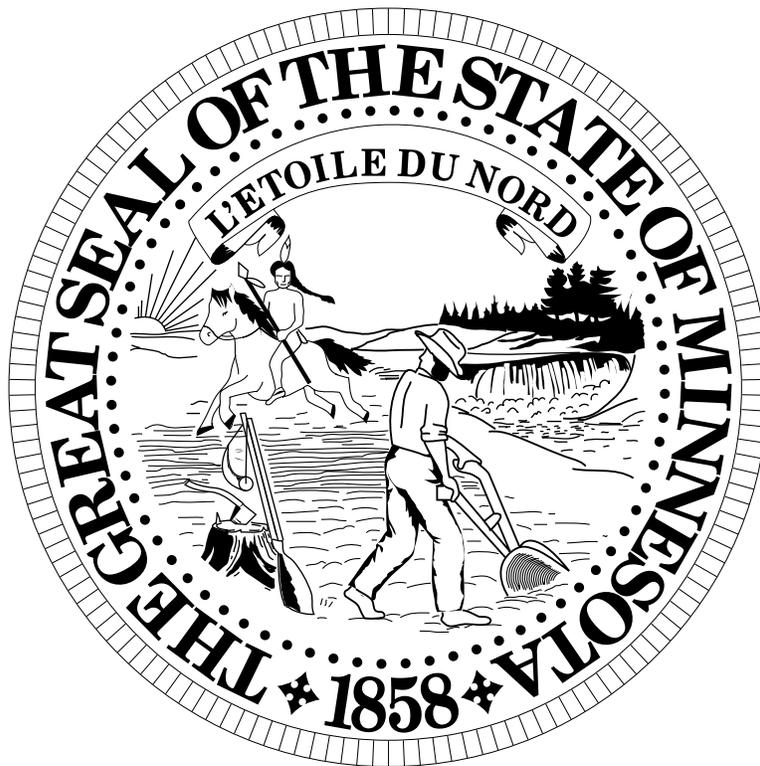


State of Minnesota

State Register

Rules and Official Notices Edition



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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, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
- certificates of assumed name, registration of insignia and marks

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Printing Schedule and Submission Deadlines

Vol. 24 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
#43	Monday 24 April	Noon Wednesday 12 April	Noon Tuesday 18 April
#44	Monday 1 May	Noon Wednesday 19 April	Noon Tuesday 25 April
#45	Monday 8 May	Noon Wednesday 26 April	Noon Tuesday 2 May
#46	Monday 15 May	Noon Wednesday 3 May	Noon Tuesday 9 May

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FOR LEGISLATIVE NEWS

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

Contact: Senate Public Information Office (651) 296-0504
Room 231 State Capitol, St. Paul, MN 55155

Contact: House Information Office (651) 296-2146
Room 175 State Office Building, St. Paul, MN 55155

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Commodity, Service, and Construction contracts are published in a bulletin, the *State Register Contracts Supplement*, published Tuesday, Wednesday and Friday. Award results are available from the Materials Management Helpline (651) 296-2600.

Individual copies and subscriptions are available through Minnesota’s Bookstore, (651) 297-3000, or 1-800-657-3757

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

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 80 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. The current 1997 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a 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 most current edition of 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 issues #1-39; issues #40-51 inclusive; and issue 52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (651) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. 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*.

Department of Health

Division of Family Health

Proposed Permanent Rules Relating to WIC

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing If 25 or More Requests for Hearing Are Received

Proposed Amendment to Rules Governing the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program), *Minnesota Rules*, parts 4617.0002, 4617.0065, 4617.0066, 4617.0067, 4617.0068, 4617.0070, 4617.0075, 4617.0084, 4617.0100, 4617.0121 and 4617.0176. Proposed Repeal of Rules Governing the WIC Program, *Minnesota Rules*, parts 4617.0059, 4617.0069, 4617.0086 and 4617.0120

Introduction. The Department of Health intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on May 24, 2000, a public hearing will be held in the Red River Room of the Minnesota Department of Health Service Center, 1645 Energy Park Drive, St. Paul, Minnesota, starting at 9:30 a.m. on Thursday, June 8, 2000. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after May 24, 2000, and before June 8, 2000.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Wendy Willson Legge, WIC Program, Minnesota Department of Health, 85 East Seventh Place, Suite 400, P.O. Box 64882, St. Paul, Minnesota 55164-0882, telephone: (651) 281-9925, fax: (651) 215-8951, e-mail: wendy.legge@health.state.mn.us. TTY users may call the Department of Health at (612) 676-5522.

Subject of Rules and Statutory Authority. The proposed rules relate to vendors and prospective vendors in the WIC Program, including both retail food stores and pharmacies. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 144.894(k) and 144.11. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, May 24, 2000, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on May 24, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency in determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for June 8, 2000, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 281-9925 after May 24, 2000, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Bruce H. Johnson is assigned to conduct the hearing. Judge Johnson can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7607, and FAX (612) 349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or response period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: 10 April 2000

Julie Brunner
Deputy Commissioner of Health

4617.0002 DEFINITIONS.

[For text of subs 1 to 19a, see M.R.]

Subp. 19b. Launder. “Launder” means to receive, transact, or redeem a voucher outside of authorized channels and includes redeeming a voucher accepted at a store that is not authorized as a WIC vendor, accepting a voucher at a place other than an established check-out lane at the vendor’s business site, accepting or redeeming a voucher from any source other than a WIC customer, and accepting a voucher that is then redeemed through another vendor.

[For text of subs 20 and 21, see M.R.]

Subp. 21a. [See repealer.]

[For text of subs 22 to 28b, see M.R.]

Subp. 28c. [See repealer.]

[For text of subs 29 to 36, see M.R.]

Subp. 36a. Provide unauthorized food. “Provide unauthorized food” means:

A. to provide any food other than WIC-allowed food in exchange for a voucher;

B. to provide, in exchange for a voucher, any WIC-allowed food that is not listed on the voucher;

C. to provide, as a substitute for any WIC-allowed food listed on a voucher, an excess quantity of another WIC-allowed food listed on the voucher; or

D. to provide, in exchange for a voucher, and to charge the WIC program for, more WIC-allowed food than is listed on the voucher.

[For text of subp 37, see M.R.]

Subp. 37a. Rain check. “Rain check” means a credit provided by a vendor to a WIC customer in exchange for a voucher, if the credit can only be used to purchase one or more specific food items listed on the voucher but not received by the WIC customer.

Subp. 37b. Reauthorization application. “Reauthorization application” means a vendor application submitted to the commissioner by a currently authorized vendor that is applying to continue as a vendor.

Subp. 37c. Region. “Region” means a geographical grouping of contiguous counties as specified in this subpart:

A. “Region 1” is comprised of Hennepin county.

B. “Region 2” is comprised of the following counties: Aitkin, Carlton, Cass, Chisago, Cook, Crow Wing, Isanti, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Pine, and St. Louis.

C. “Region 3” is comprised of the following counties: Big Stone, Blue Earth, Brown, Chippewa, Cottonwood, Dodge, Faribault, Fillmore, Freeborn, Houston, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Martin, Mower, Murray, Nobles, Olmsted, Pipestone, Redwood, Renville, Rock, Steele, Swift, Waseca, Watonwan, Winona, and Yellow Medicine.

D. "Region 4" is comprised of the following counties: Anoka, Ramsey, and Washington.

E. "Region 5" is comprised of the following counties: Becker, Beltrami, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Traverse, Wadena, and Wilkin.

F. "Region 6" is comprised of the following counties: Benton, Carver, Dakota, Goodhue, Le Sueur, McLeod, Meeker, Morrison, Nicollet, Rice, Scott, Sherburne, Sibley, Stearns, Todd, Wabasha, and Wright.

Subp. ~~37b.~~ 37d. **Regional review period.** "Regional review period" means the designated time, with respect to a particular region, during which the commissioner reviews ~~vendor reauthorization~~ applications from ~~vendor applicants~~ vendors located in that region, under part 4617.0065, subpart 5.

[For text of subps 38 to 40b, see M.R.]

Subp. 40c. **Single investigation.** "Single investigation" means all compliance buys, monitoring visits, record reviews, and other investigatory activities conducted in connection with a store or pharmacy until the investigation is complete. The investigation is complete on the earlier of: (1) the date the investigatory file is closed; (2) the date the store or pharmacy is disqualified from the WIC program; (3) the date the commissioner assesses a civil money penalty against the store or pharmacy; or (4) the date the commissioner denies the vendor application of the store or pharmacy.

Subp. ~~40e.~~ 40d. **Special infant formula.** "Special infant formula" means any infant formula specified on a voucher, other than the infant formula specified in part 4617.0067, subpart 3, item B, subitems (1) to (4).

Subp. ~~40e.~~ 40e. **Tier 1 county.** "Tier 1 county" means a Minnesota county in which the total population is 250,000 or more according to the most recent State of Minnesota or United States census or estimated update as compiled by the state demographer.

Subp. ~~40e.~~ 40f. **Tier 2 county.** "Tier 2 county" means a Minnesota county in which the total population is less than 250,000 according to the most recent State of Minnesota or United States census or estimated update as compiled by the state demographer.

[For text of subps 41 to 42a, see M.R.]

Subp. 42b. **Vendor application.** "Vendor application" means all information and documentation submitted to the commissioner by a vendor applicant under part 4617.0065; or 4617.0066, subpart 3; ~~or 4617.0069.~~

[For text of subps 43 to 44b, see M.R.]

Subp. 44c. [See repealer.]

[For text of subps 44d and 44e, see M.R.]

Subp. 44f. **WIC ID folder.** "WIC ID folder" means a document issued by a local agency to a participant or proxy which contains eligibility information on a participant and contains the signatures of all individuals authorized to sign vouchers issued to the participant.

[For text of subp 45, see M.R.]

4617.0065 VENDOR APPLICATION PROCESS.

Subpart 1. **Applicability.** This part applies to all vendor applications, except that it applies to applications for immediate vendor agreements under part 4617.0066, subpart 3, only to the extent specified in that subpart. If a vendor applicant is applying to be both a pharmacy vendor and a retail food vendor:

[For text of items A and B, see M.R.]

Subp. 2. **Application.**

A. Each vendor applicant shall complete and submit to the commissioner an application form, supplied by the commissioner, which contains the following information:

[For text of subitems (1) to (5), see M.R.]

~~(6) if the applicant is a retail food vendor applicant, then the price, size, quantity, and variety information on WIC allowed foods stocked by the applicant;~~

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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(7) other information requested by the commissioner which relates to whether the applicant is in compliance with all applicable vendor eligibility requirements in part 4617.0067; and

(8) (7) the signature of an authorized representative of the applicant, attesting that the information in the application is true and correct to the best of the authorized representative's knowledge and belief.

B. Each vendor applicant shall submit to the commissioner documentation described in this item.

(1) A retail food vendor applicant must submit to the commissioner:

(a) if the applicant is located in Minnesota:

i. a copy of the Minnesota food handler license for the store, as required by *Minnesota Statutes*, section 28A.04; or
ii. if the store has applied for but not yet received a Minnesota food handler license, a copy of the receipt for the license; and

(b) a copy of all other ~~applicable~~ government licenses required by part 4617.0067, subpart 2, item B, subitem (2), or; if the store has applied for but not yet received all ~~other applicable~~ of the government licenses, a copy of all licenses received and the receipts for all licenses not yet received.

(2) A pharmacy vendor applicant must submit to the commissioner a copy of ~~all applicable government licenses and registrations~~ the pharmacy's registration by the Minnesota Board of Pharmacy under *Minnesota Statutes*, chapter 151.

[For text of item C, see M.R.]

Subp. 3. **Submission ~~deadlines~~ time frames for applications.**

A. The commissioner must receive a ~~vendor applicant's vendor~~ vendor's complete reauthorization application on or before the first business day of the applicable regional review period specified in subpart 4. If the commissioner receives the complete reauthorization application, ~~other than a resubmitted application as permitted in subpart 5, item A, subitem (1)~~, after the first business day of the applicable regional review period, ~~then the vendor applicant's existing vendor agreement may expire before the commissioner shall disapprove~~ approves or disapproves the reauthorization application.

B. A vendor applicant that is not a current vendor may submit a vendor application to the commissioner at any time, except that a retail food store or pharmacy whose vendor application has been disapproved cannot submit a new vendor application until one year after the date of the written notice of disapproval.

Subp. 4. **Regional review periods.** The commissioner shall review ~~vendor~~ reauthorization applications during the following regional review periods:

[For text of items A to F, see M.R.]

Subp. 5. **Application review and approval process.** The commissioner shall, in accordance with this subpart, review vendor applications ~~which have not been disapproved~~ except applications submitted too early under subpart 3, item B.

A. The commissioner shall perform an initial office review of each application to determine whether the application is complete and the applicant meets all applicable eligibility requirements in part 4617.0067.

(1) If the commissioner determines during the initial office review of the application that the application is incomplete ~~or that the applicant's prices, stock, or hours of operation do not comply with the applicable requirements of part 4617.0067, then the commissioner shall give the applicant one opportunity to complete and modify the application and resubmit it to the commissioner, unless subitem (2) applies. The commissioner must, unless subitem (2) applies, advise the applicant in writing of the portions of the application which the commissioner has determined to be incomplete or not in compliance with the applicable pricing, stock, or hours of operation requirements in part 4617.0067.~~

(a) ~~The commissioner must receive any resubmitted application within 15 business days after the date the commissioner mailed the notice advising the applicant of the need to complete or modify the application.~~

(b) The commissioner shall disapprove a resubmitted application if:

i. ~~the resubmitted application is still incomplete;~~
ii. ~~based on all information available to the commissioner at the time of reviewing the resubmitted application, the application does not meet all applicable eligibility requirements in part 4617.0067; or~~
iii. ~~the applicant did not resubmit the application by the deadline in unit (a).~~ the commissioner shall contact the applicant and give the applicant an opportunity to submit complete information, unless subitem (2) applies. If the commissioner does not receive complete information within two months after the commissioner first contacts the applicant for complete information, the commissioner shall disapprove the application.

(2) If the commissioner determines during the initial office review of the application that the applicant does not meet an applicable eligibility requirement in part 4617.0067, subpart 4, item ~~A~~, B, ~~C~~, or ~~F~~ E; or 6, the commissioner shall disapprove the application.

(3) If, based on all information available to the commissioner at the time of the initial office review of the application or the review of a vendor application resubmitted in accordance with subitem (1), the applicant meets all applicable eligibility requirements in part 4617.0067, then:

(a) if the applicant is a pharmacy vendor, the commissioner shall approve the application; ~~or~~

(b) if the applicant is not a vendor ~~or if the applicant is a retail food vendor~~, the commissioner shall conduct an ~~unannounced~~ on-site inspection according to item B; ~~or~~

~~(c) if the applicant is a retail food vendor, the commissioner shall follow the procedures in item C.~~

B. When required by item A, subitem (3), the commissioner shall conduct an ~~unannounced~~ on-site inspection of the applicant to verify the information in the application and to verify that the applicant is in full compliance with part 4617.0067:

(1) If the on-site inspection shows that the applicant is not in full compliance with part 4617.0067, then:

(a) if the applicant is a retail food vendor applicant, the commissioner shall notify the applicant in writing that the applicant has ten business days from the date of the written notice to bring the applicant into full compliance with part 4617.0067, and the commissioner shall conduct a second ~~unannounced~~ on-site inspection no sooner than 11 business days after the date of this written notice; or

(b) if the applicant is a pharmacy vendor applicant, the commissioner shall disapprove the application.

(2) If the on-site inspection of a pharmacy vendor applicant shows that the applicant is in full compliance with part 4617.0067, ~~then~~ the commissioner shall approve the application.

(3) If the applicant is a retail food vendor applicant and either the initial or second ~~unannounced~~ on-site inspection under this item shows that the applicant meets all applicable eligibility requirements in part 4617.0067, ~~then~~ the commissioner shall ~~follow the procedures in item C~~ approve the application.

(4) If the second ~~unannounced~~ on-site inspection under subitem (1), unit (a), shows that the retail food vendor applicant does not meet all applicable eligibility requirements in part 4617.0067, ~~then~~ the commissioner shall disapprove the application.

~~C. This item applies to all retail food vendor applicants which are in full compliance with part 4617.0067.~~

~~(1) For the purpose of this item, a retail food vendor applicant is in full compliance with part 4617.0067 if:~~

~~(a) the applicant is a retail food vendor whose initial application or application resubmitted according to item A, subitem (1), shows that the applicant meets all applicable eligibility requirements in part 4617.0067; or~~

~~(b) either the initial or second unannounced on-site inspection of the retail food vendor applicant under item B shows that the applicant meets all applicable eligibility requirements of part 4617.0067.~~

~~(2) If an applicant is a retail food vendor applicant which is in full compliance with part 4617.0067, then:~~

~~(a) if the applicant is located in a county in which the total number of retail food vendor applicants in full compliance with part 4617.0067 exceeds the maximum number of retail food vendors for the county, as calculated according to part 4617.0059, subpart 1, then the commissioner shall follow the selection process in part 4617.0059, subpart 2; or~~

~~(b) if the applicant is located in a county in which the total number of retail food vendor applicants in full compliance with part 4617.0067 is less than or equal to the maximum number of retail food vendors for the county, as calculated according to part 4617.0059, subpart 1, then the commissioner shall approve the application.~~

Subp. 6. **Notification of status of application.** ~~No later than the last day of the applicable review period,~~

A. The commissioner shall, in writing, inform each vendor ~~applicant in writing~~ that has submitted a complete reauthorization application of the commissioner's approval or disapproval of the application: by the later of:

(1) the last day of the applicable regional review period; or

(2) four months after the commissioner received the complete reauthorization application.

