's NPDES/SDS permit provides a different date for submission of the list and schedule, the date in the permit shall take precedence.

Subp. 3. **Preparation of proposed municipal project list.** The agency shall prepare a municipal project list that lists in order of priority the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal

year.

In drafting the proposed municipal project list, the agency shall consider the following factors in the order given:

A. total dollars available for obligation from each funding source;

B. eligibility of projects and portions of projects according to these parts and applicable state and federal statutes;

C. restrictions on obligations mandated by these parts and applicable state and federal statutes, including but not limited to set asides for administration of certain types of projects, and the percentage of the cost of construction that will be paid by state and federal grants;

D. the municipalities' preference for funding sources; and

E. the amount of state financial assistance available for combined sewer overflow abatement projects.

Subp. 4. **Procedures for drafting list.** In drafting the proposed municipal project list, the agency shall list projects on the proposed list according to the following procedures:

A. The agency shall attempt to accommodate municipalities' preferences for funding sources in priority order until the costs of the projects being funded from one funding source reach the full allotment or appropriation of grant funds available from that source for the fiscal year. If a municipality expresses no preference, the agency shall determine from which source it will be funded.

B. The agency shall then list projects in priority order, funding those projects from the remaining funding source, until the costs of the projects reach the full allotment or appropriation of grant funds available for the fiscal year. Projects ineligible under the remaining funding source must be considered for placement on the following fiscal year's municipal project list.

C. The agency shall then list on the municipal project list in priority order those projects on the municipal

needs list with priority rankings lower than those selected under items A and B, but which have been identified by the commissioner of energy and economic development by July 1 as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

D. The agency shall then list combined sewer overflow abatement projects for which state financial assistance will be awarded in the fiscal year from funds available for those kinds of projects.

E. The agency may list projects which will receive Step 1 and 2 grants and advances of allowance in such a manner as to permit funding to proceed in an orderly fashion to fully utilize all allocated and appropriated funds.

Subp. 5. **Reimbursement project list.** The agency shall prepare a reimbursement project list that lists those municipalities that are willing to proceed with projects and are willing to be reimbursed in a subsequent year conditioned upon appropriation of sufficient money for that year. No municipality may be listed on the reimbursement project list unless the municipality has requested placement on the list and has received approval of the documents listed in subpart 2, item C. Reimbursement projects must be listed in the same order of priority as they appear on the municipal needs list. A reimbursement project may appear on both the reimbursement project list and the reserve project list.

7075.0411 PROJECT ELIGIBILITY.

Subpart 1. **Steps eligible.** Federal grants and state matching grants shall be awarded only for Step 2+3 and Step 3 projects. Advances of allowance for Step 1 and 2 projects may also be provided from federal funds. Independent state grants may be awarded for Step 1, Step 2, Step 2+3, and Step 3 projects. Financial assistance for combined sewer overflow abatement shall be awarded only for design and construction work.

Subp. 2. **General eligibility.** No project is eligible for

a federal grant or a state matching grant unless it is eligible for funding under the act and applicable federal regulations. No project is eligible for an independent state grant unless it is eligible under this chapter and applicable state statutes. No municipality is eligible for state financial assistance for combined sewer overflow abatement projects unless the municipality complies with the conditions of Minnesota Statutes, section 116.162, subdivision 7.

Subp. 3. **Initiation of construction.** A municipality may retain eligibility of construction costs incurred before the award of an independent state grant only if:

A. the municipality was listed on a reimbursement project list when construction began;

B. the municipality submitted a complete grant application to the agency within 90 days after adoption or revision of the reimbursement project list; and

C. the municipality obtained written permission from the agency to advertise for bids and initiate construction before those steps were taken.

Subp. 4. **Cost-effectiveness.** A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

Subp. 5. **Eligible costs.** The following provisions govern eligible costs:

A. The eligible cost of any project for which a grant or state financial assistance will be awarded shall be determined by the application of applicable state and federal statutes and rules.

B. In addition to other eligible costs established by state law for combined sewer overflow abatement projects, storm water conveyance facilities that are part of the most cost effective alternative for combined sewer overflow abatement shall be eligible for state financial assistance. Such

facilities shall include those structures, pipes, and appurtenances from the point of entry at the catch basin to the outlet structure which are necessary to convey up to the five-year storm.

7075.0428 GRANT AMOUNTS.

Subpart 1. **State matching grants.**

A. For projects tendered on or after October 1, 1984, and before October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for up to an additional 30 percent of the eligible cost if construction of the treatment works would otherwise impose a significant financial hardship on the municipality.

B. For projects tendered, on or after October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for 50 percent of the nonfederal share of the eligible cost of construction for municipalities with populations of 25,000 or less.

Subp. 2. **Independent state grants.** The agency may award independent state grants as follows:

A. The agency may award Step 1 and Step 2 independent state grants to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. The agency may award Step 2+3 and Step 3 independent state grants to municipalities to pay for 50 percent, or, if the population of the municipality is 25,000 or less, 80 percent of the eligible cost of construction.

Subp. 2a. **State financial assistance for combined sewer overflow abatement projects.** The agency may award state financial assistance for combined sewer overflow abatement projects as follows:

A. The agency may award state financial assistance for design of combined sewer overflow abatement projects to

municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. Each fiscal year, municipalities eligible for financial assistance for combined sewer overflow abatement projects shall be awarded a proportionate share of the appropriation available for such projects in that fiscal year. The proportionate share for each eligible municipality is as follows:

(1) Minneapolis, 24.2 percent;

(2) Saint Paul, 71.6 percent;

(3) South Saint Paul, 4.2 percent.

C. By no later than March 31 each year, beginning in 1987, the agency shall determine whether or not each municipality that is eligible for financial assistance under this program has submitted a complete financial assistance application and either the city council has adopted final orders for construction if the work is to be contracted out, or issued work proceed orders if the municipality will do the work with its own employees, for enough work to allow the municipality to utilize its total pro rata share for the present fiscal year. If the agency determines that a municipality has not submitted a complete financial assistance application and the city council has not adopted final orders for construction or the city has not issued work proceed orders, the agency shall distribute such unusable funds to other eligible municipalities that have submitted complete financial assistance applications to utilize such additional funds. For any municipality that is awarded additional funds , the city council shall adopt final orders for construction or the city shall issue work proceed orders to utilize such funds by May 31 of the present fiscal year in order to retain the funds.

Each fiscal year, beginning in 1988, allocations to a municipality that has received additional funds shall be reduced by one-third of the total amount of additional funds that have been awarded to the municipality in earlier years. These funds

shall be awarded to the municipality that was initially entitled to them. In the event that, for the municipality entitled to the repayment funds, the city council still has not adopted final orders for construction or the city has not issued work proceed orders to utilize the funds in that fiscal year, the municipality awarded the additional funds is not required to make the repayment. The repayment procedure set forth in this item shall continue until the municipality has repaid all additional funds that it has been awarded or until the municipality has completed its combined sewer overflow abatement projects in their entirety.

Subp. 3. **Local share.** Except as provided in part 7075.0425, in no event may a municipality that obtains a state matching grant or independent state grant be responsible for less than ten percent of the eligible cost of the project.

Subp. 4. **Significant financial hardship.** The amount of a state matching grant awarded to a municipality which was awarded a federal grant after October 1, 1984, and before October 1, 1987, depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

A. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's per connection capital cost after bidding compared with the median per connection capital cost for all projects which accepted bids under the programs during the two years ending July 1 prior to adoption of the municipal project list on which the municipality appears. The percentage of the eligible cost to be paid for by the grant based on per connection capital cost is determined by the following table.

Municipality Per Connection Cost × 100 ÷ Median Per Connection Cost of Projects Bid During Previous Two Years	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0

80 - 89	1.5
90 - 99	2.0
100 - 119	2.5
120 - 139	3.0
140 - 159	3.5
160 - 179	4.0
180 - 199	4.5
200 or more	5.0

B. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's median household income compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

Municipality Median Household Income x 100 ÷ State Median Nonmetropolitan Household Income	Percentage of Cost Funded
100 - 104	0.5
95 - 100	1.0
90 - 94	1.5
85 - 89	2.0
80 - 84	2.5
75 - 79	3.0
70 - 74	3.5
65 - 69	4.0
60 - 64	4.5
less than 60	5.0

C. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's per capita adjusted assessed valuation compared with the state median per capita adjusted assessed valuation. Per capita adjusted assessed valuation must be determined from the latest data available from the Department of Revenue at the time of the grant award. The percentage of the eligible cost to be paid for by the grant based on the per capita adjusted assessed valuation is determined by the following table.

Municipality Per Capita Adjusted Assessed Valuation x 100 ÷ State Median Per Capita Adjusted Assessed Valuation	Percentage of Cost Funded
105 - 109	0.5
100 - 104	1.0
95 - 99	1.5
90 - 94	2.0
85 - 89	2.5
80 - 84	3.0

75 - 79	3.5
70 - 74	4.0
65 - 69	4.5
less than 65	5.0

CORRECTIVE ACTION GRANTS PROGRAM.

7075.1010 [Emergency] PURPOSE OF CORRECTIVE ACTION GRANTS PROGRAM.

Parts 7075.1010 to 7075.1095 [Emergency] provide for the administration of the corrective action grants program which makes grants available to municipalities with wastewater treatment facilities funded under the federal or independent state construction grants programs that are unable to meet performance standards.

7075.1020 [Emergency] DEFINITIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Scope.** For the purpose of parts 7075.1010 to 7075.1095 [Emergency], the following terms have the meaning given them.

Subp. 2. **Performance standards.** "Performance standards" means the criteria established for a wastewater treatment facility under the federal construction grants program or the independent state construction grants program for the purpose of determining the project's satisfactory performance.

7075.1030 [Emergency] ELIGIBILITY FOR PARTICIPATION IN CORRECTIVE ACTION GRANTS PROGRAM.

To be eligible for participation in the corrective action grants program, a municipality shall meet the following requirements:

A. The municipality received a grant under the federal construction grants program or the independent state construction grants program.

B. The municipality executed a contract for construction of its wastewater treatment facility after December 31, 1981.

C. The population served by the wastewater treatment facility is 1,500 or less.

D. The municipality's wastewater treatment facility is unable to meet performance standards. The municipality shall notify the commissioner in writing of the wastewater treatment facility's failure before initiation of operation or no later than one year following initiation of operation.

E. The inability of the municipality's wastewater treatment facility to meet performance standards is not the result of the failure of innovative or alternative technology components.

F. The municipality has not received a grant under the corrective action grants program.

7075.1040 [Emergency] ELIGIBLE COSTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Construction costs.** Only construction costs that were eligible at the time of the original construction grant award are eligible. Construction costs incurred before a corrective action grant award are not eligible.

Subp. 2. **Administrative, engineering, and legal costs.** Fifty percent of the total administrative, engineering, and legal costs (collectively), directly attributed to the corrective action, are eligible up to a maximum of 20 percent of the construction costs approved in the corrective action report.

7075.1050 [Emergency] APPLICATION FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Notice.** The commissioner shall publish in the State Register a notice that applications for corrective action grants will be accepted. The notice will contain the deadline date for submittal of applications and will precede the deadline by at least 60 days.

Subp. 2. **Application.** The municipality shall apply for a corrective action grant on a form provided by the commissioner. The municipality shall also submit the following information for review and approval:

A. a corrective action report approved by the commissioner including:

(1) an analysis of the causes of the wastewater treatment facility's failure to meet performance standards;

(2) a selected alternative for corrective action including a preliminary design and cost estimate; and

(3) a schedule for undertaking the selected corrective action;

B. plans and specifications necessary to implement the approved corrective action;

C. a plan for the recovery of the costs of the proposed corrective action including a report on the current status of negotiations or litigation;

D. financial statements for the three most current fiscal years, if available; and

E. other information necessary to clarify the application.

Subp. 3. **Submittal date.** The application must be submitted to the commissioner or postmarked by the noticed closing date.

Subp. 4. **Incomplete applications.** Applications that do not meet the requirements of subpart 2 by the deadline date for submittal of applications are ineligible for funding for that application cycle.

7075.1060 [Emergency] RANKING OF APPLICATIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

The agency shall rank the applications based upon:

A. The municipality's lack of financial ability to pay for the corrective action based upon an evaluation of debt per capita, mill levy, adjusted assessed valuation, median income, current and proposed user charges, and any additional factors that the municipality may offer, such as percentage of population with a fixed income or population decline, that would support the municipality's inability to wholly finance the corrective action. A municipality's documented financial need shall positively affect its ranking.

B. The extent to which the proposed corrective action

will make cost effective and efficient use of grant funds such that a municipality's effort in funding a portion of the corrective action or actively pursuing legal redress through the avenues available will have a significant positive impact on its ranking. The factors to be considered are:

(1) the municipality's prior and current efforts in correcting the performance failure including negotiation and litigation, local costs incurred, pursuit of other funding sources; and

(2) the municipality's proposed financial participation in the cost of the corrective action.

C. The potential for direct human contact with untreated or partially treated wastewater on the surface of the ground, or the potential for imminent contamination of a drinking water supply.

7075.1070 [Emergency] DETERMINATION OF GRANT AWARDS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Selection of projects.** The agency shall select projects to be funded in priority order on the basis of rank established according to part 7075.1060 [Emergency]. The agency is not obligated to allocate the total amount of funds set aside for this program. The agency may deny funding to municipalities based on the criteria in part 7075.1060 [Emergency].

Subp. 2. **Public participation.** Items A to C govern public participation.

A. The commissioner shall prepare a corrective action grants funding proposal including the basis for grant awards and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner shall give affected municipalities at least 45 days notice of the agency board meeting at which the corrective action grants funding proposal will be acted upon.

C. Interested persons may present oral statements at

the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements may be served on the agency board any time up to five days before the meeting.

Subp. 3. **Amount of award.** The amount of the award will be the amount requested by the municipality in the application, not to exceed the eligible costs approved in the corrective action report.

Subp. 4. **Recovery of costs.** The municipality is required to pursue recovery of costs for the corrective action from responsible persons as a condition of the grant award.

Subp. 5. **Amendments to award.** The agency shall not amend the grant amount unless the grant amount exceeds the costs actually incurred by the municipality.

7075.1080 [Emergency] EMERGENCY PROVISIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Eligibility for participation.** A municipality meeting the eligibility requirements in part 7075.1030 [Emergency] with an unfinished construction project seriously delayed due to major design or construction failures may apply for an emergency corrective action grant.

Subp. 2. **Eligible costs.** Costs that are eligible under part 7075.1040 [Emergency] are eligible under an emergency corrective action grant. Costs incurred before the award of an emergency corrective action grant are not eligible unless the municipality has requested and received from the commissioner written preservation of eligibility before costs are incurred. Written preservation of eligibility does not guarantee funding.

Subp. 3. **Application.** An eligible municipality may apply for an emergency corrective action grant at any time. The application must be made in accordance with part 7075.1050 [Emergency], subpart 2, and must also include a written discussion of the anticipated financial consequences if the municipality does not receive an emergency corrective action grant.

Subp. 4. **Evaluation of applications.** The commissioner shall evaluate and approve or deny applications based upon the following criteria:

A. the extent to which failure to take immediate corrective action will cause a significant increase in the total cost of the project;

B. the municipality's lack of financial ability to pay for the corrective action under part 7075.1060 [Emergency], item A; and

C. the potential for health impacts under part 7075.1060 [Emergency], item C.

Subp. 5. **Grant award.** Upon approval of an application, the commissioner may award a grant. The amount of the grant will be up to 80 percent of the total eligible costs as approved in the corrective action report. If a municipality's application for an emergency corrective action grant is denied, the municipality may then apply for a corrective action grant under part 7075.1050 [Emergency].

Subp. 6. **Report to agency board.** The commissioner shall report the award of a corrective action grant under this part to the agency board as soon as possible, but in any case within 60 days.

7075.1090 [Emergency] PAYMENTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

The municipality shall make periodic payment requests for eligible costs as costs are incurred. The commissioner shall make payments based on the percentage established in the grant award. The commissioner shall withhold the final ten percent of the grant until the municipality has successfully completed all activities in the corrective action report, has affirmatively certified that the project meets the performance standards as specified in the grant agreement, and has met the recovery of cost requirement specified in the grant agreement.

7075.1095 [Emergency] RECOVERY OF COSTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Repayment.** The municipality shall pay to the state the amount of any costs recovered, through litigation or negotiated settlement, from persons responsible for the failure of the wastewater treatment facility, proportionally to the state's monetary participation in the corrective action grant project. The amount of repayment will not exceed the amount of the grant.

Subp. 2. **Approval of negotiated settlement.** The municipality shall obtain written approval from the commissioner of a negotiated settlement before entering into the settlement.

