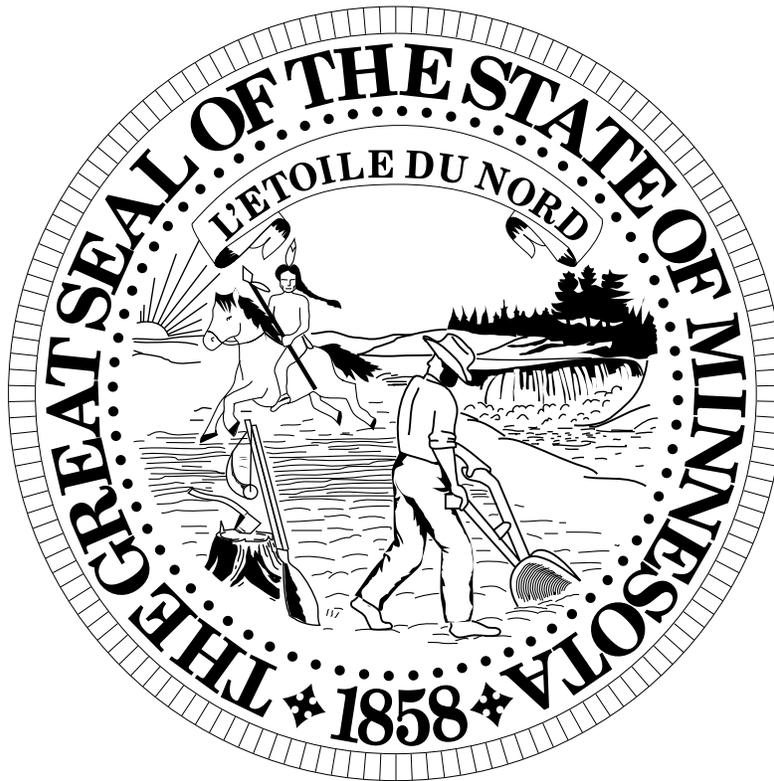


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State Register

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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:

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#14	Monday 30 September	Noon Tuesday 24 September	Noon Wednesday 18 September
#15	Monday 7 October	Noon Tuesday 1 October	Noon Wednesday 25 September
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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 1999 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 issues #1-52 (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 (612) 297-3000, or toll-free 1-800-657-3757.

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Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

Expedited and Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

Department of Health

Adopted Permanent Rules Relating to Clean Indoor Air

The rules proposed and published at *State Register*, Volume 26, Number 24, pages 720-739, December 3, 2001 (26 SR 720), are adopted with the following modifications:

4620.0100 DEFINITIONS.

Subp. 2. **Acceptable nonsmoking area.** "Acceptable nonsmoking area" means:

B. where at least one of the conditions in subitems (1) to (3) exists.

(1) There is a continuous, physical barrier such as a wall, partition, or furnishing, of at least 56 inches (1.42 meters) in height, ~~measured from the highest adjacent floor surface,~~ separating the ~~smoking~~ smoking-permitted and acceptable nonsmoking areas. The barrier may contain doors or portals for exit and entry.

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.

Adopted Rules

(2) There is a space of at least four feet (1.22 meters) in width separating the ~~smoking~~ smoking-permitted and acceptable nonsmoking areas. This space may be either an unoccupied area or a section of seating area acting as a buffer zone in which smoking is not permitted, but which itself is not part of the acceptable nonsmoking area.

(3) The ventilation system in the room containing both a ~~smoking~~ smoking-permitted and an acceptable nonsmoking area must provide outdoor air requirements for ventilation of not less than 15 cubic feet per minute per person, ~~as verified by an individual certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. The commissioner shall accept a ventilation rate that has been verified within the previous 12 months, provided changes affecting the operation of the ventilation system have not been made.~~

Subp. 4. **Bar.** "Bar" means an establishment or portion of an establishment where one can purchase and consume alcoholic beverages ~~and that has either:~~. Any such establishment or portion of an establishment is not considered a "bar" for the purposes of parts 4620.0050 to 4620.1450 if it has:

A. ~~a maximum patron seating capacity of not more than 50 and is categorized according to Minnesota Statutes, section 157.16, subdivision 3, paragraph (d), clause (7); or~~ table and seating facilities for more than 50 people at one time; and

B. licensed food service provided, in consideration of payment, ~~and is categorized according to~~ excluding licensed limited food service establishments under Minnesota Statutes, section 157.16, subdivision 3, paragraph (d), clause (1), item (i) or (ii).

Subp. 4a. ~~Common area.~~ "Common area" means an area used by both nonsmokers and smokers, including, but not limited to, an entry or exit area, lobby area, ticket area, registration area, common traffic area, common area of rental apartment buildings, or similar section of a public place:

Subp. ~~4b.~~ 4a. **Environmental tobacco smoke.** "Environmental tobacco smoke" means:

- A. smoke from a cigarette, pipe, cigar, or other lighted smoking equipment; and
- B. exhaled smoke from a smoker; ~~or~~
- C. ~~both A and B.~~

Subp. 11a. **Private enclosed office.** "Private enclosed office" means a room ~~assigned to only~~ occupied by one person with floor to ceiling walls and a closeable door.

Subp. 16a. **Retail store.** "Retail store" means that portion of a commercial occupancy used for the transaction of business or the rendering of a service directly to the public, including, ~~but not limited to,~~ shops, retail food stores, laundries or laundromats, and department stores.

Subp. 16b. ~~Retail tobacco store.~~ "Retail tobacco store" means a business establishment that derives at least 90 percent of its revenue from selling tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

Subp. 18. **Smoke free area.** "Smoke free area" means:

- A. ~~a building where smoking is prohibited in its entirety; or~~
- B. a contiguous portion of a public place or public meeting that is separated from all adjacent or connected smoking permitted areas according to part 4620.0450, subpart 1.

Subp. 19. **Smoking area.** "Smoking area" means an area that is within a public place where smoking is permitted, but that does not meet the requirements of part 4620.0450, subpart 1.

Subp. 20. **Smoking permitted area.** "Smoking permitted area" means a contiguous portion of a public place or public meeting that is designed and operated according to part 4620.0450, subpart 1.

4620.0300 SMOKING PROHIBITED AREAS.

~~Subpart 1. General.~~ Smoking is prohibited in all sections of public places or public meetings except in areas designated as ~~smoking~~ smoking-permitted areas. The responsible person must arrange for an acceptable nonsmoking area. The size and location of a ~~smoking~~ smoking-permitted area must minimize environmental tobacco smoke in any adjacent acceptable nonsmoking area according to parts 4620.0050 to 4620.1450.

Subp. 2. **Expiration date:**

A. ~~This part expires on the effective date of part 4620.0350, according to part 4620.0350, subpart 2, item A, for office buildings and factories, warehouses, or similar places of work.~~

B. ~~This part expires on the effective date of part 4620.0350, according to part 4620.0350, subpart 2, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or

(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.

This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.

~~C. This part expires on the effective date of part 4620.0350, according to part 4620.0350, subpart 2, item C, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part expires on the effective date of part 4620.1010 for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0350 SMOKE FREE AREAS.

~~Subpart 1. **General.** Smoking is prohibited in all sections of public places or public meetings except in areas designated as smoking permitted areas. The responsible person must arrange for smoke free areas. The size and location of a smoking permitted area must minimize environmental tobacco smoke in any adjacent smoke free areas according to parts 4620.0050 to 4620.1450.~~

~~Subp. 2. **Effective Date.**~~

~~A. This part is effective one year after the adoption date of this part for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part is effective three years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0400 ~~SMOKING~~ SMOKING-PERMITTED AREA.

Subpart 1. **Smoking Smoking-permitted area in one room.** If smoking is to be permitted in an area of a public place or public meeting, the responsible person must designate the area as ~~a smoking area.~~ “smoking-permitted.” ~~One and only one smoking~~ smoking-permitted area may be designated per room. However, rooms containing at least 20,000 square feet (1,858 square meters) in total floor space may designate ~~no more than one smoking~~ no more than one smoking-permitted area per 20,000 square feet, or fraction thereof, ~~but must~~ and shall otherwise comply with parts 4620.0050 to 4620.1450.

Subp. 2. **Smoking Smoking-permitted area in two or more rooms.** In a public place that contains two or more rooms used for the same activity, the responsible person may designate one entire room as ~~smoking~~ smoking-permitted as long as at least one other comparable room has been designated as an acceptable nonsmoking area.

Subp. 3. **Acceptable nonsmoking area within a room.** In the case of a public place consisting of a single room in which a ~~smoking~~ smoking-permitted area is designated, the responsible person is responsible for reserving and clearly designating an

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acceptable nonsmoking area on one side of the room. The responsible person must make reasonable efforts to prevent smoking in nonsmoking areas.

Subp. 4. **Size of the area.** The size of the designated ~~smoking~~ smoking-permitted area must not be more than proportionate to the preference of users of that location for a ~~smoking~~ smoking-permitted area, as can be demonstrated by a responsible person. The proportional preference of users of a ~~smoking~~ smoking-permitted area in that location may be demonstrated by the responsible person by evidence of ~~either~~ any of the following:

A. the percent of users of the location who express a preference for a ~~smoking~~ smoking-permitted area when the responsible person asks all users for their preference; ~~or~~

B. the percent of users of the location who request or select a smoking-permitted area when the responsible person does not ask all users for their preference; or

C. the percent of users who are determined by the responsible person to prefer a ~~smoking~~ smoking-permitted area by an alternate method that reasonably indicates the users' preference.