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.

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B. For a vendor application that is not a reauthorization application, the commissioner shall inform the vendor applicant in writing of the commissioner's approval or disapproval of the application within four months after the commissioner received the complete application.

C. If the commissioner disapproves an application under subpart 5, item A, subitem (1), the commissioner must notify the vendor applicant of the commissioner's disapproval of the application within four months after the commissioner first requests the complete information from the vendor applicant.

D. A notice of disapproval must state the reasons for the commissioner's disapproval.

Subp. 7. **Mandatory training of vendor ~~management~~ representative.**

A. If a vendor's application is approved, ~~then~~ at least one ~~management~~ representative of that applicant must complete a WIC-approved training ~~course specified by the commissioner~~, sign a training verification form provided by the commissioner to verify completion of the WIC-approved training ~~course~~, and submit this signed training verification form to the commissioner.

B. Item A does not apply if:

(1) a ~~management~~ representative of the vendor applicant has completed a WIC-approved training ~~course~~ within ~~one year~~ two years before the ~~end of the applicable regional review period and commissioner's deadline under subpart 6 for notifying the applicant of the approval or disapproval of the application;~~

(2) the representative has signed and submitted to the commissioner a training verification form provided by the commissioner to verify completion of the training, ~~then the requirements of item A shall not apply;~~ and

(3) the vendor application is not from an applicant that is applying after being ~~disqualified from the WIC program for three months or more.~~

Subp. 8. **Execution of vendor agreement.**

A. Upon the commissioner's verification of the vendor applicant's compliance with subpart 7, the commissioner shall mail or deliver ~~to the applicant~~ a vendor agreement to the applicant or agent designated by the applicant. The applicant or designated agent shall submit the vendor agreement, signed ~~by the applicant~~ according to part 4617.0075, to the commissioner by the deadline specified by the commissioner. This deadline shall be no sooner than 14 days after the commissioner mails or delivers the vendor agreement to the applicant or designated agent. Upon receipt of a timely signed and submitted vendor agreement, the commissioner shall:

(1) execute the vendor agreement; and

(2) issue the applicant a vendor stamp unless the applicant already has a valid vendor stamp.

B. If the applicant or designated agent fails to submit the signed vendor agreement by within 30 days after the specified deadline, the commissioner shall ~~not execute the vendor agreement or issue the applicant a vendor stamp, and the applicant shall not be authorized to accept WIC vouchers~~ disapprove the vendor application, notwithstanding the commissioner's prior approval of the vendor application.

Subp. 9. **Additional grounds for disapproval.** Notwithstanding subpart 5, the commissioner shall disapprove a vendor application if:

A. the applicant does not comply with all applicable requirements in part 4617.0067 at any time between the final ~~unannounced~~ announced on-site inspection under subpart 5, item B, and the commissioner's execution of a new vendor agreement;

B. the applicant is a retail food vendor applicant which does not comply with ~~the requirement in~~ part 4617.0067, subpart 2, item B, by the date the applicant signs any vendor agreement; or

[For text of item C, see M.R.]

4617.0066 CHANGE OF OWNERSHIP, NAME, OR BUSINESS SITE.

[For text of subpart 1, see M.R.]

Subp. 2. **Effect of change of ownership ~~or business site.~~** ~~The vendor agreement shall be immediately null and void~~ If there is a change of vendor ownership ~~or business site, and:~~

A. the vendor agreement shall be immediately null and void with respect to that vendor;

B. the vendor stamp for that vendor must be returned to the commissioner within five business days after the effective date of the change; and

C. if the vendor agreement in effect before the change includes one or more other vendors that have not changed ownership, a duly authorized agent of each of the other vendors shall execute, by the effective date of the change, an amended vendor agreement that does not include the vendor that changed ownership.

Subp. 3. **Immediate vendor agreement.** ~~If a vendor agreement is rendered null and void under subpart 2 there is a change of vendor ownership, then the retail food store or pharmacy which had been a vendor under the voided agreement before the change may apply for an immediate vendor agreement under this subpart as long as the retail food store or pharmacy has not changed its business site to a different county.~~

A. The application for an immediate agreement must include, at a minimum, the materials specified in part 4617.0065, subpart 2.

B. The commissioner shall approve the application for an immediate vendor agreement if:

(1) the vendor applicant, during the two years immediately preceding the change of ownership ~~or change of business site~~, had no history of ~~sanctions under Minnesota Rules 1995, part 4617.0085 and no history of any Class A or Class B violations under part 4617.0084 and no history of any Class A or Class B violations under Minnesota Rules 1997, part 4617.0086;~~

(2) ~~during the most recent 12 months for which voucher redemption information is available for the commissioner's review, the vendor under the voided agreement redeemed WIC vouchers in an average total amount of:~~

~~(a) at least \$150 per month if the vendor is located in a Tier 1 county; or~~

~~(b) at least \$100 per month if the vendor is located in a Tier 2 county.~~

~~Subitem (2) does not apply if:~~

~~i. the vendor under the voided agreement was the only vendor in a clinic town;~~

~~ii. the vendor applicant is not a retail food vendor applicant; or~~

~~iii. under part 4617.0069, subpart 1, the commissioner determines that participant hardship exists in the particular area where the vendor applicant is located;~~

~~(3) the vendor applicant has not accepted and has not held itself out as able to accept a WIC voucher at any time when there was not a fully executed vendor agreement in effect between the applicant and the commissioner;~~

~~(4) (3) the vendor applicant meets all applicable eligibility requirements under part 4617.0067; and~~

~~(5) the commissioner has not previously approved an immediate vendor agreement for the same retail food store or pharmacy at any time since the first day of the most recent regional review period under part 4617.0065, subpart 4, for the region in which the retail food store or pharmacy is located (4) within two years before the change of ownership, a representative of the vendor applicant:~~

~~(a) completed WIC-approved training under part 4617.0065, subpart 7, or 4617.0068, subpart 7; and~~

~~(b) signed and submitted to the commissioner the corresponding training verification form.~~

C. If a retail food store or pharmacy which is applying for an immediate vendor agreement does not meet all the requirements in item B, ~~then~~ the commissioner shall ~~deny review~~ review the application ~~for an immediate vendor agreement according to part 4617.0065, subparts 5 and 9. If the commissioner approves the application under part 4617.0065, then part 4617.0065, subparts 7 and 8, shall apply.~~

D. If the commissioner approves an application for an immediate vendor agreement, ~~then the commissioner and the applicant shall comply with part 4617.0065, subpart 7, and, with respect to the immediate vendor agreement, the commissioner and the applicant shall comply with part 4617.0065, subpart 8. The immediate vendor agreement shall expire on the same expiration date stated on the voided vendor agreement. The immediate vendor agreement shall be effective no sooner than the effective date of the change of ownership or change of business site.~~

[For text of item E, see M.R.]

4617.0067 VENDOR ELIGIBILITY REQUIREMENTS.

Subpart 1. **Applicability to vendor applicants.** A pharmacy vendor applicant shall at all times comply with the requirements in subparts 2, item C; 4; and 6. A retail food vendor applicant shall at all times comply with the requirements in subparts 2, item A, and 3 to 6, and shall comply with the ~~requirement~~ requirements in subpart 2, item B, no later than the date the applicant signs any vendor agreement.

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Subp. 2. Location, licensing, and registration requirements.

A. ~~Except as provided in part 4617.0069, subpart 3, item A,~~ A retail food vendor must be a retail food store located in Minnesota, ~~unless:~~

~~(1) the retail food vendor is located in a state adjacent to Minnesota;~~

~~(2) there is a clinic town with no retail food vendors; and~~

~~(3) the distance from the clinic town to the retail food vendor is less than the distance from the clinic town to any other retail food vendor.~~

B. ~~Except as provided in part 4617.0069, subpart 3, item A,~~ A retail food vendor must be licensed by:

~~(1) the Minnesota commissioner of agriculture according to *Minnesota Statutes*, chapter 28A, if the vendor is located in Minnesota; and~~

~~(2) all other government entities, such as the city government, that require a license before the vendor can be open to the public for business.~~

C. ~~Except as provided in part 4617.0069, subpart 3, item B,~~ A pharmacy vendor must be a pharmacy located in Minnesota which is registered by the Minnesota Board of Pharmacy according to *Minnesota Statutes*, chapter 151.

Subp. 3. Minimum in-stock food requirements for retail food vendors.

A. A retail food vendor located in a Tier 2 county shall at all times have in stock and available for purchase, at a minimum:

(1) ~~the following infant formula:~~

~~(a) 31 containers of milk-based concentrated infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171, ~~or~~ and 31 containers of soy-based concentrated infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171; or~~

~~(b) nine containers of milk-based powdered infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171, ~~or~~ and nine containers of soy-based powdered infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171;~~

~~(2) 24 ounces of WIC-allowed plain, dry, infant cereal;~~

~~(3) 60 ounces of pure, unsweetened, WIC-allowed infant juice;~~

~~(4) ten gallons of unsweetened, unflavored, WIC-allowed fluid cow's milk in gallon or half-gallon containers in any combination of at least two of the following varieties:~~

~~(a) skim or nonfat;~~

~~(b) one percent milkfat;~~

~~(c) two percent milkfat; and~~

~~(d) whole;~~

~~(5) three pounds of WIC-allowed domestic cheese in packages of at least one-half pound each, in any combination of at least two varieties;~~

~~(6) four one-dozen containers of WIC-allowed fresh eggs;~~

~~(7) 28 ounces of WIC-allowed dried legumes, which do not contain any added ingredients;~~

~~(8) 36 ounces of WIC-allowed peanut butter which does not contain any other food product such as jelly, jam, or chocolate;~~

~~(9) two pounds of WIC-allowed fresh or frozen carrots, or canned carrots packed in water;~~

~~(10) 26 ounces of WIC-allowed canned tuna fish;~~

~~(11) three containers of any combination of the following:~~

~~(a) 11.5 to 12-ounce containers of WIC-allowed pure and unsweetened frozen or nonfrozen concentrate 100 percent citrus juice; or three~~

~~(b) 46-ounce containers of WIC-allowed pure and unsweetened 100 percent citrus juice;~~

~~(12) three containers of any combination of the following:~~

~~(a) 11.5 to 12-ounce containers of WIC-allowed pure and unsweetened frozen or nonfrozen concentrate juice which is not 100 percent citrus juice; or three~~

- (b) 46-ounce containers of WIC-allowed pure and unsweetened juice which is not 100 percent citrus juice; and
- ~~(14)~~ (13) 72 ounces of WIC-allowed cereal in any combination of at least four varieties.

B. A retail food vendor located in a Tier 1 county shall at all times have in stock and available for purchase, at a minimum:

[For text of subitems (1) to (13), see M.R.]

- (14) six containers of any combination of the following:

- (a) ~~11.5 to~~ 12-ounce containers of WIC-allowed pure and unsweetened frozen or nonfrozen concentrate 100 percent citrus juice; ~~or six~~

- (b) 46-ounce containers of WIC-allowed pure and unsweetened 100 percent citrus juice;

- (15) six containers of any combination of the following:

- (a) ~~11.5 to~~ 12-ounce containers of WIC-allowed pure and unsweetened frozen or nonfrozen concentrate juice which is not 100 percent citrus juice; ~~or six~~

- (b) 46-ounce containers of WIC-allowed pure and unsweetened, juice which is not 100 percent citrus juice; and

- (16) 108 ounces of WIC-allowed cereal in any combination of at least four varieties.

[For text of item C, see M.R.]

Subp. 4. **Additional requirements.** ~~All vendors~~ A vendor shall comply with the following requirements:

- ~~A. A vendor must be open to the public for business at least Monday through Saturday, 10 a.m. to 6 p.m., unless the commissioner determines that the vendor needs to be open for business during different hours because of a religious or cultural reason.~~

- ~~B.~~ A vendor must operate at one business site, located at a fixed and permanent location.

- ~~C.~~ B. One or more of the controlling persons of the vendor must own or lease the real estate on which the vendor is located.

- ~~D.~~ C. Employees who accept vouchers for the vendor must be able to demonstrate their ability to ~~read and understand a voucher~~ process vouchers according to this chapter.

- ~~E.~~ D. A vendor must ensure that the price charged for each WIC-allowed food stocked by the vendor is displayed for easy viewing or marked on the food. If the vendor charges WIC customers less than the vendor's usual and customary charge, the WIC customer price must be displayed for easy viewing or marked on the food.

- ~~F.~~ E. A vendor must ensure that no controlling person of the vendor and no spouse, child, or parent of any controlling person of the vendor:

- (1) is employed by the Minnesota Department of Health in connection with the WIC program;
 - (2) is employed by the local agency in whose jurisdiction the vendor is located; or
 - (3) has a direct or indirect financial interest in the local agency in whose jurisdiction the vendor is located.

Subp. 5. **Vendor prices.** A retail food vendor's total price for the minimum amount of authorized foods in subpart 3, item A, must not be more than 120 percent of the average price charged by retail food vendors. The commissioner shall determine the average price charged by retail food vendors based on the most recent price information available to the commissioner on prices charged by a statistically significant sample of retail food vendors. If the commissioner determines that there is a religious ~~or cultural~~ need for a vendor to charge a specific price greater than 120 percent of the average price charged by retail food vendors, the vendor may charge that specific price.

Subp. 6. **Special requirements for vendor applicants.**

- A. Within the ~~six months~~ three years immediately preceding the date ~~of the commissioner received~~ the commissioner received the vendor application, and at any time on or after the date ~~of the commissioner received~~ the commissioner received the application, an applicant must not have accepted ~~or held itself out as able to accept~~ a WIC voucher when the applicant did not have a fully executed vendor agreement, unless the voucher was never paid by the WIC program's bank.

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B. An applicant must not ~~currently~~ be disqualified from any food assistance program at any time between the commissioner's receipt of the vendor application and the commissioner's execution of a vendor agreement with the vendor applicant. If a vendor applicant is subjected to a civil money penalty by a food assistance program, and:

(1) the notice of the civil money penalty specifies that the penalty is in lieu of disqualification for a specific period of time, then the vendor applicant is not eligible to become a vendor if there is any overlap between that period of time and the period of time between the ~~relevant application deadline under part 4617.0065, subpart 3,~~ date the commissioner received the vendor application and the commissioner's execution of a vendor agreement with the vendor applicant; or

(2) the notice of the civil money penalty does not specify that the penalty is in lieu of disqualification for a specific period of time, then the vendor applicant is not eligible to become a vendor if the ~~relevant vendor application deadline under part 4617.0065, subpart 3,~~ date the commissioner received the vendor application is before the date of the notice of the civil money penalty or is less than six months after the date of the notice of the civil money penalty.

C. ~~A~~ This item applies only to vendor applicants that are not vendors on the date the commissioner receives the application.

(1) ~~The~~ the vendor applicant must not have as a controlling person someone who is, or has been, within the year immediately preceding the ~~application deadline under part 4617.0065, subpart 3~~ date the commissioner receives the vendor application, a controlling person of ~~a~~ another retail food store or pharmacy at any location in the United States which:

(~~1~~) (a) is disqualified from a food assistance program;

(~~2~~) (b) has not fully paid a civil money penalty assessed by a food assistance program; ~~or~~

(~~3~~) (c) was assessed a civil money penalty by a food assistance program in lieu of disqualification for a specific period of time, and there is any overlap between that period of time and the period of time between the date the commissioner received the vendor application ~~deadline~~ and the commissioner's execution of a vendor agreement with the vendor applicant; or

(d) within three years before the date the commissioner received the vendor application or at any time on or after the date the commissioner received the application, accepted a voucher when the retail store or pharmacy did not have a fully executed vendor agreement and the voucher was then paid by the WIC program's bank.

~~D. (2)~~ A vendor applicant must not have as a controlling person someone with a business-related violation which occurred within ten years before the date the commissioner receives the vendor application ~~deadline under part 4617.0065, subpart 3~~ or at any time on or after the date the commissioner receives the application.

~~E. D.~~ If at the time of on the date the commissioner receives the application the vendor applicant is ~~currently~~ authorized as a retail food vendor, then during the most recent 12 months for which voucher redemption information is available for the commissioner's review, the vendor must have redeemed WIC vouchers in an average monthly amount of:

(1) at least \$150 per month if the vendor is located in a Tier 1 county; or

(2) at least \$100 per month if the vendor is located in a Tier 2 county.

This item does not apply if: ~~(a) the applicant is the only vendor in a clinic town; or (b) under part 4617.0069, subpart 1, the commissioner determines that participant hardship exists in the particular area where the applicant is located.~~

4617.0068 OPERATING REQUIREMENTS.

Subpart 1. Acceptance of vouchers.

[For text of item A, see M.R.]

B. For each voucher accepted by a vendor, the vendor shall ensure that:

[For text of subitems (1) to (3), see M.R.]

(4) the price inserted on the voucher is not greater than any maximum price printed on the voucher;

(5) the WIC customer signs the voucher at the time the WIC customer uses the voucher to obtain food;

(~~5~~) (6) the cashier verifies that the signature of the individual who signs the voucher matches an authorized signature on the WIC authorization ID folder;

(~~6~~) (7) before deposit in the vendor's bank, the number on the vendor stamp has legibly been imprinted onto the voucher; and

(~~7~~) (8) the voucher does not contain any alteration of the maximum price, first-day-to-use date, last-day-to-use date, or food prescription.