Subp. 3. **Failure to pursue recovery.** The commissioner may stop payment on or require repayment of the corrective action grant if the municipality fails to pursue recovery of costs as specified in the grant agreement or if the municipality enters into a negotiated settlement without the commissioner's written approval.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 22 1988

Joan Anderson Growe
Secretary of State

2:37 PM

APPROVED AS TO FORM AND LEGALITY

February 22 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Julie A. Lepsink
SPECIAL ASSISTANT ATTORNEY GENERAL

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Register to the Minnesota Department of Veterans Affairs by 4:30 p.m. on September 2 will also be accepted by the Department of Human Services.

Metropolitan Council of the Twin Cities Area

Notice of Preliminary Review Schedule for Revision to the Water Resources Management, Part 1, Policy Plan of the Metropolitan Development Guide

The Metropolitan Council is revising its plan for regional sewer service and treatment. Revisions are necessitated by the need to address service and treatment requirements to meet the demand from forecasted growth in households and employment through the year 2000 and 2010, and concerns over water quality management. Additionally, the legislature has provided new direction regarding the responsibilities of the Council and the Metropolitan Waste Control Commission (MWCC). In accordance with Council procedures for revising regional system plans, the following tentative schedule is proposed:

Oct. 27, 1987	Metropolitan Systems Committee adopts the draft document.
Nov. 12, 1987	Metropolitan Council adopts draft document for transmittal to the Metropolitan Waste Control Commission for a 90-day review.
Feb. 23, 1988	Metropolitan Systems Committee adopts draft document for public hearing purposes.
March 10, 1988	Metropolitan Council adopts draft document for public hearing purposes and sets public hearing date.
April 12, 1988	Public hearing.
May 17, 1988	Metropolitan Systems Committee considers the revised policy plan for adoption.
May 26, 1988	Council adopts the plan.

A "notice of public hearing" will be published. If you have questions regarding the schedule or the draft sewer policy plan, call Carl Schenk of the Council's Natural Resources Program at 291-6410.

Pollution Control Agency

Division of Water Quality

Outside Opinion Sought Concerning Revisions to Rules Governing Award of State and Federal Grants and Loans for Municipal Wastewater Treatment Facilities

Notice is hereby given that the Minnesota Pollution Control Agency is seeking information or opinions from sources outside the Agency in preparing to promulgate emergency and permanent rules governing state and federal grant and loan programs for the construction of municipal wastewater treatment facilities.

Minnesota Rules Chapter 7075 governs the award of federal and state grants and loans for the planning and construction of publicly owned wastewater treatment facilities. The rules will be revised to provide for administration of the following grant and loan programs:

1. Grants to assist municipalities seeking privatization of their municipal wastewater treatment facilities. See *Minnesota Laws 1987*, Chapter 277, Section 1.

2. Grants to reimburse owners of individual on-site wastewater treatment systems for a part of the costs of upgrading or replacing the systems. See *Minnesota Laws 1987*, Chapter 277, Section 2.

3. Grants to assist municipalities in taking corrective action to upgrade or correct wastewater treatment facilities, funded under the federal or state grants programs, that have failed to meet performance standards. See *Minnesota Laws 1987*, Chapter 277, Section 3.

4. Loans for the construction of wastewater treatment facilities, as authorized by Congress in Public Law 100-4. See *Minnesota Laws 1987*, Chapter 386, Art. 3, Section 24, Subdivision 11.

Minnesota Laws 1987, Chapter 386, Art. 3, Section 3 provides that cities with populations of less than 1500 that are funded under the independent state grants program may be exempted from federal 20-year planning requirements contained in 33 USC 1251 et. seq. (Clean Water Act). *Minnesota Rules* Chapter 7075 will be revised to include guidelines governing such exemptions.

In addition, revisions to existing rules are proposed. These include changes in the deadline dates for submittal of technical doc-

uments prior to listing a municipality on the Municipal Project List, and changes to the procedures for drafting the Municipal Project List. See *Minnesota Rules* Part 7075.0409.

Promulgation of permanent rules is authorized by the above cited Minnesota Laws and by *Minnesota Statutes*, section 116.16, subdivision 5. Promulgation of emergency rules for the corrective action grants program (Number 3 above) is authorized by *Minnesota Laws 1987*, Chapter 277, Section 3.

The Minnesota Pollution Control Agency requests information and comments concerning the subject of these rules. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Sharon Meyer
Division of Water Quality
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

Oral statements of information and comment will be received over the telephone at (612) 296-8744 between the hours of 9:00 a.m. and 4:00 p.m.

All statements of information and comments regarding emergency rules relating to corrective action grants should be submitted by September 22, 1987. All statements of information and comments regarding permanent rules should be submitted by November 30, 1987. All written material received by the Minnesota Pollution Control Agency before the above deadlines will become a part of any rule file that is established in the event that the rules are proposed for adoption.

Department of Public Safety

Meeting Notice for a Pipeline Safety—Statewide Notification Center

In compliance with the Minnesota Pipeline Safety Act, *Minnesota Laws 1987*, Chapter 353, Section 9, the Commissioner of the Minnesota Department of Public Safety hereby notifies all operators, excavators and other persons eligible to participate of the first organizational meeting to establish a statewide notification center operated by a non-profit corporation to provide information regarding pipeline locations.

The meeting will be held on August 19, 1987 at 9:00 a.m. in the Minnegasco Auditorium, Minnegasco Headquarters Building, 201 South Seventh Street, Minneapolis, Minnesota.

Paul J. Tschida, Commissioner
Minnesota Department of Public Safety

Minnesota State Retirement System

Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, August 21, 1987 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Transportation

Petition of the County of Nicollet for a Variance from State Aid Standards for Roadway Design Criteria

Notice is hereby given that the County Board of the County of Nicollet has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a construction (regrading) project on CSAH 4 from CSAH 5 to CSAH 1 (6.5 Miles).

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit an interim 32' wide roadway with a gravel surface instead of the required surfacing and width necessary to provide a 7 ton ultimate 9 ton roadway.

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency 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 Minnesota Pollution Control Agency duly and properly called and held on the 27th day of October, 1987, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency (Agency) is hereby granted the authority to sign and to give notice of the Agency's intent to adopt, without a public hearing, the attached emergency rules of the Agency governing the award of state grants for corrective action to municipal wastewater treatment facilities that do not meet performance standards (Minn. Rules Parts 7075.1000 through 7075.1090), and governing the administration of the federal grants program and the independent state grants program (Minn. Rules Parts 7075.0409, 7075.0411, and 7075.0428), to all persons who have registered their names with the Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisors's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).

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

Barbara Lindsey Sims
for THOMAS J. KALITOWSKI
Commissioner

Pollution Control Agency

Proposed Emergency Amendments to Permanent Rules and Emergency Rules Relating to Municipal Project List and Corrective Action Grants Program

Rules as Proposed

7075.0409 MUNICIPAL PROJECT LIST.

Subpart 1. **Adoption of municipal project list.** The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which independent state grants will be awarded from current appropriations. The municipal project list shall also contain those projects for which state financial assistance will be available for combined sewer overflow abatement projects. The municipal project list shall also list any nonproject uses of the state's allotment of federal grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration. The municipal project list may, but need not, list projects to be funded under the corrective action grants program authorized in Minnesota Statutes, section 116.181 and further described in parts 7075.1010 to 7075.1095 [Emergency].

Subp. 2. **Requirements for placement on list.** A municipality that requests project placement on the municipal project list shall meet the following requirements:

A. If the grant sought is a Step 1, 2, 2+3, or 3 grant, the municipality must be listed on the municipal needs list.

B. If the grant sought is a Step 2 ~~or~~, 2+3, or 3 grant, the municipality shall submit by December 1 prior to the beginning of the fiscal year for which the municipal project list is prepared:

(1) a facilities plan in conformance with part

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7075.0200, subpart 9; and

(2) if the municipality is proposing to change the selected treatment method or any other major element of a previously approved facilities plan, a facilities plan addendum in conformance with part 7075.0200, subpart 9.

C. If the grant sought is a Step 3 grant, the municipality shall submit the following items by ~~December~~ September 1 during the state fiscal year, and prior to the beginning of the federal fiscal year, for which the municipal project list is prepared~~:~~. If the municipality fails to submit the required items by September 1, the agency shall remove the municipality from the municipal project list.

(1) plans and specifications in conformance with part 7075.0200, subpart 18, and based on a facilities plan previously approved by the agency;

(2) if the city is proposing to change the selected treatment method or any other major element of previously approved plans and specifications, a plans and specifications addendum in conformance with part 7075.0200, subpart 18, and based on a previously approved facilities plan;

(3) a sewer service charge system comprised of a user charge system, including a proposed financial management system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user

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class, but the manner in which the charge will be distributed must be described.

(4) documentation of how the public has been informed of the proposed sewer service charge system; and

(5) a sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

D. The municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, make all necessary corrections to the documents in item B if the grant sought is a Step 2 ~~or~~, 2+3, or 3 grant, ~~or the documents in item C if the grant sought is a Step 3 grant,~~ so as to make them approvable. If the grant sought is a Step 3 grant, the municipality shall also submit a council resolution agreeing to submit, by the following September 1, the documents listed in item C and a schedule for construction.

E. If the grant sought is a Step 2+3 or 3 grant, the municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, indicate its preferred funding source, if it has one, in writing to the director.

F. A municipality seeking a Step 3 federal grant for combined sewer overflow abatement projects or state financial assistance for combined sewer overflow abatement projects shall not be subject to the conditions contained in items C and D. The municipality shall submit by June 1 prior to the beginning of the fiscal year for which the grant or financial assistance is sought, a list and schedule of construction projects to be initiated in the following fiscal year. If the municipality's NPDES/SDS permit provides a different date for submission of the list and schedule, the date in the permit shall take precedence.

Subp. 3. **Preparation of proposed municipal project list.** The agency shall prepare a municipal project list that lists in order of priority the municipalities that are eligible to apply for construction grants for their projects from funds allotted

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to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

In drafting the proposed municipal project list, the agency shall consider the following factors in the order given:

A. total dollars available for obligation from each funding source;

B. eligibility of projects and portions of projects according to these parts and applicable state and federal statutes;

C. restrictions on obligations mandated by these parts and applicable state and federal statutes, including but not limited to set asides for administration of certain types of projects, and the percentage of the cost of construction that will be paid by state and federal grants;

D. the municipalities' preference for funding sources; and

E. the amount of state financial assistance available for combined sewer overflow abatement projects.

Subp. 4. **Procedures for drafting list.** In drafting the proposed municipal project list, the agency shall list projects on the proposed list according to the following procedures:

A. The agency shall attempt to accommodate municipalities' preferences for funding sources in priority order until the costs of the projects being funded from one funding source reach the full allotment or appropriation of grant funds available from that source for the fiscal year. If a municipality expresses no preference, the agency shall determine from which source it will be funded.

B. The agency shall then list projects in priority order, funding those projects from the remaining funding source, until the costs of the projects reach the full allotment or appropriation of grant funds available for the fiscal year. Projects ineligible under the remaining funding source must be considered for placement on the following fiscal year's municipal project list.

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C. The agency shall then list on the municipal project list in priority order those projects on the municipal needs list with priority rankings lower than those selected under items A and B, but which have been identified by the commissioner of energy and economic development by July 1 as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

D. The agency shall then list combined sewer overflow abatement projects for which state financial assistance will be awarded in the fiscal year from funds available for those kinds of projects.

E. The agency may list projects which will receive Step 1 and 2 grants and advances of allowance in such a manner as to permit funding to proceed in an orderly fashion to fully utilize all allocated and appropriated funds.

Subp. 5. **Reimbursement project list.** The agency shall prepare a reimbursement project list that lists those municipalities that are willing to proceed with projects and are willing to be reimbursed in a subsequent year conditioned upon appropriation of sufficient money for that year. No municipality may be listed on the reimbursement project list unless the municipality has requested placement on the list and has received approval of the documents listed in subpart 2, item C. ~~The total cost of these reimbursement projects may not exceed the amount newly appropriated to the independent state grant program.~~ Reimbursement projects must be listed in the same order of priority as they appear on the municipal needs list. A reimbursement project may appear on both the reimbursement project list and the reserve project list.

7075.0411 PROJECT ELIGIBILITY.

Subpart 1. **Steps eligible.** Federal grants and state matching grants shall be awarded only for Step 2+3 and Step 3 projects. Advances of allowance for Step 1 and 2 projects may also be provided from federal funds. Independent state grants

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may be awarded for Step 1, Step 2, Step 2+3, and Step 3 projects. Financial assistance for combined sewer overflow abatement shall be awarded only for design and construction work.

Subp. 2. **General eligibility.** No project is eligible for a federal grant or a state matching grant unless it is eligible for funding under the act and applicable federal regulations. No project is eligible for an independent state grant unless it is eligible under this chapter and applicable state statutes. No municipality is eligible for state financial assistance for combined sewer overflow abatement projects unless the municipality complies with the conditions of Minnesota Statutes, section 116.162, subdivision 7.

Subp. 3. **Initiation of construction.** ~~**A municipality is not eligible for a federal grant or a state matching grant if construction on the project has been initiated prior to the award of the grant.**~~

A municipality may ~~**be eligible for**~~ retain eligibility of construction costs incurred before the award of an independent state grant ~~**after initiation of construction, provided that**~~ only if:

A. the municipality was listed on a reimbursement project list when construction began;

B. the municipality submitted a complete grant application to the agency within 90 days after adoption or revision of the reimbursement project list; and

C. the municipality obtained written permission from the agency to advertise for bids and initiate construction before those steps were taken.

Subp. 4. **Cost-effectiveness.** A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

Subp. 5. **Eligible costs.** The following provisions govern eligible costs:

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A. The eligible cost of any project for which a grant or state financial assistance will be awarded shall be determined by the application of applicable state and federal statutes and rules.

B. In addition to other eligible costs established by state law for combined sewer overflow abatement projects, storm water conveyance facilities that are part of the most cost effective alternative for combined sewer overflow abatement shall be eligible for state financial assistance. Such facilities shall include those structures, pipes, and appurtenances from the point of entry at the catch basin to the outlet structure which are necessary to convey up to the five-year storm.

7075.0428 GRANT AMOUNTS.

Subpart 1. **State matching grants.**

A. For projects tendered on or after October 1, 1984, and before October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for up to an additional 30 percent of the eligible cost if construction of the treatment works would otherwise impose a significant financial hardship on the municipality.

B. For projects tendered, on or after October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for 50 percent of the nonfederal share of the eligible cost of construction for municipalities with populations of 25,000 or less.

Subp. 2. **Independent state grants.** The agency may award independent state grants as follows:

A. The agency may award Step 1 and Step 2 independent state grants to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. The agency may award Step 2+3 and Step 3

independent state grants to municipalities to pay for 50 percent ~~of-the-eligible-cost-of-construction~~, or, if the ~~agency-requires-and-the-municipality-is-constructing-advanced-treatment,-65~~ population of the municipality is 25,000 or less, 80 percent of the eligible cost of construction. ~~If-construction-of-a-treatment-works-would-otherwise-impose-a-significant-financial-hardship-on-a-municipality,-the-agency-may-award-an-independent-state-grant-to-pay-for-up-to-an-additional-30-percent-of-the-eligible-cost-of-construction,-or-if-the-agency-requires-and-the-municipality-is-constructing-advanced-treatment,-an-additional-25-percent-of-the-eligible-cost-of-construction.~~

Subp. 2a. **State financial assistance for combined sewer overflow abatement projects.** The agency may award state financial assistance for combined sewer overflow abatement projects as follows:

A. The agency may award state financial assistance for design of combined sewer overflow abatement projects to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. Each fiscal year, municipalities eligible for financial assistance for combined sewer overflow abatement projects shall be awarded a proportionate share of the appropriation available for such projects in that fiscal year. The proportionate share for each eligible municipality is as follows:

(1) Minneapolis, 24.2 percent;

(2) Saint Paul, 71.6 percent;

(3) South Saint Paul, 4.2 percent.

C. By no later than March 31 each year, beginning in 1987, the agency shall determine whether or not each municipality that is eligible for financial assistance under this program has submitted a complete financial assistance application and either the city council has adopted final orders for construction if the work is to be contracted out, or issued work proceed orders if the municipality will do the work with

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its own employees, for enough work to allow the municipality to utilize its total pro rata share for the present fiscal year. If the agency determines that a municipality has not submitted a complete financial assistance application and the city council has not adopted final orders for construction or the city has not issued work proceed orders, the agency shall distribute such unusable funds to other eligible municipalities that have submitted complete financial assistance applications to utilize such additional funds. For any municipality that is awarded additional funds , the city council shall adopt final orders for construction or the city shall issue work proceed orders to utilize such funds by May 31 of the present fiscal year in order to retain the funds.

Each fiscal year, beginning in 1988, allocations to a municipality that has received additional funds shall be reduced by one-third of the total amount of additional funds that have been awarded to the municipality in earlier years. These funds shall be awarded to the municipality that was initially entitled to them. In the event that, for the municipality entitled to the repayment funds, the city council still has not adopted final orders for construction or the city has not issued work proceed orders to utilize the funds in that fiscal year, the municipality awarded the additional funds is not required to make the repayment. The repayment procedure set forth in this item shall continue until the municipality has repaid all additional funds that it has been awarded or until the municipality has completed its combined sewer overflow abatement projects in their entirety.