Subp. 6. ~~Expiration date.~~

~~A. This part expires on the effective date of part 4620.0450, according to part 4620.0450, subpart 6, item A, for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part expires on the effective date of part 4620.0450, according to part 4620.0450, subpart 6, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings, factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part expires on the effective date of part 4620.0450, according to part 4620.0450, subpart 6, item C, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings, factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part expires on the effective date of part 4620.1010 for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0450 SMOKING PERMITTED AREA.

Subpart 1. ~~Smoking permitted area requirements.~~

~~A. A smoking permitted area must be designed and operated according to items B to E. Documentation of items B to E must be made available to the commissioner upon request.~~

~~B. The area must be maintained at a negative pressure with respect to adjacent or connected smoke free areas.~~

~~C. Air from a smoking permitted area must not be recirculated into a smoke free area.~~

~~D. Air from the smoking permitted area must be exhausted directly to the outdoors.~~

~~E. The area must be equipped with one of the following:~~

~~(1) a continuous physical barrier with closed doors, except to permit necessary ingress and egress, that separates the smoking permitted area from adjacent or connected smoke free areas; or~~

~~(2) an air distribution system that is designed and operated to ensure a unidirectional airflow from adjacent or connected smoke free areas into the smoking permitted area, as verified by an individual certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. The commissioner shall accept documentation of unidirectional airflow that has been verified within the previous 12 months, provided changes affecting the operation of the ventilation system have not been made.~~

~~Subp. 2. **Smoking permitted area in one room.** If smoking is to be permitted in an area of a public place or public meeting, the responsible person must designate the area as smoking permitted. Only one smoking permitted area may be designated per room. However, rooms containing at least 20,000 square feet (1,858 square meters) in total floor space may designate one smoking permitted area per 20,000 square feet, or fraction thereof, but must otherwise comply with parts 4620.0050 to 4620.1450.~~

~~Subp. 3. **Smoking permitted area in two or more rooms.** In a public place that contains two or more rooms used for the same activity, the responsible person may designate one entire room as a smoking permitted area as long as at least one other comparable room has been designated as a smoke free area.~~

~~Subp. 4. **Smoke free area within a room.** In the case of a public place consisting of a single room in which a smoking permitted area is designated, the responsible person is responsible for reserving and clearly designating a smoke free area on one side of the room. The responsible person must make reasonable efforts to prevent smoking in smoke free areas.~~

~~Subp. 5. **Size of area.** The size of the designated smoking permitted area must not be more than proportionate to the preference of users of that location for a smoking permitted area, as can be demonstrated by a responsible person. The proportional preference of users of a smoking permitted area in that location may be demonstrated by the responsible person by evidence of either of the following:~~

~~A. the percent of users of the location who express a preference for a smoking permitted area when the responsible person asks all users for their preference; or~~

~~B. the percent of users who are determined by the responsible person to prefer a smoking permitted area by an alternate method that reasonably indicates the users' preference.~~

~~Subp. 6. **Effective date.**~~

~~A. This part is effective one year after the adoption date of this part for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part is effective three years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0500 SIGNS.

Subpart 1. **Posting.** To advise persons of the existence of acceptable nonsmoking and ~~smoking~~ smoking-permitted areas, "No Smoking" and "Smoking Permitted" signs must be posted according to this part. In addition, the statement "Smoking is prohibited except in designated areas" or a similar statement must be conspicuously posted on or immediately inside of all outside entrances to a public place.

Subp. 2. **Statement on sign.** All signs used to identify a location where the responsible person prohibits smoking in an entire public place or public meeting must use the statement, "No smoking is permitted in this entire establishment" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the public place. All signs used to identify a ~~smoking~~ smoking-permitted area must use the words "smoking permitted" or the international smoking symbol, or both. Signs that are used to identify an acceptable nonsmoking area must use the words "no smoking" or the international no-smoking symbol, or both.

Subp. 3. **Placement of sign.** All signs used to identify ~~smoking~~ smoking-permitted and acceptable nonsmoking areas must be placed at a height and location easily seen by a person in the establishment and must not be obscured in any way. In areas where signs have to be read from a distance, the following are minimum lettering and symbol sizes that must be used:

<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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Adopted Rules

Farthest Farthest distance from which sign is to be read:	Height of lettering:	Diameter of outer circle on symbol:
Up to: 75 feet	1.5 inches	4 inches
150 feet	4 inches	6 inches
200 feet	6 inches	10 inches
350 feet	8 inches	15 inches
500 feet	12 inches	18 inches

The boundary between an acceptable nonsmoking area and a ~~smoking~~ smoking-permitted area must be clearly designated so a person can differentiate between the two areas.

Subp. 4. **Size of lettering.** Signs used on tables, seats, or entrances to designate acceptable nonsmoking and ~~smoking~~ smoking-permitted areas must use printed letters of not less than 0.5 inches (1.3 centimeters) in height. Whenever either of the international symbols is used, the diameter of the outer circle must not be less than three inches. The size of lettering on signs reading "Smoking Permitted" must not exceed the size of lettering on signs reading "No Smoking" in the same public place.

Subp. 5. **Posting in a bar.** All signs used to identify a bar that has been designated as a smoking area in its entirety must use the statement "This establishment is a smoking area in its entirety" or a similar statement. In a bar that has food service ~~other than~~ as specified in part 4620.0100, subpart 4, and that allows smoking in its entirety when food service is not available, all signs used to identify ~~smoking~~ smoking-permitted areas must state "This establishment is a smoking area in its entirety except when food service is available" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the establishment.

Subp. 6. **Posting in a restaurant or public place with controlled seating.** A restaurant or other public place that ~~allows smoking and~~ has controlled seating ~~where~~ (an employee directs patrons to seating or waiting areas) must ask each person whether that person prefers a ~~smoking~~ smoking-permitted or a nonsmoking area before directing that person to a seat in the appropriate area. At least one sign advising the public of this procedure must be conspicuously posted on or immediately inside of all outside entrances to the establishment. Similarly, a restaurant or other public place that takes advance reservations must ask the person's preference for a ~~smoking~~ smoking-permitted or nonsmoking area at the time the reservation is made. A restaurant or other public place that uses controlled seating as defined above is exempt from the sign requirements contained in subparts 3 and 4.

Subp. 7. **Expiration date.**

~~A. This part expires on the effective date of part 4620.0955 for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item A, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part expires on the effective date of part 4620.1010 for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0600 PERMISSIBLE ASHTRAYS.

~~Subpart 1. **General.**~~ Portable ashtrays are banned in all acceptable nonsmoking areas. Only ash stands and permanent ashtrays may be used at or near the entrance to an acceptable nonsmoking area. Ash stands and permanent ashtrays must be conspicuously labeled with the following message or a similar statement and placed on or near the ash stand ~~or permanent ashtray:~~

SMOKING IS PROHIBITED**PLEASE EXTINGUISH ALL SMOKING MATERIALS IMMEDIATELY****Subp. 2. ~~Expiration date.~~**

~~A. This part expires on the effective date of part 4620.0650, according to part 4620.0650, subpart 2, item A, for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part expires on the effective date of part 4620.0650, according to part 4620.0650, subpart 2, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part expires on the effective date of part 4620.0650, according to part 4620.0650, subpart 2, item C, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part expires on the effective date of part 4620.1010 for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0650 PERMISSIBLE ASHTRAYS.

~~Subpart 1. **General.** Portable ashtrays are banned in smoke free areas. Only ash stands and permanent ashtrays may be used at or near the entrance to a smoke free area. Ash stands and permanent ashtrays must be conspicuously labeled with the following message or a similar statement and placed on or near the ash stand or permanent ashtray:~~

SMOKING IS PROHIBITED**PLEASE EXTINGUISH ALL SMOKING MATERIALS IMMEDIATELY****Subp. 2. ~~Effective date.~~**

~~A. This part is effective one year after the adoption date of this part for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of the building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part is effective three years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

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.

Adopted Rules

~~D. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0750 LUNCHROOM OR LOUNGE.

~~Subpart 1. General.~~ A lunchroom or lounge must be designated as specified in this part.

C. The responsible person must also provide a method of separation, as described in part 4620.0100, subpart 2, item B, between the nonsmoking and ~~smoking~~ smoking-permitted areas.

E. If there is only one lunchroom or lounge and it measures less than 200 square feet, the responsible person may alternate nonsmoking and ~~smoking~~ smoking-permitted break times. Nonsmoking employees must not be required to take breaks while the lunchroom or lounge is designated as ~~smoking~~ smoking-permitted in its entirety.

~~Subp. 2. Expiration date.~~

~~A. This part expires on the effective date of part 4620.0955 for office buildings and factories, warehouses, or similar places of work.~~

~~B. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item A, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~C. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.~~

~~D. This part expires on the effective date of part 4620.1010 for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.0950 OFFICE BUILDINGS OFFICES.

Subpart 1. **General.** Smoking is prohibited in all ~~office spaces~~ offices, except in the following locations:

B. in a designated ~~smoking~~ smoking-permitted area of a lunchroom or lounge as specified in part 4620.0750; or

C. where a designated smoking-permitted area of a lunchroom or lounge is not available with the office space controlled by the responsible person, then one ~~smoking~~ smoking-permitted area per 20,000 square feet, or fraction thereof, may be designated by the responsible person. One of the separation methods specified in part 4620.0100, subpart 2, item B, must be provided between the nonsmoking and ~~smoking~~ smoking-permitted areas.