[For text of subp 2, see M.R.]

Subp. 3. **Access to vouchers.** A vendor shall allow representatives of the Minnesota Department of Health and representatives of the United States Department of Agriculture access to vouchers that are present at the vendor's business site on the day of an on-site monitoring visit and access to any cash register or other area of the vendor's premises where vouchers may be located.

[For text of subps 4 to 6, see M.R.]

Subp. 7. **Annual Biannual training requirements.** A vendor shall ensure that:

A. a ~~management~~ representative of the vendor completes WIC-approved training on the WIC program at least once ~~per every~~ two calendar year years;

B. the ~~management~~ representative who completes this training conveys all information presented during the training to all cashiers of the vendor; and

C. the ~~management~~ representative who completes this training signs and submits to the commissioner, within 30 days after completing this training, a form provided by the commissioner to verify completion of this training.

Subp. 8. [See repealer.]

[For text of subps 9 and 10, see M.R.]

4617.0070 VENDOR STAMPS.

Subpart 1. **Issuance.** After a vendor agreement has been executed by the commissioner, the commissioner shall issue a vendor stamp to ~~the vendor, unless the vendor already has~~ each vendor included in the agreement that does not already have a valid vendor stamp. The number on ~~the each~~ stamp must be issued to ~~that only one vendor only~~. A vendor shall not possess more than one vendor stamp, shall not use a vendor stamp issued to another vendor, shall not duplicate a vendor stamp, and shall not use or allow the use of the vendor stamp on any voucher other than a voucher accepted at a check-out lane at the vendor's business site. The commissioner shall issue only one vendor stamp to each vendor, even if the vendor is authorized as both a retail food vendor and a pharmacy vendor.

Subp. 1a. **Returning vendor stamp.** If a vendor is disqualified under part ~~4617.0086~~ 4617.0084, the vendor must return the vendor stamp to the commissioner no later than the effective date of the disqualification. In addition to disqualification under part ~~4617.0086~~ 4617.0084, the vendor must return the vendor stamp to the commissioner within five business days after the earlier of: (i) the date that the vendor permanently closes the business; (ii) ~~the date that the business site changes;~~ (iii) a change of ownership of the vendor; or ~~(iv)~~ (iii) the expiration of the vendor's current vendor agreement if the vendor's application is disapproved, or if the vendor agreement ends and no subsequent agreement for that vendor is executed.

[For text of subp 2, see M.R.]

4617.0075 VENDOR AGREEMENTS.

A duly authorized agent of a retail food store or pharmacy which has been approved to be a vendor shall sign and date a vendor agreement. A separate vendor agreement must be signed for each vendor, except that all vendors with identical ownership in a region may elect to be included in one vendor agreement. A vendor agreement must contain:

A. the ~~name and address of the vendor~~ names and addresses of all vendors included in the vendor agreement;

B. the method by which the agreement must be terminated;

C. terms that are consistent with this chapter and *Code of Federal Regulations*, title 7, sections 246.12, paragraphs (f)(2) ~~and (e)(1)(iii), (k)(2)(i), (k)(2)(ii), and (r)(5)(iv),~~ and 278.1, paragraph ~~(n)(1) (o),~~ as amended;

D. a warning statement that a vendor's authorization to participate in the food stamp program can be withdrawn according to Code of Federal Regulations, title 7, section 278.1, paragraph (n)(1), as amended, if the vendor is disqualified from the WIC program ~~disqualification from the WIC program may result in disqualification as a retailer in the food stamp program and that such disqualification may not be subject to administrative or judicial review under the food stamp program;~~ and

E. an ending date that is not more than two years beyond the beginning date and that is the last day of a regional review period for the region in which the vendor is located.

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4617.0084 VENDOR SANCTIONS.

Subpart 1. Notice of violation. If a violation described in subpart 7, 8, 9, 12, or 13 does not result in disqualification or a civil money penalty, the commissioner shall mail or deliver to the vendor a notice of violation.

Subp. 2. Permanent disqualification. The commissioner shall permanently disqualify a vendor if any controlling person of the vendor is criminally convicted of either:

A. buying or selling one or more vouchers for cash; or

B. selling any firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), for one or more vouchers.

Subp. 3. Six-year disqualification. Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for six years if the vendor:

A. buys or sells one or more vouchers for cash; or

B. sells any firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), for one or more vouchers.

Subp. 4. Providing alcohol or tobacco. Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for three years if the vendor provides any alcohol, alcoholic beverage, or tobacco product in exchange for one or more vouchers.

Subp. 5. Redeeming vouchers in excess of inventory. Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for three years if, on two occasions within any two-year period, the vendor claims reimbursement for the sale of an amount of a specific supplemental food item during a month and the amount claimed exceeds the store's documented inventory of that supplemental food item by at least 15 units for the month. The two occasions can be established during a single review of inventory records.

Subp. 6. Laundering vouchers. Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for three years if, on two occasions within any two-year period, the vendor launders one or more vouchers.

Subp. 7. Providing credit or a nonfood item. If a vendor provides credit or a nonfood item, other than any alcohol, alcoholic beverage, tobacco product, cash, firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), then:

A. except as provided in subparts 15 and 16, the commissioner shall disqualify the vendor for three years if the vendor commits the violation twice within any two-year period and neither of the two violations involved providing a rain check;

B. except as provided in item A and subparts 15 and 16, the commissioner shall disqualify the vendor for three years if the vendor commits the violation three times within any two-year period and only one of the three violations involved providing a rain check; or

C. except as provided in items A and B and subparts 15 and 16, the commissioner shall disqualify the vendor for three years if the vendor commits this violation four times within any two-year period.

Subp. 8. Overcharging.

A. This subpart applies to violations under subitems (1) and (2). The violation described in subitem (1) is distinct from the violation described in subitem (2) and is accumulated separately to determine the number of violations:

(1) charging the WIC program more for WIC-allowed food than the vendor's usual and customary charge to non-WIC customers or charging the WIC program more than the vendor's current shelf price of the food; and

(2) charging the WIC program for WIC-allowed food not received by a WIC customer.

B. Except as provided in subparts 15 and 16, the commissioner shall disqualify the vendor for three years if the vendor commits a violation under item A twice within any two-year period and if:

(1) each violation involved an overcharge to the WIC program of \$2 or more; and

(2) each violation involved any of the following circumstances:

(a) no price was entered on the voucher at the time it was accepted by the vendor;

(b) the price on the voucher was at any time altered to reflect a price higher than the price originally entered on the voucher; or

(c) the price the WIC program paid the vendor for the voucher was more than 30 percent greater than the correct price for the voucher.

C. Except as provided in item B and subparts 15 and 16, the commissioner shall disqualify the vendor for three years if the vendor commits a violation under item A three times within any two-year period and if:

- (1) each violation involved an overcharge to the WIC program of \$2 or more; or
- (2) two of the violations meet the criteria in item B, subitems (1) and (2).

D. Except as provided in items B and C and subparts 15 and 16, the commissioner shall disqualify the vendor for three years if the vendor commits a violation under item A four times within any two-year period.

Subp. 9. Providing unauthorized food.

A. A vendor shall not provide unauthorized food.

B. Except as provided in subparts 15 and 16, the commissioner shall disqualify the vendor for one year if the vendor violates item A twice within any two-year period and both violations involved providing unauthorized food in exchange for any of the infant formula listed on the voucher.

C. Except as provided in item B and subparts 15 and 16, the commissioner shall disqualify the vendor for one year if the vendor violates item A three times within any two-year period and if:

- (1) two of the violations involved providing unauthorized food in exchange for any of the infant formula listed on the voucher; or
- (2) all three of the violations involved providing unauthorized food in exchange for any of the juice specified on the voucher and the unauthorized food provided did not include any beverage that is 100 percent juice.

D. Except as provided in items B and C and subparts 15 and 16, the commissioner shall disqualify the vendor for one year if the vendor violates item A four times within any two-year period.

Subp. 10. Food stamp sanctions.

A. If a vendor is disqualified from the food stamp program, the commissioner shall disqualify the vendor from the WIC program for an equal amount of time, except as provided in subpart 15.

B. If the food stamp program assesses a vendor a civil money penalty for hardship instead of disqualifying the vendor from the food stamp program, the commissioner shall disqualify the vendor from the WIC program for the amount of time the vendor would have been disqualified from the food stamp program absent the hardship determination, except as provided in subpart 15.

Subp. 11. One-year disqualification for one violation. Except as provided in subpart 15, the commissioner shall disqualify the vendor for one year if:

- A. the vendor provides false or misleading material information on any document submitted to the commissioner;
- B. a controlling person of the vendor commits a business-related violation, unless the business-related violation results in permanent disqualification under subpart 1;
- C. the vendor fails to provide as required, by the deadline and in the manner specified by the commissioner, documentation requested by the commissioner under part 4617.0068, subpart 4 or 5;
- D. the real estate where the vendor's business is located is not owned or leased by one or more controlling persons of the vendor; or
- E. during an on-site inspection, the vendor fails to allow the commissioner access to any voucher located on the vendor's premises or to any cash register or other area of the vendor's premises where vouchers may be located.

Subp. 12. Six-month disqualification for two violations.

A. This subpart applies to the violations described in subitems (1) to (5). Violations described in each subitem are accumulated separately to determine the number of violations:

- (1) duplicating a vendor stamp or using a counterfeit vendor stamp;
- (2) violating the nondiscrimination clause of the vendor agreement, as specified in *Code of Federal Regulations*, title 7, section 246.12, paragraph (f)(2)(xv), as amended, or failing to offer a WIC customer the same courtesies offered to other customers;

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(3) altering the maximum price, first-day-to-use date, last-day-to-use date, or food prescription on a voucher or signing a voucher that the vendor has accepted without a signature;

(4) offering an incentive for a WIC customer to redeem a voucher at the vendor's business site or advertising that the vendor would provide such an incentive; and

(5) allowing a WIC customer to return or exchange any infant formula bought with a voucher, unless the customer is exchanging spoiled or damaged infant formula for the identical size, type, brand, and level of iron fortification.

B. Except as provided in subpart 15, the commissioner shall disqualify the vendor for six months if the vendor commits a violation under item A twice within any two-year period.

Subp. 13. Three-month disqualification for three violations.

A. This subpart applies to the violations described in subitems (1) to (6). Violations described in each subitem are accumulated separately to determine the number of violations:

(1) requiring a WIC customer to provide information or identification other than the WIC ID folder;

(2) requesting any reimbursement or payment from a WIC customer for a WIC voucher returned by the bank;

(3) failing to enter a dollar amount on a voucher at the time the vendor accepts the voucher from a WIC customer;

(4) except as provided in subpart 12, item A, subitem (5), allowing a customer to return or exchange any food bought with a voucher, unless the customer is exchanging a spoiled or damaged item for the identical size and type of food;

(5) accepting a voucher on which the maximum price, last-day-to-use date, first-day-to-use date, or food prescription has been altered; and

(6) failing to verify that the signature of the individual who signs the voucher matches an authorized signature on the WIC ID folder.

B. Except as provided in subpart 15, the commissioner shall disqualify the vendor for three months if the vendor commits a violation under item A three times within any two-year period.

Subp. 14. Two-month disqualification.

A. This subpart applies to the following violations:

(1) the vendor is a retail food vendor and any of the vendor's licenses required under part 4617.0067, subpart 2, item B, is suspended or revoked;

(2) the vendor is a pharmacy vendor and the vendor's Minnesota Board of Pharmacy registration is suspended or revoked;

(3) the vendor fails to ensure that a representative of the vendor receives WIC-approved training at least once every two calendar years;

(4) a controlling person of the vendor or a spouse, child, or parent of a controlling person of the vendor:

(a) is employed by the Minnesota Department of Health in connection with the WIC program; or

(b) is employed by or has a direct or indirect financial interest in the local agency in whose jurisdiction the vendor is located;

(5) the vendor is a retail food vendor and the vendor's total price for the required minimum amount of authorized foods listed in part 4617.0067, subpart 3, exceeds 120 percent of the average price charged by retail food vendors;

(6) with respect to two or more food items, the vendor fails to ensure that the price charged for each WIC-allowed food stocked by the vendor is displayed for easy viewing or marked on the food; or

(7) the vendor is a retail food vendor that fails to maintain the required minimum stock under part 4617.0067, subpart 3, with respect to two or more types of food.

B. If a vendor commits a violation under item A, the commissioner shall issue a written warning to the vendor. The vendor must correct the violation within 15 days after the vendor receives this warning. If the vendor fails to correct the violation, the commissioner shall disqualify the vendor for two months except as provided in subpart 15.

Subp. 15. Inadequate participant access.

A. Before disqualifying a vendor under any subpart except subpart 2, the commissioner shall determine whether disqualification of the vendor would result in inadequate participant access, unless under subpart 16, item C, the vendor is not eligible for a civil money penalty instead of disqualification.

B. Disqualification of a vendor located in a Tier 1 county would result in inadequate participant access if the vendor is the only vendor in a clinic town or if:

(1) during the most recent 12 months for which voucher redemption information is available for the commissioner's review, the vendor redeemed WIC vouchers in an average monthly amount of at least \$150; and

(2) as of the date of the notice of disqualification or civil money penalty:

(a) the next closest retail food vendor is more than one mile by public road from the vendor, not including roads on which pedestrians are prohibited; and

(b) there is no bus stop or other public transportation within one-half mile by public road from the vendor, not including roads on which pedestrians are prohibited.

C. Disqualification of a vendor located in a Tier 2 county would result in inadequate participant access if the vendor is the only vendor in a clinic town or if:

(1) during the most recent 12 months for which voucher redemption information is available for the commissioner's review, the vendor redeemed WIC vouchers in an average monthly amount of at least \$100; and

(2) as of the date of the notice of disqualification or civil money penalty, the next closest retail food vendor is more than five miles by public road from the vendor, including roads on which pedestrians are prohibited.

D. If the commissioner determines under this part that disqualification of the vendor would result in inadequate participant access, then instead of disqualifying the vendor, the commissioner shall, except as provided in item F and in subpart 16, item C, impose on the vendor one or more civil money penalties.

(1) If during the course of a single investigation the commissioner determines that the vendor committed multiple violations, the commissioner shall impose a civil money penalty for each violation that would constitute grounds for disqualification in the absence of inadequate participant access.

(2) For each violation described in subparts 3 to 9 and subpart 10, item A, the civil money penalty is calculated as follows:

(a) determine the vendor's average monthly WIC redemptions for the six months immediately before the month that the notice of civil money penalty is dated;

(b) multiply the monthly average from unit (a) by ten percent; and

(c) multiply the product from unit (b) by the number of months the store would have been disqualified for the violation. The product is the civil money penalty for the violation except as provided in subpart 16 and except that, if this product exceeds \$10,000, the civil money penalty for the violation shall be reduced to \$10,000.

(3) For each violation described in subparts 11 to 14, the civil money penalty is \$700.

(4) The total amount of all civil money penalties imposed for violations investigated as part of a single investigation shall not exceed \$40,000.

E. A civil money penalty assessed under this part must be paid in full no later than 30 days after the date of the notice of assessment. If the vendor does not pay, only partially pays, or fails to timely pay a civil money penalty assessed under this part, the commissioner shall disqualify the vendor for the length of time that the vendor would have been disqualified if there had been no determination of inadequate participant access.

F. If disqualification of a vendor under subpart 10, item B, would result in inadequate participant access, then the commissioner shall not disqualify the vendor under subpart 10, item B, or impose a civil money penalty in lieu of disqualification under subpart 10, item B.

Subp. 16. Second and subsequent sanctions.

A. For the purpose of this subpart, "federally mandated sanction" means any disqualification or civil money penalty assessed based on this subpart or the violations described in subparts 3 to 9.

B. If a vendor that has on one occasion received a federally mandated sanction subsequently engages in conduct warranting a second federally mandated sanction, the second federally mandated sanction shall be doubled, except that:

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(1) a civil money penalty for one violation shall not exceed \$10,000; and

(2) the total of all civil money penalties imposed for violations investigated as part of a single investigation shall not exceed \$40,000.

C. If a vendor that has on two or more occasions received a federally mandated sanction subsequently engages in conduct warranting a third or subsequent federally mandated sanction:

(1) the vendor shall be disqualified and shall not be eligible for a civil money penalty instead of disqualification; and

(2) the third and each subsequent sanction shall be doubled.

Subp. 17. Multiple violations.

A. If, during a single investigation, a vendor commits multiple violations that warrant disqualification, then:

(1) the commissioner shall include all of the violations in the notice of disqualification;

(2) the commissioner shall disqualify the vendor for the period corresponding to the most serious violation, except as provided in subpart 15; and

(3) if disqualification under subparts 2 to 9 or subpart 10, item A, is not upheld on appeal and the vendor has also committed one or more violations warranting disqualification under subpart 10, item B, or subparts 11 to 14, the commissioner shall disqualify the vendor for the period corresponding to the most serious violation described in subpart 10, item B, or subparts 11 to 14, except as provided in subpart 15.

B. For the purpose of this subpart, a violation warranting disqualification that is described in subparts 2 to 9 or subpart 10, item A, shall be considered more serious than any violation warranting disqualification that is described in subpart 10, item B, or in subparts 11 to 14.