Subp. 3. **Local share.** Except as provided in part 7075.0425, in no event may a municipality that obtains a state matching grant or independent state grant be responsible for less than ten percent of the eligible cost of the project.

Subp. 4. **Significant financial hardship.** The amount of a state matching grant awarded to a municipality which was awarded a federal grant after October 1, 1984, ~~and the amount of a supplemental independent state grant awarded to a~~

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~~municipality~~ and before October 1, 1987, depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

A. The agency shall award a state matching grant ~~or independent-state-grant~~ for up to five percent of the eligible cost of construction based on the municipality's per connection capital cost after bidding compared with the median per connection capital cost for all projects which accepted bids under the programs during the two years ending July 1 prior to adoption of the municipal project list on which the municipality appears. The percentage of the eligible cost to be paid for by the grant based on per connection capital cost is determined by the following table.

Municipality Per Connection Cost × 100 ÷ Median Per Connection Cost of Projects Bid During Previous Two Years	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0
80 - 89	1.5
90 - 99	2.0
100 - 119	2.5
120 - 139	3.0
140 - 159	3.5
160 - 179	4.0
180 - 199	4.5
200 or more	5.0

B. The agency shall award a state matching grant ~~or independent-state-grant~~ for up to five percent of the eligible cost of construction based on the municipality's median household income compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

Municipality Median Household Income × 100 ÷ State Median Nonmetropolitan Household Income	Percentage of Cost Funded
100 - 104	0.5
95 - 100	1.0
90 - 94	1.5

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85 - 89	2.0
80 - 84	2.5
75 - 79	3.0
70 - 74	3.5
65 - 69	4.0
60 - 64	4.5
less than 60	5.0

C. The agency shall award a state matching grant ~~or independent-state-grant~~ for up to five percent of the eligible cost of construction based on the municipality's per capita adjusted assessed valuation compared with the state median per capita adjusted assessed valuation. Per capita adjusted assessed valuation must be determined from the latest data available from the Department of Revenue at the time of the grant award. The percentage of the eligible cost to be paid for by the grant based on the per capita adjusted assessed valuation is determined by the following table.

Municipality Per Capita Adjusted Assessed Valuation x 100 ÷ State Median Per Capita Adjusted Assessed Valuation	Percentage of Cost Funded
105 - 109	0.5
100 - 104	1.0
95 - 99	1.5
90 - 94	2.0
85 - 89	2.5
80 - 84	3.0
75 - 79	3.5
70 - 74	4.0
65 - 69	4.5
less than 65	5.0

Rules as Proposed (all new material)

CORRECTIVE ACTION GRANTS PROGRAM.

7075.1010 [Emergency] PURPOSE OF CORRECTIVE ACTION GRANTS PROGRAM.

Parts 7075.1010 to 7075.1095 [Emergency] provide for the administration of the corrective action grants program which makes grants available to municipalities with wastewater treatment facilities funded under the federal or independent state construction grants programs that are unable to meet performance standards.

7075.1020 [Emergency] DEFINITIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Scope.** For the purpose of parts 7075.1010 to

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7075.1095 [Emergency], the following terms have the meaning given them.

Subp. 2. **Performance standards.** "Performance standards" means the criteria established for a wastewater treatment facility under the federal construction grants program or the independent state construction grants program for the purpose of determining the project's satisfactory performance.

7075.1030 [Emergency] ELIGIBILITY FOR PARTICIPATION IN CORRECTIVE ACTION GRANTS PROGRAM.

To be eligible for participation in the corrective action grants program, a municipality shall meet the following requirements:

A. The municipality received a grant under the federal construction grants program or the independent state construction grants program.

B. The municipality executed a contract for construction of its wastewater treatment facility after December 31, 1981.

C. The population served by the wastewater treatment facility is 1,500 or less.

D. The municipality's wastewater treatment facility is unable to meet performance standards. The municipality shall notify the commissioner in writing of the wastewater treatment facility's failure before initiation of operation or no later than one year following initiation of operation.

E. The inability of the municipality's wastewater treatment facility to meet performance standards is not the result of the failure of innovative or alternative technology components.

F. The municipality has not received a grant under the corrective action grants program.

7075.1040 [Emergency] ELIGIBLE COSTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Construction costs.** Only construction costs that were eligible at the time of the original construction

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grant award are eligible. Construction costs incurred before a corrective action grant award are not eligible.

Subp. 2. **Administrative, engineering, and legal costs.** Fifty percent of the total administrative, engineering, and legal costs (collectively), directly attributed to the corrective action, are eligible up to a maximum of 20 percent of the construction costs approved in the corrective action report.

7075.1050 [Emergency] APPLICATION FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Notice.** The commissioner shall publish in the State Register a notice that applications for corrective action grants will be accepted. The notice will contain the deadline date for submittal of applications and will precede the deadline by at least 60 days.

Subp. 2. **Application.** The municipality shall apply for a corrective action grant on a form provided by the commissioner. The municipality shall also submit the following information for review and approval:

A. a corrective action report approved by the commissioner including:

(1) an analysis of the causes of the wastewater treatment facility's failure to meet performance standards;

(2) a selected alternative for corrective action including a preliminary design and cost estimate; and

(3) a schedule for undertaking the selected corrective action;

B. plans and specifications necessary to implement the approved corrective action;

C. a plan for the recovery of the costs of the proposed corrective action including a report on the current status of negotiations or litigation;

D. financial statements for the three most current fiscal years, if available; and

E. other information necessary to clarify the application.

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Subp. 3. **Submittal date.** The application must be submitted to the commissioner or postmarked by the noticed closing date.

Subp. 4. **Incomplete applications.** Applications that do not meet the requirements of subpart 2 by the deadline date for submittal of applications are ineligible for funding for that application cycle.

7075.1060 [Emergency] RANKING OF APPLICATIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

The agency shall rank the applications based upon:

A. The municipality's lack of financial ability to pay for the corrective action based upon an evaluation of debt per capita, mill levy, adjusted assessed valuation, median income, current and proposed user charges, and any additional factors that the municipality may offer, such as percentage of population with a fixed income or population decline, that would support the municipality's inability to wholly finance the corrective action. A municipality's documented financial need shall positively affect its ranking.

B. The extent to which the proposed corrective action will make cost effective and efficient use of grant funds such that a municipality's effort in funding a portion of the corrective action or actively pursuing legal redress through the avenues available will have a significant positive impact on its ranking. The factors to be considered are:

(1) the municipality's prior and current efforts in correcting the performance failure including negotiation and litigation, local costs incurred, pursuit of other funding sources; and

(2) the municipality's proposed financial participation in the cost of the corrective action.

C. The potential for direct human contact with untreated or partially treated wastewater on the surface of the ground, or the potential for imminent contamination of a drinking water supply.

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7075.1070 [Emergency] DETERMINATION OF GRANT AWARDS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Selection of projects.** The agency shall select projects to be funded in priority order on the basis of rank established according to part 7075.1060 [Emergency]. The agency is not obligated to allocate the total amount of funds set aside for this program. The agency may deny funding to municipalities based on the criteria in part 7075.1060 [Emergency].

Subp. 2. **Public participation.** Items A to C govern public participation.

A. The commissioner shall prepare a corrective action grants funding proposal including the basis for grant awards and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner shall give affected municipalities at least 45 days notice of the agency board meeting at which the corrective action grants funding proposal will be acted upon.

C. Interested persons may present oral statements at the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements may be served on the agency board any time up to five days before the meeting.

Subp. 3. **Amount of award.** The amount of the award will be the amount requested by the municipality in the application, not to exceed the eligible costs approved in the corrective action report.

Subp. 4. **Recovery of costs.** The municipality is required to pursue recovery of costs for the corrective action from responsible persons as a condition of the grant award.

Subp. 5. **Amendments to award.** The agency shall not amend the grant amount unless the grant amount exceeds the costs actually incurred by the municipality.

7075.1080 [Emergency] EMERGENCY PROVISIONS FOR CORRECTIVE ACTION

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GRANTS PROGRAM.

Subpart 1. **Eligibility for participation.** A municipality meeting the eligibility requirements in part 7075.1030 [Emergency] with an unfinished construction project seriously delayed due to major design or construction failures may apply for an emergency corrective action grant.

Subp. 2. **Eligible costs.** Costs that are eligible under part 7075.1040 [Emergency] are eligible under an emergency corrective action grant. Costs incurred before the award of an emergency corrective action grant are not eligible unless the municipality has requested and received from the commissioner written preservation of eligibility before costs are incurred. Written preservation of eligibility does not guarantee funding.

Subp. 3. **Application.** An eligible municipality may apply for an emergency corrective action grant at any time. The application must be made in accordance with part 7075.1050 [Emergency], subpart 2, and must also include a written discussion of the anticipated financial consequences if the municipality does not receive an emergency corrective action grant.

Subp. 4. **Evaluation of applications.** The commissioner shall evaluate and approve or deny applications based upon the following criteria:

A. the extent to which failure to take immediate corrective action will cause a significant increase in the total cost of the project;

B. the municipality's lack of financial ability to pay for the corrective action under part 7075.1060 [Emergency], item A; and

C. the potential for health impacts under part 7075.1060 [Emergency], item C.

Subp. 5. **Grant award.** Upon approval of an application, the commissioner may award a grant. The amount of the grant will be up to 80 percent of the total eligible costs as approved in the corrective action report. If a municipality's application for an emergency corrective action grant is denied,

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the municipality may then apply for a corrective action grant under part 7075.1050 [Emergency].

Subp. 6. **Report to agency board.** The commissioner shall report the award of a corrective action grant under this part to the agency board as soon as possible, but in any case within 60 days.

7075.1090 [Emergency] PAYMENTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

The municipality shall make periodic payment requests for eligible costs as costs are incurred. The commissioner shall make payments based on the percentage established in the grant award. The commissioner shall withhold the final ten percent of the grant until the municipality has successfully completed all activities in the corrective action report, has affirmatively certified that the project meets the performance standards as specified in the grant agreement, and has met the recovery of cost requirement specified in the grant agreement.

7075.1095 [Emergency] RECOVERY OF COSTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Repayment.** The municipality shall pay to the state the amount of any costs recovered, through litigation or negotiated settlement, from persons responsible for the failure of the wastewater treatment facility, proportionally to the state's monetary participation in the corrective action grant project. The amount of repayment will not exceed the amount of the grant.

Subp. 2. **Approval of negotiated settlement.** The municipality shall obtain written approval from the commissioner of a negotiated settlement before entering into the settlement.

Subp. 3. **Failure to pursue recovery.** The commissioner may stop payment on or require repayment of the corrective action grant if the municipality fails to pursue recovery of costs as specified in the grant agreement or if the municipality enters into a negotiated settlement without the commissioner's written approval.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Amendments to Permanent Rules and Emergency Rules Relating to Municipal Project List and Corrective Action Grants Program

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7075

The attached rules are approved for publication
in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing The Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075

NOTICE OF INTENT TO ADOPT EMERGENCY RULES

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled emergency rules. The statutory authority to adopt the emergency rules is contained in Minn. Laws 1987, ch. 277 §3 and Minn. Stat. §116.16, subd.5 (1987). The Agency in adopting the rules, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules, Minn. Stat. §§ 14.29 to 14.36 (1986).

All persons have until 4:30 p.m. on December 28,1987, to submit written data and views on the proposed emergency rules or any part or subpart of the rules. Any comments must be submitted to:

Jeff Freeman
Municipal Wastewater Treatment Section
Division of Water Quality
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7312

The proposed rules, if adopted, will make several changes to the existing rule concerning the Municipal Project List and will create a corrective action grants program. The deadline for submittal of technical documents by a municipality on the Municipal Project List will change to September 1st. A municipality failing to submit the required items by September 1st will be removed from the Municipal Project List. The corrective action grants program will make grants available to municipalities under 1500 population with wastewater treatment facilities funded under the Federal or Independent State Grants Programs that are unable to meet performance standards. A free copy of the proposed emergency rules is available by contacting Mr. Freeman at the address and telephone number stated above.

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

Upon adoption of the emergency rules by the Agency, the emergency rules as adopted and the supporting documents will be delivered to the Attorney General for review as to legality and form to the extent 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 Mr. Freeman at the address stated above.

8 The emergency rules will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rules will be continued in effect for an additional 180 days if the Agency gives notice of continuation in accordance with Minn. Stat. § 14.35 (1986).

Dated: November 25, 1987

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing The Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Ron Linn, being sworn says:

That on the 23rd day of November, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt an Emergency Rule by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the state rulemaking list certified by the attached affidavit of certificate of mailing list.

Ron Linn

Ron Linn
Mail Clerk

Subscribed and sworn to before me
this 21 day of December, 1987

Cynthia B Gillingham

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

RR

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing The Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075

AFFIDAVIT OF CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

LaReine Bengtson, being sworn 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 water quality rulemaking mailing list is accurate, complete, and current as of the 20th day of November, 1987.

LaReine Bengtson
Public Information Officer

Subscribed and sworn to before me
this 21 day of December, 1987
Cynthia B Gillingham

CYNTHIA B. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

cc

State of Minnesota

STATE REGISTER

Department of Administration—Documents Division



Published every Monday

30 November 1987

Volume 12, Number 22

Pages 1129-1168

STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 12 Printing Schedule and Submission Deadlines

Vol. 12 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
22	Monday 16 November	Monday 23 November	Monday 30 November
23	Monday 23 November	Monday 30 November	Monday 7 December
24	Monday 30 November	Monday 7 December	Monday 14 December
25	Monday 7 December	Monday 14 December	Monday 21 December

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

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

Instructions for submission of documents may be obtained from the State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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Rudy Perpich, Governor

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Department of Administration

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Minnesota Documents Division

Robin PanLener, Editor

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Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

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

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

Perspectives—Publication about the Senate.

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Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

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

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

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

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The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register.*** Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers. Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register.***

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register.*** When rules are first drafted, state agencies publish them as **Proposed Rules,** along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register.*** After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the ***State Register*** as **Adopted Rules.** These final adopted rules are not printed in their entirety in the ***State Register,*** only the changes made since their publication as **Proposed Rules.** To see the full rule, as adopted and in effect, a person simply needs two issues of the ***State Register,*** the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services.***

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the ***State Register,*** a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services,*** contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

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Proposed Rules

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

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

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

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

Department of Human Services

Proposed Permanent Rules Relating to Reimbursement of Intermediate Care Facilities for Persons with Mental Retardation or Related Conditions

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.501, subdivisions 1 to 3.

All persons have 30 days or until 4:30 p.m. on December 30, 1987 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.

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 may be held unless a sufficient number withdraw their request in writing. 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 requests for a public hearing must be submitted in writing to:

Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155
(612) 297-1486

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

The purpose of these rule parts is to establish procedures for determining the total payment rates for all intermediate care facilities for persons with mental retardation or a related condition participating in the medical assistance program, except intermediate care facilities in state owned regional centers.

These amendments result in the following changes to the current rules.

1. A definition of training and habilitation services costs has been added to part 9553.0020.

2. A provision allowing the use of a federally approved cost allocation plan for the allocation of management fees of central office costs has been added to part 9553.0030.

3. A provision allowing training and habilitation costs as a pass-through for the ICF/MR has been added to part 9553.0035, subpart 16.

4. Two items have been added to part 9553.0040, subpart 6 to explain where on the cost report training and habilitation services costs and costs related to the life safety code adjustment should be reported.

5. Part 9553.0050, subdivision 3 has been changed to allow facilities to apply for a one-time rate adjustment in order to substantially modify the facility to serve persons who require a facility that meets the standards for impractical evacuation capability and to clarify the other eligibility factors.

6. The effective date for an interim rate found in part 9553.0075, subpart 1 has been changed from the date on which all the converted beds are occupied to the date 60% of the converted beds are occupied.

The Department is making these changes in the statewide methods and standards for setting Medical Assistance rates for ICFs/MR in order to:

1. comply with federal regulations regarding payment of training and habilitation services costs;

2. simplify accounting procedures for facilities with federally approved cost allocation plans; and

3. make the system more responsive to problems encountered by providers when trying to serve more severely handicapped persons.

A free copy of the rule is available upon request from:

Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155
(612) 297-1486

A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

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 from:

Nancy Bishop
Rules Division
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155
(612) 297-1486

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Nancy Bishop.

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 that 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 Nancy Bishop.

Dated: 16 November 1987

Sandra S. Gardebring
Commissioner

Rules as Proposed

9553.0020 DEFINITIONS.

Subpart 1. to 46. [Unchanged.]

Subp. 46a. **Training and habilitation services costs.** Training and habilitation services costs means the costs charged by a vendor licensed under parts 9525.1500 to 9525.1690 for services provided to residents of an ICF/MR as specified in the residents' individual service plans and in a manner consistent with Minnesota Statutes, sections 252.40 to 252.47.