4620.0955 OFFICE BUILDINGS OFFICES; FACTORIES, WAREHOUSES, OR SIMILAR PLACES OF WORK.

Subpart 1. **General.** Smoking is prohibited in all ~~office spaces~~ offices and factories, warehouses, or similar places of work, except:

A. in a private enclosed office if the door is kept closed while smoking occurs and it meets the requirements of ~~part 4620.0450, subpart 1 2,~~ items B to ~~D~~ E;

B. in a designated smoking-permitted area of a lunchroom or lounge that complies with subitems (1) to ~~(3)~~ (4) and meets the requirements of subpart 2, items B to E:

(1) the responsible person must designate a ~~smoke-free nonsmoking~~ smoke-free nonsmoking area in the lunchroom or lounge that meets demand. Amenities, such as refrigerators or microwave ovens, must be located in the ~~smoke-free nonsmoking~~ smoke-free nonsmoking area. The space occupied by the amenities must not be calculated as part of the percentage of area allocated to the ~~smoke-free nonsmoking~~ smoke-free nonsmoking seating area;

(2) the responsible person must determine the demand for a ~~smoke-free nonsmoking~~ smoke-free nonsmoking area according to part ~~4620.0450~~ 4620.0400, subpart ~~5~~ 4, or may designate at least 70 percent of the lunchroom or lounge as a ~~smoke-free nonsmoking~~ smoke-free nonsmoking area;

(3) ~~if smoking permitted areas are designated, the responsible person must comply with part 4620.0450, subpart 1;~~

(4) if there are two or more lunchrooms or lounges, one may be designated as smoking-permitted in its entirety as long as ~~it meets the requirements of part 4620.0450, subpart 1, and~~ at least one other comparable lunchroom or lounge is designated as smoke-free nonsmoking in its entirety; and

~~(5)~~ (4) if there is only one lunchroom or lounge and it ~~meets the requirements of part 4620.0450, subpart 1~~ measures less than 200 square feet, the responsible person may alternate nonsmoking and smoking-permitted break times. Nonsmoking employees must not be required to take breaks while the lunchroom or lounge is designated as smoking-permitted in its entirety; or

C. when a lunchroom or lounge is not available with the space controlled by the responsible person, the responsible person may designate one smoking-permitted area per 20,000 square feet, or fraction thereof. If smoking-permitted areas are designated, the responsible person must comply with ~~part 4620.0450, subpart 1~~ 2, items B to E.

Subp. 2. Signs.

A. To advise persons of the existence of smoke-free and smoking-permitted areas, “No Smoking” or “Smoke-free Area” and “Smoking Permitted” signs must be posted according to this part.

B. Signs used to identify a location where the responsible person prohibits smoking in an entire office building or factory, warehouse, or similar place of work must use the statement “No smoking is permitted in this entire establishment” or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the office building or factory, warehouse, or similar place of work.

C. Signs used to identify a location where the responsible person has designated a smoking-permitted area in an office building, factory, warehouse, or similar place of work must use the statement “Smoking is prohibited except in designated areas” or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the office building, factory, warehouse, or similar place of work. All smoking-permitted areas must be posted with a sign using the words “smoking permitted” or the international smoking symbol, or both. Signs that are used to identify a smoke-free area must use the words “no smoking” or “smoke-free area,” the international no-smoking symbol, or a combination of words and the symbol.

D. Signs used to identify smoking-permitted and smoke-free areas must be placed at a height and location easily seen by a person in the establishment and must not be obscured in any way. In areas where signs have to be read from a distance, the following are minimum lettering and symbol sizes that must be used:

	Furthest distance from which sign is to be read:	Height of lettering:	Diameter of outer circle on symbol:
Up to:	75 feet	1.5 inches	4 inches
	150 feet	4 inches	6 inches
	200 feet	6 inches	10 inches
	350 feet	8 inches	15 inches
	500 feet	12 inches	18 inches

The boundary between a smoke-free area and a smoking-permitted area must be clearly designated so a person can differentiate between the two areas.

E. Signs used on tables, seats, or entrances to designate smoke-free and smoking-permitted areas must use printed letters of not less than 0.5 inches (1.3 centimeters) in height. If an international symbol is used, the diameter of the outer circle must not be less than three inches. The size of lettering on signs reading “Smoking Permitted” must not exceed the size of lettering on signs reading “No Smoking” or “Smoke-free Area” in the same office building or factory, warehouse, or similar place of work.

Subp. 2. Smoking-permitted area requirements.

A. A smoking-permitted area in an office or a factory, warehouse, or similar place of work must be designed and operated according to items B to E. Documentation of items B to E must be made available to the commissioner upon request.

B. The area must be maintained at a negative pressure with respect to adjacent or connected nonsmoking areas, as verified by a professional engineer licensed in the state or an individual certified by the National Environmental Balancing Bureau or the American Air Balance Council. The commissioner shall accept documentation of a negative pressure relationship that has been verified within the previous 12 months, provided changes affecting the operation of the ventilation system have not been made.

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.

Adopted Rules

C. Air from a smoking-permitted area must not be recirculated into a nonsmoking area.

D. Air from the smoking-permitted area must be exhausted directly to the outdoors.

E. The area must be equipped with one of the following:

(1) a continuous physical barrier with closed doors, except to permit necessary ingress and egress, that separates the smoking-permitted area from adjacent or connected nonsmoking areas; or

(2) an air distribution system that is designed and operated to ensure a unidirectional airflow from adjacent or connected nonsmoking areas into the smoking-permitted area, as verified by an individual certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. The commissioner shall accept documentation of unidirectional airflow that has been verified within the previous 12 months, provided changes affecting the operation of the ventilation system have not been made.

4620.0960 OTHER PUBLIC PLACES.

Subpart 1. **General.** Smoking is prohibited in all public places not otherwise covered by parts 4620.0050 to 4620.1450, except in:

A. a private enclosed office if the door is kept closed while smoking occurs and it meets the requirements of part 4620.0450, subpart 1, items B to D; or

B. a designated smoking permitted area of a lunchroom or lounge that complies with subitems (1) to (5):

(1) the responsible person must designate a smoke free area in the lunchroom or lounge that meets demand. Amenities, such as refrigerators or microwave ovens, must be located in the smoke free area. The space occupied by the amenities must not be calculated as part of the percentage of area allocated to the smoke free area;

(2) the responsible person must determine the demand for a smoke free area according to part 4620.0450, subpart 5, or may designate at least 70 percent of the lunchroom or lounge as a smoke free area;

(3) if smoking permitted areas are designated, the responsible person must comply with part 4620.0450, subpart 1;

(4) if there are two or more lunchrooms or lounges, one may be designated as smoking permitted in its entirety as long as it meets the requirements of part 4620.0450, subpart 1, and at least one other comparable lunchroom or lounge is designated as smoke free in its entirety; and

(5) if there is only one lunchroom or lounge and it meets the requirements of part 4620.0450, subpart 1, the responsible person may alternate nonsmoking and smoking permitted break times. Nonsmoking employees must not be required to take breaks while the lunchroom or lounge is designated as smoking permitted in its entirety.

Subp. 2. Common areas.

A. No person may smoke in common areas except in designated smoking permitted areas.

B. Common areas must not be designated in their entirety as smoking permitted areas if nonsmokers are required to use the area to participate in activities for which the public space is intended.

C. Smoking is prohibited in elevators.

D. Smoking is prohibited in public restrooms.

Subp. 3. Retail stores.

A. Smoking is prohibited in all customer areas of retail stores, except in designated smoking permitted areas according to part 4620.0450 and in customer areas of retail tobacco stores as defined in part 4620.0100, subpart 16b, if those areas meet the requirements of part 4620.0450, subpart 1.

B. To allow smoking in a smoking permitted area, the same goods and services must be available in a smoke free area.

C. Smoking permitted areas for customers must be designated according to part 4620.0450.

D. Designated smoking permitted areas for employees must be separate from all customer areas.

E. When a restaurant is located within a retail store, that space licensed as a restaurant must comply with part 4620.1010.

Subp. 4. **Hotels, motels, resorts.** No person may smoke in hotels, motels, or resorts except in designated smoking permitted areas. This prohibition does not apply to a sleeping room that is rented to a guest.

Subp. 5. **Theatrical productions.** Performers in a theatrical production may smoke if smoking is an integral part of the story of the theatrical production.

Subp. 6. Signs.

Adopted Rules

A. To advise persons of the existence of smoke free and smoking permitted areas, “No Smoking” or “Smoke free Area” and “Smoking Permitted” signs must be posted according to this part.

B. Signs used to identify a location where the responsible person prohibits smoking in an entire public place or public meeting must use the statement “No smoking is permitted in this entire establishment” or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the public place.

C. Signs used to identify a location where the responsible person has designated a smoking permitted area in a public place must use the statement “Smoking is prohibited except in designated areas” or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to a public place. All smoking permitted areas must be posted with a sign using the words “smoking permitted” or the international smoking symbol, or both. Signs that are used to identify a smoke free area must use the words “no smoking” or “smoke free area,” the international no smoking symbol, or a combination of words and the symbol.