Subp. 18. General provisions.

A. A vendor commits a violation described in subparts 3 to 9; 11 to 13; or 14, item A, subitem (3), (5), (6), or (7), if any controlling person, employee, or agent of the vendor committed the described conduct.

B. The commissioner shall notify a vendor in writing of the vendor's disqualification. If a disqualification is based on subpart 2, the disqualification shall be effective on the date the vendor receives the written notice of disqualification. If a disqualification is based on any subpart other than subpart 2, the disqualification shall be effective 30 days after the date the written notice of disqualification is mailed.

C. After expiration of the disqualification period, a disqualified vendor may apply for WIC vendor authorization.

D. A vendor may not terminate the vendor's WIC vendor agreement or otherwise withdraw from the WIC program instead of disqualification. The expiration or termination of the vendor agreement or the rendering of the vendor agreement null and void under part 4617.0066 shall not affect the commissioner's duty to disqualify the vendor and shall not affect the vendor's right to appeal the disqualification under part 4617.0100.

E. If a violation involves a vendor's acceptance of a voucher, the violation occurs on the date the vendor accepts the voucher.

4617.0100 APPEALS BY VENDORS AND LOCAL AGENCIES.

Subpart 1. Procedures.

A. A local agency or vendor against whom the commissioner takes adverse action that affects participation in the WIC program may appeal the action, except that the following actions by the commissioner are not subject to appeal:

(1) a notice of violation under part 4617.0086, subpart 2, item B, subitem (1), or 4617.0086, subpart 2, item C, subitem (1); 4617.0084 is not subject to appeal unless the violation results in the vendor's disqualification, a civil money penalty imposed on the vendor, or denial of the vendor's application for reauthorization as a vendor in the WIC program; application;

(2) disqualification under part 4617.0084, subpart 10, item A; or

(3) the commissioner's determination of whether disqualification would result in inadequate participant access under part 4617.0084, subpart 15.

B. An appeal must be in writing and be received by the commissioner not more than 30 days after notice of adverse action was mailed. The commissioner shall provide an appellant not less than ten days' advance written notice of the time and place of a hearing. The appellant must be given one opportunity to request that a hearing date be rescheduled. An appeal by a local agency or vendor must be decided in accordance with the requirements of according to this part; parts 1400.5100 to 1400.8401; Minnesota Statutes, sections 14.57 to 14.62; Minnesota Rules, parts 1400.5100 to 1400.8401; and Code of Federal Regulations, title 7, section 246.18, as amended; and this part. Expiration of a contract or agreement with a local agency or vendor is not subject to appeal.

[For text of subs 2 and 3, see M.R.]

4617.0121 TRANSITION PERIOD.

Subpart 1. Existing agreements. If a retail food store or pharmacy is an authorized vendor on the effective date of this part and if the ending date of the vendor's most recent vendor agreement is more than 15 days after the effective date of this part, the vendor must execute a new vendor agreement no later than 30 days after the commissioner mails or delivers the new vendor agreement to the vendor. The new vendor agreement shall reflect the requirements in effect on the effective date of this part.

Subp. 2. Applications. If the commissioner has received but has neither approved nor denied a vendor application before the effective date of this part, the commissioner shall approve the application if the applicant complies with all requirements in effect before the effective date of this part. If the commissioner approves this application, the resulting vendor agreement shall reflect the requirements in effect on the effective date of this part.

4617.0176 APPROVAL PROCESS FOR WIC FOODS OTHER THAN INFANT FORMULA.

Subpart 1. Approval process. The commissioner shall approve for purchase using WIC vouchers:

- A. food items within each food product in part 4617.0067, subpart 3, item A, subitems ~~(3)~~ (2) to ~~(14)~~ (13); and

[For text of item B, see M.R.]

Subp. 2. Approval criteria. At least once every three years, the commissioner shall determine which food items within each food product to approve for purchase using WIC vouchers.

- A. For food products in part 4617.0067, subpart 3, item A, subitems ~~(3)~~ (2) to ~~(12)~~ (11), the commissioner's determination must be based on the following factors:

[For text of subitems (1) to (4), see M.R.]

- B. For food products in part 4617.0067, subpart 3, item A, subitems ~~(13)~~ (12) and ~~(14)~~ (13), the commissioner's determination must be based on the factors in item A, subitems (1) to (4), and the following factors:

[For text of subitems (1) to (3), see M.R.]

[For text of subs 3 to 5, see M.R.]

REPEALER. Minnesota Rules, parts 4617.0002, subparts 21a, 28c, and 44c; 4617.0059; 4617.0068, subpart 8; 4617.0069; 4617.0086; and 4617.0120, are repealed.

Department of Public Safety

Driver and Vehicle Services Division

Proposed Permanent Rules Relating to Identification Documents

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a hearing, and Notice of Hearing if 25 or More Requests for a Hearing are Received

Proposed Permanent Rules Relating to Identification Documents, *Minnesota Rules*, Parts 7410.0400, 7410.0425, 7410.0450 and 7410.0500

Introduction. The Minnesota Department of Public Safety, Driver and Vehicle Services Division intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, sections 14.22 to 14.28 and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on May 23, 2000, a public hearing will be held in Room 300 South of the State Office Building, 100 Constitution Avenue, St. Paul, Minnesota, starting at 9 a.m. on June 13, 2000. To find out if the rules will be adopted without a hearing or if the hearing will be held, contact the agency contact person after May 23, 2000 and before June 13, 2000.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

Agency Contact Person. Comment or questions on the proposed rules and written requests for a public hearing on the proposed rules must be submitted to the agency contact person. The agency contact person is: Jane A. Nelson, Minnesota Department of Public Safety, Driver and Vehicle Services Division, 445 Minnesota Street, Suite 196, St. Paul, Minnesota 55101-5196. Phone: (651) 296-2608. FAX: (651) 296-3141. TTY users may call the Department of Public Safety at (651) 282-6555.

Subject of Rules and Statutory Authority. The proposed rules amend existing rules governing identity documents that must be presented when applying for a Minnesota driver's license, instruction permit, or Minnesota identification card. The proposed amendments extend the use of an expired Minnesota-issued driver's license, instruction permit or state identification card, with a color image, as an identity document for application, for up to five years. An amendment clarifies that the temporary seven-day driver's license issued by law enforcement to a Minnesota driver only, may be presented. Because of technology changes, applicants for a duplicate or alternate state document who already have an image and record on file with the department, will not have to present additional identity documents if the image and signature can be verified at the application site.

An amendment eliminates the I-94 form without a valid passport as an identity document. As a secondary identity document, a driver education program form is proposed for deletion and school records are limited to certified transcripts. The list of reliable translators is expanded to recognize state-approved vendors. Procedures to address the presentation of suspected fraudulent documents are amended and the Certificate of Naturalization is proposed for deletion as a name change document.

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. A free copy of the rules is available on request from the agency contact person listed above.

Statutory authority for the proposed amendments is found in *Minnesota Statutes*, section 14.06, 168A.24, 171.02, 171.06, 171.061, 171.07, and 171.10.

Comment. You have until 4:30 p.m. on May 23, 2000 to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comment you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for Hearing. In addition to submitting comment, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on May 23, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comment on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. On request, this notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make the hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than the proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for June 13, 2000 will be cancelled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 296-2608 after May 23, 2000 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative law judge Beverly Jones Heydinger is assigned to conduct the hearing. Judge Heydinger can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7606, and FAX (612) 349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in

writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. Following the comment period, there is a five-working day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the administrative law judge.

The agency requests that any person submitting written views or data to the administrative law judge prior to the hearing or during the comment or response period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions about this requirement may be directed to the Campaign Finance and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota, 55155, telephone (651) 296-5146 or 1-800-657-3889.

Adoption Procedure If No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rules. You may ask to be notified of the date when the administrative law judge's report will become available, and can make this request at the hearing or in writing to the administrative law judge. You may also ask to be notified of the date on which the agency adopts the rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: 5 April 2000

Charles R. Weaver, Jr. Commissioner
Minnesota Department of Public Safety

7410.0400 ~~DOCUMENTING~~ DOCUMENTATION OF PROOF OF FULL NAME, DATE OF BIRTH, AND IDENTITY.

Subpart 1. **In general.** At the time of application for a driver's license, permit, identification card, or vehicle certificate of title or registration by an owner who is an individual, the applicant shall present a Minnesota driver's license, permit, or Minnesota identification card if one of these has been issued to the applicant.

A. The Minnesota driver's license, identification card, or permit must not have expired more than ~~one year~~:

(1) five years before it is presented if it has a color photograph or electronically produced or digitized image of the applicant; or

(2) one year before it is presented if it does not have a color photograph or electronically produced or digitized image of the applicant. A temporary seven-day driver's license issued to a Minnesota-licensed driver only by the state of Minnesota under *Minnesota Statutes*, section 169.123, subdivision 5a, paragraph (c), clause (2), may be presented if it is not expired more than one year.

[For text of item B, see M.R.]

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C. ~~The applicant must present one primary document~~ As proof of full name, date of birth, and identity, the applicant must present one primary document and one secondary document if the applicant cannot present:

(1) a Minnesota driver's license, identification card, or permit that is current or has been expired for one year or less five years or less with a color photograph or electronically produced or digitized image; ~~or~~

(2) a Minnesota driver's license, identification card, or permit that is current or has been expired for one year or less without a color photograph or electronically produced or digitized image; ~~or~~

(3) a driver's license, identification card, or permit issued by a United States state, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or a Canadian province or territory that:

(a) is current or not expired for more than one year; and

(b) has a color photograph or electronically produced or digitized image of the applicant.

[For text of item D, see M.R.]

[For text of subps 1a and 1b, see M.R.]

Subp. 2. **Primary documents.** If the applicant for a driver's license, permit, or identification card, or an individual who is applying as the owner for a vehicle title or registration, cannot present a Minnesota driver's license, identification card, or permit ~~that is current or expired for one year or less at the time of application, or a driver's license, identification card, or permit issued by a United States state, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or a Canadian province or territory that is current or not expired for more than one year and has a color photograph or electronically produced or digitized image of the applicant, as described in subpart 1, item C,~~ then the applicant must present one legible, unaltered, primary document that contains the applicant's full name and date of birth as proof of name, date of birth, and identity, which are described as follows:

A. A driver's license, identification card, or permit issued by a United States state, other than Minnesota, or by the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or a Canadian province or territory that is current or not expired for more than one year but not for more than five years, with a color photograph or electronically produced or digitized image of the applicant, may be presented.

[For text of items B to F, see M.R.]

G. An applicant or owner may present one of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service or any subsequent form or version of the documents specified in this item:

(1) Certificate of Naturalization (Form N-550, N-570, N-578);

(2) Certificate of Citizenship (Form N-560, N-561, N-645);

(3) United States Citizen Identification card (Form I-179 or I-197);

(4) Permanent Resident or Resident Alien card (Form I-551 or I-151) that is valid;

(5) Northern Mariana card (Form ~~I-551~~ I-873 with "Northern Mariana" imprinted instead of "Resident Alien");

(6) American Indian card (Form ~~I-551~~ I-872 with "American Indian" imprinted instead of "Resident Alien");

(7) ~~unexpired record of Arrival and Departure Form I-94 without a valid passport but stamped "Refugee" with a photo affixed;~~

~~(8)~~ employment authorization document with a photograph (Form I-688, I-688A, I-688B, or I-766) that has not expired; or

~~(9)~~ (8) unexpired Re-entry Permit/Refugee Travel Document (I-571).

Subp. 3. **Secondary documents.** If an applicant for a driver's license, permit, or identification card cannot present a Minnesota driver's license, identification card, or permit ~~that is current or expired for one year or less, or a driver's license, identification card, or permit issued by a United States state, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or a Canadian province or territory that is current or not expired for more than one year and has a color photograph or electronically produced or digitized image of the applicant, as described in subpart 1, item C,~~ then, in addition to presenting a primary document, the applicant must also present a secondary document, described as follows:

A. a second primary document listed in subpart 2;

B. a driver's license, identification card, or permit, without a photograph or digitized image, issued by a United States state other than Minnesota, or by the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or a Canadian province or territory, that has expired ~~for more than one year but~~ not more than five years, or that is current ~~but without a photograph;~~

[For text of items C to I, see M.R.]

J. a copy of ~~records or~~ a transcript containing the applicant's full name and date of birth certified by the issuing secondary or postsecondary school;

K. ~~the certificate of completion containing the applicant's full name, date of birth, and signature issued by a driver education program licensed or certified by the Minnesota Department of Public Safety under chapter 7411;~~

L. a United States nonmetal social security card or a Canadian social insurance card; or

~~M. L.~~ a current secondary school student identification card with the student's name, a photograph or electronically produced image of the student, and the student's date of birth or unique student identification number.

[For text of subp 4, see M.R.]

Subp. 5. **Non-English documents; translation.** For all documents submitted to the department in a language other than English:

[For text of items A to C, see M.R.]

D. The translator must be either:

- (1) ~~certified~~ accredited by the American Translators Association;
- (2) recognized by the Minnesota Translation Laboratory;
- (3) certified by a court of competent jurisdiction;
- (4) approved by an embassy or consulate of the United States or diplomatic or consular official of a foreign country assigned or accredited to the United States;
- (5) affiliated with or approved by the United States Department of Justice, Immigration and Naturalization Service, or a government jurisdiction within the United States; ~~or~~
- (6) an attorney licensed to practice in the United States or affiliated with that attorney; or
- (7) a vendor listed to provide translation service for the state of Minnesota.

7410.0425 ADDITIONAL DOCUMENTATION.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Notice of refusal.** ~~This subpart applies if: an application is not accepted because suspected fraudulent documents were presented at the application site; or an application is accepted at the application site but, upon subsequent review of the documents presented, the department refuses to issue a driver's license, identification card, or permit.~~

~~A. If an application is not accepted because of suspected fraudulent documents, the applicant must be given a written notice when the application is refused at the application site indicating that the applicant is entitled to an administrative review by the department's office of driver evaluation and a judicial review under *Minnesota Statutes*, section 171.19. The notice must indicate:~~

- ~~(1) the location and telephone number of the St. Paul driver evaluation office; and~~
- ~~(2) what documents are acceptable for identification and application purposes.~~

~~B. A.~~ If an application is accepted at an application site and the documents presented are viewed, but fraudulent documents are suspected, the application and a copy of the documents presented must be transmitted to the department's driver and vehicle services division for review and verification with the issuing authority.

(1) If verification of the presented documents is confirmed, the department shall issue the driver's license, identification card, or permit.

(2) If verification of the presented documents is not confirmed by the department within 45 days of the application date, a written notice of refusal must be sent to the applicant to the address on the application form, indicating the department is not able to approve the application.

(3) The applicant must be advised on the notice to contact the St. Paul driver evaluation office within 180 days of the date of the notice for an administrative review of the documents presented and of the applicant's right to a judicial review under *Minnesota Statutes*, section 171.19.

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(4) If the applicant does not contact the driver evaluation office within 180 days of the date on the notice, the application must be placed in suspense. The application may remain in suspense for up to five years if the department is not contacted by the applicant, after which the application must be destroyed.

~~E. B.~~ The applicant may appear at the department's driver evaluation office in St. Paul for an administrative review, or may call the St. Paul driver evaluation office at the telephone number indicated on the notice to schedule an administrative review, at an alternate driver evaluation site.

(1) The commissioner may seek additional written information from the applicant requesting the administrative review or from an agency or person believed to have information relating to the facts underlying the matter.

(2) The applicant may present additional information to the department at the time of the administrative review.

~~D. C.~~ If the department is able to verify the authenticity of presented documents and the applicant's identity as a result of the administrative review, the department shall notify the applicant within 15 days after completion of the administrative review that the application has been approved.

~~E. D.~~ If the administrative review causes the department to refuse to issue the driver's license, identification card, or permit, the applicant must be notified in writing of the refusal within 15 days after completion of the administrative review. The notice shall provide the reasons for the refusal.

[For text of subps 5 and 6, see M.R.]

7410.0450 RECORD AND IMAGE ON FILE; DUPLICATES, IDENTIFICATION CARD.

A. If a Minnesota driver's license, identification card, or permit is lost, stolen, destroyed, illegible, or mutilated beyond recognition during the period of validation, the applicant for a duplicate must:

~~A. (1)~~ attest to that fact in writing on the back of the application form; and

~~B. (2)~~ present documentation of full name, date of birth, and identity as required in part 7410.0400 unless an individual's digital image and signature ~~from the previous application~~ is on file with the department and the technology is available to retrieve that information at the application site.

B. If the applicant indicates there is no change in the information on file with the department, including name, date of birth, and mailing and residential address, and the applicant attests to that fact by signing the application form:

(1) another image of the applicant will not be taken; and

(2) presentation of the identity documents specified in part 7410.0400 is not required.

C. If an applicant for an identification card has a driver's license record on file with the department but the license has been suspended, revoked, or canceled within the past five years:

(1) an image of the applicant applying for the Minnesota identification card will not be taken; and

(2) presentation of the identity documents as specified in part 7410.0400 is not required.

7410.0500 CHANGE OF NAME.

[For text of subpart 1, see M.R.]

Subp. 2. **Specific documentation.** If the applicant is required by *Minnesota Statutes*, section 171.11, or desires to change the last name, add an additional middle name or last name, or change any name:

[For text of items A and B, see M.R.]