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.

Subp. 47. to 50. [Unchanged.]

9553.0030 COST CLASSIFICATION AND ALLOCATION PROCEDURES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Central, affiliated, or corporate office costs.** Cost allocation for central, affiliated, or corporate offices shall be governed by items A to ~~E~~ F.

A. to E. [Unchanged.]

F. A governmental or nonprofit organization that has a federally approved cost allocation plan may allocate management fees or central office costs to a related organization based on the governmental or nonprofit organization's federal cost allocation plan. The provider must document that the allocation plan has been approved by the federal government.

Subp. 5. and 6. [Unchanged.]

9553.0035 DETERMINATION OF ALLOWABLE COSTS.

Subpart 1. to 15. [Unchanged.]

Subp. 16. **Pass-through of training and habilitation services costs.** Training and habilitation services costs shall be paid as a pass-through payment at the lowest rate paid to the training and habilitation services vendor by the county for comparable services at that site under Minnesota Statutes, sections 252.40 to 252.47. The pass-through payments for training and habilitation services are paid separately by the commissioner and are not included in the computation of the total payment rate.

9553.0040 REPORTING BY COST CATEGORY.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Special operating costs.** The facility costs listed in this subpart are included in the special operating cost category:

A. special assessments and real estate taxes;

B. license fees required by the Minnesota Department of Human Services and the Minnesota Department of Health;

C. real estate insurance;

D. professional liability insurance; and

E. the portion of preopening costs amortized as in part 9553.0035, subpart 12, item B;

F. training and habilitation services costs; and

G. physical plant modifications or additional depreciable equipment costs allowed under part 9553.0061.

9553.0050 DETERMINATION OF TOTAL OPERATING COST PAYMENT RATE.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **One-time adjustment to program operating cost payment rate.** For the purposes of this subpart, "additional program staff" means staff in excess of the number included in the facility's total payment rate during the rate year covering the date of the finding of deficiency or need. The one-time adjustment shall be determined according to items A to ~~G~~ H.

A. ~~The commissioner shall allow a one-time adjustment to a facility's program operating cost payment rate when the commissioner or the commissioner of health has issued an order to the facility under parts 9525.0210 to 9525.0430 or 4665.0100 to 4665.9900 or when the federal government has issued a deficiency order under Code of Federal Regulations, title 42, section 442 requiring the facility to correct a deficiency in the number or type of program staff necessary to implement individual resident habilitation plans or when the commissioner has determined a need exists based on a need redetermination plan approved pursuant to Minnesota Statutes, section 252.28 and parts 9525.0015 to 9525.0145 [Emergency] provided that~~ A facility is eligible for a one-time adjustment to the facility's program operating cost payment rate when the facility meets one of the conditions in subitems (1) to (4) and the conditions in item B.

(1) The commissioner or the commissioner of health has issued a correction order to the facility under parts 9525.0210 to 9525.0430 or 4665.0100 to 4665.9900.

(2) The federal government has issued a deficiency order under Code of Federal Regulations, title 42, section 442, as amended through October 1, 1986, requiring the facility to correct a deficiency in the number or type of program staff necessary to implement the residents' individual habilitation plans.

(3) The commissioner has determined a need exists based on a determination or redetermination of need plan approved under Minnesota Statutes, section 252.28 and parts 9525.0015 to 9525.0145.

(4) The commissioner has approved, under Minnesota Statutes, section 252.28 and parts 9525.0015 to 9525.0145, a

Class A facility's plan to substantially modify the facility to serve persons who require a facility that meets the standards for impractical evacuation capability as provided in the Code of Federal Regulations, title 42, section 442.508, as amended through October 1, 1986. For purposes of this subitem, "substantially modify" means to modify the facility so that at least 50 percent of the licensed beds may be used to serve persons who meet the criteria in part 9510.1050, subpart 2, items C and D.

B. To qualify for a one-time adjustment the facility must document that:

(1) ~~the facility's program staff complement on the date of the finding of the deficiency or need is equal to or exceeds the program staff complements included in the facility's total payment rates during the rate year covering the date of the finding and during the immediately prior rate year;~~

~~(2)~~ the deficiency or need cannot be corrected or met by reallocating facility staff and costs including amounts reimbursed for a change in ownership or reorganization of provider entities between related organizations, and any efficiency incentive or other allowance;

~~(3)~~ (2) the deficiency or need cannot be corrected or met through a special needs rate exception as provided in parts 9510.1020 to 9510.1140; and

~~(4)~~ (3) the provisions in items ~~B~~ C to ~~G~~ H are met.

~~B.~~ C. The facility must submit to the commissioner a written request for the one-time adjustment to the program operating cost payment rate. The request must include:

(1) documentation which indicates that the deficiency or need could not be corrected or met through a special needs rate as provided in parts 9510.1020 to 9510.1140;

(2) a copy of the order or determination which cites the deficiency or need in the number and type of program staff required to correct the deficiency or meet the need;

(3) a list of all staff positions during the rate year covering the date of the deficiency order or need determination ~~and the immediately prior rate year~~, annual salaries and hours, related fringe benefits and payroll taxes;

(4) a description of the facility's plan to correct the deficiency or meet the need including the projected cost of the salary and related fringe benefits and payroll taxes for required additional program staff; and

(5) an explanation of the reasons the facility was unable to meet staff ratios necessary to implement individual resident habilitation plans under payment rates established by current or prior reimbursement rules.

~~C.~~ D. The commissioner shall evaluate the documents submitted in item ~~B~~ C using the criteria in ~~item~~ items A and B. If the request meets the criteria in ~~item~~ items A and B, the commissioner shall compute the one-time adjustment to the program operating cost payment rate in accordance with subitems (1) to (4).

(1) Only the reasonable cost of the salary and related fringe benefits and payroll taxes for required additional program staff shall be allowed unless the facility is eligible for a one-time adjustment under item A, subitem (4). For a facility eligible under item A, subitem (4), the commissioner shall allow the reasonable costs of:

(a) program supplies;

(b) up to $1,500 of equipment needed to implement the program. The commissioner may approve an amount which exceeds the $1,500 equipment limit if the commissioner determines that the cost of the equipment and the payment schedule for the equipment are reasonable and the equipment is necessary to implement the change in the program. The commissioner's determination shall be final;

(c) program consultants;

(d) repairs to property damaged by the residents; and

(e) employee training needed to meet the needs of the persons identified in the plan approved by the commissioner.

(2) The amount determined in subitem (1) shall be divided by the greater of resident days or 85 percent of capacity days.

(3) Any efficiency incentive or portion of the capital debt reduction allowance not used for capital debt reduction, included in the facility's total payment rate in effect on the date of the written request in item ~~B~~ C shall be subtracted from the amount computed in subitem (2).

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(4) Any further reduction which would be possible by reallocating the facility's staff and costs shall be subtracted from the amount computed in subitem (2).

~~D.~~ E. If the amount in item ~~C~~ D, is greater than zero, the commissioner shall allow a one-time adjustment to the facility's total payment rate equal to that amount. The one-time adjustment shall be effective on the first day of the month following the commissioner's determination unless the facility is eligible for a one-time adjustment under item A, subitem (4). For a facility eligible under item A, subitem (4), the one-time adjustment shall be effective on the first day of the month in which any person identified in the plan approved by the commissioner is admitted to the facility.

~~E.~~ F. The one-time adjustment to the facility's total payment rate shall remain in effect for a 12-month period. At the end of the 12-month period, the commissioner shall conduct a fiscal and program review. Based on the results of the fiscal and program review, the commissioner shall implement either subitem (1), (2), or (3).

(1) If the facility fails to implement the plan specified in item ~~B~~ C, subitem (4), the commissioner shall recover the total amount paid under this subpart in accordance with part 9553.0041, subpart 13 and shall disallow any costs incurred by the facility in establishing future payment rates.

(2) If the facility implements the plan specified in item ~~B~~ C, subitem (4) and the actual costs incurred during the 12-month period are below the payments made under this subpart, the commissioner shall reduce the adjustment to the facility's total payment rate accordingly and recover any overpayments in accordance with part 9553.0041, subpart 13. The reduced adjustment to the facility's total payment rate shall continue to be paid to the facility until the September 30 following the end of the reporting year which includes 12 months of the additional program staff salaries and related fringe benefits and payroll taxes.

(3) If the actual costs of implementing the plan specified in item ~~B~~ C, subitem (4) incurred during the 12-month period exceed the payments made under this subpart, there shall be no retroactive cost settle up. The one-time adjustment to the facility's total payment rate shall continue to be paid to the facility at the same level until the September 30 following the end of the reporting year which includes 12 months of the additional program staff salaries and related fringe benefits and payroll taxes.

~~F.~~ G. The facility must record the costs associated with this subpart separately from other facility costs until the commissioner's fiscal and program review establishes that the facility has implemented the plan specified in item ~~B~~ C, subitem (4). To prevent duplicate payment, the program costs associated with this subpart are nonallowable until after the commissioner has reviewed and approved these costs in accordance with item ~~D~~ F. If the commissioner approves these costs, the costs incurred during the reporting year which includes 12 months of the additional ~~program staff salaries and related fringe benefits and payroll taxes shall be allowable~~ costs identified in item D, subitem (1), shall be allowable.

~~G.~~ H. The commissioner shall authorize payments under this subpart only once in a three-year period for a facility.

9553.0075 RATE SETTING PROCEDURES FOR NEWLY CONSTRUCTED OR NEWLY ESTABLISHED FACILITIES OR APPROVED CLASS A TO CLASS B CONVERSIONS.

Subpart 1. **Interim payment rate.** A provider may request an interim payment rate for a newly constructed or newly established facility or for a facility converting more than 50 percent of its licensed beds from Class A beds to Class B beds provided that the conversion is approved by the commissioner. To receive an interim payment rate, the provider must submit a projected cost report in compliance with parts 9553.0010 to 9553.0080 to the extent applicable, for the year in which the provider plans to begin operation or plans to convert beds. Parts 9553.0050, subpart 1, item A, subitems (2), (3), and (4); subpart 2, item E; and subpart 3; and part 9553.0060, subpart 6 shall not apply to interim payment rates. The interim property related payment rate must be determined using projected resident days but not less than 80 percent of licensed capacity days. The effective date of the interim payment rate for a newly constructed or newly established facility must be the later of the first day a medical assistance recipient resides in the newly constructed or established bed or the date of medical assistance program certification. The effective date of the interim payment rate for a facility converting more than 50 percent of its licensed beds from Class A beds to Class B beds must be the later of the date on which ~~all~~ 60 percent of the converted beds are occupied by residents requiring a Class B bed as determined by the commissioner or the date on which the beds are licensed as Class B beds by the Minnesota Department of Health. Prior to the effective date of the interim payment rate, the provider may submit a request to update the interim rate. After the effective date of the interim payment rate, no adjustments shall be made in the interim payment rate until settle-up.

Subp. 2. to 4. [Unchanged.]

Pollution Control Agency

Proposed Emergency Amendments to Permanent Rules and Emergency Rules Relating to Municipal Project List and Corrective Action Grants Program

Notice of Intent to Adopt Emergency Rules and Request for Public Comment

Notice is hereby given that the Minnesota Pollution Control Agency is proposing to adopt emergency rules for the creation of a corrective action grants program and to make several changes to the administration of the federal grants program and the independent state grants program for municipal wastewater treatment projects. The Agency is authorized by *Minnesota Law 1987*, Ch. 277, § 3 to adopt emergency rules for the administration of the corrective action grants program and by *Minnesota Statutes* § 116.16, Subdivision 5 to adopt emergency rules for the administration of the federal and independent state grants programs. The Agency, in adopting the rules, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in *Minnesota Statutes* § 14.29 to 14.36.

All persons have 25 days, specifically until 4:30 p.m. on December 28, 1987, to submit written comments to the Agency on the proposed emergency rules. Written comments should be sent to:

Jeff Freeman
Municipal Wastewater Treatment Section
Division of Water Quality
Minnesota Pollution Control Agency
520 Lafayette Road
Saint Paul, Minnesota 55155
Telephone: (612) 296-7312

If adopted, the proposed emergency rules will create a corrective action grants program, make changes to the deadline dates for submittal of technical documents prior to listing a municipality on the Municipal Project List, and make changes to the procedures for drafting the Municipal Project List.

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the Agency will become part of the record in this matter.

The proposed emergency rules, with any modifications adopted by the Agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period.

Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the Agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rules.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the Agency's intent to keep the rules in effect for a period of 180 days. The Agency may extend the effective period for up to an additional 180 days upon publication of a separate notice to such effect.

A free copy of the proposed emergency rules is available by contacting Mr. Freeman at the above address.

Gerald L. Willet
Commissioner

Rules as Proposed

7075.0409 MUNICIPAL PROJECT LIST.

Subpart 1. **Adoption of municipal project list.** The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which independent state grants will be awarded from current appropriations. The municipal project list shall also contain those projects for which state financial assistance will be available for combined sewer overflow abatement projects. The municipal project list shall also list any nonproject uses of the state's allotment of federal grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration. The municipal project list may, but need not, list projects to be funded under the corrective action grants program authorized in Minnesota Statutes, section 116.181 and further described in parts 7075.1010 to 7075.1095 [Emergency].

Subp. 2. **Requirements for placement on list.** A municipality that requests project placement on the municipal project list shall meet the following requirements:

A. If the grant sought is a Step 1, 2, 2+3, or 3 grant, the municipality must be listed on the municipal needs list.

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

B. If the grant sought is a Step 2 ~~or~~, 2+3, or 3 grant, the municipality shall submit by December 1 prior to the beginning of the fiscal year for which the municipal project list is prepared:

(1) a facilities plan in conformance with part 7075.0200, subpart 9; and

(2) if the municipality is proposing to change the selected treatment method or any other major element of a previously approved facilities plan, a facilities plan addendum in conformance with part 7075.0200, subpart 9.

C. If the grant sought is a Step 3 grant, the municipality shall submit the following items by ~~December~~ September 1 during the state fiscal year, and prior to the beginning of the federal fiscal year, for which the municipal project list is prepared~~:~~. If the municipality fails to submit the required items by September 1, the agency shall remove the municipality from the municipal project list.

(1) plans and specifications in conformance with part 7075.0200, subpart 18, and based on a facilities plan previously approved by the agency;

(2) if the city is proposing to change the selected treatment method or any other major element of previously approved plans and specifications, a plans and specifications addendum in conformance with part 7075.0200, subpart 18, and based on a previously approved facilities plan;

(3) a sewer service charge system comprised of a user charge system, including a proposed financial management system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

(4) documentation of how the public has been informed of the proposed sewer service charge system; and

(5) a sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

D. The municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, make all necessary corrections to the documents in item B if the grant sought is a Step 2 ~~or~~, 2+3, or 3 grant, ~~or the documents in item C if the grant sought is a Step 3 grant,~~ so as to make them approvable. If the grant sought is a Step 3 grant, the municipality shall also submit a council resolution agreeing to submit, by the following September 1, the documents listed in item C and a schedule for construction.

E. If the grant sought is a Step 2+3 or 3 grant, the municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, indicate its preferred funding source, if it has one, in writing to the director.

F. A municipality seeking a Step 3 federal grant for combined sewer overflow abatement projects or state financial assistance for combined sewer overflow abatement projects shall not be subject to the conditions contained in items C and D. The municipality shall submit by June 1 prior to the beginning of the fiscal year for which the grant or financial assistance is sought, a list and schedule of construction projects to be initiated in the following fiscal year. If the municipality's NPDES/SDS permit provides a different date for submission of the list and schedule, the date in the permit shall take precedence.

Subp. 3. **Preparation of proposed municipal project list.** The agency shall prepare a municipal project list that lists in order of priority the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

In drafting the proposed municipal project list, the agency shall consider the following factors in the order given:

A. total dollars available for obligation from each funding source;

B. eligibility of projects and portions of projects according to these parts and applicable state and federal statutes;

C. restrictions on obligations mandated by these parts and applicable state and federal statutes, including but not limited to set asides for administration of certain types of projects, and the percentage of the cost of construction that will be paid by state and federal grants;

D. the municipalities' preference for funding sources; and

E. the amount of state financial assistance available for combined sewer overflow abatement projects.

Subp. 4. **Procedures for drafting list.** In drafting the proposed municipal project list, the agency shall list projects on the proposed list according to the following procedures:

A. The agency shall attempt to accommodate municipalities' preferences for funding sources in priority order until the costs of the projects being funded from one funding source reach the full allotment or appropriation of grant funds available from that source for the fiscal year. If a municipality expresses no preference, the agency shall determine from which source it will be funded.

B. The agency shall then list projects in priority order, funding those projects from the remaining funding source, until the costs of the projects reach the full allotment or appropriation of grant funds available for the fiscal year. Projects ineligible under the remaining funding source must be considered for placement on the following fiscal year's municipal project list.