D. Signs used to identify smoking permitted and smoke free areas must be placed at a height and location easily seen by a person in the establishment and must not be obscured in any way. In areas where signs have to be read from a distance, the following are minimum lettering and symbol sizes that must be used:

	Furthest distance from which sign is to be read:	Height of lettering:	Diameter of outer circle on symbol:
Up to:	75 feet	1.5 inches	4 inches
	150 feet	4 inches	6 inches
	200 feet	6 inches	10 inches
	350 feet	8 inches	15 inches
	500 feet	12 inches	18 inches

The boundary between a smoke free area and a smoking permitted area must be clearly designated so a person can differentiate between the two areas.

E. Signs used on tables, seats, or entrances to designate smoke free and smoking permitted areas must use printed letters of not less than 0.5 inches (1.3 centimeters) in height. If an international symbol is used, the diameter of the outer circle must not be less than three inches. The size of lettering on signs reading “Smoking Permitted” must not exceed the size of lettering on signs reading “No Smoking” or “Smoke free Area” in the same public place.

F. A public place that has controlled seating where an employee directs patrons to seating or waiting areas must ask each person whether that person prefers a smoking permitted or a smoke free area before directing that person to a seat in the appropriate area. A public place that takes advance reservations must ask the person’s preference for a smoking permitted or smoke free area at the time the reservation is made. A public place that uses controlled seating is exempt from the sign requirements of items D and E.

Subp. 7. **Effective date.**

A. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that:

(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or

(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.

This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.

B. This part is effective three years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part. This item does not apply to office buildings; factories, warehouses, or similar places of work; health care facilities; or public conveyances.

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.

Adopted Rules

4620.0975 FACTORIES, WAREHOUSES, OR SIMILAR PLACES OF WORK.

Subp. 2. **Restriction.** If the conditions specified in subpart 1, items A and B, cannot be met, then smoking must be restricted in a factory, warehouse, or similar place of work to the following locations:

B. the designated ~~smoking~~ smoking-permitted area of a lunchroom or lounge as specified in part 4620.0750; or

C. where a ~~designated smoking-permitted area of~~ a lunchroom or lounge is not available with the factory or warehouse space controlled by the responsible person, then one ~~smoking~~ smoking-permitted area per 20,000 square feet, or fraction thereof, may be designated by the responsible person. One of the separation methods specified in part 4620.0100, subpart 2, item B, must be provided between the nonsmoking and ~~smoking~~ smoking-permitted areas.

4620.1000 RESTAURANTS.

~~Subpart 1. General.~~ During its hours of operation, a restaurant shall be in compliance with parts 4620.0500 to 4620.1450 if ~~at least~~ 30 percent of the seats in the eating area are designated as "Smoking Prohibited."

When a facility contains both a restaurant and a bar and the restaurant and bar are in separate rooms, and both the restaurant and bar have food service available to patrons, then:

~~Subp. 2. Expiration date.~~ This part expires on the effective date of part 4620.1010.

4620.1010 RESTAURANTS.

~~Subpart 1. Dining area.~~

~~A. During its hours of operation, a restaurant is in compliance with parts 4620.0600 to 4620.1450 if:~~

~~(1) at least 30 percent of the seats in the eating area are designated as smoke free; and~~

~~(2) the smoking permitted areas meet the requirements of part 4620.0450, subpart 1.~~

~~B. If a facility contains both a restaurant and a bar, the restaurant and bar are in separate rooms, and both the restaurant and bar have food service available to patrons:~~

~~(1) the responsible person must calculate the total seating for both the restaurant and bar;~~

~~(2) the responsible person must determine 30 percent of the total seating in subitem (1) to be designated as smoke free seating; and~~

~~(3) the responsible person may locate the required 30 percent of smoke free seating entirely in the restaurant, entirely in the bar, or allocate part of the 30 percent in the bar and part of the 30 percent in the restaurant.~~

~~Subp. 2. Employee lunchroom or lounge.~~

~~A. An employee lunchroom or lounge in a restaurant must be designated according to items B to F.~~

~~B. The responsible person must designate a smoke free area in the lunchroom or lounge that meets demand. Amenities, such as refrigerators or microwave ovens, must be located in the smoke free area. The space occupied by the amenities must not be calculated as part of the square footage or percentage of area allocated to the smoke free seating area.~~

~~C. The responsible person must determine the demand for a smoke free area according to part 4620.0450, subpart 5, or may designate at least 70 percent of the lunchroom or lounge as a smoke free area.~~

~~D. If smoking permitted areas are designated, the responsible person must comply with part 4620.0450, subpart 1.~~

~~E. If there are two or more lunchrooms or lounges, one may be designated as smoking permitted in its entirety as long as it meets the requirements of part 4620.0450, subpart 1, and at least one other comparable lunchroom or lounge is designated as smoke free in its entirety.~~

~~F. If there is only one lunchroom or lounge and it meets the requirements of part 4620.0450, subpart 1, the responsible person may alternate nonsmoking and smoking permitted break times. Nonsmoking employees must not be required to take breaks while the lunchroom or lounge is designated as smoking permitted in its entirety.~~

~~Subp. 3. Private enclosed offices.~~ Smoking is permitted in a private enclosed office in a restaurant if the door is kept closed while smoking occurs and the office meets the requirements of part 4620.0450, subpart 1, items B to D.

~~Subp. 4. Common areas.~~

~~A. Common areas must not be designated in their entirety as a smoking permitted area if nonsmokers are required to use the area to participate in activities for which the public space is intended. Parts 4620.0050 to 4620.1450 shall not be construed to prevent designation of a smoking permitted area in a portion of the establishment that nonsmokers must briefly cross to reach the intended activity.~~

~~B. Smoking is prohibited in elevators.~~

~~C. Smoking is prohibited in public restrooms.~~

Subp. 5. Signs.

~~A. To advise persons of the existence of smoke-free and smoking-permitted areas, "No Smoking" or "Smoke-free Area" and "Smoking Permitted" signs must be posted according to this part.~~

~~B. Signs used to identify a location where the responsible person prohibits smoking in an entire restaurant must use the statement "No smoking is permitted in this entire establishment" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the restaurant.~~

~~C. Signs used to identify a location where the responsible person has designated a smoking-permitted area in a restaurant must use the statement "Smoking is prohibited except in designated areas" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the restaurant. All smoking-permitted areas must be posted with a sign using the words "smoking permitted" or the international smoking symbol, or both. Signs that are used to identify a smoke-free area must use the words "no smoking" or "smoke free area," the international no-smoking symbol, or a combination of words and the symbol.~~

~~D. Signs used to identify smoking-permitted and smoke-free areas must be placed at a height and location easily seen by a person in the establishment and must not be obscured in any way. In areas where signs have to be read from a distance, the following are minimum lettering and symbol sizes that must be used:~~

	Furthest distance from which sign is to be read:	Height of lettering:	Diameter of outer circle on symbol:
Up to:	75 feet	1.5 inches	4 inches
	150 feet	4 inches	6 inches
	200 feet	6 inches	10 inches
	350 feet	8 inches	15 inches
	500 feet	12 inches	18 inches

~~The boundary between a smoke-free area and a smoking-permitted area must be clearly designated so a person can differentiate between the two areas.~~

~~E. Signs used on tables, seats, or entrances to designate smoke-free and smoking-permitted areas must use printed letters of not less than 0.5 inches (1.3 centimeters) in height. If an international symbol is used, the diameter of the outer circle must not be less than three inches. The size of lettering on signs reading "Smoking Permitted" must not exceed the size of lettering on signs reading "No Smoking" or "Smoke-free Area" in the same public place.~~

~~F. A restaurant that has controlled seating where an employee directs patrons to seating or waiting areas must ask each person whether that person prefers a smoking-permitted or a smoke-free area before directing that person to a seat in the appropriate area. A restaurant that takes advance reservations must ask the person's preference for a smoking-permitted or smoke-free area at the time the reservation is made. A restaurant that uses controlled seating is exempt from the sign requirements of items D and E.~~

Subp. 6. Exemption.

~~A. A building, structure, enclosure, or part of a building, structure, or enclosure that is licensed under *Minnesota Statutes*, section 157.16, subdivision 3, paragraph (d), clause (1), (2), (3), or (4), is exempt from the requirements of part 4620.0450, subpart 1, if the establishment:~~

~~(1) was licensed before the date of adoption of this part;~~

~~(2) has not had a lapse in licensure of greater than 365 days since the adoption date of this part; and~~

~~(3) has not had a change in ownership since the adoption date of this part.~~

~~B. Smoke-free and smoking-permitted areas in establishments that meet the criteria specified in item A must be designed and operated according to subitem (1) or subitems (2) and (3).~~

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.

Adopted Rules

(1) Smoke free and smoking permitted areas must be designated according to part 4620.0450, subpart 1.

(2) A smoke free area must be a contiguous portion of the establishment measuring a minimum of 200 square feet or 30 percent of the total seating of the establishment, whichever results in the greater number of smoke free seats, and separated from smoking permitted areas by one of the methods described in subitem (3).

(3) A smoking permitted area must:

(a) be separated from smoke free areas by a continuous physical barrier, such as a wall, partition, or furnishing, of at least 56 inches in height measured from the highest adjacent floor surface. The barrier may contain doors or portals for exit and entry;

(b) be separated from smoke free areas by a space of at least four feet (1.22 meters) in width; or

(c) be equipped with a ventilation system in the room containing both smoking permitted and smoke free areas that provides outdoor air requirements for ventilation of not less than 15 cubic feet per minute per person. Documentation of the ventilation rate must be verified by an individual certified by the National Environmental Balancing Bureau or the Associated Air Balance Council. The commissioner shall accept a ventilation rate that has been verified within the previous 12 months of initial inspection and within the previous 36 months for subsequent inspections, provided changes affecting the operation of the ventilation system have not been made.