C. To verify the name change, the applicant must then present one of the following documents:

(1) a copy of the applicant's certificate of marriage certified by the issuing government jurisdiction;

(2) a certified copy of a court order specifying the name change; or

(3) a certified copy of a divorce decree or dissolution of marriage granted the applicant that specifies the name changes requested; ~~or from a court of competent jurisdiction.~~

~~(4) a certified copy of a United States Department of Justice, Immigration and Naturalization Service, Certificate of Naturalization (Form N-550, N-570) issued to the applicant.~~

[For text of subps 3 and 4, see M.R.]

Department of Transportation**Office of Transit****Proposed Permanent Rules Relating to Public Transit****NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING****Proposed Amendment to Rules Governing the Public Transit Participation Program for Greater Minnesota, *Minnesota Rules*, chapter 8835**

Introduction. The Department of Transportation intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Maryanne Hruby at Office of Transit, Department of Transportation, Mail Stop 430, 395 John Ireland Blvd., St. Paul, Minnesota 55155; (651) 296-0372, FAX: (651) 297-7252; and e-mail: maryanne.hruby@dot.state.mn.us. TTY users may call the Department of Transportation at (651) 296-9930.

Subject of Rules and Statutory Authority. The proposed rules administer the Public Transit Participation Program for Greater Minnesota. The statutory authority to adopt the rules is *Minnesota Statutes*, section 174.23, subdivisions 2 and 7. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, May 24, 2000, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on May 24, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available at <http://www.dot.state.mn.us/trim/transit/rules/snr.htm> or from the agency contact person listed above. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained upon request from the agency.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You

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may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 10 April 2000

El Tinklenberg, Commissioner
Department of Transportation

8835.0110 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **Applicant.** “Applicant” means an entity that is eligible under *Minnesota Statutes*, section 174.24, subdivision 2, for financial assistance for a new or existing public transit system.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

[For text of subps 6 and 7, see M.R.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 10. **Financial assistance.** “Financial assistance” means state funds paid to ~~an eligible~~ a recipient in accordance with the public transit ~~subsidy participation~~ program established under *Minnesota Statutes*, section 174.24.

Subp. 11. [See repealer.]

Subp. 11a. **Greater Minnesota.** “Greater Minnesota” has the meaning given in *Minnesota Statutes*, section 116O.02, subdivision 5.

Subp. 12. [See repealer.]

Subp. 12a. **Local share.** “Local share” means the percentage of total operating costs paid by a recipient according to the distribution classifications in *Minnesota Statutes*, section 174.24, subdivision 3b, and the percentage of capital costs paid by a recipient according to part 8835.0320.

Subp. 12b. **Local source.** “Local source” has the meaning given it in *Minnesota Statutes*, section 174.24, subdivision 3b.

Subp. 13. [See repealer.]

Subp. 13a. **Management plan.** “Management plan” means a description of all the elements of a proposed public transit system, as required by part 8835.0720.

Subp. 14. [See repealer.]

Subp. 14a. **Passenger trip.** “Passenger trip” means a one-way movement of a person between two points. Each time a passenger boards a transit vehicle counts as one passenger trip.

[For text of subp 15, see M.R.]

Subp. 15a. **Public transit participation program.** “Public transit participation program” means the department’s program for providing financial assistance for public transit services in greater Minnesota under *Minnesota Statutes*, section 174.24.

[For text of subps 16 to 18, see M.R.]

Subp. 19. **Total operating cost.** “Total operating cost” means the ~~cost allowability provisions of parts 8835.0810 to 8835.0870 and 8835.1500, as well as the fee allowability provisions of part 8835.1600~~ categories of allowable expenses provided in parts ~~8835.0820 to 8835.0870.~~

8835.0210 STATUTORY AUTHORITY.

This chapter is adopted pursuant to *Minnesota Statutes*, ~~sections~~ section 174.23, subdivisions 2 and 7; ~~174.24, subdivision 3, and 174.245, subdivision 2.~~

8835.0220 PURPOSE.

The purpose of this chapter is to establish the procedures and standards for review and approval of applications for ~~transit~~ financial assistance; ~~under the public transit participation program in Minnesota Statutes, section 174.24, and~~ to define “total operating cost” as the term is used in carrying out the public transit ~~assistance participation program, to establish uniform performance standards for private operators of regular route transit systems in the Twin Cities metropolitan area transit taxing district, and to establish the procedures and standards for review and approval of applications for capital grant assistance.~~

8835.0230 SCOPE.

This chapter applies to applicants for financial assistance under the public transit ~~subsidy participation~~ program established by *Minnesota Statutes*, section 174.24; ~~and the public transit capital grant assistance program established by Minnesota Statutes, section 174.245.~~

8835.0240 ADMINISTRATION OF PUBLIC TRANSIT PARTICIPATION PROGRAM.

The Office of Transit shall administer the public transit participation program as provided by *Minnesota Statutes*, section 174.23, subdivision 8. The Office of Transit shall allocate:

A. ~~operating assistance to public transit systems according to the distribution classifications in Minnesota Statutes, section 174.24, subdivision 3b; and~~

B. ~~nonoperating or capital assistance to public transit systems according to the discretion provided to the commissioner by Minnesota Statutes, section 174.24, subdivision 3c, and according to part 8835.0320.~~

The Office of Transit shall make payments of financial assistance by a contract between the department and a recipient as required by *Minnesota Statutes*, section 174.24, subdivision 3.

8835.0265 THIRD PARTY CONTRACT FOR OPERATING SERVICES.

~~A recipient shall include a copy of the third party contract procurement policy of its governing body in the management plan required in part 8835.0720. A third party contract for operating services must contain all relevant terms contained in the financial assistance contract between the recipient and the department. The recipient is responsible for third party contractor compliance with local, state, and federal laws, rules, and regulations. A third party contract must be available for audit according to part 8835.1900, subpart 3. Before a recipient awards a third party contract for operating services, the department shall review the third party contract for compliance with the terms of the financial assistance contract between the department and the recipient.~~

8835.0270 FINANCIAL ASSISTANCE.

Subpart 1. **Allocation priorities.** The department shall allocate financial assistance to recipients for purposes of the public transit participation program according to the following order of priority:

A. ~~first priority: operating costs for existing public transit systems;~~

B. ~~second priority: capital costs for existing public transit systems; and~~

C. ~~third priority: operating and capital costs for the provision of public transit services in a community or area not currently served by public transit.~~

Subp. 2. **Determination of financial assistance.** To determine financial assistance, the department shall review an applicant’s ~~management plan and evaluate the proposed public transit system by considering:~~

A. ~~the degree to which the proposed system meets the objectives of the public transit participation program;~~

B. ~~the accessibility of the proposed system to the general public, including persons with disabilities;~~

C. ~~the amount of local government and community support for the proposed system;~~

D. ~~the plan for continuation of the proposed system after the first year; and~~

E. ~~the plan for coordination of transit services in the geographical area.~~

~~The department shall evaluate the budget, service delivery and design, and administration of a public transit system. The department shall compare the past performance of a transit system to its current performance and to the performance of other similar~~

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transit systems. To measure the performance of a public transit system, the department shall consider cost efficiency, cost effectiveness, service effectiveness, and quality.

Subp. 3. Approval of management plan. The department shall approve a management plan for incorporation into a financial assistance contract after determining the reasonable costs of the proposed public transit system.

8835.0320 CAPITAL ASSISTANCE.

Subpart 1. Budget. An applicant seeking financial assistance for capital costs shall include in its budget a description of the vehicle, facility, or equipment desired, its cost and the reason for the request.

Subp. 2. Criteria. The department shall use the following criteria to evaluate requests for capital assistance:

- A. the extent to which the request maintains public transit services, promotes safety, and promotes efficient operations;
- B. the extent to which accessibility is enhanced; and
- C. the availability of local share money.

Subp. 3. Allocation formula. The department shall determine the amount of capital assistance for the public transit participation program according to the discretion provided to the commissioner in *Minnesota Statutes*, section 174.24, subdivision 3c. Except as provided in subparts 4 and 5, the department shall fund 80 percent of the capital costs approved by the department under the public transit participation program. The recipient shall provide the remaining 20 percent of the approved capital costs from local sources.

Subp. 4. Program deviation from allocation formula. Under the discretion provided to the commissioner in *Minnesota Statutes*, section 174.24, subdivision 3c, the department may establish a capital assistance allocation formula that deviates from the formula established in subpart 3. In setting this formula, the department must consider all relevant conditions relating to funding the annual public transit participation program and must announce the formula to recipients by July 1 for the following calendar year.

Subp. 5. Individual exception to allocation formula. The department may deviate from the capital assistance allocation formula for an exceptional circumstance. A recipient that seeks capital assistance from the public transit participation program in an amount greater than the allocation formula, established under subpart 3 or 4, must make a written request to the department that includes:

- A. a detailed description of the exceptional circumstance that is the basis of the written request;
- B. a revised five-year capital plan for the public transit system that addresses the exceptional circumstance that is the basis of the written request; and
- C. a resolution from the governing body certifying that the request is due to an exceptional circumstance.

The department shall consider a request for an individual exception to the allocation formula after assessing the nature of the exceptional circumstance, balancing the request against other requests from recipients for capital assistance, and considering the assurance provided by the governing body that the circumstance that gave rise to the request is exceptional.

Subp. 6. Vehicle replacement or disposition. The department shall determine financial assistance to a public transit system to replace, refurbish, or dispose of a vehicle based on the condition of the vehicle and the availability of funds.

Subp. 7. Contract. The financial assistance contract between the department and the recipient must specify the maximum amount of capital assistance to be allocated to the recipient and the terms and conditions of assistance. The department shall determine the actual amount of capital assistance based on the availability of funds.

8835.0710 APPLICATION FOR FINANCIAL ASSISTANCE THROUGH PUBLIC TRANSIT PARTICIPATION PROGRAM.

Subpart 1. Who may apply. An applicant may apply for financial assistance under the public transit participation program to provide public transit in greater Minnesota.

Subp. 2. Public transit. Public transit includes a single service or a combination of services, such as route deviations, fixed route, flexible fixed route, demand-response/dial-a-ride, rideshare, subscription, volunteer driver services, and other services that meet the needs of individual transit systems to the extent they are consistent with *Minnesota Statutes*, section 174.21. A public transit system must be available and accessible to the general public.

Subp. 3. Submission; deadline. An applicant shall request financial assistance using ~~a format~~ an application prescribed by the department. ~~The required information for the application is limited to the items specified in parts 8835.0720 to 8835.0740. In addition to submitting an application to the department, an applicant shall submit an application to the appropriate regional development commission for review and approval for consistency with regional transportation plans and development guides. If there is no regional development commission in the area, the applicant shall submit the application to the the State Planning Agency for~~

~~review. When applicable, the application must also be submitted to the local transit authority, commission, or system for review and comment as to consistency with its approved transportation development program. The department shall annually establish a deadline for submission of applications for financial assistance and shall provide adequate notice of the deadline to applicants. A complete application contains a management plan, a certified resolution from the applicant's governing body, and other forms and certifications required by federal or state law or regulation.~~

Subp. 4. **Additional review.** In addition to submitting an application to the department, an applicant shall submit an application for review and approval as provided in *Minnesota Statutes*, section 174.23, subdivision 2.

Subp. 5. **Certified resolution.** An applicant shall submit with the application a resolution by the governing body that:

- A. resolves to provide public transit;
- B. authorizes two persons by title to execute a contract with the department and all amendments to the contract; and
- C. authorizes funds for the local share of financial assistance.

8835.0720 APPLICATION; MANAGEMENT PLAN.

Subpart 1. **Submission in application.** An applicant shall submit a management plan as part of its application for financial assistance.

~~Applicants shall~~ Subp. 2. **Contents.** The management plan must include the following information ~~in the management plan:~~

A. a ~~description of~~ service plan that describes the levels of service to be provided during the contract period, including a discussion of service area and general population, type or types of service, vehicle descriptions, days and hours of service, service schedules, contract services, and route maps;

B. a description of unmet service needs;

C. a financial plan, including:

(1) a general narrative that supports and explains the budget;

(2) a detailed narrative for each line item in the budget, including increases;

(3) actual statistics on operating expenses and operating revenues for the most recent calendar years;

(4) anticipated statistics on operating expenses and operating revenues for the new contract period;

(5) actual statistics on miles and hours of service and passenger trips for the most recent calendar year; and

(6) anticipated statistics on miles and hours of service and passenger trips for the new contract period.

D. a ~~description of the participating transit system's proposed~~ coordination and marketing ~~program~~ plan, including costs and benefits of major elements;

~~E. E.~~ a description of proposed capital improvements in the participating transit system plan that describes the major capital assets of the transit system with an outline of how they will be maintained, improved, or replaced;

~~D. E.~~ a description of revenue-producing contracts relating to the transit services provided by or for the applicant;

~~E. G.~~ a description of expense contracts for services and goods procured by the transit system;

~~F. H.~~ a description of the participating public transit system's vehicle maintenance program for the period of financial assistance;

~~G. I.~~ a description of the organizational structure established to direct, control, review, and implement the management plan;

~~H. J.~~ a description of measurable goals and objectives for the transit system, illustrating the benefits expected to be realized by the investment of state financial assistance;

~~I. K.~~ a description of ~~how revenue will be generated through~~ the fare ~~box~~ structure of the public transit system;

~~J. L.~~ a listing of transit and paratransit systems and their union affiliations currently operating in the applicant's area, and a description of existing or potential coordination with these systems;

~~K. M.~~ a description of the transit system's safety and training policies, including its driver selection process; ~~and~~

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- ~~N.~~ a description of the proposed insurance carrier and the limits of coverage;
- ~~O.~~ a description of the internal controls policy for the collection and deposit of fares;
- ~~P.~~ a copy of the transit system's most recent drug and alcohol policy as approved by the local recipient's governing body;
- ~~Q.~~ all third party contracts relating to transit operations; and
- R. a copy of the governing body's third party contract procurement policy.

Subp. 3. Incorporation into contract. The department shall incorporate an approved management plan into the financial assistance contract between the department and the recipient, as provided in part 8835.0910. The department shall approve a management plan after it determines the financial assistance according to part 8835.0270.

8835.0820 PERSONNEL SERVICES EXPENSE TOTAL OPERATING COST.

Subpart 1. Definition. "Total operating cost" means the categories of allowable expenses provided in parts 8835.0820 to 8835.0870. The total operating cost is subject to the audit provisions of part 8835.1900, subpart 3.

Subp. 2. Personnel services expense. The "personnel services" expense category includes:

A. administrative, management, and supervisory services, which are the amount paid to ~~employees of the transit system who are employees~~ classified as managers, supervisors, coordinators, or administrators and for which the amounts claimed by employees ~~not working solely for the transit system~~ must be supported by ~~detailed daily time sheets~~ distribution records or a cost allocation plan that is supported by the applicant and approved by the department as part of the management plan;

B. operators' wages, which are the total amount paid to ~~employees of the transit system who are employees~~ classified as vehicle operators and for which the amounts claimed by employees must be supported by daily time distribution records;

C. maintenance and repair wages, which are the labor charges incurred in the performance of maintenance and repair of vehicles and other property required for the operation of the transit system, including only wages of maintenance personnel employed by the transit system, and for which the amounts claimed by employees must be supported by daily time distribution records;

D. other direct wages, which are the amount paid to ~~employees of the transit system who are employees~~ not classified as operators, maintenance, or administrative personnel, such as dispatchers, bookkeepers, clerical personnel, janitors, and security personnel, and for which the amounts claimed by employees must be supported by daily time distribution records;

E. indirect labor charges, which are the amount to be allocated to the transit contract for labor ~~which that~~ is not traceable to a specific transit activity but ~~which~~ benefits the transit operation and which must be based on a cost allocation plan approved by the ~~Minnesota~~ department of Transportation; and

F. fringe benefits, which are the cost of providing fringe benefits for active and retired ~~employees of the transit system employees~~, including pension benefits, vacation and sick leave benefits, social security taxes, workers' compensation insurance, unemployment insurance, life insurance, and first party medical coverage, and which may be allocated indirectly based on a cost allocation plan approved by the ~~Minnesota~~ department of Transportation.

8835.0830 ADMINISTRATIVE CHARGES EXPENSE.

The "administrative charges" expense category includes:

A. management fees, which are the amount paid for professional services provided by a management service company engaged contractually to provide operating management to the transit system;

B. tariffs and traffic expenses, which are any necessary tariff filing fees and costs for the procurement of tickets, tokens, and transfers;

C. advertising, marketing, and promotional charges, including the necessary cost of advertising and promoting the transit system;

D. legal, auditing, and other professional fees rendered by individuals or firms, other than transit system employees, for the purpose of maintaining continuing operations of the transit system, including:

(1) attorney fees and expenses, court costs, witness fees, and fees for accounting and auditing services ~~rendered by individuals or firms other than employees of the transit system for the purpose of maintaining continuing operations of the transit system~~, such as accident claims, defending workers' compensation claims, or other items directly related to the management plan and approved by the ~~Minnesota~~ department of Transportation project manager; and

(2) ~~other professional fees including~~ fees paid for planning, engineering, or other consultant services ~~necessary to the continuing operation of the transit system~~ that are directly related to the management plan approved by the department;

E. security costs, which are the costs necessary to provide armored car services ~~and~~ patrol services, and electronic surveillance for vehicles, stations, yards, and buildings to detect and prevent criminal activity, fires, and unsafe conditions, when the patrolling is performed by an outside security agency and not by transit system employees;

F. office supplies expense, which is the cost of office supplies and materials and printing and photocopying charges, ~~which are~~ solely attributable to and necessary for the operation of the transit system;

G. lease and rental costs of administrative facilities used for performing the general administrative functions of the transit system, including leases and rentals of such items as land, buildings, office equipment, and furnishings, ~~that are used for performing the general administrative functions of the transit system~~;

H. utilities expense, which is the cost of utilities such as gas, electricity, water, telephone and other communications services, and trash collection;

I. other direct administrative charges, including ~~other~~ administrative charges necessary for the continuing operation of the transit system, such as mileage reimbursement for transit support vehicles, approved conference fees, employee travel expenses, employee development, driver's training, approved membership fees for transit associations if the cost of membership is reasonably related to the value of the services or benefits received, and subscriptions to transit publications; and

J. indirect administrative charges, which are the amount allocated to the transit contract for administrative services not traceable to a specific transit activity but which benefit the transit operation and which must be based on a cost allocation plan approved by the ~~Minnesota~~ department of Transportation.