C. The agency shall then list on the municipal project list in priority order those projects on the municipal needs list with priority rankings lower than those selected under items A and B, but which have been identified by the commissioner of energy and economic development by July 1 as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

D. The agency shall then list combined sewer overflow abatement projects for which state financial assistance will be awarded in the fiscal year from funds available for those kinds of projects.

E. The agency may list projects which will receive Step 1 and 2 grants and advances of allowance in such a manner as to permit funding to proceed in an orderly fashion to fully utilize all allocated and appropriated funds.

Subp. 5. **Reimbursement project list.** The agency shall prepare a reimbursement project list that lists those municipalities that are willing to proceed with projects and are willing to be reimbursed in a subsequent year conditioned upon appropriation of sufficient money for that year. No municipality may be listed on the reimbursement project list unless the municipality has requested placement on the list and has received approval of the documents listed in subpart 2, item C. ~~The total cost of these reimbursement projects may not exceed the amount newly appropriated to the independent state grant program.~~ Reimbursement projects must be listed in the same order of priority as they appear on the municipal needs list. A reimbursement project may appear on both the reimbursement project list and the reserve project list.

7075.0411 PROJECT ELIGIBILITY.

Subpart 1. **Steps eligible.** Federal grants and state matching grants shall be awarded only for Step 2+3 and Step 3 projects. Advances of allowance for Step 1 and 2 projects may also be provided from federal funds. Independent state grants may be awarded for Step 1, Step 2, Step 2+3, and Step 3 projects. Financial assistance for combined sewer overflow abatement shall be awarded only for design and construction work.

Subp. 2. **General eligibility.** No project is eligible for a federal grant or a state matching grant unless it is eligible for funding under the act and applicable federal regulations. No project is eligible for an independent state grant unless it is eligible under this chapter and applicable state statutes. No municipality is eligible for state financial assistance for combined sewer overflow abatement projects unless the municipality complies with the conditions of Minnesota Statutes, section 116.162, subdivision 7.

Subp. 3. **Initiation of construction.** ~~A municipality is not eligible for a federal grant or a state matching grant if construction on the project has been initiated prior to the award of the grant.~~

A municipality may ~~be eligible for~~ retain eligibility of construction costs incurred before the award of an independent state grant ~~after initiation of construction, provided that~~ only if:

A. the municipality was listed on a reimbursement project list when construction began;

B. the municipality submitted a complete grant application to the agency within 90 days after adoption or revision of the reimbursement project list; and

C. the municipality obtained written permission from the agency to advertise for bids and initiate construction before those steps were taken.

Subp. 4. **Cost-effectiveness.** A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

Subp. 5. **Eligible costs.** The following provisions govern eligible costs:

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A. The eligible cost of any project for which a grant or state financial assistance will be awarded shall be determined by the application of applicable state and federal statutes and rules.

B. In addition to other eligible costs established by state law for combined sewer overflow abatement projects, storm water conveyance facilities that are part of the most cost effective alternative for combined sewer overflow abatement shall be eligible for state financial assistance. Such facilities shall include those structures, pipes, and appurtenances from the point of entry at the catch basin to the outlet structure which are necessary to convey up to the five-year storm.

7075.0428 GRANT AMOUNTS.

Subpart 1. **State matching grants.**

A. For projects tendered on or after October 1, 1984, and before October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for up to an additional 30 percent of the eligible cost if construction of the treatment works would otherwise impose a significant financial hardship on the municipality.

B. For projects tendered, on or after October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for 50 percent of the nonfederal share of the eligible cost of construction for municipalities with populations of 25,000 or less.

Subp. 2. **Independent state grants.** The agency may award independent state grants as follows:

A. The agency may award Step 1 and Step 2 independent state grants to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. The agency may award Step 2 + 3 and Step 3 independent state grants to municipalities to pay for 50 percent ~~of the eligible cost of construction~~, or, if the ~~agency requires and the municipality is constructing advanced treatment, 65~~ population of the municipality is 25,000 or less, 80 percent of the eligible cost of construction. ~~If construction of a treatment works would otherwise impose a significant financial hardship on a municipality, the agency may award an independent state grant to pay for up to an additional 30 percent of the eligible cost of construction, or if the agency requires and the municipality is constructing advanced treatment, an additional 25 percent of the eligible cost of construction.~~

Subp. 2a. **State financial assistance for combined sewer overflow abatement projects.** The agency may award state financial assistance for combined sewer overflow abatement projects as follows:

A. The agency may award state financial assistance for design of combined sewer overflow abatement projects to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. Each fiscal year, municipalities eligible for financial assistance for combined sewer overflow abatement projects shall be awarded a proportionate share of the appropriation available for such projects in that fiscal year. The proportionate share for each eligible municipality is as follows:

(1) Minneapolis, 24.2 percent;

(2) Saint Paul, 71.6 percent;

(3) South Saint Paul, 4.2 percent.

C. By no later than March 31 each year, beginning in 1987, the agency shall determine whether or not each municipality that is eligible for financial assistance under this program has submitted a complete financial assistance application and either the city council has adopted final orders for construction if the work is to be contracted out, or issued work proceed orders if the municipality will do the work with its own employees, for enough work to allow the municipality to utilize its total pro rata share for the present fiscal year. If the agency determines that a municipality has not submitted a complete financial assistance application and the city council has not adopted final orders for construction or the city has not issued work proceed orders, the agency shall distribute such unusable funds to other eligible municipalities that have submitted complete financial assistance applications to utilize such additional funds. For any municipality that is awarded additional funds , the city council shall adopt final orders for construction or the city shall issue work proceed orders to utilize such funds by May 31 of the present fiscal year in order to retain the funds.

Each fiscal year, beginning in 1988, allocations to a municipality that has received additional funds shall be reduced by one-third of the total amount of additional funds that have been awarded to the municipality in earlier years. These funds shall be awarded to the municipality that was initially entitled to them. In the event that, for the municipality entitled to the repayment funds, the city council still has not adopted final orders for construction or the city has not issued work proceed orders to utilize the funds in that fiscal year, the municipality awarded the additional funds is not required to make the repayment. The repayment procedure set forth in this item shall continue until the municipality has repaid all additional funds that it has been awarded or until the municipality has completed its combined sewer overflow abatement projects in their entirety.

Subp. 3. **Local share.** Except as provided in part 7075.0425, in no event may a municipality that obtains a state matching grant or independent state grant be responsible for less than ten percent of the eligible cost of the project.

Subp. 4. **Significant financial hardship.** The amount of a state matching grant awarded to a municipality which was awarded a federal grant after October 1, 1984, ~~and the amount of a supplemental independent state grant awarded to a municipality~~ and before October 1, 1987, depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

A. The agency shall award a state matching grant ~~or independent state grant~~ for up to five percent of the eligible cost of construction based on the municipality's per connection capital cost after bidding compared with the median per connection capital cost for all projects which accepted bids under the programs during the two years ending July 1 prior to adoption of the municipal project list on which the municipality appears. The percentage of the eligible cost to be paid for by the grant based on per connection capital cost is determined by the following table.

Municipality Per Connection Cost × 100 ÷ Median Per Connection Cost of Projects Bid During Previous Two Years	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0
80 - 89	1.5
90 - 99	2.0
100 - 119	2.5
120 - 139	3.0
140 - 159	3.5
160 - 179	4.0
180 - 199	4.5
200 or more	5.0

B. The agency shall award a state matching grant ~~or independent state grant~~ for up to five percent of the eligible cost of construction based on the municipality's median household income compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

Municipality Median Household Income × 100 ÷ State Median Nonmetropolitan Household Income	Percentage of Cost Funded
100 - 104	0.5
95 - 100	1.0
90 - 94	1.5
85 - 89	2.0
80 - 84	2.5
75 - 79	3.0
70 - 74	3.5
65 - 69	4.0
60 - 64	4.5
less than 60	5.0

C. The agency shall award a state matching grant ~~or independent state grant~~ for up to five percent of the eligible cost of construction based on the municipality's per capita adjusted assessed valuation compared with the state median per capita adjusted assessed valuation. Per capita adjusted assessed valuation must be determined from the latest data available from the Department of Revenue at the time of the grant award. The percentage of the eligible cost to be paid for by the grant based on the per capita adjusted assessed valuation is determined by the following table.

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Municipality Per Capita Adjusted Assessed Valuation × 100 ÷ State Median Per Capita Adjusted Assessed Valuation	Percentage of Cost Funded
105 - 109	0.5
100 - 104	1.0
95 - 99	1.5
90 - 94	2.0
85 - 89	2.5
80 - 84	3.0
75 - 79	3.5
70 - 74	4.0
65 - 69	4.5
less than 65	5.0

Rules as Proposed (all new material)

CORRECTIVE ACTION GRANTS PROGRAM.

7075.1010 [Emergency] PURPOSE OF CORRECTIVE ACTION GRANTS PROGRAM.

Parts 7075.1010 to 7075.1095 [Emergency] provide for the administration of the corrective action grants program which makes grants available to municipalities with wastewater treatment facilities funded under the federal or independent state construction grants programs that are unable to meet performance standards.

7075.1020 [Emergency] DEFINITIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Scope.** For the purpose of parts 7075.1010 to 7075.1095 [Emergency], the following terms have the meaning given them.

Subp. 2. **Performance standards.** "Performance standards" means the criteria established for a wastewater treatment facility under the federal construction grants program or the independent state construction grants program for the purpose of determining the project's satisfactory performance.

7075.1030 [Emergency] ELIGIBILITY FOR PARTICIPATION IN CORRECTIVE ACTION GRANTS PROGRAM.

To be eligible for participation in the corrective action grants program, a municipality shall meet the following requirements:

A. The municipality received a grant under the federal construction grants program or the independent state construction grants program.

B. The municipality executed a contract for construction of its wastewater treatment facility after December 31, 1981.

C. The population served by the wastewater treatment facility is 1,500 or less.

D. The municipality's wastewater treatment facility is unable to meet performance standards. The municipality shall notify the commissioner in writing of the wastewater treatment facility's failure before initiation of operation or no later than one year following initiation of operation.

E. The inability of the municipality's wastewater treatment facility to meet performance standards is not the result of the failure of innovative or alternative technology components.

F. The municipality has not received a grant under the corrective action grants program.

7075.1040 [Emergency] ELIGIBLE COSTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Construction costs.** Only construction costs that were eligible at the time of the original construction grant award are eligible. Construction costs incurred before a corrective action grant award are not eligible.

Subp. 2. **Administrative, engineering, and legal costs.** Fifty percent of the total administrative, engineering, and legal costs (collectively), directly attributed to the corrective action, are eligible up to a maximum of 20 percent of the construction costs approved in the corrective action report.

7075.1050 [Emergency] APPLICATION FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Notice.** The commissioner shall publish in the *State Register* a notice that applications for corrective action grants will be accepted. The notice will contain the deadline date for submittal of applications and will precede the deadline by at least 60 days.

Subp. 2. **Application.** The municipality shall apply for a corrective action grant on a form provided by the commissioner. The municipality shall also submit the following information for review and approval:

A. a corrective action report approved by the commissioner including:

(1) an analysis of the causes of the wastewater treatment facility's failure to meet performance standards;

(2) a selected alternative for corrective action including a preliminary design and cost estimate; and

(3) a schedule for undertaking the selected corrective action;

B. plans and specifications necessary to implement the approved corrective action;

C. a plan for the recovery of the costs of the proposed corrective action including a report on the current status of negotiations or litigation;

D. financial statements for the three most current fiscal years, if available; and

E. other information necessary to clarify the application.

Subp. 3. **Submittal date.** The application must be submitted to the commissioner or postmarked by the noticed closing date.

Subp. 4. **Incomplete applications.** Applications that do not meet the requirements of subpart 2 by the deadline date for submittal of applications are ineligible for funding for that application cycle.

7075.1060 [Emergency] RANKING OF APPLICATIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

The agency shall rank the applications based upon:

A. The municipality's lack of financial ability to pay for the corrective action based upon an evaluation of debt per capita, mill levy, adjusted assessed valuation, median income, current and proposed user charges, and any additional factors that the municipality may offer, such as percentage of population with a fixed income or population decline, that would support the municipality's inability to wholly finance the corrective action. A municipality's documented financial need shall positively affect its ranking.

B. The extent to which the proposed corrective action will make cost effective and efficient use of grant funds such that a municipality's effort in funding a portion of the corrective action or actively pursuing legal redress through the avenues available will have a significant positive impact on its ranking. The factors to be considered are:

(1) the municipality's prior and current efforts in correcting the performance failure including negotiation and litigation, local costs incurred, pursuit of other funding sources; and

(2) the municipality's proposed financial participation in the cost of the corrective action.

C. The potential for direct human contact with untreated or partially treated wastewater on the surface of the ground, or the potential for imminent contamination of a drinking water supply.

7075.1070 [Emergency] DETERMINATION OF GRANT AWARDS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Selection of projects.** The agency shall select projects to be funded in priority order on the basis of rank established according to part 7075.1060 [Emergency]. The agency is not obligated to allocate the total amount of funds set aside for this program. The agency may deny funding to municipalities based on the criteria in part 7075.1060 [Emergency].

Subp. 2. **Public participation.** Items A to C govern public participation.

A. The commissioner shall prepare a corrective action grants funding proposal including the basis for grant awards and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner shall give affected municipalities at least 45 days notice of the agency board meeting at which the corrective action grants funding proposal will be acted upon.

C. Interested persons may present oral statements at the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements may be served on the agency board any time up to five days before the meeting.

Subp. 3. **Amount of award.** The amount of the award will be the amount requested by the municipality in the application, not to exceed the eligible costs approved in the corrective action report.

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.

Subp. 4. **Recovery of costs.** The municipality is required to pursue recovery of costs for the corrective action from responsible persons as a condition of the grant award.

Subp. 5. **Amendments to award.** The agency shall not amend the grant amount unless the grant amount exceeds the costs actually incurred by the municipality.

7075.1080 [Emergency] EMERGENCY PROVISIONS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Eligibility for participation.** A municipality meeting the eligibility requirements in part 7075.1030 [Emergency] with an unfinished construction project seriously delayed due to major design or construction failures may apply for an emergency corrective action grant.

Subp. 2. **Eligible costs.** Costs that are eligible under part 7075.1040 [Emergency] are eligible under an emergency corrective action grant. Costs incurred before the award of an emergency corrective action grant are not eligible unless the municipality has requested and received from the commissioner written preservation of eligibility before costs are incurred. Written preservation of eligibility does not guarantee funding.

Subp. 3. **Application.** An eligible municipality may apply for an emergency corrective action grant at any time. The application must be made in accordance with part 7075.1050 [Emergency], subpart 2, and must also include a written discussion of the anticipated financial consequences if the municipality does not receive an emergency corrective action grant.

Subp. 4. **Evaluation of applications.** The commissioner shall evaluate and approve or deny applications based upon the following criteria:

A. the extent to which failure to take immediate corrective action will cause a significant increase in the total cost of the project;

B. the municipality's lack of financial ability to pay for the corrective action under part 7075.1060 [Emergency], item A; and

C. the potential for health impacts under part 7075.1060 [Emergency], item C.

Subp. 5. **Grant award.** Upon approval of an application, the commissioner may award a grant. The amount of the grant will be up to 80 percent of the total eligible costs as approved in the corrective action report. If a municipality's application for an emergency corrective action grant is denied, the municipality may then apply for a corrective action grant under part 7075.1050 [Emergency].

Subp. 6. **Report to agency board.** The commissioner shall report the award of a corrective action grant under this part to the agency board as soon as possible, but in any case within 60 days.

7075.1090 [Emergency] PAYMENTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

The municipality shall make periodic payment requests for eligible costs as costs are incurred. The commissioner shall make payments based on the percentage established in the grant award. The commissioner shall withhold the final ten percent of the grant until the municipality has successfully completed all activities in the corrective action report, has affirmatively certified that the project meets the performance standards as specified in the grant agreement, and has met the recovery of cost requirement specified in the grant agreement.

7075.1095 [Emergency] RECOVERY OF COSTS FOR CORRECTIVE ACTION GRANTS PROGRAM.

Subpart 1. **Repayment.** The municipality shall pay to the state the amount of any costs recovered, through litigation or negotiated settlement, from persons responsible for the failure of the wastewater treatment facility, proportionally to the state's monetary participation in the corrective action grant project. The amount of repayment will not exceed the amount of the grant.

Subp. 2. **Approval of negotiated settlement.** The municipality shall obtain written approval from the commissioner of a negotiated settlement before entering into the settlement.

Subp. 3. **Failure to pursue recovery.** The commissioner may stop payment on or require repayment of the corrective action grant if the municipality fails to pursue recovery of costs as specified in the grant agreement or if the municipality enters into a negotiated settlement without the commissioner's written approval.