C. Establishments that meet the criteria specified in item A must comply with the sign requirements of subpart 5, except that:

(1) signs used to identify a smoking permitted area must use the words "smoking permitted" or the international smoking symbol, or both;

(2) signs used to identify a nonsmoking area must use the words "no smoking" or the international no smoking symbol, or both;

(3) signs that read "Smoke free" may only be used if the establishment is nonsmoking in its entirety;

(4) signs that read "smoke free area" may be used only in establishments that designate smoke free and smoking permitted areas according to part 4620.0450, subpart 1; and

(5) in establishments where item B, subitems (2) and (3), are used to designate smoking and nonsmoking areas, a sign stating "You may be exposed to secondhand smoke in this establishment," or similar statement must be conspicuously posted on or immediately inside all outside entrances to the establishment.

Subp. 7. Effective date. This part is effective two years after the adoption date of this part.

4620.1025 BARS.

Subpart 1. General. During the hours of operation when food service is available to patrons that requires licensure as a restaurant under *Minnesota Statutes*, chapter 157, and as a food and beverage service establishment under *Minnesota Statutes*, section 157.15, subdivision 5 part 4626.0020, subpart 35, a bar must provide the same percent or greater of nonsmoking seating as required for restaurants in part 4620.1000, subpart 1. During the hours of operation when a bar does not make such food service available, the bar may be designated as a smoking area smoking-permitted in its entirety.

Subp. 2. Expiration date.

A. This part expires on the effective date of part 4620.1030, according to part 4620.1030, subpart 3, item A, for a building, structure, enclosure, or part of a building, structure, or enclosure that:

(1) is operated as a bar and that was constructed after the adoption date of this part; or

(2) is operated as a bar, but that was not operated as such on the adoption date of this part.

B. This part expires on the effective date of part 4620.1030, according to part 4620.1030, subpart 3, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a bar and that was operated as such on the adoption date of this part.

4620.1030 BARS.

Subpart 1. General. If an establishment meets the criteria specified in part 4620.0100, subpart 4, the proprietor or other person in charge may permit smoking in the entire patron seating area of the establishment. If an establishment where one can purchase and consume alcoholic beverages and that requires licensure as a food and beverage establishment under *Minnesota Statutes*, chapter 157, does not meet the criteria specified in part 4620.0100, subpart 4, it must provide the same percent or greater of nonsmoking seating as required in part 4620.1010, subpart 1, during the hours of operation when food service is available to patrons. The proprietor or other person in charge may designate the entire patron seating area as smoking permitted during the hours of operation when the establishment does not make food service available.

Subp. 2. Signs.

~~A. Signs used to identify a bar that has been designated as a smoking permitted area in its entirety must use the statement "This establishment is a smoking area in its entirety" or a similar statement. In a bar that has food service as specified in part 4620.0100, subpart 4, and that allows smoking in its entirety when food service is not available, signs used to identify smoking permitted areas must state "This establishment is a smoking permitted area in its entirety except when food service is available" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the establishment.~~

~~B. If smoke free areas are designated in a bar, the areas must meet the sign requirements of part 4620.1010, subpart 6, item C.~~

Subp. 3. Effective date.

~~A. This part is effective two years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a bar and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a bar, but that was not operated as such on the adoption date of this part.~~

~~B. This part is effective three years after the adoption date of this part for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a bar and that was operated as such on the adoption date of this part.~~

4620.1100 PUBLIC CONVEYANCES.**Subpart 1. General.**

~~A. No person is permitted to smoke in a public conveyance except in designated smoking areas. Smoking areas Smoking-permitted sections may be designated in a public conveyance with a capacity of ten or more persons including the driver. A public conveyance with a capacity of less than ten persons may be considered to be a smoking area in its entirety if the driver and all passengers expressly consent. Smoking and nonsmoking areas in public conveyances must be designed and operated according to items B and C.~~

~~B. A nonsmoking area must be a contiguous portion of the public conveyance measuring a minimum of 200 square feet and separated from smoking areas by one of the methods described in item C.~~

~~C. A smoking area must be separated from nonsmoking areas by:~~

~~(1) a continuous, physical barrier, such as a wall, partition, or furnishing, of at least 56 inches (1.42 meters) in height measured from the highest adjacent floor surface. The barrier may contain doors or portals for exit and entry; or~~

~~(2) a space of at least four feet (1.22 meters) in width.~~

Subp. 2. Signs.

~~A. To advise persons of the existence of nonsmoking and smoking areas, "No Smoking" and "Smoking Permitted" signs must be posted according to this part. In addition, the statement "Smoking is prohibited except in designated areas" or a similar statement must be conspicuously posted on or immediately inside of all outside entrances to a public conveyance.~~

~~B. Signs used to identify a public conveyance where the responsible person prohibits smoking in an entire public conveyance must use the statement "No smoking is permitted in this entire establishment" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the public conveyance. Signs used to identify a smoking area must use the words "smoking permitted" or the international smoking symbol, or both. Signs that are used to identify a nonsmoking area must use the words "no smoking" or the international no smoking symbol, or both.~~

~~C. Signs used to identify smoking and nonsmoking areas must be placed at a height and location easily seen by a person in the conveyance and must not be obscured in any way. The boundary between a nonsmoking area and a smoking area must be clearly designated so a person can differentiate between the two areas.~~

~~D. Signs used on tables, seats, or entrances to designate nonsmoking and smoking areas must use printed letters of not less than 0.5 inches (1.3 centimeters) in height. If an international symbol is used, the diameter of the outer circle must not be less than three inches. The size of lettering on signs reading "Smoking Permitted" must not exceed the size of lettering on signs reading "No Smoking" in the same public conveyance.~~

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.

Adopted Rules

~~Subp. 3. **Permissible ashtrays.** Portable ashtrays are banned in nonsmoking areas. Only ash stands and permanent ashtrays may be used at or near the entrance to a nonsmoking area. Ash stands and permanent ashtrays must be conspicuously labeled with the following message or a similar statement and placed on or near the ash stand or permanent ashtray:~~

SMOKING IS PROHIBITED

PLEASE EXTINGUISH ALL SMOKING MATERIALS IMMEDIATELY

~~Subp. 4. **Common areas.** Common areas must not be designated in their entirety as a smoking area if nonsmokers are required to use the area to participate in activities for which the public space is intended. This part shall not be construed to prevent designation of a smoking permitted area in a portion of the public conveyance that nonsmokers must briefly cross to reach the intended activity.~~

4620.1200 HEALTH CARE FACILITIES.

Subp. 2. **Smoking in a nursing home, boarding care facility.** ~~Smoking~~ Smoking-permitted areas in nursing homes are regulated according to part 4658.4520. ~~Smoking~~ Smoking-permitted areas in boarding care facilities are regulated according to part 4660.9940, subpart 2. If a ~~smoking~~ smoking-permitted area is provided, a comparable nonsmoking area must also be provided. Smoking in a nursing home, boarding care facility, or other licensed residential facility is permitted in a patient or resident room if the procedures in item A or B are followed.

A. The responsible person must ask all prospective patients or residents or a person authorized to represent the patient or resident whether a ~~smoking~~ smoking-permitted or nonsmoking room is preferred. The responsible person must assign rooms according to this preference when space is available. When space is not available in a nonsmoking room and a person is admitted to a room originally designated for smoking, smoking must be prohibited in that room unless expressly permitted by the nonsmoker.

~~Subp. 3. **Signs.**~~

~~A. To advise persons of the existence of nonsmoking and smoking areas, "No Smoking" and "Smoking Permitted" signs must be posted according to this part. In addition, the statement "Smoking is prohibited except in designated areas" or a similar statement must be conspicuously posted on or immediately inside of all outside entrances to a health care facility.~~

~~B. Signs used to identify a location where the responsible person prohibits smoking in an entire health care facility must use the statement "No smoking is permitted in this entire establishment" or a similar statement. The sign must be conspicuously posted either on or immediately inside of all outside entrances to the health care facility. Signs used to identify a smoking area must use the words "smoking permitted" or the international smoking symbol, or both. Signs used to identify a nonsmoking area must use the words "no smoking" or the international no smoking symbol, or both.~~

~~C. Signs used to identify smoking and nonsmoking areas must be placed at a height and location easily seen by a person in the establishment and must not be obscured in any way. In areas where signs have to be read from a distance, the following are minimum lettering and symbol sizes that must be used:~~

	Furthest distance from which sign is to be read:	Height of lettering:	Diameter of outer circle on symbol:
Up to:	75 feet	1.5 inches	4 inches
	150 feet	4 inches	6 inches
	200 feet	6 inches	10 inches
	350 feet	8 inches	15 inches
	500 feet	12 inches	18 inches

~~The boundary between a nonsmoking area and a smoking area must be clearly designated so a person can differentiate between the two areas.~~

~~D. Signs used on tables, seats, or entrances to designate nonsmoking and smoking areas must use printed letters of not less than 0.5 inches (1.3 centimeters) in height. If an international symbol is used, the diameter of the outer circle must not be less than three inches. The size of lettering on signs reading "Smoking Permitted" must not exceed the size of lettering on signs reading "No Smoking" in the same health care facility.~~

~~Subp. 4. **Permissible ashtrays.** Portable ashtrays are banned in nonsmoking areas. Only ash stands and permanent ashtrays may be used at or near the entrance to a nonsmoking area. Ash stands and permanent ashtrays must be conspicuously labeled with the following message or a similar statement and placed on or near the ash stand or permanent ashtray:~~

SMOKING IS PROHIBITED**PLEASE EXTINGUISH ALL SMOKING MATERIALS IMMEDIATELY****4620.1300 HOTELS, MOTELS, AND RESORTS.**

Subpart 1. General. No person may smoke in hotels, motels, and resorts except in designated smoking areas. This prohibition does not apply to sleeping rooms which are rented to a guest.