For purposes of item I, mileage reimbursement must be based on a rate approved by the local governing body, as long as the rate is reasonable and consistent with similar rates approved by the local governing body.

8835.0840 VEHICLE CHARGES EXPENSE.

The "vehicle charges" expense category applies to vehicles owned or leased by the public transit system and includes:

A. fuel and lubricants expense, including net costs of gasoline, diesel ~~fuel~~, and alternative fuels and costs of antifreeze, propane, lubricating oil, transmission fluid, and grease used by revenue and service vehicles;

B. maintenance and repair material expense, including costs of parts, materials, and supplies used in the maintenance and repair of revenue and service equipment;

C. contract service maintenance labor expense, which is the cost of labor for maintenance and repair service provided by persons other than transit system employees;

D. tire expense, which is the cost of tires and tubes used on revenue and service equipment including the cost of recapping or regrooving and the rental costs for tires and tubes; and

E. other vehicle charges, including the ~~cost~~ costs of:

(1) first aid equipment, fire extinguishers, and other emergency equipment required for vehicles; ~~and the cost of~~

(2) noncapitalized vehicle improvements ~~which that~~ do not remake a vehicle or appreciably extend its useful life and ~~which that~~ have received approval from the ~~Minnesota~~ department of Transportation.

8835.0850 OPERATIONS CHARGES EXPENSE.

The "operations charges" expense category includes:

A. purchase of service, which is the cost of having a subcontractor operate the project service, with cost established:

[For text of subitems (1) to (3), see M.R.]

B. depreciation, which is the amount of depreciation or use allowance on depreciable items such as structures, revenue equipment, service vehicles and equipment, and office furniture and equipment and is the amount allowed based on a company's existing depreciation schedule or, if a schedule does not already exist, a depreciation schedule submitted to and approved by the ~~Minnesota~~ department of Transportation, but which may not be charged for items purchased, totally or in part, with state or federal funds;

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C. mileage reimbursement for passenger service, including the cost of volunteer driver reimbursement for projects incorporating this type of service, as well as mileage reimbursement for transit personnel using private vehicles for emergency replacement passenger transport in the event of mechanical breakdown of transit vehicles;

D. repair and maintenance of other property, including material costs associated with the upkeep and repair of buildings and stations, grounds, nonrevenue equipment owned or leased by the transit company, and miscellaneous expenses such as small tool replacement, and supplies used for cleaning and for general shop and garage purposes;

E. leases and rentals of facilities or equipment used in the operation of the transit system, including leases and rentals of garages, depots, passenger vehicles, service vehicles, ~~and passenger stations, used in the operation of the transit system~~ communication equipment, and computers, with allowability based on the reasonableness of rates and the presence of evidence that the lease will not give rise to material equity in the property; and

F. other operations charges, including the cost of such things as the purchase or rental and cleaning of uniforms, ~~street tolls tools and equipment~~, sanding and snowplow operations, passenger amenities, and station agents and which may be allocated indirectly based on a cost allocation plan approved by the department.

For purposes of item C, mileage reimbursement must be based on a rate approved by the local governing body, as long as the rate is reasonable and consistent with similar rates approved by the local governing body.

8835.0860 INSURANCE CHARGES EXPENSE.

The “insurance charges” expense category includes:

A. public liability and property damage insurance expense on vehicles, including premiums paid to insure the transit system against loss through damage to its own property and to indemnify the transit system and all financial and operational participants against loss from liability for its acts ~~which that~~ cause damage to the person or property of others; and

[For text of item B, see M.R.]

8835.0870 TAXES AND FEES EXPENSE.

The “taxes and fees” expense category includes:

A. vehicle registration and permit fees on vehicles;

~~B. federal fuel and lubricant taxes and excise taxes on tires;~~

~~C. state fuel and lubricant taxes; and~~

~~D. B.~~ other taxes and fees, including applicable real estate ~~and~~, property, and sales taxes.

8835.0910 CONTRACT FOR FINANCIAL ASSISTANCE ~~CONTRACT.~~

Subpart 1. **Content.** The financial assistance contract ~~must be is~~ a cost reimbursement contract ~~and may be a cost contract, a cost plus a fixed fee contract, or a cost plus incentive fee contract~~ that is based on the total operating cost in part 8835.0820. The contract must specify the maximum amount of financial assistance to be awarded to the ~~eligible~~ recipient by the department and state the terms and conditions of assistance. For recipients receiving payment under the method described in *Minnesota Statutes*, section 174.24, subdivision 5, the contract is effective for no more than one year. The term of the contract may be extended by amendment for capital assistance. The final application, including the management plan, must be incorporated into the contract as a legal part of the contract document. A resolution by the governing body ~~which designates a person or persons to execute the contract on behalf of the recipient and to represent the recipient during the contract term~~, as provided in part 8835.0250, subpart 5, must be included with the contract.

Subp. 2. **Disbursement schedule.** The department shall make payments to recipients under contract ~~must be made~~ in accordance with *Minnesota Statutes*, section 174.24, subdivision 5.

Subp. 3. **Penalties.** If a recipient fails to comply with the terms and conditions of the contract, the department ~~shall~~ may withhold payment at any time or may terminate the financial assistance contract upon 30 days' written notice.

Subp. 4. **Amendments.** A recipient or the department may initiate an amendment to the contract. Before implementation, an amendment must be fully executed by the parties to the original contract, or their successors.

8835.1500 ~~DETERMINATION OF FINANCIAL ASSISTANCE; DISALLOWED UNALLOWABLE EXPENSES.~~

Subpart 1. **Scope.** In determining the total operating costs of a public transit system, upon which financial assistance is based, ~~parts 8835.0810 to 8835.0870 and the definitions of disallowed unallowable expenses in subparts 2 to 7~~ 8 apply and have the meanings given them.

Subp. 2. **General purpose equipment.** Expenditures for general purpose equipment are unallowable as operating costs. "General purpose equipment" means equipment that is ~~usable~~ used for other than transit contract purposes, such as communications equipment, office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, and ~~automatic data processing~~ computers and related equipment.

[For text of subs 3 to 7, see M.R.]

Subp. 8. **Unrelated costs.** Costs that are not directly related to the provision of public transit are unallowable.

8835.1700 ~~DISTRIBUTION OF FINANCIAL ASSISTANCE;~~ OPERATING REVENUE CATEGORIES; LOCAL SOURCES.

In determining the local sources of funds ~~which that~~ may comprise the fixed percentage of total operating costs to be paid by a recipient in accordance with the distribution classifications ~~specified~~ in Minnesota Statutes, sections 174.24, subdivision 3 3b, the definitions of revenue categories in parts 8835.1710 to 8835.1760 subparts 2 to 7 apply and have the meanings given them.

8835.1720 CONTRACT REVENUE.

"Contract revenue" means revenue received from a contract with a beneficiary of a specific transit service, ~~including.~~ Contract revenue includes:

A. an amount paid by an organization for a special route guarantee; and

B. revenue earned for a ride given in regular transit service but paid for by ~~some~~ an organization, including a state or local social service agency or a private social service organization, for the benefit of the rider.

8835.1730 SCHOOL ~~BUS~~ REVENUE.

"School ~~bus~~ revenue" means revenue earned from service provided under a contract with a school district, including an amount paid for transporting school children on regularly scheduled route service, for operating a bus exclusively to carry school children, and an amount paid by a college or university for operating a bus transit vehicle on or between campuses.

8835.1760 OTHER FINANCIAL ASSISTANCE.

"Other financial assistance" includes revenue earned from an activity not associated with the provision of the recipient's transit service but which is applied to help cover the system's costs, including tax levies, a federal cash grant, senior citizen fare assistance, ~~fuel and lubricant tax refund, insurance settlement,~~ investment income, and any general donation.

8835.1900 ~~USE OF FINANCIAL ASSISTANCE RECORDS.~~

Subpart 1. **Records.** ~~An eligible~~ A recipient and any ~~subcontractor~~ third party contractor shall maintain their financial records in accordance with generally accepted accounting principles. The records must permit audit verification of transit cost allocations claimed during the contract period. ~~The eligible~~ recipient and any subcontractor third party contractor also shall keep records on miles and hours of service and ~~passengers carried~~ passenger trips. Records must be kept available for a period of ~~three~~ six years from the date of final payment.

Subp. 2. **Reports.** At the end of each month of operation, a recipient shall provide the department with a report summarizing cost allocations and operating statistics for the period. Reports must be completed on forms provided or approved by the department and must be submitted no later than ~~20 working days after the end of the preceding month~~ the last day of the month following the reporting period. The recipient shall submit to the department the final report for the contract period no later than 90 days after the contract period ends.

Subp. 3. **Audits.** The financial records of the ~~eligible~~ recipient must be audited. They may be audited by the department or the department may accept all or part of the audit of an independent auditor instead of a departmental audit if the audit meets department standards. In addition to chapter 8835, department audits must be based on the contract cost principles and procedures in Code of Federal Regulations, title 48, chapter 1, part 31, and Office of Management and Budget Circular, Number A-87 and Number A-122, as amended. The financial records of a subcontractor may be audited at the department's discretion. The department shall submit year-end financial statements to the department auditor by April 15 of the year following the period covered by the financial assistance contract. Audits at the end of a contract period must establish approved total operating costs. New recipients are subject to a preaward audit before contract execution and fund encumbrance. As provided by *Minnesota Statutes*, section

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~~16B.06~~ 16C.05, subdivision 4 ~~5~~, the records, books, documents, and accounting practices of the recipient and of any ~~subcontractor~~ third party contractor relating to the contract are subject to audit and examination by the department and the legislative auditor during working hours. If the department determines it has overpaid a recipient on a previous contract, the department may reduce payments under the current contract by the amount of overpayment.

[For text of subp 4, see M.R.]

Subp. 5. Reserve account. If a public transit system generates operating revenue in excess of the recipient's local share amount, the recipient shall deposit the excess into a reserve account to be used for approved operating expenses that are not covered by the contract or for part of the local share of capital expenses of the transit system. The recipient shall report this revenue and expenses charged against it to the department on reporting forms provided by the department.

REPEALER. Minnesota Rules, parts 8835.0110, subparts 2, 3, 4, 5, 8, 9, 11, 12, 13, and 14; 8835.0610; 8835.0730; 8835.0740; 8835.1600; 8835.1800; 8835.2300; 8835.2400; 8835.2500; 8835.2600; 8835.2700; 8835.5700; and 8835.5800, are repealed.

RENUMBERING INSTRUCTION. The revisor of statutes shall renumber each part or subpart of Minnesota Rules listed in column A with the part or subpart listed in column B in the next edition of or supplement to Minnesota Rules. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>8835.0710</u>	<u>8835.0250</u>
<u>8835.0720</u>	<u>8835.0260</u>
<u>8835.0820, subp. 1</u>	<u>8835.0280, subp. 1</u>
<u>8835.0820, subp. 2</u>	<u>8835.0280, subp. 2</u>
<u>8835.0830</u>	<u>8835.0280, subp. 3</u>
<u>8835.0840</u>	<u>8835.0280, subp. 4</u>
<u>8835.0850</u>	<u>8835.0280, subp. 5</u>
<u>8835.0860</u>	<u>8835.0280, subp. 6</u>
<u>8835.0870</u>	<u>8835.0280, subp. 7</u>
<u>8835.0910</u>	<u>8835.0330</u>
<u>8835.1500</u>	<u>8835.0290</u>
<u>8835.1700</u>	<u>8835.0310, subp. 1</u>
<u>8835.1710</u>	<u>8835.0310, subp. 2</u>
<u>8835.1720</u>	<u>8835.0310, subp. 3</u>
<u>8835.1730</u>	<u>8835.0310, subp. 4</u>
<u>8835.1740</u>	<u>8835.0310, subp. 5</u>
<u>8835.1750</u>	<u>8835.0310, subp. 6</u>
<u>8835.1760</u>	<u>8835.0310, subp. 7</u>
<u>8835.1900</u>	<u>8835.0350</u>

Executive Orders

The governor has the authority to issue written statements of orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the *Constitution of the State of Minnesota*, Article V, and in *Minnesota Statutes* 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

Office of the Governor

Executive Order 00-02: Directing State Departments and Agencies to Follow a "NO-NET LOSS" Policy in Regard to Wetlands

I, JESSE VENTURA, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, wetlands provide economic as well as ecological benefits to the state by protecting and preserving water supplies; by providing for natural storage and retention of flood waters; by serving as transition zones between dry land and lakes and rivers, thereby retarding soil erosion; by functioning as nature's biological filters, assimilating nutrients; by providing essential habitats for fish and wildlife; by interacting with groundwater supplies; by providing aesthetic and recreational opportunities; by providing outdoor educational resources; and by adding to Minnesota's ecological diversity; and

WHEREAS, over eighty percent of the state's original prairie pothole wetlands have been drained and over sixty percent of the state's total original wetland base has been drained, filled or otherwise diminished; and

WHEREAS, the continued loss of wetlands harms the economic and environmental welfare of the state; and

WHEREAS, it is in the public interest to protect the functions and values of wetlands; and

WHEREAS, the state, through public agencies and units of government, must provide leadership in the stewardship of wetlands for all projects on the lands and waters entrusted to the state by the public;

NOW, THEREFORE, I hereby order that:

- A. All responsible departments and agencies of the State of Minnesota shall protect, enhance, and restore Minnesota's wetlands to the fullest extent of their authority;
- B. All responsible departments and agencies of the State of Minnesota shall operate to the fullest extent of their authority under the strict concept of "NO-NET LOSS" of wetlands of the state in regard to projects under their jurisdiction;
- C. All responsible departments and agencies of the State of Minnesota shall identify all wetlands on land being acquired by or donated to the state and on public lands threatened by development activities. Acquisition decisions and subsequent management plans shall mitigate ecological impacts as a result of development activities;
- D. All responsible departments and agencies of the State of Minnesota shall be guided by the following prioritized criteria in the implementation of this "NO-NET LOSS" executive order:
 - 1) AVOID the impact altogether by not taking a certain action or actions;
 - 2) MINIMIZE the impact by limiting the degree or magnitude of the action by using appropriate technologies or by considering alternatives and then taking affirmative steps to avoid or reduce the impact;
 - 3) MITIGATE all functional values of the wetlands that have been diminished.

Mitigation must, in order of importance, be accomplished by restoration of drained or diminished wetlands, creation of new wetlands, or other actions that improve the quantity and quality of wetlands;

- E. The head of each department or agency shall, by appropriate means, ensure that all staff are advised of this order and shall by February 1 of each year report to the Board of Water and Soil Resources and Commissioner of Natural Resources on efforts to comply with this order; and
- F. The Board of Water and Soil Resources and Commissioner of Natural Resources shall report to the Governor and the chairs of the Senate and House environment committees in accordance with provisions of the Wetland Conservation Act.

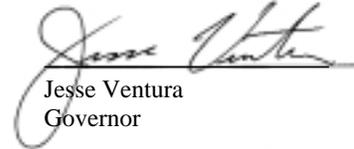
In addition, I hereby encourage all local units of government to adopt "NO-NET LOSS" wetlands resolutions guiding public actions within their jurisdiction.

This Order shall be reviewed by the Governor, in consultation with the affected agency or agencies, every two years in order to assess its reasonableness and need.

Executive Orders

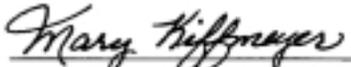
Pursuant to *Minnesota Statutes* 1998, section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1998, section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this fourteenth day of April, 2000.