Board of Optometry

Proposed Permanent Rules Relating to Fees

Second Notice of Intent to Adopt Rules Without a Public Hearing

In order to comply with the requirements of *Minnesota Statutes*, section 16A.128, subdivision 2a, the Minnesota Board of Optometry

hereby republishes the Notice of Intent to Adopt Rules Without a Public Hearing, and the proposed rules regarding fees. The Notice and the copy of the rules, which appeared at 12 *State Register* 560 (September 28, 1987) are incorporated herein by reference.

Dated: 18 November 1987

Burton H. Skuza, O.D.
Executive Director
Board of Optometry

Department of Commerce

Proposed Rules Relating to Credit Unions

Notice of Withdrawal

The rules pertaining to Credit Unions published in the *State Register* on November 2, 1987 at 12 S.R. 928-929 are hereby withdrawn. The notice published in the *State Register* on November 23, 1987 at 12 S.R. 1104-1105 is also hereby withdrawn.

Michael A. Hatch
Commissioner of Commerce

Adopted Rules

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

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

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

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

Board of Electricity

Adopted Permanent Rule Relating to Licenses; Expiration and Fees

The rule proposed and published at *State Register*, Volume 12, Number 10, pages 407-408, September 7, 1987 (12 S.R. 407) is adopted as proposed.

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to the Low Income Persons Living Alone Housing Program

The rules proposed and published at *State Register*, Volume 12, Number 11, pages 439-441, September 14, 1987 (12 S.R. 439) are adopted as proposed.

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Department of Human Services

Adopted Permanent Rules Relating to Services to Persons With Mental Retardation or Related Conditions

The rules proposed and published at *State Register*, Volume 12, Number 8, pages 329-335, August 24, 1987 (12 S.R. 329) are adopted with the following modifications:

Rules as Adopted

9525.0185 DEFINITIONS.

Subp. 3. **Autism.** "Autism" means a functional disorder occurring before 30 months of age that results in and causes a pervasive lack of responsiveness to other people, gross deficits in language and communication, and ~~bizarre~~ abnormal responses to the environment, all in the absence of delusions and hallucinations. Autism must be diagnosed by a team composed of a licensed physician, a speech pathologist, and a licensed psychologist, licensed psychiatrist, or licensed consulting psychologist.

9525.0190 DETERMINATION OF SUBSTANTIAL FUNCTIONAL LIMITATION.

Subpart 1. **Professional involvement.** A determination of substantial functional limitation must be made by the case manager and at least one of the following professionals:

A. a ~~licensed~~ physical therapist registered under Minnesota Statutes, sections 148.65 to 148.78;

B. ~~a licensed~~ an occupational therapist;

Department of Labor and Industry

Adopted Permanent Rules Relating to Occupations and Professions; Fees

The rules proposed and published at *State Register*, Volume 12, Number 7, pages 279-283, August 17, 1987 (12 S.R. 279) are adopted as proposed.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Department of Administration

Minnesota Documents Division

Notice of Publication of the *1987-1990 Minnesota Guidebook to State Agency Services*

Administration Commissioner Sandra J. Hale announces the new edition of the *Minnesota Guidebook to State Agency Services 1987-1990*. Previously published as a biennial resource to Minnesota state government, especially executive branch agencies, the sixth edition of the *Guidebook* has been issued as a quadrennial publication coinciding with the governor's term of office.

One of the state's key resource books, the *Guidebook* cuts red tape and guides readers through requirements, forms and fees, applications and complaint filing, and tells the length of waiting time for obtaining services. It describes nearly all state agencies in detail and helps people access Minnesota's state agencies. It tells how to obtain grants, scholarships, assistance programs, business and community development aid, information services, maps, guides and studies. It also lists statewide emergency numbers, hotlines, crisis shelters and information-referral services; and tells how agencies are organized, who is in charge and why each was established.

The *Guidebook* also has the most complete listing of licenses and permits required in Minnesota, for the professions and occupa-

tions regulated by state laws and rules, as well as recreation and vehicle license requirements. The book tells where to obtain licenses, how much they cost, what applications to fill out and how to renew them.

Besides containing a description of the administrative rulemaking process, the *Guidebook* provides *Minnesota Rules* and *Minnesota Statutes* citations for each agency. In addition, the legislative and judicial branches of state government are described along with their commissions, committees, advisory boards; law board admission requirements; professional standards board for lawyers, judges, legislators and public officials; and Minnesota's congressional delegation, senators from neighboring states, and the U.S. presidential comments and inquiries lines. A special feature in this edition are complete legislative and congressional district maps.

An historical section profiles Minnesota's development and growth in terms of geology and geography, people, lumbering, mining and farming, as well as education, health, transportation, government, recreation, arts and tourism. Another section, "Explore Minnesota," lists performing and visual arts throughout the state, county historical societies, state historical sites, statewide attractions by region, and the most up-to-date compilation of state forest campgrounds and state parks conveniently gathered in one source.

Copies of the *Guidebook* are available through the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000. Copies cost $15.00 plus 90¢ tax, with discounts available on quantity orders over 24, over 49 and over 100.

Department of Commerce

Notice of Activation of the Minnesota Joint Underwriting Association to Insure Specified Classes of Business and Public Hearing

Notice is hereby given that, pursuant to *Minnesota Statutes*, section 62I.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain insurance from private insurers:

- **Snow Innertubing**
- **Landlords Liability**

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, at the Office of Administrative Hearings, 310 4th Avenue South, 5th Floor, Flour Exchange Building, Minneapolis, Minnesota 55415 on January 21, 1987 at 9:30 a.m. and continuing until all interested persons and groups have had an opportunity to be heard. The hearing shall be governed by *Minnesota Statutes*, Sections 14.57-14.69 and by *Minnesota Rules* Parts 1400.5100-1400.8400, (1985). Questions regarding procedure may be directed to Administrative Law Judge, Peter Erickson, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415, telephone (612) 341-7606. The authority for this proceeding is found in Chapter 62I of *Minnesota Statutes*, specifically sections 62I.21 and 62I.22. (A copy of those sections follows this notice.)

Prior to the hearing a pre-hearing conference will be held at 1:30 p.m. on January 13, 1987, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415.

Minnesota Statutes, Chapter 62I, which governs the Minnesota Joint Underwriting Association provides for temporary activation for 180 days by the Commissioner of Commerce. To extend the Minnesota Joint Underwriting Association's authority beyond the 180 day period a hearing must be held. Those classes of business for which the Minnesota Joint Underwriting Association was temporarily activated, by this notice and by previously published notices, must prove, at that hearing, that they meet the statutory requirements for coverage by the Minnesota Joint Underwriting Association.

Among those requirements are:

(1) That members of those classes are unable to obtain insurance through ordinary means;

(2) That the insurance being sought is required by statute ordinance, or otherwise required by law, and is necessary to earn a livelihood or conduct a business; and

(3) That the classes of business serve a public purpose.

The classes of business specified in this notice and previously published notices must be shown to meet the statutory requirements

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or the Minnesota Joint Underwriting Association's authority to provide coverage to them will end after 180 days from the date the notice of activation was published in the *State Register.*

The Department strongly suggests that any persons affected by this hearing or otherwise interested in the proceedings familiarize themselves with the requirements of Chapter 62I and the contested case procedures prior to the hearing, that they take such other steps as are appropriate to protect their interests and that any questions they may have as to how to proceed or how to participate at the hearing be directed to the Administrative Law Judge prior to the hearing.

All interested or affected persons will have an opportunity to participate at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in the manner set forth in the Rules pertaining to contested cases (*Minnesota Rules,* Parts 1400.5100-1400.8400).

Anyone wishing to oppose activation beyond 180-days for any particular class, must file a petition to intervene with the administrative law judge at least 10 days before the hearing date. If no notice to intervene is filed for a class then the class is activated beyond the 180-day period without further action.

Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Section 10A.01, subdivision 11 as an individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert St., St. Paul, Minnesota, 55101-2520, telephone (612) 296-5148.

Dated: 20 November 1987

Michael A. Hatch
Commissioner of Commerce

62I.21 ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall by notice in the *State Register* activate the market assistance plan and the joint underwriting association. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 62I.22. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

62I.22 HEARING

Subdivision 1. ADMINISTRATIVE LAW JUDGE. The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and administrative law judge assigned to the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

Subd. 2. NOTICE. The commissioner of commerce shall publish notice of the hearing in the *State Register* at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required. The notice must contain a statement that anyone wishing to oppose activation beyond 180 days for any particular class, must file a petition to intervene with the administrative law judge at least ten days before the hearing date. If no notice to intervene is filed for a class then the class is activated beyond the 180-day period without further action.

Subd. 3. CONTESTED CASE; REPORT. The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

Subd. 4. DECISION. The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

Subd. 5. WAIVER OR MODIFICATION. If all parties to the proceeding agree, any of the requirements of this section may be waived or modified.

Subd. 6. CASE PRESENTATION. The department of commerce, upon request by small businesses as defined by section 14.115, subdivision 1, shall assist small businesses in any specific class requesting continuation of coverage beyond the 180-day period, in coordinating the class and presenting the case in the contested hearing.

Department of Human Services

Long Term Care Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing the Determination of Payment Rates for Nursing Homes Participating in the Medical Assistance Program, Minnesota Rules, parts 9549.0010 to 9549.0080

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing the determination of payment rates for nursing homes participating in the medical assistance program. The first rule affected is *Minnesota Rules*, part 9549.0060, subpart 9, under which the building capital allowance for nursing homes with operating leases is determined. The building capital allowance is a component of the property-related payment rate. The proposed change will exempt nominal leases from treatment as operating leases. A nominal lease is one with a nominal rental amount, typically $1.00. The second rule affected is *Minnesota Rules,* part 9549.0059, subpart 9, item D, which requires nursing homes to provide residents with their assessment documentation within one day of a written or verbal requests. Recent legislation, codified in *Minnesota Statutes*, section 144.0722, subdivision 3a, alters that requirement, requiring a revision of the rule. The adoption of the amendments is authorized by *Minnesota Statutes*, sections 256B.41 to 256B.502, which authorizes the agency to establish procedures for determining rates and to determine prospective payment rates for care of residents of nursing homes which qualify as vendors of medical assistance.

The State Department of Human Services requests information and opinions concerning the subject matter of concern in writing or orally. Written statements should be addressed to:

Charles Osell
Long Term Care Management
Minnesota Department of Human Services
444 Lafayette Road, 4th Floor
St. Paul, MN 55105

Oral statements will be received during regular business hours over the telephone at (612) 297-3463 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register.* Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Labor and Industry

Division of Labor Standards

Notice of Certified Prevailing Wages

On December 1, 1987 the commissioner will certify prevailing wage rates for commercial construction projects in the following Minnesota counties: Anoka, Benton, Big Stone, Carver, Chippewa, Chisago, Dakota, Douglas, Grant, Hennepin, Isanti, Kanabec, Kandiyohi, McLeod, Meeker, Mille Lacs, Morrison, Pine, Pope, Ramsey, Scott, Sherburne, Stearns, Stevens, Swift, Todd, Traverse, Washington, and Wright.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the Minnesota Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are $.50 for the first county

and $.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is $25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Ray Bohn, Commissioner
Department of Labor and Industry

Department of Transportation

Meeting State Aid Standard Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standard Variance Committee who will conduct a meeting on Monday, December 7, 1987, at 9:30 a.m., in Room 419 State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to *Minnesota Statutes*, 47K.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards as governed by *Minnesota Rules* for State Aid Operations § 8820.3400 adopted pursuant to Statutes 161 and 162.

The agenda will be limited to these questions however additional requests will be considered if received in a timely manner.

1. Petition of the City of Elk River for a variance from design standards so as to permit 45 degree diagonal parking with a traffic aisle of 22.2′ instead of the required traffic aisle width of 25.2′ on a reconstruction project on M.S.A.S. 104 (Jackson Avenue) from M.S.A.S. 113 (Main Street) to Jct. T.H. 10 and T.H. 201.

2. Petition of the County of Dodge for a variance from design standards so as to permit a design speed of 35 MPH instead of the required design speed of 40 MPH on a bituminous resurfacing and aggregate shouldering project on C.S.A.H. 12 from C.S.A.H. 9 to T.H. 57 (3.391 miles).

3. Petition of the County of Dodge for a variance from design standards so as to permit a design speed of 35 MPH instead of the required design speed of 40 MPH on a bituminous resurfacing and aggregate shouldering project on C.S.A.H. 24 from C.S.A.H. 22 to T.H. 57 (3.905 miles).

4. Petition of the County of Dodge for a variance from design standards so as to permit design speeds of 35 MPH instead of the required design speed of 40 MPH on a bituminous resurfacing and aggregate shouldering project on C.S.A.H. 9 from T.H. 14 to C.S.A.H. 16 (3.49 miles).

5. Petition of the City of St. Paul for a variance from design standards so as to permit a street width of 32′ with parking on one side from Cretin Avenue to Cleveland Avenue instead of the required width of 36′ with parking on one side; a street width of 40′ with parking on both sides from Cleveland Avenue to Snelling Avenue instead of the required width of 44′ with parking on both sides; a street width of 40′ with parking on both sides from Snelling Avenue to Hamline Avenue instead of the required width of 48′ with parking on both sides; a street width of 40′ with parking on both sides from Hamline Avenue to Short Line Road instead of the required width of 44′ with parking on both sides; and a street width of 40′ with parking on both sides from Short Line Road to Lexington Parkway instead of the required width of 48′ with parking on both sides on a construction project on M.S.A.S. 188 (St. Clair Avenue) from Cretin Avenue to Lexington Parkway.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee.

9:30 a.m.	City of Elk River
9:50 a.m.	County of Dodge
10:15 a.m.	City of St. Paul

Dated: 20 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

Department of Transportation

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

Notice is hereby given that the County Board of Dodge County has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a bituminous resurfacing and gravel shouldering project on C.S.A.H. 9 from T.H. 14 to C.S.A.H. 16 (3.49 miles).

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 35 MPH design speed instead of the requested 40 MPH design speed on two sag vertical curves between engineers station 155 + 40 and engineers station 163 + 00.

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

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

Dated: 23 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

Department of Transportation

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

Notice is hereby given that the County Board of Dodge County has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a bituminous resurfacing and gravel shouldering project on C.S.A.H. 12 from C.S.A.H. 9 to T.H. 57 (3.391 miles).

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 35 MPH design speed instead of the required 40 MPH design speed on a sag vertical curve at engineers station 120 + 79 to engineers station 126 + 79.

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

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

Dated: 20 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

Department of Transportation

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

Notice is hereby given that the County Board of Dodge County has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a bituminous resurfacing and gravel shouldering project on C.S.A.H. 24 from C.S.A.H. 22 to T.H. 57 (3.905 miles).

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9914 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 35 MPH design speed instead of the required 40 MPH design speed on a sag vertical curve at engineers station 780 + 30 to engineers station 785 + 30.

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

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

Dated: 20 November 1987

Leonard W. Levine, Commissioner
Department of Transportatiaon

Department of Transportation

Petition of City of Elk River for a Variance from State Aid Standards for Diagonal Parking

Notice is hereby given that the City Council of the City of Elk River has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a reconstruction project on M.S.A.S. 104 (Jackson Avenue) from M.S.A.S. 113 (Main Street) to Jct. with T.H. 10 and T.H. 201.

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9916 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit 45 degree diagonal parking with a traffic aisle width of 22.2′ instead of the required traffic aisle width of 25.2′.

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

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

Dated: 20 November 1987

Leonard W. Levine, Commissioner
Department of Transportation

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid. Buyer's initials are listed next to each commodity.