Subp. 2. Expiration date.

~~A. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item A, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, or resort and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, or resort, but that was not operated as such on the adoption date of this part.~~

~~B. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, or resort and that was operated as such on the adoption date of this part.~~

4620.1400 COMMON AREAS.

Subpart 1. General. Common areas are areas used by both nonsmokers and smokers such as entry or exit areas, lobby areas, ticket areas, registration areas, common traffic areas, common areas of rental apartment buildings, or similar sections of public places. These common areas must not be designated in their entirety as a ~~smoking~~ smoking-permitted area if nonsmokers would be required to use the area to participate in activities for which the public space is intended. Parts 4620.0050 to 4620.1450 shall not be construed to prevent designation of a smoking-permitted area in a portion of the establishment which nonsmokers must briefly cross to reach the intended activity.

Subp. 4. Expiration date.

~~A. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item A, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

~~(1) is operated as a hotel, motel, resort, retail store, or other public place and that was constructed after the adoption date of this part; or~~

~~(2) is operated as a hotel, motel, resort, retail store, or other public place, but that was not operated as such on the adoption date of this part.~~

~~B. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a hotel, motel, resort, retail store, or other public place and that was operated as such on the adoption date of this part.~~

~~C. This part expires on the effective date of part 4620.1010 for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a restaurant.~~

4620.1425 RETAIL STORES.

Subpart 1. General. Smoking is prohibited in all customer areas of retail stores, except for designated smoking areas. To allow smoking in a ~~smoking~~ smoking-permitted area, the same goods and services must be available in a nonsmoking area. ~~Smoking~~ Smoking-permitted areas must be designated according to part 4620.0400. ~~Smoking~~ Smoking-permitted areas for employees ~~must~~ may be designated according to parts 4620.0400 and 4620.0750. However, designated ~~smoking~~ smoking-permitted areas for employees must be separate from all customer areas. When a restaurant is located within a retail store, that space licensed as a restaurant must comply with part 4620.1000.

Subp. 2. Expiration date.

~~A. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item A, for a building, structure, enclosure, or part of a building, structure, or enclosure that:~~

<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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Adopted Rules

- (1) is operated as a retail store and that was constructed after the adoption date of this part; or
- (2) is operated as a retail store, but that was not operated as such on the adoption date of this part.

B. This part expires on the effective date of part 4620.0960, according to part 4620.0960, subpart 7, item B, for a building, structure, enclosure, or part of a building, structure, or enclosure that is operated as a retail store and that was operated as such on the adoption date of this part.

4620.1450 VARIANCE TO RULES RELATING TO CLEAN INDOOR AIR.

The commissioner shall grant variances to parts 4620.0100 to 4620.1450, except parts ~~part~~ 4620.0300 and 4620.0350, only according to the procedures and criteria specified in parts 4717.7000 to 4717.7050.

Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* § 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years from the date of publication of the rule in the *State Register*. Rules adopted, amended or repealed under clause (3) or (4) are effective upon publication in the *State Register*.

The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

Department of Labor and Industry Occupational Safety and Health Division

Proposed Exempt Permanent Rules Relating to OSHA

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* § 182.655 (2000). This notice proposes the adoption by reference of corrections and amendments to Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

All interested or affected persons have 30 days from the date this notice is published in the *State Register* to submit, in writing, data and views on the proposed amendments to the rule. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any proposed change.

Any person may file with the Commissioner written objections to the proposed amendments stating the grounds for those objections and may request a public hearing. A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. Requests for hearing must include the name and address

of the person submitting the request, define the reasons for the request, and discuss any proposed changes. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes* § 182.655 and *Minnesota Rules* 5210.0010 to 5210.0100.

Written comments or requests for a public hearing should be sent to: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307.

Shirley I. Chase
Commissioner

SUMMARY OF CHANGES

The following is a brief summary of the proposed amendments. Persons interested in reviewing the complete *Federal Register* notices referenced below may find them at www.osha.gov

(A) “Occupational Injury and Illness Recording and Reporting Requirements; Final Rule.”

On July 1, 2002, federal OSHA published in the *Federal Register* a final rule amending their occupational safety and health recordkeeping requirements. The notice revises 1904.10 to establish new criteria for recording of hearing loss. It requires the recording of Standard Threshold Shifts (defined as 10 dB shifts in hearing acuity) that have resulted in a total 25 dB level of hearing above audiometric zero, averaged over the frequencies at 2000, 3000, and 4000 Hz, with an effective date at the federal level of January 1, 2003.

By this notice, Minnesota OSHA proposes to adopt the final rule as published in the *Federal Register* on July 1, 2002.

(B) “Occupational Injury and Illness Recording and Reporting Requirements; Proposed Delay of Effective Date; Request for Comments.”

NOTE: On July 1, 2002, Federal OSHA published in the *Federal Register* a delay of effective date and request for comments pertaining to three subsections of Part 1904 until January 1, 2004. Two of these subsections contain requirements related to musculoskeletal disorders (MSDs). They are Part 1910.12, which (1) defines MSD, and (2) requires employers to check the MSD column on the OSHA Log if an employee experiences a recordable musculoskeletal disorder, and the second sentence of 1904.29(b)(7)(vi), which (3) states that MSDs are not considered “privacy concern cases.” In addition, OSHA is also proposing to delay the effective date of 1904.10(b)(7), which requires employers to enter a check mark in the hearing loss column on the 300 Log for cases involving occupational hearing loss, until January 1, 2004.

Minnesota OSHA will adopt the proposed amendments published in the *Federal Register* on July 1, 2002, following a final decision by federal OSHA.

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

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

Subp. 1a. **Part 1904.** Part 1904: Occupational Safety and Health Standards as published in Volume 66, No. 13 of the *Federal Register* on January 19, 2001, and amended in Volume 66, No. 128 on July 3, 2001, which incorporates changes, additions, deletions, and corrections made up to July 3, 2001, with the exception of part 1904.2. Parts 1904.10, with the exception of (b)(7), will become effective on January 1, 2003. Parts 1904.10(b)(7), ~~and~~ 1904.12, and the second sentence of Part 1904.29(b)(7)(vi) will be adopted following a final decision by federal OSHA; the effective dates will be identical to those of federal OSHA.

A. *Federal Register*, Volume 67, No. 126, pages 44037-44048, dated July 1, 2002: “Occupational Injury and Illness Recording and Reporting Requirements; Final Rule.”

[For text of subps 2 to 7, see M.R.]

<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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Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months. Specific *Minnesota Statutes* citations accompanying these emergency expedited rules detail the agency's rulemaking authority.

Board of School Administrators

Adopted Expedited Permanent Rules Relating to Variances

The rules proposed and published at *State Register*, Volume 26, Number 52, pages 1720-1721, June 17, 2002 (26 SR 1720), are adopted with the following modifications:

3512.5300 VARIANCE.

Subp. 3. **Criteria.** In reviewing a variance request, the board must consider the information required under *Minnesota Statutes*, section 14.056, subdivision 1, and the following:

Subp. 5. **Notice.** Upon submitting a variance application, the applicant must send written notice of the application to any individual or entity that may be affected by the variance. The notice must include a description of the variance request and a statement indicating that if the individual or entity opposes the variance, it may submit written arguments to the board, and the board may permit the individual to present an oral argument in opposition to the variance. The applicant must submit to the board with its application for a variance a list of the names and addresses of the impacted parties who were notified of the variance request and a sufficient explanation of how the parties were notified. The board will not consider a variance request until it has received the list and explanation from the applicant. Each month the board's monthly meeting notice must include a list of all variance requests to be considered that month.

Subp. 6. **Order; timing.** Within 60 days of receipt of a completed variance application, the board must issue a written order granting or denying a variance and specifying the scope and period of the variance. The board must not grant a discretionary variance for a period longer than one year. The order must include a statement of relevant facts and the reasons for the board's action.

Subp. 10. **Record.** The board must maintain a record of all orders granting and denying variances ~~under this part. The record must be indexed by rule and must be available for public inspection to the extent provided in *Minnesota Statutes*, chapter 13 in compliance with *Minnesota Statutes*, section 14.056, subdivision 7.~~

Appointments

Minnesota Statutes, Section 15.06, Subd. 5 requires a notice of the designation of a commissioner or acting commissioner, or the assumption of office by a temporary commissioner, shall be filed with the president of the senate and the speaker of the house with a copy delivered to the secretary of state and published in the next available edition of the *State Register*.

Department of Employee Relations

Notice of Appointment of Commissioner

NOTICE IS HEREBY GIVEN pursuant to *Minnesota Statutes*, Section 15.06, Subd. 5, that Governor Jesse Ventura has appointed Ann Schluter acting commissioner of the Minnesota Department of Employee Relations effective September 12, 2002. She succeeds Commissioner Julien Clark Carter. This appointment carries with it all rights, powers, duties, and emoluments granted by law and pertaining to this position until this appointment is superseded or annulled.