Jesse Ventura
Governor

Filed According to Law:



Mary Kliffmeyer
Secretary of State

Official Notices

Pursuant to Minnesota Statutes §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Department of Administration State Designer Selection Board (SDSB)

Board Meetings

Pursuant to SDSB *Minnesota Rule* 3200.0400, below is the schedule of State Designer Selection Board meeting dates, times and agenda items as of April 14, 2000:

- **May 9, 9:00 a.m.**
 1. Shortlisting: Project 00-3 Iron Range Resources & Rehabilitation Board (IRRRB) for a Clubhouse and Related Facilities for a New Golf Course
 2. Shortlisting: Project 00-4 MnSCU/St. Cloud Technical College for the Remodeling of Two Wings, Construction of a New Storage & Receiving Area, and Construction of New Classrooms
- **May 16, 9 a.m.**
 1. Shortlisting: Project 00-5 Department of Corrections MCF-Lino Lakes, Food Service Building Renovation
 2. Shortlisting: Project 00-6 Department of Corrections MCF-Red Wing, Mental Health Supportive & Living Unit Renovation
- **May 23, contact Lisa Blue at 651-297-5526 for start time**
 1. Interviews/Selection: Project 00-3 Iron Range Resources & Rehabilitation Board (IRRRB) for a Clubhouse and Related Facilities for a New Golf Course
 2. Interviews/Selection: Project 00-4 MnSCU/St. Cloud Technical College for the Remodeling of Two Wings, Construction of a New Storage & Receiving Area, and Construction of New Classrooms
- **May 30, contact Lisa Blue at 651-297-5526 for start time**
 1. Interviews/Selection: Project 00-5 Department of Corrections MCF-Lino Lakes, Food Service Building Renovation
 2. Interviews/Selection: Project 00-6 Department of Corrections MCF-Red Wing, Mental Health Supportive & Living Unit Renovation

Unless otherwise stated, all meetings are held in the Administration Building, 50 Sherburne Avenue, St. Paul, Room G-10/Conference Room A. Other matters may come before the Board and be added to the agenda as needed. For additional information, contact Lisa Blue at 651-297-5526.

Department of Agriculture

Grain and Produce Division

REQUEST FOR COMMENTS on Planned Amendments to Rules Governing Certified Seed Potatoes, *Minnesota Rules* 1555.6740, subp. 3; 1555.6800, subp. 2; and 1555.6845, subp. 10

Subject of the Rule. The Minnesota Department of Agriculture requests comments on its planned amendments to rules governing certified seed potatoes. The department is considering amendments that expand winter testing of seed potatoes.

Persons Affected. The rules would likely affect seed potato growers. The department does not contemplate appointing an advisory committee to comment on the planned rules.

Statutory Authority. *Minnesota Statutes*, section 21.118 requires the commissioner to adopt rules to carry out the purposes and enforce the provisions of the seed potato statute, *Minnesota Statutes*, secs. 21.111 to 21.112.

Public Comment. Interested persons or groups may submit comments or information on the planned rules in writing or orally until 4:30 p.m. on **June 23, 2000**. The department has prepared a draft of the planned amendments to rules. Written or oral comments, questions, requests to receive a draft proposed rules, and requests for more information on the planned rules should be addressed to: Willem Schrage, Minnesota Department of Agriculture, 312 – 4th Ave. NE, East Grand Forks, MN 56721: Phone; 218-773-3327, Fax; 218-773-3530. Email: willem.schrage@state.mn.us. TTY users may contact the Department of Agriculture through Minnesota Relay Service at 800-627-3529.

Comments submitted in response to this notice will not be included in the formal rulemaking record when a proceeding to adopt a rule is started.

Dated: 13 April 2000

Sharon Clark
Deputy Commissioner

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C on Behalf of Scott H. and Colleen R. Nelson for Machinery in Nevada Township, Mower County

NOTICE IS HEREBY GIVEN that a public hearing will be held on May 12, 2000, at 9 a.m. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of machinery located in Section 27, Nevada Township, Mower County, Minnesota on behalf of Scott H. and Colleen R. Nelson, a married couple (the Borrower/s). The maximum aggregate face amount of the proposed bond issue is \$57,400.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 5 April 2000

Jim Boerboom
RFA Director

Emergency Medical Services Regulatory Board

REQUEST FOR COMMENTS on Planned Repeal of Rules Governing Compliance With Approved Local Ordinances, *Minnesota Rules*, part 4690.3800

Subject of Rules. The Emergency Medical Services Regulatory Board (EMSRB) requests comments on its planned repeal of rules governing compliance with approved local ordinances, *Minnesota Rules*, part 4690.3800. The Department is considering repealing its rules requiring ambulance services to comply with the provisions of local ordinances, rules, or regulations that have been approved by the board under *Minnesota Statutes*, section 144E.16, subdivision 5. The intent of the repeal is to relieve the board of the responsibility of enforcing local ordinances, rules, or regulations. The board will continue to enforce its requirements for ambulance services under *Minnesota Statutes*, section 144E.

Persons Affected. The only entity that will be affected by the repeal is the EMSRB.

Statutory Authority. *Minnesota Statutes*, section 144E.16, subdivision 4, authorizes the board to adopt rules needed to regulate ambulance services.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on July 7, 2000. The Board does not contemplate appointing an advisory committee to comment on the planned rules.

Rules Drafts. The Board has prepared a draft of the planned rules repeal.

Agency Contact Person. Written or oral comments, questions, requests to receive a draft of the rules, and requests for more information on these planned rules should be directed to: Frank Merriman, Minnesota Health Licensing Boards, 2829 University Ave. SE, Suite 445, Minneapolis MN 55414, telephone 612-617-2121, fax 612-617-2125, email: frank.Merriman@state.mn.us. TTY users may call the Board at 800-627-3529.

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The Board is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 17 April 2000

Mary Hedges, Executive Director
Emergency Medical Services Regulatory Board

Department of Human Services

Health Care Purchasing and Service Delivery

REQUEST FOR COMMENTS on Planned Amendments to Rule Governing Dental Services for Medical Assistance, *Minnesota Rules*, part 9505.0270

Subject of Rules. The Minnesota Department of Human Services (“Department”) requests comments on its planned amendment to *Minnesota Rules*, part 9505.0270 governing dental services under the Medical Assistance (MA) program. The purpose of these amendments is to clarify definitions of covered dental services and specify the criteria that govern service coverage. Specifically, the planned amendments delineate preventative services, restorative services, covered services, and excluded services. The changes are intended to expand coverage criteria for dental services, increase dental provider enrollment, and broaden recipient access to dental services in Minnesota. The subjects addressed in the amendments are definitions, eligible dental services, covered services, payment limitations, and excluded dental services.

Persons Affected. Amendments to the rule would likely affect dentistry professionals, legal advocacy representatives, social services providers, public and rural health providers, health care insurers and recipients of MA dental services.

Statutory Authority. *Minnesota Statutes*, section 256B.04 subdivision 1 and 1a authorize the Department to supervise the administration of medical assistance for eligible recipients through the planning and implementation of a comprehensive health service system. The Department is charged with the responsibility of promulgating rules to uniformly administer a statewide

medical assistance program. See *Minnesota Statutes*, section 256B.04, subdivision 2. Because dental services are a covered MA service as specified in *Minnesota Statutes*, section 256B.0625, subdivision 9, the Department has the authority to develop and determine the coverage of dental services for medical assistance recipients.

Public Comment. Interested persons or groups may submit comments or information on these planned amendments, in writing or orally, until further notice is published in the *State Register* that the Department intends to adopt or to withdraw the rule amendment.

In drafting the rule amendments, the Department consulted with dental providers, including but not limited to dentists, specialists covering all areas of dentistry, registered dental hygienists, insurance representatives, and members of the public who receive services governed by the rules. Additionally, the Dental Advisory Committee mandated by the 1999 Legislature to explore issues of dental access in Minnesota will be asked to comment on these rule amendments. The Dental Advisory Committee is comprised of dentistry professionals, legal advocacy representatives, social services providers, public and rural health providers, health care insurers, all of whom will be affected by issues concerning dental access. Because of this level of public participation, the Department will not be appointing a separate advisory committee to comment on the planned amendments.

Rules Drafts. The Department has prepared a draft of the planned rule amendments.

Agency Contact Person. Oral or written comments, questions, requests to receive a free copy of the draft amendments, and requests for more information on this planned rule change should be directed to:

Kathleen Leavitt
Department of Human Services
444 Lafayette Road
St. Paul MN 55155-3853.
Phone: 651-215-0131
Fax: 651-297-3230
E-mail: kathy.leavitt@state.mn.us
TTY users may call the Department at 1-800-627-3529

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 18 April 2000

Michael O'Keefe, Commissioner
Department of Human Services

Metropolitan Council

Redoption of the Transportation Policy Plan and Reaffirmation of Planning Assumptions for the Twin Cities Metropolitan Area

The Metropolitan Council will hold a public hearing to accept comments on the proposed readoption of the Transportation Policy Plan for the Twin Cities Metropolitan Area (adopted on Dec. 19, 1996) and reaffirm the planning assumptions on which it was based. The Metropolitan Council is required by federal and state law to prepare a surface transportation plan for the seven-county metropolitan area. The Council prepared and adopted such a plan along with the Regional Blueprint, the development plan for the region in 1996. The Transportation Plan includes sections on transit, highways, freight, and pedestrian and bicycle movement.

The Federal Transportation Equity Act for the 21st Century requires the Council to prepare a plan in conformance with federal transportation and air quality requirements every three years. While a new plan will be prepared soon, the three-year deadline has been exceeded and therefore, the Council must readopt its present plan. No changes can be made to the Plan to meet the federal requirements for readoption. In addition, no significant change may have occurred in the planning assumptions on which the Plan was based. The planning assumptions consist of the forecasted population, households and employment for 2020 and the type and age of vehicles in use in the region. The readopted plan will be valid until Dec. 31, 2000.

Official Notices

The Transportation Committee of the Metropolitan Council will hold the public hearing at the Metropolitan Council offices, Mears Park Centre, 230 E. Fifth St., St. Paul on Monday, May 22, 2000 at 5:00 p.m. in the Council Chambers.

Upon request, the Council will provide reasonable accommodations to persons with disabilities. Copies of the 2020 Transportation Policy Plan are available from the Council's Regional Data Center at 651-602-1140 or 651-291-0904 (TTY). Copies are also available for review at major public libraries in the Twin Cities area.

In addition, comments can be conveyed to the Council as follows:

- Send written comments to Carl Ohrn at the Metropolitan Council, 230 East Fifth St., St. Paul, MN 55101
- FAX comments to 651-602-1739
- Record comments on Council's Public Comment Line at 651-602-1500
- E-mail comments to: data.center@metc.state.mn.us

Minnesota Comprehensive Health Association

Notice of Meeting of Executive Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA) **Executive Committee** will be held on Thursday, April 27, 2000, at MCHA's executive office, 5775 Wayzata Blvd., Suite 910., St. Louis Park, MN at 10:00 a.m.

For additional information, please call Lynn Gruber at (612) 593-9609.

Minnesota Comprehensive Health Association

Notice of Meeting of the Nominating Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), **Nominating Committee** will be held at 10:00 a.m. on Tuesday, April 25, 2000. The meeting will take place at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (612) 593-9609.

Department of Natural Resources

Division of Fish and Wildlife

Notice of Waters Identified and Designated as Infested Waters

NOTICE IS HEREBY GIVEN by the Minnesota Department of Natural Resources that until further notice, the following waters in the state have been identified and designated as infested waters in *Minnesota Rules*, part 6216.0350. Activities at these waters are subject to *Minnesota Rules*, parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

Waters identified as infested with Eurasian water milfoil.

The following water bodies are identified and designated by the commissioner as infested with Eurasian water milfoil (*Myriophyllum spicatum*).

Name	DNR Protected Waters Inventory Number
Anoka County	
Cenaiko Lake	02-0654
Crooked Lake	02-0084
Centerville Lake	02-0006
Lake George	02-0091
Otter Lake	02-0003
Unnamed lake (in Springbrook Nature Center)	02-0688
Carver County	
Lake Ann	10-0012
Auburn Lake	10-0044
Bavaria Lake	10-0019
Firemen's Lake	10-0226
Lotus Lake	10-0006
Lake Minnewashta	10-0009
Pierson Lake	10-0053
Riley Lake	10-0002
Schutz Lake	10-0018
Stone Lake	10-0056
Lake Virginia	10-0015
Lake Waconia	10-0059
Lake Zumbra	10-0041
Chisago County	
Ellen Lake	13-0047
Green Lake	13-0041
Rush Lake	13-0069
Crow Wing County	
Bay Lake	18-0034
Ruth Lake	18-0212
Dakota County	
Crystal Lake	19-0027
Lac Lavon	19-0347
Lake Marion	19-0026
Twin Lakes	19-0028
Douglas County	
Oscar Lake	21-0257
Hennepin County	
Arrowhead Lake	27-0045
Bass Lake	27-0098
Brownie Lake	27-0038
Bryant Lake	27-0067
Bush Lake	27-0047
Lake Calhoun	27-0031
Cedar Lake	27-0039
Christmas Lake	27-0137
Dutch Lake	27-0181
Eagle Lake	27-0111

Official Notices

Fish Lake	27-0118
Forest Lake	27-0139
Gleason Lake	27-0095
Lake Harriet	27-0016
Hiawatha Lake	27-0018
Lake Independence	27-0176
Lake of the Isles	27-0040
Libbs Lake	27-0085
Little Long Lake	27-0179
Long Lake	27-0160
Medicine Lake	27-0104
Minnehaha Creek	27-0000
Lake Minnetonka	27-0133
Niccum's Pond	private
Lake Nokomis	27-0019
Parker's Lake	27-0107
Peavy Lake	27-0138
Lake Rebecca	27-0192
Rice Lake	27-0116
Round Lake	27-0071
Lake Sarah	27-0191
Schmidt Lake	27-0102
Swan Lake	27-0000
Tanager Lake	27-0141
Whaletail Lake	27-0184
Wirth Lake	27-0037
Itasca County	
Ice Lake	31-0372
McKinney Lake	31-0370
Kanabec County	
Knife Lake	33-0028
Meeker County	
Stella Lake	47-0068
Lake Washington	47-0046
Mille Lacs County	
Lake Mille Lacs, and from the mouths of each tributary to Lake Mille Lacs upstream to the first public road	48-0002
	48-0000
Olmsted County	
George Lake	55-0008
Pope County	
Gilchrist Lake	61-0072
Lake Minnewaska	61-0130
Ramsey County	
Bald Eagle Lake	62-0002
Lake Gervais	62-0007

Island Lake	62-0075
Keller Lake	62-0010
Phalen Lake	62-0013
Round Lake	62-0012
Silver Lake	62-0001
Spoon Creek (between Keller and Phalen lakes)	62-0000
Sucker Lake	62-0028
Lake Vadnais	62-0038
Lake Wabasso	62-0082
White Bear Lake	82-0167

St. Louis County

Gilbert Pit Lake	69-1306
Horseshoe Lake	69-0503

Scott County

Lower Prior Lake	70-0026
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Stearns and Todd County

Sauk Lake	77-0150
unnamed wetland along the Clearwater River	73-0312

Washington County

Powers Lake	82-0092
White Bear Lake	82-0167
St. Croix River	82-0001

Wright County

Augusta Lake	86-0284
Beebe Lake	86-0023
Buffalo Lake	86-0090
Clearwater Lake	86-0252
Clearwater River (downstream of Clearwater L.)	86-0000
Lake Mary	86-0156
Little Waverly Lake	86-0106
Lake Pulaski	86-0053
Rock Lake	86-0182
Sugar Lake	86-0233
Waverly Lake	86-0114
Weigand Lake	86-0242

Multiple Counties

Mississippi River (downstream of St. Anthony Falls)

Waters identified as infested with round goby.

The following water bodies are identified and designated by the commissioner as infested with round goby (*Neogobius melanostromus*).

Name	DNR Protected Waters Inventory Number
Multiple Counties	
Lake Superior	16-0001
St. Louis River (downstream of the Fond du Lac dam)	

Official Notices

Waters identified as infested with ruffe.

The following water bodies are designated by the commissioner as infested with ruffe (*Gymnocephalus cernuus*).

Name	DNR Protected Waters Inventory Number
Multiple Counties	
(1) Lake Superior	16-0001
(2) St. Louis River (downstream of the Fond du Lac dam)	

Waters identified as infested with spiny water flea.

The following water bodies are designated by the commissioner as infested with spiny water flea (*Bythotrephes cederstroemi*).

Name	DNR Protected Waters Inventory Number
St. Louis	
(1) Fish Lake	69-0491
(2) Island Lake	69-0372
Multiple Counties	
(1) Lake Superior	16-0001
(2) Cloquet River (from Island Lake to the St. Louis River)	
(3) St. Louis River (downstream of the Cloquet River)	

Waters identified as infested with white perch.

The following water bodies are designated by the commissioner as infested with white perch (*Morone americana*).

Name	DNR Protected Waters Inventory Number
Multiple Counties	
Lake Superior	16-0001
St. Louis River (downstream of the Fond du Lac dam)	

Waters identified as infested with zebra mussels.

The following water bodies are designated by the commissioner as infested with zebra mussel (*Dreissena sp.*).

Name	DNR Protected Waters Inventory Number
Multiple Counties	
Lake Superior	16-0001
Mississippi River (downstream of St. Anthony Falls)	
St. Louis River (downstream of the Fond du Lac dam)	

Dated: 24 April 2000

Department of Natural Resources
Exotic Species Program
William J. Rendall
Program Coordinator

Teachers Retirement Association

Notice of Meeting

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, May 11, 2000 at 9:30 a.m. in Suite 500, Gallery Building, 17 W. Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan 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 and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Perpich Center for Arts Education

Request for Proposals for New School/Whole School Partnerships

Applications are being sought from school districts in greater Minnesota to determine the need and develop plans for the implementation and support of a locally appropriate adaptation of the Arts High School model, a comprehensive high school education centered in the arts. Given the greater resources and opportunities in some areas, only existing Minnesota school districts in Congressional Districts One, Two, Seven and Eight are eligible to apply.