Commodity for Bid (and Buyer)	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Patrol automobiles (DM)	December 2	Public Safety & DNR	Various	07500 46889
Rubbish disposal contract (JS)	December 2	State University	St. Cloud	26073 20281
Multigraphics duplicator (JD)	December 2	Printing & Mailing	St. Paul	02520 82050
Lease of food service equipment & supplies (DO)	December 2	Correctional Facility	Stillwater	Price Contract
Lease of food service equipment (DO)	December 2	Vets Home	Minneapolis	Price Contract
AT compatible (BV)	December 3	Transportation	Oakdale	79000 82257
AT compatible (BV)	December 3	Transportation	Oakdale	29000 82259
Rental of micrographic equipment (DRT)	December 3	Jobs & Training	St. Paul	21200 16878
Micrographic Equipment (DRT)	December 3	Jobs & Training	St. Paul	21200 16877
Armored car service (JS)	December 3	Treasurer's Office	St. Paul	64100 01380
Photographic film processing—re-bid (DO)	December 4	Various	Various	Price Contract
Traffic channelizing devices (ES)	December 4	Transportation	Various	Price Contract
Lease/purchase scoreboard (BT)	December 4	Giant Ridge Rec Area	Biwabik	43000 09387
Aeration pump (DM)	December 7	Natural Resources	Various	29000 49109
Portable micro computer (BV)	December 7	Revenue	St. Paul	67520 04895
Acetylene and oxygen welding gas (ES)	December 7	Various	Various	Price Contract
Used airplane (DM)	December 8	Public Safety	St. Paul	07500 46892
Computer systems (DO)	December 8	Pollution Control	St. Paul	Price Contract

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Various maps printed on 60# offset	December 1	Transportation	St. Paul	2848-9-50-1
Form sets: Change of program/ grade	December 1	Community College: Inver Hills	Inver Grove Heights	3327
Authorization form	December 1	Jobs & Training	St. Paul	3261
#10 Window envelopes	December 1	Jobs & Training	St. Paul	3268
1988 Resident Turkey License	December 1	Natural Resources	St. Paul	3302
1988 Turkey Tag	December 1	Natural Resources	St. Paul	3303
20,000 Return Envelopes 14″	December 1	Jobs & Training	St. Paul	3308
Handle Hole Plastic Bags silk screen both sides	December 1	Administration: Documents Store	St. Paul	3335
Case Information: Children & Basic Case Data	December 16	Human Services	St. Paul	3239 & 3240
Bumper stickers (10,000)	December 7	Public Safety	St. Paul	3350
13,000 8½ × 11 forms	December 7	Department of Health	Minneapolis	3359
40,000 sets of syphilis test kits	December 7	Health	Minneapolis	3416
Brochures: 4-color process on 70# text white gloss	December 7	Ironworld USA	Chisholm	3282
Maps (various)	December 7	Natural Resources	St. Paul	3064; 3101 & 2
Various envelopes	December 7	Housing Financing	St. Paul	3305 & 6
6,000 forms	December 7	Health	Minneapolis	3315
Letterhead stationery	December 7	Jobs & Training	St. Paul	3320
150,000 forms	December 7	Human Services	St. Paul	3344
Bacteriological report form (9,000)	December 7	Health	Minneapolis	3358

State Designer Selection Board

Request for Proposal for a Project at the University of Minnesota-Duluth

TO REGISTERED PROFESSIONALS IN MINNESOTA:

The State Designer Selection Board has been requested to select designer for **a project at the University of Minnesota-Duluth.** Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., **December 22, 1987,** to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.

2. All data must be on 8½″ x 11″ sheets, soft bound.

3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 8 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4. **Mandatory Proposal contents in sequence:**

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) faces. **Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.**

5. **Statutory Proposal Requirements:**

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of $50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. **The proposal will not be accepted unless it includes one of the following:**

a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or

b) A statement certifying that firm has a current certificate of compliance issued by the Commissioner of Human Rights; or

c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or

d) A statement certifying that the firm has an application pending for a certificate of compliance.

6. In accordance with the provisions of *Minnesota Statutes* 16B.19, Subdivision 6, at least 10% of the amount of any contract in excess of $200,000.00 must be subcontracted to certified small businesses owned and operated by S/E/D persons as defined by *Minnesota Statutes* 645.445. Alternatively, the requirement may be met by purchasing materials or supplies from S/E/D businesses. Any combination of subcontracting and purchasing that meets the 10% requirements is acceptable. If there are no S/E/D persons able to perform subcontracting or provide supplies and materials, other small businesses as defined are to be utilized instead of small businesses owned and operated by S/E/D persons.

7. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

8) PROJECT—32-87
School of Medicine Addition
University of Minnesota
Duluth, Minnesota

The University of Minnesota plans to construct an addition (and necessary related remodeling) to the existing School of Medicine Building located on the Duluth campus. The estimated construction is approximately $2,100,000.00. Approximately 15,000 gsf will be added to the existing five story, 105,000 gsf building.

The space to be added will consist of general laboratory space for faculty research, faculty offices/conference rooms, and small group teaching rooms. The project will include fume and isotope hoods. Scheduling of construction must take into account space utilization of the existing facility throughout the academic year in order to minimize disruption of the teaching and research programs. Experience in designing research laboratories is highly desirable.

Compatibility of the addition with the existing Medical School is an important design concern. The existing building presents a strong architectural statement and is prominently located near a main entrance drive into the campus.

Questions concerning this project may be referred to Clinton Hewitt at (612) 625-7355.

Damon Farber, Chairman
State Designer Selection Board

Minnesota Higher Education Coordinating Board

Notice of Request for Proposals for Contractual Services

The Minnesota Higher Education Coordinating Board (HECB) is requesting proposals from a consultant to assist with its short and long-range post-secondary student enrollment projections.

Scope of the Project

Enrollment projections involve data from the Coordinating Board's Student Record Data Base and the public post-secondary systems, the State Health Department, the State Demographer, and the State Department of Education. In addition, a number of variables affecting enrollment patterns, such as average age, retention, etc., have been identified for consideration. These data are manipulated with computer programs to formulate projections of high school graduates for all 11 regions and the state and post-secondary enrollment for each state institution.

Outcome

Three sets of enrollment projections are proposed:

1. A five-year headcount enrollment projection, commencing with fall 1988, by campus totaled to system;

2. A ten-year headcount enrollment projection commencing with fall 1988. The longer range projections, years six through ten, will emphasize state region and system totals.

3. Conversion of headcount enrollment to FYE enrollment.

Project Start and Completion Dates

The Contract will become effective December 1987, and will end March 1, 1988, subject to satisfactory completion.

Project Costs

It is anticipated that the cost of this project will not exceed $35,000.00 for professional services and expenses.

Those interested in receiving requests for proposals should contact:

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

Proposals will be accepted until 4:00 p.m. on December 8, 1987.

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as $1,000. Contact the editor for further details.

Anoka County

Attention Computer Applications Consultants

Anoka County is seeking assistance in analyzing the feasibility of developing a Comprehensive Criminal Justice Computer System.

This system is intended to result in a common database that would provide a compatible integrated system encompassing the following departments: Central Communications, Sheriff, Corrections, County Attorney and Clerk of Courts.

Firms/consultants interested in assisting the County's Criminal Justice System Task Force in researching sources and developing

recommendations for an effective and efficient computerized system should provide data relating to their general background and expertise in this area to:

Anthony C. Palumbo, Chairman
Criminal Justice System Task Force
Anoka County Attorney's Office
325 East Main Street
Anoka, MN 55303

ALL RESPONSES MUST BE RECEIVED BY DECEMBER 11, 1987.

Tim Yantos
Deputy County Administrator

Metropolitan Council of the Twin Cities Area

Request for Proposal for Aviation Consulting Services

Notice is hereby given that the Metropolitan Council is requesting proposals for technical and professional planning services to conduct a study to determine the feasibility of a regional public helicopter system.

The purpose of the study is to determine the need for and proposed development of a system of public-use heliports in the Twin Cities area. This will include identification of potential use, general location of facilities, requirements of facilities, criteria for site selection and policy guidelines. A minority business enterprise (MBE) participation goal of 12 percent and a women business enterprise goal of 2 percent have been set for this project.

The project should commence about February 1, 1988 and should be completed by September 1, 1988. All proposals must be received no later than 5:00 p.m. on December 31, 1988, to the attention of Chauncey Case, Transportation Division.

Copies of the Request for Proposal (RFP) may be obtained from the Metropolitan Council, 300 Metro Square Building, St. Paul, Minnesota 55101. Inquiries should be directed to Chauncey Case, (612) 291-6342.

City of Richfield

Advertisement for Bids: Sale of Used City Equipment—Voting Machines

NOTICE IS HEREBY GIVEN that sealed bids will be received at the office of the City Clerk, 6700 Portland Avenue, Richfield, Minnesota, until 11:00 a.m., Thursday, December 17, 1987, at which time they will be publicly opened and read aloud in the Council Chambers at City Hall, 6700 Portland Avenue, Richfield, Minnesota. Bids are being requested for the following used equipment:

58 Shoup Model 2.5 lever voting machines, 40 vertical columns, 10 horizontal, party choice lever. Approximate size: width 42″, depth 23½″, height 64″. Each machine weighs approximately 900 lbs. constructed of steel.

The equipment can be inspected by appointment at the Richfield Municipal Garage, 7700 Pillsbury Avenue South, Monday-Friday 8:00 a.m.-4:30 p.m.

All bids shall be submitted on forms available from the City Clerk which will be furnished free to each bidder upon request.

All bids must be sealed and marked "Bid for Purchase of Voting Machines" and addressed to the City Clerk at City Hall, 6700 Portland Avenue South, Richfield, Minnesota 55423.

Bids arriving after the designated time will be returned unopened. The City of Richfield reserves the right to reject any or all bids and to waive any informalities.

The successful bidder shall agree to remove the equipment from the Richfield Municipal Garage at a time to be specified by the City Clerk.

Questions regarding the sale of this equipment should be addressed to Tom Ferber, City Clerk or John Holter, Central Services Technician at 869-7521.

Thomas P. Ferber
City Clerk

City of Richfield

Notice of Bids for Maintaining Computer Hardware

NOTICE IS HEREBY GIVEN that sealed bids will be received by the City of Richfield until 10:00 a.m. Central Time on Monday, December 14, 1987, and then will be publicly opened and read aloud.

Proposals are being requested on the following item:

COMPUTER HARDWARE MAINTENANCE

in accordance with specifications on file in the Office of the City Clerk at 6700 Portland Avenue South, Richfield, Minnesota, 55423. The City is requesting proposals for a one year contract for the maintenance of Unisys, Convergent Technologies, Epson, Canon and Primages computer hardware. All bids shall be on forms on file in the Office of the City Clerk, and will be furnished free to each bidder upon their request. Requests for specifications and proposal forms should be directed to the Data Processing Division, City of Richfield, 6700 Portland Avenue South, Richfield, Minnesota, 55423, telephone: (612) 869-7521.

All bids must be sealed and marked "Proposal Form: Computer Hardware Maintenance" and addressed to the City of Richfield. Each bid shall be accompanied by a certified check, cashier's check or bid bond in the amount of five percent (5%) of the total bid price and made payable to the City of Richfield.

The right is reserved to reject any or all bids or parts of bids and to waive informalities therein. Bids may be rejected for any alterations or erasures.

Thomas P. Ferber, City Clerk

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Public Safety

Children's Trust Fund

Notice of Availability of the Children's Trust Fund Grants

The Notice of Availability which follows is applicable to grants to be awarded by the Minnesota Department of Public Safety, the Children's Trust Fund, under the authority of *Minnesota Statute* 299A.20.

PURPOSE, SCOPE, AND ELIGIBILITY

The Children's Trust Fund (CTF) was established for the prevention of child abuse and neglect. (MN Stat. 299A.20)

Revenue for the trust fund is generated from a surtax of $3.00 for each certified copy of a birth certificate, and from federal money and gifts, donations and bequests.

The Commissioner of Public Safety, with the advice and consent of the Advisory Council, may disburse trust fund money to any public or private nonprofit agency to fund a primary or secondary child abuse or a neglect prevention program. *Minnesota Statutes* 299A.21 DEFINITIONS. Subd. 8, "Prevention Program" means a system that directly provides primary or secondary child abuse prevention services to a child, parent or prospective parent, guardian, or professional who works regularly with children, and may also include a research program related to the prevention of child abuse. Subd. 9. "Primary prevention" means a program or service designed to promote the general welfare of children and families. Subd. 10. "Secondary prevention" means a program or service designed to prevent abuse of children who are in circumstances where there is a high risk that abuse will occur. Subd. 11. "Tertiary prevention" means a program or service provided after child abuse has occurred that is designed to prevent its reoccurrence.

No money shall be distributed for programs and services involving tertiary prevention.

In addition to the above, the CTF Advisory Council has adopted the following definitions:

PRIMARY PREVENTION is taking measures to keep child abuse from happening **before it has ever occurred.** The key aspects of primary prevention efforts are as follows.

- It is offered to all members of a population;
- It is voluntary;
- It attempts to influence societal forces which impact on parents and children; and

- It seeks to promote positive family functioning rather than to just prevent problems.

SECONDARY PREVENTION is taking measures to keep child abuse from happening **before it has occurred to a serious degree**, but after **certain warning signals have appeared.** The major components of secondary prevention are as follows:

- It is offered to a pre-defined group of "at risk" individuals;
- It is voluntary;
- It is more problem-focused than primary prevention; and on the particular stresses of identified parents or guardians.

The CTF Advisory Council recognizes that a prevention effort, in order to demonstrate effectiveness, is usually a long-term proposition. Applicants are, therefore, encouraged to be creative in designing and developing multi-year programs directed at producing measurable change and preventing child abuse and neglect.

The CTF Advisory Council also recognizes that to cope successfully with their roles in the family, both parents and children require certain supports, training and information. Based on what is known or believed to enhance an individual's ability to function in a healthy way within a family, program areas that contribute to a strategy for prevention can be identified. Therefore, applicants are strongly encouraged to consider the following **Program Areas:**

I. Education and support programs for new parents of infants up to 12 months

II. Education and support programs for families "at risk"

III. Early and regular child and family screening and treatment

IV. Child care opportunities

V. Programs for children and young adults at high risk of abuse or neglect

VI. Life-skills training for children and young adults

VII. Self-help groups and other neighborhood supports

VIII. Family support services

PRIORITIES—Priority consideration will be given to applicants who:

- intend to address the needs of unserved and underserved populations
- have objective evaluation components with measureable outcomes, and have dedicated 10% of their grant request for this purpose;
- have described efforts to seek program funds from additional sources, and their future funding plans;
- have documented that there is no curriculum available or that can be adapted for this population if the proposal includes curriculum development;
- will continue the prevention program or service if trust fund money is eliminated or reduced; and
- will provide their prevention program model and consultation to other organizations and communities for replication.
- utilize volunteers where appropriate.

MATCH REQUIRED—Trust fund money shall only be distributed to applicants that demonstrate an ability to match 40 percent of the amount of trust fund money requested. The matching requirement may be met through in-kind donations. **Priority must be given to applicants whose matching funds do not consist, in whole or in part, of state or federal funds.**

Any trust fund money received must not be used to compensate for a decrease in previously existing funding levels unless that decrease is attributable to a decision made by state, federal, or other entities not controlled by the applicant and the applicant demonstrates that it has made reasonable efforts to retain all previous existing funding.

LOCAL COUNCIL REVIEW—To be eligible to receive a grant from the trust fund, an applicant must have had its application reviewed by their single or multi-county child abuse prevention council, duly authorized prior to March 4, 1988, by the Children's Trust Fund.

In reviewing all such applications, the local council shall consider the extent to which the applicant meets the criteria and standards of the act and the degree to which the program meets the needs of the geographic area as set forth in their county's Plan for the Prevention of Child Abuse. The local council shall provide to the CTF advisory council, its comments and recommendations concerning each application reviewed, and shall provide the CTF Advisory Council with its prioritization by rank ordering of all applications reviewed.

CATEGORIES

SINGLE OR MULTI-COUNTY PROGRAMS—Programs may be funded that serve a single or multi-county area, provided the area

affected has an authorized child abuse prevention council. Applications for single or multi-county programs are to be submitted to the respective local child abuse prevention council for review.

REGIONAL PROGRAMS—Programs may be funded that serve a region larger than the area served by any combination of single or multi-county councils. However, regional programs may only serve those counties that have an authorized child abuse prevention council. Applicants proposing programs that serve a multi-county area are required to submit their proposals to each authorized child abuse prevention council in the counties affected.

LOCAL COUNCIL PROGRAMS—Funds may be disbursed to a county child abuse prevention council for primary or secondary prevention programs on the same basis as any other applicant. Applications for programs sponsored by local child abuse prevention councils are to be submitted directly to the CTF Advisory Council for review.

LOCAL COUNCIL ADMINISTRATIVE COSTS—Funds may also be disbursed to a county child abuse prevention council for administrative costs in carrying out their responsibilities under this Act. Funds disbursed as administrative costs to a local council must not exceed five percent (5%) of the total funds awarded to the area served by the local council. Applications from local councils for administrative costs are to be submitted directly to the CTF Advisory Council for review.

STATEWIDE PROGRAMS—Program proposals that intend to serve the entire state may be submitted by public or private non-profit agencies. Applicants considering state-wide programs are required to include letters of support from affected agencies with their application. The CTF Advisory Council may also solicit comments from local child abuse prevention councils in the counties affected. Applications for statewide programs are to be submitted directly to the CTF Advisory Council for review.

FUNDS AVAILABLE—It is anticipated that approximately $250,000 to $300,000 will be available for disbursement in Fiscal Year 1988-89. No awards will be made for an amount under $2,000.

LETTER OF INTENT TO APPLY FOR FUNDS

Any public or private nonprofit agency or local child abuse prevention council interested in applying for funds from the Children's Trust Fund must submit a Letter of Intent to:

The Children's Trust Fund
333 Sibley Street, Suite 567
St. Paul, MN 55101

Attention: Maureen Cannon
Executive Director

Each Letter of Intent must include the following information:

1. Name of the applicant agency
2. Name, address and telephone number of a contact person
3. Maximum amount of grant funds to be requested for fiscal year 1988-89
4. The names of the counties in the geographic area the applicant intends to serve
5. The Program Area the applicant intends to pursue
6. A brief description of how this program area corresponds with their local council's Plan for the Prevention of Child Abuse

Letters of Intent must be received by the Children's Fund office no later than 4:00 p.m. Tuesday, April 1, 1988.