The laws and rules governing the Department of Employee Relations are:

- *Minnesota Statutes*, Chapter 43A, 179A and 471
- *Minnesota Rules* 3900-3920

Commissioner Schluter is a resident of Scott County, Congressional District Two. Upon assumption of duties, she can be reached at the Minnesota Department of Employee Relations, 200 Centennial Bldg., 658 Cedar Street, St. Paul, MN 55155. **Phone:** (651) 296-3095. Internet home page: <http://www.doer.state.mn.us>

Department of Finance

Notice of Appointment of Commissioner

NOTICE IS HEREBY GIVEN, pursuant to *Minnesota Statutes*, Section 15.06, Subd. 5, that Governor Jesse Ventura appointed Anne Barry acting commissioner of the Minnesota Department of Finance effective September 16, 2002. She succeeds Commissioner Pam Wheelock. This appointment carries with it all rights, powers, duties, and emoluments granted by law and pertaining to this position until this appointment is superseded or annulled.

The laws and rules governing the Department of Finance are:

- *Minnesota Statutes*, Chapter 16A

Commissioner Barry is a resident of Hennepin County, Congressional District Five. She can be reached at the Minnesota Department of Finance, 400 Centennial Bldg., 658 Cedar Street, St. Paul, MN 55155. **Phone:** (651) 297-7881. Internet home page: <http://www.finance.state.mn.us>

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.

Minnesota Comprehensive Health Association

Meeting of the Board of Directors

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Board of Directors will be held at 9:00 a.m. on Friday, September 27, 2002. The meeting will take place at HealthPartners, Conference Room "1 West B", 8100 - 34th Avenue South, Bloomington.

For additional information, please call Lynn Gruber at (952) 593-9609.

Official Notices

Emergency Medical Services Regulatory Board

Notice of Completed Application: In the Matter of the License Application of the Tracy Ambulance Service, Tracy, Minnesota

PLEASE TAKE NOTICE that the Emergency Medical Services Regulatory Board (hereinafter EMSRB) has received a completed application from the **Tracy Ambulance Service, Tracy, Minnesota**, for a new license, advanced ambulance - part time.

NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* section 144E.11, subdivision 3, each municipality, county, community health board, governing body of a regional emergency medical services system, ambulance service and other person wishing to make recommendations concerning the disposition of the application, shall make written recommendations or comments opposing the application to the EMSRB within 30 days or by October 23, 2002, 4:30 p.m.

Written recommendations or comments opposing the application should be sent to: Mary Hedges, Executive Director, EMSRB, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414-3222.

If fewer than six comments opposing the application are received during the comment period, and the EMSRB approves the application, the applicant will be exempt from a contested case hearing, pursuant to *Minnesota Statutes* section 144E.11, subdivision 4. If six or more comments in opposition to the application are received during the comment period or the EMSRB denies the application, the applicant may immediately request a contested case hearing, or may try to resolve the objections of the public and/or the EMSRB within 30 days, pursuant to *Minnesota Statute* section 144E.11, subdivision 5(a), (b). If the applicant is unable to resolve the objections within 30 days, or if the applicant initially requests a contested case hearing one will be scheduled and notice of the hearing given pursuant to *Minnesota Statutes* section 144E.11, subdivision 5(c), (e).

Dated: 16 September 2002

Mary F. Hedges
Executive Director

Department of Human Services

Chemical Health Division

Notice of Public Comment on the Federal Substance Abuse Prevention and Treatment Block Grant and the Availability of a Statement Describing the Intended Use of Funds for Federal Fiscal Year 2003

NOTICE IS HEREBY GIVEN that the Department of Human Services, Chemical Health Division, is seeking public comment on the use of the Federal Substance Abuse Prevention and Treatment Block Grant.

Notice is also given that the Department of Human Services has available a draft Description of Intended Use for funds available to the State of Minnesota from the Federal Fiscal Year 2003 Substance Abuse Prevention and Treatment Block Grant. This description is being made available to the public for comment in accord with Title XIX, Part B of the Public Health Services Act, Public Law 102-321.

Copies of the Alcohol and Drug Abuse Plan are available at:

<http://www.dhs.state.mn.us/contcare/chhome.htm>

For further information about the Substance Abuse Prevention and Treatment Block Grant, contact Wayne Raske, Chemical Health Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3823, **phone:** (651) 582-1849, **email:** wayne.raske@state.mn.us

All interested or affected persons and organizations are invited to submit comments. Comments on the proposed plan may be directed to the contact person listed above.

Department of Labor and Industry

Workers' Compensation Division

Notice of Annual Adjustment to Workers' Compensation Vocational Rehabilitation Hourly Rates

On October 1, 2002, the maximum workers' compensation qualified rehabilitation consultant (QRC) hourly rate will increase to \$80.52 and the maximum hourly rate for workers' compensation rehabilitation job development and placement services will increase to \$61.93. These increases are made pursuant to *Minnesota Statutes* § 176.102, subd. 2 and *Minnesota Rules*, part 5220.1900, subp. 1b.

Bureau of Mediation Services

Notice of Acceptance of Applications for Placement on the Bureau Arbitration Roster

NOTICE IS HEREBY GIVEN that the Bureau of Mediation Services is now accepting applications for placement on the Bureau Arbitrator Roster pursuant to *Minnesota Statutes* 179.02, subd. 4; *Minnesota Statute* 179A.04, subd. 3(a)(13), and *Minnesota Rules* parts 5530.0100 to 5530.1300.

This Roster is used to provide names of arbitrators to employers and labor organizations to hear and decide grievance and interest disputes. Most of the referrals from the roster are made to employers and unions in the public sector. Members of the Roster must be willing and able to arbitrate both grievance and interest cases.

Roster members must maintain a principal place of residence in Minnesota or one of its contiguous states unless the applicant has served at least three years on the current or immediately preceding Bureau roster. The maintenance of a mail box or mail delivery point is not sufficient to satisfy the residency requirement.

The Statute states: "Each person on the list must be knowledgeable about collective bargaining and labor relations in the public sector, well versed in state and federal labor law, and experienced in and knowledgeable about labor arbitration. To the extent practicable, the commissioner shall appoint members to the list so that the list is gender and racially diverse."

The following standards for appointment to the Arbitration Roster are required:

- A. knowledge and understanding of labor relations and collective bargaining processes and dynamics;
- B. knowledge and understanding of applicable contract, employment, and labor relations law and rules;
- C. ability to hear and decide complex labor relations issues in a fair and objective manner;
- D. ability to communicate, both orally and in writing, in a clear and concise manner;
- E. ability to conduct orderly and effective arbitration hearings in a variety of settings and locations throughout Minnesota; and
- F. reputation in the labor-management community for high professional standards of competence, ethics, and integrity.

Evidence of an applicant's qualifications may be advanced in one or a combination of the following ways:

- A. submission of six or more arbitration awards or contested case decisions that were authored and signed by the applicant in the 24-month period preceding application;
- B. a minimum of six years' experience as a full-time labor relations advocate (with direct contract negotiations experience) and submission of six arbitration awards in which the applicant acted as the principal representative for either labor or management;
- C. a minimum of six years' experience as a full-time labor mediator, including substantial grievance mediation experience;
- D. a minimum of six years' experience as a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration;
- E. membership in the National Academy of Arbitrators; and
- F. Completion of an internship program that has been approved by the commissioner.

Official Notices

No applicant or roster member may have served within the preceding 12 months as an advocate for any public or private sector employer, employee, or employee organization in any phase of labor-management relations. This prohibition applies to employee discharge or disciplinary appeal proceedings, whether or not the employee is represented by an exclusive representative.

Persons meeting these standards may secure an application form and applicable rules from:

Carol S. Clifford
Bureau of Mediation Services
1380 Energy Lane, Suite Two
St. Paul, MN 55108
Phone: (612) 649-5423

In accordance with *Minnesota Statutes* 179A.04, subd. 3(a)(13), applications from women and racial/ethnic minorities are encouraged.

Applications will be accepted until October 23, 2002.

Dated: 23 September 2002

Lance Teachworth
Commissioner

Metropolitan Airports Commission

Notice of Public Hearing and Public Comment Period on Amendments to the Minneapolis-St. Paul International Airport Zoning Ordinance

The Joint Airport Zoning Board for the Minneapolis-St. Paul International Airport (Airport) is considering amendments to the *Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) Zoning Ordinance* originally adopted by the Board in 1984. The 1984 Ordinance limits the height of structures and vegetation and prohibits certain land uses in an area extending approximately 2 miles from the outer boundaries of the Airport. Amendments to the 1984 Ordinance must be considered due to the construction of new Runway 17-35, the planned 1,000-foot extension to the northeast of existing Runway 4-22 and other changes at the Airport since 1984. Maps which are part of the proposed amendments show the precise boundaries for application of the 1984 Ordinance and the proposed amendments.

The proposed amendments would (1) limit the height of structures and vegetation in the north (Minneapolis) approach and the south (Bloomington) approach to new Runway 17-35, (2) extent to the northeast the height limitations on the northeast (St. Paul and Minneapolis) approach to existing Runway 4-22, and (3) change the land use restrictions applicable to property in the approaches to all runways at the Airport by reducing the length of Safety Zone A, increasing the length of Safety Zone B, increasing the number of uses and density of development permitted in Safety Zone B, and prohibiting in Safety Zone B the future construction of amphitheaters, hospitals, nursing homes, residential uses, schools, stadiums and ponds or other features which might attract waterfowl or other birds. The proposed amendments do **NOT** affect additions to the existing residences, residential redevelopment or future residential development in established residential neighborhoods around or near the Airport.