A comprehensive education centered in the arts has demonstrated its effectiveness in helping students of a variety of learning styles succeed at high levels. The Arts High School of the Perpich Center has over 1,000 successful graduates, attending colleges and universities coast to coast, in the armed forces and working as artists and entrepreneurs.

The Perpich Center seeks to determine if the need exists and if local and regional support exists for the creative adaptation of this approach in one or two communities in greater Minnesota.

The formal RFP may be requested from:

Kathleen C. Regalado
Executive Administrative Assistant
Perpich Center for Arts Education
6125 Olson Memorial Highway
Golden Valley, Minnesota 55422
763-591-4718 or 1-800-657-3515 (toll free)

The Center will make awards in the range of \$15,000 to \$30,000 each available for up to two sites to determine the need and develop plans for the implementation and support of a locally appropriate adaptation of the Arts High School model. Funds will be made available beginning July of 2000 for a period of up to one year.

Deadline for applications is 4:00 p.m., May 30, 2000, and determination of successful projects will be made by July 15, 2000.

Professional, Technical & Consulting Contracts

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 \$25,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: agency name and address, name of agency contact person, description of project and tasks, cost estimate and final submission date and time of completed proposal. Certain quasi-state agencies and MnSCU institutions are exempted from these provisions. In accordance with *Minnesota Rules* 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. Certified Economically Disadvantaged Businesses and individuals shall receive the equivalent of a 4% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (651) 296-2600 or [TTY (651) 282-5799.]

Department of Children, Families and Learning

Notice of Request for Proposal to Provide Technology Maintenance and Support Services for the Food and Nutrition Service Interactive Web Site

The Department of Children, Families and Learning is soliciting proposals from qualified vendors to provide technology maintenance and support services for an interactive web-based computer system. The goal of this contract is to provide the Food and Nutrition (FNS) division with a reliable and stable environment for the FNS interactive Website. The environment will support the ability to quickly update and maintain Website information. The environment will allow thousands of transactions to occur in the areas of applications and claims processing, food distribution requisitioning, and other key areas in which the FNS conducts business with customers.

The Department has estimated the cost of this project should not exceed \$400,000.00 for the term of the contract. The anticipated project period is July 1, 2000 to June 30, 2001.

For a complete copy of the Request for Proposals, please contact:

Kathy Karnuth
Food and Nutrition Service
Department of Children, Families and Learning
1500 Highway 36 West
Roseville, Minnesota 55113
Phone: (651) 582-8541
Fax: (651) 582-8501
E-mail: kathy.karnuth@state.mn.us

Proposals are due no later than 3:00 p.m., May 15, 2000. Late proposals will not be accepted.

Environmental Quality Board

Notice of Request for Proposals for Studies for the Generic Environmental Impact Statement on Animal Agriculture in Minnesota

Laws of Minnesota 1998, Chapter 366, Section 86, directs the Minnesota Environmental Quality Board (EQB) to prepare a Generic Environmental Impact Statement (GEIS) and "...examine the long-term effects of the livestock industry, as it exists and as it is changing, on the economy, environment, and the way of life of Minnesota and its citizens." The Scoping Document for the GEIS, adopted in December 1998 identified twelve topical areas (A through L) for the GEIS to study relating to the environmental, social, health and economic effects of animal agriculture in Minnesota, along with more detailed "study questions" for each topic. In 1999 the EQB contracted with the University of Minnesota to prepare a summary of available literature pertaining to the twelve topics and study questions. The work solicited through this RFP will build on and incorporate that information.

The EQB is soliciting proposals from qualified individuals, firms, and institutions to develop and apply information about the study questions, and to present that information in a Technical Work Paper (TWP). For purposes of this work, several topics (D, E & F and I & J) have been combined together, resulting in nine topical TWPs.

The nine topical TWPs are

Social/Community Impacts & Issues (Topic A)
Land Use Conflicts & Regulation (Topic B)
Role of Government (Topic C)
Economic Structures, Profitability & External Costs (Topics D, E & F)

Professional, Technical & Consulting Contracts

Water Impacts (Topic G)
Air Quality & Odor Impacts (Topic H)
Soils & Manure Issues (Topics I & J)
Human Health Issues (Topic K)
Animal Health and Well-being Issues (Topic L)

A tenth TWP will be a description of Animal Agriculture in Minnesota.

The RFP identifies specific work tasks for each TWP for which the EQB wishes to contract. The number and complexity of tasks varies by TWP. All involve adapting information from the University Literature Summary for use in the GEIS and obtaining information produced by recently completed research (sources identified in Literature Summary). Some TWPs involve acquiring additional information from new sources or performing various studies. Work generally will be performed between July 2000 and May 2001.

Proposals may address more than one TWP. Proposals need not address all of the work tasks associated with a given TWP, however, preference may be given to proposals which do address all work tasks under a given TWP, with the exception of certain work tasks specifically identified in the RFP.

The total cost of all work to be contracted is expected not to exceed \$750,000 to \$800,000. No cost limits have been set in advance for any of the TWPs or individual work tasks, nor is it expected that similar amounts will be spent on each TWP. The EQB reserves the right to eliminate any work task entirely or in part due to funding constraints.

A version of the RFP and attachments is available for inspection at the Minnesota Planning/EQB website at: www.mnplan.state.mn.us/eqb/geis. **However, any person or organization intending to submit a proposal is advised to obtain a copy of the RFP by contacting the designated contact person below so that they can be notified of any updates or corrections or any responses to comments received about the RFP.** The website version of the RFP is not intended for responses.

To receive an RFP, request one by phone, fax, or e-mail, in person from the contact person listed below. The RFP will be available on April 24, 2000. Requestors must provide full name, address, phone number and fax number.

Angela McGovern
Minnesota Environmental Quality Board
Room 300, Centennial Building, 658 Cedar Street
St. Paul, MN 55155
Telephone: (651) 296-9535
Fax: (651) 296-3698
Email: angela.mcgovern@mnplan.state.mn.us

Department of Human Services

Purchasing and Service Delivery

Payment Policy Division

Request For Proposals for Design and Development of Minnesota Outpatient Prospective Payment System

The Minnesota Department of Human Services (DHS) is interested in contracting for professional and technical services to assist with the design and development of an outpatient prospective payment system (OPPS). The purpose of the contract is to obtain information related to the financial effects and computer system needs of changing the current payment methodology to a prospective payment system.

For purposes of this project, outpatient services consist of outpatient hospital, emergency room and ambulatory surgery centers. Professional services of physicians are not included. DHS pays approximately \$32 million annually for outpatient services under its Medical Assistance (MA) and General Assistance Medical Care (GAMC) fee for service payment system. Currently, DHS is in the process of adopting the Medicare OPPS for implementation in July 2000. An OPPS system with Minnesota specific weights and conversion factors is in the process of development for implementation in 2001.

Technical expertise and assistance will be provided through this contract on both payment systems.

It is anticipated that this contract will not exceed \$100,000.

Professional, Technical & Consulting Contracts

A copy of the complete RFP may be obtained from:

Elizabeth Backe
Minnesota Department of Human Services
Payment Policy Division
444 Lafayette Road
St. Paul, Minnesota 55155-3853
651-296-7468

Proposals are due no later than 3:00 p.m., May 15, 2000.

Department of Human Services Adult Supports Division

Notice of Availability of Contracts for Services to Help Minnesota Public Assistance Clients Apply for Supplemental Security Income

The Department of Human Services seeks qualified providers to help General Assistance, Group Residential Housing, and Minnesota Supplemental Aid applicants and recipients apply to the Social Security Administration for Supplemental Security Income (SSI). A qualified provider must be:

- A nonprofit legal assistance organization; or
- An agency that employs
 - licensed practitioners, or
 - accredited counseling staff, or
 - staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy; or
- A private attorney at law; or
- Another organization or person determined by the State to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits; and
- Able to assist clients through the entire SSI application process, from initial application through approval or final denial; a non-attorney, at a step requiring an attorney, must arrange legal representation through county or state contracted legal services or other legal services knowledgeable about the SSI process; and
- Able to provide services to clients in a multi-county area of no less than two counties.

The Department will pay contracted providers up to \$75 per hour for services plus actual reasonable out-of-pocket expenses for clients approved for SSI and for whom interim assistance reimbursement has been received. An additional incentive payment will be made if funds are available. The maximum payment is limited to 100% of the interim assistance reimbursement for each client.

This is an open solicitation and proposals may be submitted to the State at any time, through November 30, 2003.

For a copy of the Request for Proposal, contact:

Suzana Cobic-Ivkovic, DHS/SSI Coordinator
Adult Supports Division
Minnesota Department of Human Services
444 Lafayette Road North
St. Paul, MN 55155-3837
Phone: 651-296-1476

Minnesota State Colleges and Universities (MnSCU)

Request for Proposals for an Economic Feasibility Study

NOTICE IS HEREBY GIVEN for Request for Proposals for a consultant to conduct a study on the economic feasibility of MnSCU's participation in the State Employee Group Insurance Plan (SEGIP).

The study should include a review of State and national health insurance benefit trends and an analysis of alternative employee health insurance delivery systems (including SEGIP).

Proposals are due by May 26, 2000 no later than 4:00 p.m.

To request a copy of the full Request for Proposal, please contact:

Gary Janikowski
System Director, Personnel
Minnesota State Colleges & Universities (MnSCU)
30 East 7th Street, Suite 600
St. Paul, MN 55101
Email: gary.janikowski@so.mnscu.edu
Fax: 651-297-3145

This request for proposals does not obligate the State to complete the proposed project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Minnesota State Colleges and Universities

Winona State University

Request for bids on YR 2001-2003 WSU Undergraduate Catalog

NOTICE IS HEREBY GIVEN that Winona State University will receive sealed bids for YR 2001-2003 WSU Undergraduate Catalogs. Bid specifications will be available April 24, 2000 from Richard Davis, Publications Director, P.O. Box 5838, 209 Somsen Hall, Winona State University, Winona, MN 55987 or by calling 507-457-5026.

Sealed bids must be received by Richard Davis, P.O. Box 5838 or Somsen 209, Publications Office, Winona State University, Winona, MN 55987 by 3:00 p.m., May 8, 2000.

Winona State University reserves the right to reject any or all bids or portions thereof, or to waive any irregularities or informalities in bids received.

Minnesota Historical Society

Notice of Request For Bids for Demolition, New Construction and Painting of the Exhibit *Sounds Good To Me*

The Minnesota Historical Society (Society) is seeking bids from qualified and experienced vendors for the demolition, new construction, and painting for a new exhibit at the Minnesota History Center. Demolition of the previous exhibit is to begin June 26, 2000, with new construction and painting to be completed on or before July 21, 2000.

The Music exhibit, which will be located in gallery "A" and be approximately 6,000 square feet, looks at how Minnesotans have woven music into their lives, by presenting different locations where music is heard or made, and forming appropriate backdrops for the display of artifacts, visitor-friendly interactive and media installations, and introduces the visitor to different musicians, types of music, instrument makers, and advances the story of the overall exhibit.

A pre-bid informational meeting will be held on May 1, 2000 at 2:00 P.M. in the Crosby Conference Room of the Minnesota Historical Society, 345 Kellogg Boulevard West, Saint Paul, Minnesota 55102.

Professional, Technical & Consulting Contracts

The Request for Bids is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, Saint Paul, MN 55102. Telephone (651) 297-5863 or e-mail: chris.bonnell@mnhs.org

Bids must be received no later than 2:00 P. M., Local Time, Monday, May 22, 2000. No late bids will be accepted.

Minnesota Historical Society

Notice of Request for Proposals for preparation of Historic Furnishing Plan for The Alexander Ramsey House Historic Site

The Minnesota Historical Society is soliciting proposals from qualified professionals for a fixed-price contract for research and preparation of a Historic Furnishing Plan for the Alexander Ramsey House, located at 265 S. Exchange Street, St. Paul, Minnesota. The Furnishing Plan will help direct a major reinterpretation and restoration of the historic site and its collections to a time period of 1872 to 1900. Spaces in the house will be furnished to illustrate specific themes and stories based on information extracted from family papers. The reinterpretation, guided by a written Interpretive Outline, will more fully integrate stories of women, children, and servants into the Ramsey House and place them within an accurately restored environment.

The Request for Proposals is available by writing or calling, Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, Saint Paul, MN 55102. Telephone (651) 297-5863 or e-mail: chris.bonnell@mnhs.org

A pre-proposal meeting will take place at the Alexander Ramsey Historic Site at 2:00 P. M., Local Time, Monday, May 8, 2000.

Proposals must be received no later than 2:00 P. M., Local Time, Thursday, May 25, 2000, and be submitted in the format provided for in the Request for Proposals. Late proposals will not be accepted.

Department of Transportation

Office of Transit

Notice of Request For Proposal for Greater Minnesota Transit Plan

NOTICE IS HEREBY GIVEN that the Minnesota Department of Transportation (Mn/DOT), Office of Transit is seeking proposals from qualified consultant firms to assist in the development of a Greater Minnesota Long Range Transit Plan. This plan will include but not be limited to: analyzing demographic and socio-economic trends in greater Minnesota, evaluating existing transit programs and services, assessing statewide transit needs and developing transit service level options and their associated fiscal impacts.

The successful proposer will be required to comply with all applicable Equal Opportunity laws and regulations.

The Minnesota Department of Transportation hereby notifies all proposers that it will affirmatively ensure, that in regard to any contract entered pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Background information, description of the project, scope of work, and submission requirements are available from the Mn/DOT Office of Transit and may be obtained by calling 651-296-3379 or writing to:

Noel C. Shughart
Program Manager
Office of Transit, Mail Stop 430
Mn/DOT Transportation Building
395 John Ireland Blvd
Saint Paul, MN 55155

Proposal packages will be mailed to all interested parties. All proposals must be received at the reception desk of the Office of Transit on or before Wednesday May 31, 2000 by 2:00 p.m., CDT at the above address. No time extensions will be granted. Mn/DOT reserves the right to accept or reject any or all proposals, or waive any minor informalities for good cause upon a finding that it is in the public interest to do so.

Professional, Technical & Consulting Contracts

This request does not obligate the State of Minnesota, Department of Transportation to complete the work contemplated in this notice and Mn/DOT reserves the right to cancel this solicitation. All expenses incurred in responding to this notice shall be borne by the responder.

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State 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.

Metropolitan Council

Notice of Request for Proposals for Engineering Services, Project Number 63955

The Metropolitan Council is requesting engineering services proposals for:

Design two (2) large specialty bus shelters in two separate locations in downtown St. Paul as part of the Riverview Corridor project. The designing will include up to three (3) design alternatives and one final design for each site. The locations are 6th Street between Jackson and Robert Street, and 5th Street and Market Street.

Issue Request for Proposals	April 24, 2000
Receive Proposals	May 24, 2000
Evaluate and Rank Proposals	May 30, 2000
Contract negotiated, executed, NTP	July 1, 2000

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Jan Bevins, Purchasing Agent Trainee, Contracts and Procurement Unit
Metropolitan Council Environmental Services
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
FAX: 651-602-1138 e-mail: jan.bevins@metc.state.mn.us

Inquiries regarding technical aspects of the project should be directed to Evan Steiner at (612) 349-7696.

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposals or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

Non-State Public Bids, Contracts & Grants

Metropolitan Council

Notice of Request for Proposals (RFP) Architectural/Engineering Services Riverview Corridor Transit Station and Amenities Metropolitan Transit Contract Number 00P0028

The Metropolitan Council is requesting proposals for Architectural/Engineering Services to design and provide construction support services for various Metro Transit bus passenger amenities being developed for the Riverview Corridor.

Issue Request for Proposals	April 17, 2000
Receive Proposals	May 18, 2000
Evaluate and Rank Proposals	May 26, 2000

All firms interested in being considered for this project and desiring to receive an RFP package are invited to contact:

Jan Bevins, Purchasing Agent Trainee, Contracts and Procurement Unit
Metropolitan Council Environmental Services
Mears Park Centre
230 East Fifth Street
St. Paul, MN 55101
651-602-1132
e-mail: jan.bevins@metc.state.mn.us

Inquiries regarding this project should be directed to Hugh McConnell at 651-602-1144. This is the second advertisement of this project. The first appeared in the Construction Bulletin 4/14/00.

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposals or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable. This project is FTA funded.

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

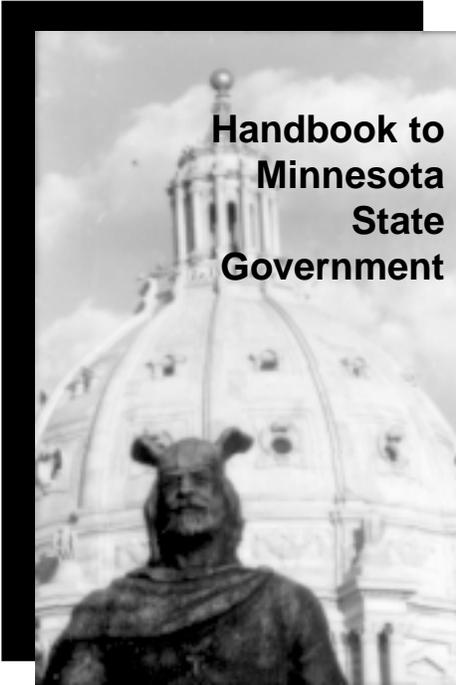
The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call the BIS Coordinator at 612-625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.



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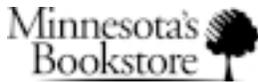
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