A public or private nonprofit agency or local child abuse prevention council submitting a Letter of Intent will be provided with application materials and information on the review and award process. Application materials will be available after December 10, 1987.

APPLICATION SUBMISSION REQUIREMENTS

The original plus five additional copies of each application submitted by a public or private non-profit agency for single, multi-county or regional program must be received by the authorized county/counties or multi-county child abuse prevention councils from the applicant's geographic area **no later than 4:00 p.m., Friday, April 15, 1988.** (Addresses of authorized councils are available from the CTF office upon request.)

The original plus five additional copies of each application submitted by a county child abuse and prevention council for primary or secondary prevention programs must be received at the office of the Children's Trust Fund, 333 Sibley Street, Suite 567, St. Paul, MN, 55101, **no later than 4:00 p.m., Friday, April 15, 1988.**

The original plus five additional copies of each application submitted by a public or private non-profit agency for programs intending to serve the entire state must be received at the office of the Children's Trust Fund, 333 Sibley Street, Suite 567, St. Paul, MN, 55101, **no later than 4:00 p.m., Friday, April 15, 1988.**

State Grants

The original plus five additional copies of each application submitted by a county child abuse prevention council for administrative costs must be received at the office of the Children's Trust Fund, 333 Sibley Street, Suite 567, St. Paul, MN 55101, **no later than 4:00 p.m., Monday, May 16, 1988.**

Single or multi-county child abuse prevention councils shall forward all copies (minimally, the original plus five copies) of all grant applications reviewed, to the office of the Children's Trust Fund, 333 Sibley Street, Suite 567, St. Paul, MN 55101, **no later than 4:00 p.m., Monday, May 16, 1988.** Accompanying each application reviewed by a single or multi-county child abuse prevention council, shall be the comments and recommendations concerning each program reviewed, and the prioritization by rank order.

AWARDS OF FUNDS AND CONTRACT SCHEDULE

Applications will be reviewed as submitted and grants awarded in accordance with legislative requirements, applicable rules, and criteria identified in the application materials. Applications lacking the required copies (the original plus five additional copies), or that are incomplete, will automatically be disqualified. Applicant agencies will be notified in writing of the status of the application. Award decisions will be made by the Commissioner, with the advice and consent of the CTF Advisory Council, by July 25, 1988.

Contracts will be completed and executed by the State by September 30, 1988.

DURATION OF FUNDING

Funds for approved primary and/or secondary child abuse and neglect prevention programs will be awarded for a twelve month period beginning October 1, 1988. Renewal of approved programs will be considered upon review of a reapplication in 1989, successful completion of the previous year's goals and objectives, and if the needs of the geographic area so indicate.

Supreme Court Decisions

Decisions Filed Wednesday 25 November 1987

C7-86-879 In Re Petition for Disciplinary Action Against John E. Simmonds, an Attorney at Law of the State of Minnesota. Supreme Court.

Charging a client illegal, inappropriate, and excessive fees and expenses in violation of rules governing professional conduct of Minnesota lawyers by an attorney justifies the imposition of the sanction of a temporary suspension from the practice of law followed by probation.

Suspended. Per Curiam.

Took no part, Popovich, J.

Orders

C5-84-892 In Re Petition for Disciplinary Action against James F. McGovern, an Attorney at Law of the State of Minnesota. Supreme Court.

Disbarred. Amdahl, C.J.

C1-87-1357 In Re Petition for Disciplinary Action against David T. Erickson, an Attorney at Law of the State of Minnesota. Supreme Court.

Suspended. Amdahl, C.J.

C8-87-819 In the Matter of the Application for the Discipline of Ernest E. Cutting, an Attorney at Law of the State of Minnesota. Supreme Court.

Reinstated. Kelley, J.

Announcements

Improving Customer Service and Productivity Through Innovation: A public policy conference will focus on this topic at its scheduled meeting December 2-3 in Minneapolis, featuring L. Bruce Laingen, executive director, National Commission on Public Service, and William Bridges, author of *Transitions: Making Sense of Life's Changes.* "Service Minnesota: Taking Steps to Satisfy Your Public" is designed to help elected officials and government administrators improve the quality of their services. The conference, co-sponsored by Minnesota's Department of Administration and eight local government associations, is funded in part by Minnesota's nationally recognized STEP (Strive Toward Excellence in Performance) program through a grant awarded by the Ford Foundation's Innovations in State and Local Government Program. Sessions of common interest to all levels of government will be combined with special-interest sessions geared to the needs of state agencies, cities, counties, townships, and school districts. At the same time, case studies from all jurisdictions will share successful ideas and methods. Examples of session topics include Motivating Employees Through Involvement, Will the Real Customer Please Stand Up?, How to Measure Your Success, and Change and Your Public Image. In addition to Laingen and Bridges, general session speakers will include David Arnold of the Ford Foundation, and Commissioner Sandra J. Hale of the Minnesota Department of Administration. The conference itself is planned to model "state-of-the-art" productivity. Pre-conference materials will be packaged on audiotape, computerized networking with other participants will be available, and participants will design personalized action plans based on their learnings. Other co-sponsors include the Association of Minnesota Counties, League of Minnesota Cities, Minnesota Association of County Administrators, Minnesota Association of County Officers, Minnesota Association of School Administrators, Minnesota Association of Townships, Minnesota City Management Association, and the Minnesota Clerks and Finance Officers Association. For more information on this conference, contact STEP, Department of Administration, 203 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155. (612) 297-3144.

Farmers Urged to Sow Their Oats: Citing that U.S. production of oats is at its lowest level of this century, Minnesota Commissioner of Agriculture Jim Nichols urged state farmers to consider planting more oats this spring. A shortage of U.S. produced oats has driven oat prices up and farmers have an opportunity to make some money. The current cash market for oats this week was $2.08 per bushel, and the July futures listing was $1.70½. Nichols urged farmers to lock in a futures contract for oats so that their harvest price is set before they begin planting oats this spring. "Imports of oats into this country are higher than any other nation in the world," Nichols said. "Our nation's farmers are now producing 16 percent of the world total and that is a significant drop from 35 percent in the 1950's." Minnesota is the nation's leading producer of oats, followed by North and South Dakota, Iowa and Wisconsin. About 500 million bushels of oats are used annually in the United States, and some 6 percent of that total is imported. Most of the imported oats were shipped from Scandinavian countries, topped by Sweden's 63 percent share of the U.S. market, Finland at 21 percent and Canada at 16 percent. Nichols attributed the increase in import of oats to weather fluctuation, currency exchange rates, lower shipping costs, foreign subsidies and higher U.S. prices.

DNR Issues Ice Warning for Aerated Lakes: A list of Minnesota lakes where aeration systems are operating is being released by the Department of Natural Resources (DNR) to warn ice fishermen, skiers, snowmobilers and others using the ice of this potential hazard. Aeration systems add oxygen to lakes to help prevent winterkill of fish populations. They create areas of open water and thin ice and are generally in operation from the time the lakes freeze until the ice breaks up in the spring. Permits are required from the DNR to install and operate an aeration system. Permit holders must publish public notices, post warning signs and inspect the systems at least once every seven days. Liability insurance also is required of private parties. Two types of signs are used to post aerated lakes. The first is the access warning sign which the permittee must maintain at all commonly used access points. This sign warns people approaching the lake that an aeration system is in operation and to use extreme caution. The other type of sign is used to mark the perimeter of the open water area. These signs are diamond-shaped, with an orange border and white background with the warning, "Thin Ice" or "Open Water", in bold black print. It is the permittee's responsibility to post and maintain "Thin Ice" signs at 100-foot intervals. Aeration systems are inspected for safety and compliance with regulations by DNR personnel. The DNR also employs an inspector to check compliance statewide. Officials urge caution when using ice on aerated lakes, particularly at night. Open water areas created by aeration systems can shift or change shapes depending on weather conditions, and leaks may develop in air lines creating other areas of weak ice or open water. Several local units of government prohibit or restrict the operation of motorized vehicles on lakes with aeration systems in operation. The DNR expects to issue approximately 155 aeration permits this year, a slight increase from last year. The majority of the systems are located in counties in the southern and western portions of the state. Some of these permits are issued to private hatchery operators to prevent winterkill of commercially-raised baitfish. Questions concerning aeration can be answered by calling your Regional Fisheries Office or the Department of Natural Resources toll-free number 1-800-652-9747. The following is a list of lakes under aeration permit as of Nov. 17.

REGION I (Northwest)

Clearwater (Pine); Hubbard (Petit); Otter Tail (Long, Adley, Perch, Birch); Wadena (Stocking); Becker (Big Cormorant, Wolf); Polk (Cross, Cameron)

REGION II (Northeast)

Koochiching (Bartlett)

REGION III (Central)

Wright, Stearns (Augusta, Louisa); Stearns, Wright (Marie); Stearns (Dullinger); Wright (Limestone); Todd (Horseshoe, Thunder); Todd (Fawn); Sherburne (Fremont, Ann); Cass (Loon)

REGION IV (Southwest)

Martin (Buffalo, Fish); Blue Earth, Faribault (Lura); Blue Earth (Crystal, Loon); Nobles (Indian, West Graham, East Graham, Okabena); Kandiyohi (Long, Rino, Swenson, Mud, Willmar); Lyon (Yankton, West Twin, East Goose, Rock); Lyon, Yel. Med (School Grove); Lincoln (Benton, Hendricks, Shaokotan, Dean Coon, Slough); Watonwan (Kansas); Waseca (Elysian, Loon); McLeod (Swan, Marion); Sibley, Nicollet (Clear); Murray (First Fulda, Sarah, Shetek, Currant); LeSueur (Silver, Greenleaf, Mabel); Brown (Sleepy Eye); Cottonwood (Mountain, Bingham, Cottonwood); Yellow Medicine (Wood); Big Stone (East Toqua); Jackson (Clear, Loon)

REGION V (Southeast)

Winona (Winona); Freeborn (Fountain, Morin)

REGION VI (Central)

Hennepin (Gleason, Snelling, Indianhead, Hadley, Lower Penn, Round, Sweeney); Ramsey (Bennett, Como, E. Silver, Island, Vadnais); Carver (Church); Washington (Mud, Downs, Pine Tree, Cloverdale); Anoka (Laddie, Moore, Centerville, Golden, Ham, Coon); Anoka, Ramsey (Spring); Dakota (Rebecca); Scott (Cedar)

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Police Report Writing Style Manual 1986–A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. $12.50.

Background Investigation Manual 1986–A guide to conducting effective thorough background investigations of peace officer candidates. Included are various criteria for use in the selection process: experience, education, and past behavior. Sample forms. Code No. 14-15. $10.00.

Motor Vehicle Traffic Laws 1986–Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. $12.50.

Criminal Code & Selected Statutes 1986–Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. $12.00.

Blue Binder–3 ring. 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. $4.25.

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Human Services Rules as in effect July 7, 1986
Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. $24.95.

Human Services Rules Supplement 1987. Includes recent changes to many rules in effect from July 1986 through January 1987. Code #3-95s1, $14.00.

3 ring binder. 2" capacity. 1 required for each of above listed publications. Code No. 10-21. $4.25.

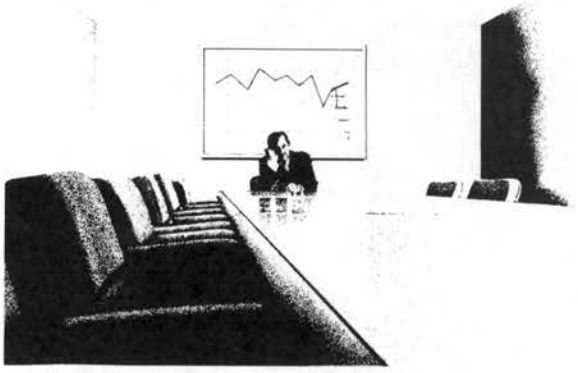


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Mammals of Minnesota, discusses wild mammals that inhabit Minnesota today, or in the recent past. Tells how to identify them, their distribution in the state, and their natural history. U of M Press, 1977, illustrated, index, bibliography, paperbound, 290 pp. Code #19-35, $15.95.

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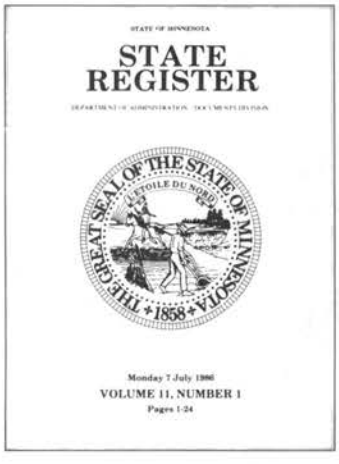
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CERTIFICATE OF RESOLUTION ADOPTING EMERGENCY RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency 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 Minnesota Pollution Control Agency duly and properly called and held on the 26th day of January, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (Agency) hereby approves and adopts the emergency amendments to rules governing the administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075 pursuant to the authority vested in the Agency by Minn. Stat. § 116.16, Subd. 5 (1987) and Minn. Stat. § 116.181, Subd. 6 (Supp. 1987).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1986).
>
> BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions, and Order Adopting Emergency Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency 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 28 day of January, 1988.

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing the Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minn. Rules Part 7075.0409, 7075.0411, 7075.0428, and 7075.1010 to 7075.2000

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY AMENDMENTS TO RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 26th day of January, 1987. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of emergency rules, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled emergency rules without a public hearing was published in the State Register on November 30, 1987, and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.30 (1986) on November 27, 1987.

2. All persons were given the opportunity to submit comments on the rules for 25 days after notice of proposed rulemaking. The 25 day comment period, as set out in the notice, expired on December 28, 1987.

3. No requests for notice of submissions to the Attorney General were received by the Agency.

4. During the comment period the Agency received 11 written comments. The Agency finds that no modifications to the proposed rules are justified by the record in this proceeding.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely, and adequate notice of the intent to adopt the emergency rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached emergency rules, Minn. Rules pts. 7075.0409, 7075.0411, 7075.0428, and 7075.1010 to 7075.2000 governing the administration of state and federal grants and loans for municipal wastewater treatment projects, are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.16 Subd. 5 (1987) and Minn. Stat. § 116.181 Subd. 6 (Supp. 1987).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: JAN 28 1988

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing the Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minn. Rules Part 7075.0409, 7075.0411, 7075.0428, and 7075.1010 to 7075.2000

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FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled emergency rules without a public hearing was published in the State Register on November 30, 1987, and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.30 (1986) on November 27, 1987.

2. All persons were given the opportunity to submit comments on the rules for 25 days after notice of proposed rulemaking. The 25 day comment period, as set out in the notice, expired on December 28, 1987.

3. No requests for notice of submissions to the Attorney General were received by the Agency.

4. During the comment period the Agency received 11 written comments. The Agency finds that no modifications to the proposed rules are justified by the record in this proceeding.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely, and adequate notice of the intent to adopt the emergency rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached emergency rules, Minn. Rules pts. 7075.0409, 7075.0411, 7075.0428, and 7075.1010 to 7075.2000 governing the administration of state and federal grants and loans for municipal wastewater treatment projects, are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.16 Subd. 5 (1987) and Minn. Stat. § 116.181 Subd. 6 (Supp. 1987).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: JAN 28 1988

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of the Emergency Amendments to Rules Governing the Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075

DECLARATION OF COUNSEL

I, Beverly Conerton, 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. Any exceptions are listed below. For Attorney General billing purposes, the four-digit client code is 0698.

Beverly Conerton

Beverly Conerton
Special Assistant
Attorney General

Dated: Feb. 1, 1988

Rec'd 2/5/88

Minnesota Pollution Control Agency

February 2, 1988

Ms. Rita Desmond
Office of the Attorney General
515 Transportation Building
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Rules Governing the Administration of State and Federal Grants and Loans for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075

Dear Ms. Desmond:

On January 26, 1988, the Minnesota Pollution Control Agency adopted the above-captioned emergency rules governing the administration of State and Federal grants and loans for municipal wastewater treatment projects. Enclosed for your review are the following:

1. Emergency rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Emergency Rules (two copies).

3. Certificate of Resolution Adopting Emergency Rules.

4. Notice of Intent to Solicit Outside Opinion (12 S.R. 297, August 17, 1987).

5. Certificate of Authorizing Resolution.

6. Notice of Intent to Adopt Emergency Rules and rules as proposed (12 S.R. 22, November 30, 1987).

7. Comments received during the comment period.

8. Notice of Intent to Adopt Emergency Rules, as mailed.

9. Affidavit of Mailing the Notice of Intent to Adopt Emergency Rules and Certification of Mailing List.

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10. Emergency rules as proposed.

11. Declaration of Counsel.

Please be advised that the Agency did not receive any requests for notices of submission to the Attorney General.

Sincerely,

Sharon C Meyer

Sharon C. Meyer
Supervisor
Program Support Unit

SCM:lmn