THE PUBLIC COMMENT PERIOD ON THE AMENDMENTS WILL COMMENCE AT 8:00 A.M. ON WEDNESDAY, SEPTEMBER 4, 2002, AND CLOSE AT 5:00 P.M. ON FRIDAY, OCTOBER 4, 2002. During this period, written comments will be accepted and must be addressed to:

Ms. Jenn Unruh
Secretary to the Joint Airport Zoning Board
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

THE OPEN HOUSE AND PUBLIC HEARING ON THE AMENDMENTS WILL BE HELD FROM 5:00 P.M. TO 9:00 P.M. ON THURSDAY, SEPTEMBER 26, 2002, AT THE THUNDERBIRD INN, 7800 24TH AVENUE SOUTH, BLOOMINGTON, MINNESOTA (INTERSECTION OF I-494 AND 24TH AVENUE SOUTH). The open house will be held in the Menominee West Room from 5:00 p.m. to 6:30 p.m. A public presentation on the proposed amendments will be given in the Miami Room from 6:30 p.m. to 7:00 p.m. The public hearing will commence in the Miami Room at 7:00 p.m. and continue until 9:00 p.m., or until all persons wishing to address the Board have been heard.

Copies of the proposed amendments and the 1984 Ordinance will be available for review beginning September 4, 2002, at the following locations: the Metropolitan Airports Commission's Main Office, 6040 28th Avenue South, Minneapolis, Minnesota; and the city halls of the cities of Bloomington, Eagan, Mendota Heights, Minneapolis, Richfield, St. Paul, and the Post Office in Mendota. Copies will also be available for review beginning September 4, 2002, at the following libraries: Oxboro Library, 8801 Portland Ave. S., Bloomington; Penn Lake Library, 8800 Penn Ave. S., Bloomington; Wescott Library, 1340 Westcott Road, Eagan; Highland Park Library, 1974 Ford Parkway, St. Paul; Augsburg Park Library, 7100 Nicollet Ave., Richfield; Linden Hills Library, 2900 42nd St. W., Minneapolis; Washburn Community Library, 5244 Lyndale Ave. S., Minneapolis; Minneapolis Public Library, 300 Nicollet Mall, Minneapolis; Nokomis Community Library, 5100 34th Ave. S., Minneapolis; East Lake Community Library, 2727 E. Lake Street, Minneapolis; Roosevelt Community Library, 4026 28th Ave. S. Minneapolis; and Inver Glen Library, 8098 Blaine Ave., Inver Grove Heights; or at the following **websites**: www.ci.bloomington.mn.us, www.cityofeagan.com, www.ci.minneapolis.mn.us, www.ci.richfield.mn.us

For further information about the public comment period, the open house or the public hearing, please call Jenn Unruh **phone** at: (612) 726-8189.

Minnesota Pollution Control Agency Environmental Outcomes Division

Notice of Intent to Publish an Updated Inventory of Mercury Releases to the Environment

NOTICE IS HEREBY GIVEN that following a 60-day comment period, the Minnesota Pollution Control Agency will publish in the *State Register* an updated inventory of 1990 releases of mercury in Minnesota. Publication of this inventory is required under *Minnesota Statutes*, section 116.915. The inventory is used as a baseline for assessing progress on mercury reduction efforts. The published inventory will also include mercury release estimates or projections for selected years beyond 1990.

To obtain a draft copy of the inventory and supporting rationale and data sources or to make comments contact:

Edward Swain, Ph.D.
Environmental Outcomes
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Phone: (651) 296-7800
Fax: (651) 297-7709
Email: edward.swain@pca.state.mn.us

Comments will be accepted until **November 22, 2002**. **Note:** The inventory and supporting information is also available on the MPCA **website** at: www.pca.state.mn.us/air/mercury.html

Dated: 5 September 2002

Karen A. Studders
Commissioner

Department of Transportation State Aid for Local Transportation Group

Petition of the City of Hastings for a Variance from State Aid Requirements for AFTER THE FACT PLAN APPROVAL

NOTICE IS HEREBY GIVEN that the City of Hastings has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300, for a variance from rules as they apply to SAP 130-137-03 reconstruction of East 4th Street between Sibley and Tyler Streets, SAP 130-135-02 reconstruction of Westview Drive between the Frontage Road and Trunk Highway 55, and SAP 130-127-05 reconstruction of 18th Street between Trunk Highway 61 and Pine Street, in City of Hastings.

Official Notices

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800, Subp. 2, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, as they apply to the SAP 130-137-03, SAP 130-135-02 and SAP 130-127-05, which provides for street reconstruction on East 4th Street, Westview Drive and 18th Street in Hastings, Minnesota, so as to allow approval of construction plans after bids are opened, in lieu of the required approval of construction plans by the State Aid Engineer prior to opening of contract bids.

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

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

Dated: 16 September 2002

Julie A. Skallman
State Aid Engineer
State Aid for Local Transportation

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.

Minnesota Office of Environmental Assistance

Notice of Requests for Proposals and Funding Guidance

NOTICE IS HEREBY GIVEN that the Minnesota Office of Environmental Assistance is issuing a Request for Proposals (RFP) and Funding Guidance to solicit loan applications for the Environmental Assistance Loan Program.

To help small and medium-sized businesses accelerate the application of waste and pollution prevention, and other environmental technologies, the Minnesota Office of Environmental Assistance (OEA) is partnering with private financial institutions (e.g., banks) to offer commercial loans at half the prevailing interest rate.

The maximum loan available through this program is \$200,000, with \$100,000 each provided by the bank and the OEA. The program is set up to allow OEA to award fifty percent of requested loan funds, up to a maximum OEA loan award of \$100,000, at zero percent interest. The remaining loan funds will be supplied by a participating financial institution at competitive market rates. A fee is assessed to each loan to cover administrative and service costs.

Call or write for the full RFP and Funding Guidance, which will be sent free of charge to interested parties. The RFP and Funding Guidance, including needed application form, is also available on the OEA's **website** at: <http://www.moea.state.mn.us>

For more information contact:

Kevin McDonald
OEA
520 Lafayette Rd N, 2nd Fl
St. Paul, MN 55155-4100
Phone: 651-215-0262 or 1-800-657-3843
Email: kevin.mcdonald@moea.state.mn.us

The OEA will accept applications under this RFP through April 1, 2003.

This notice is issued by the OEA Director under authority provided in *Minnesota Statutes* 115A.0716 allowing the director to make or participate in loans for pollution prevention and environmental assistance projects. This notice and the RFP and Funding Guidance does not obligate OEA to make any loan awards.

Department of Health

Facility and Provider Compliance Division Innovations in Quality Demonstration Grant Program

Notice of Grant Opportunity for the Elderly

Purpose

The Minnesota Department of Health (MDH), in cooperation with the Minnesota Department of Human Services, is seeking application from providers who provide direct service or housing to the elderly within the State of Minnesota. The purpose of these grants is to fund demonstrations that create new means and models for serving the elderly or demonstrate creativity in service provision through the scope of the program or service. Grants may only be made for projects that show innovations and measurable improvement in resident care, quality of life, use of technology, or customer satisfaction.

Appropriation Available

\$500,000 is available to fund applications in this grant cycle. A single grant may not exceed \$100,000, as specified in statute.

Eligibility to Submit a Proposal

Eligible applicants for the grant program include providers who provide direct service or housing to the elderly, such as nursing homes, registered housing with services establishments, home care, adult foster care, adult day care, hospice, and boarding care homes.

Criteria for Review

Factors upon which applications will be evaluated are summarized as follows:

- 1) improvement in direct care to residents;
- 2) increase in efficiency through the use of technology;
- 3) increase in quality of care through the use of technology;
- 4) increase in the access and delivery of service;
- 5) enhancement of nursing staff training;
- 6) the effectiveness of the project as a demonstration; and,
- 7) the immediate transferability of the project to scale.

In determining which organizations will receive grants, the Commissioner of Health and the Commissioner of Human Services will also consider the following factors: (1) the applicant's description of the problem, description of the project, and the likelihood of a successful outcome from the project; and (2) the extent of community support for the organization and proposed project. The commissioners may also take into account other relevant factors.

Project Start and Completion Date

The Department expects that successful applicants will be able to **begin** their grant projects by **March 1, 2003**. All work on a project, which includes a final report, must be **completed by March 31, 2004**.

Questions Concerning the RFP and for a Copy of the Application Guidelines

Prospective applicants who have questions, and/or would like a copy of the Application Guidelines may contact:

Mary Cahill
Facility and Provider Compliance Division
Minnesota Department of Health
P.O. Box 64975
St. Paul, Minnesota 55164-0975
Phone: (651) 215-8725
Fax: (651) 215-8710

State Grants & Loans

Applications are also available on the Facility and Provider Compliance Division web site at:

<http://www.health.state.mn.us/divs/fpc/grantopps.html>

Procedures for Submitting a Proposal

Six written copies of the completed application must be received no later than 4:00 p.m. on Friday, December 6, 2002 by:

Mary Cahill

U.S. Mail Service Address

Facility and Provider Compliance Division
P.O. Box 64900
St. Paul, Minnesota 55164-0900

Courier Address

Facility and Provider Compliance Division
85 East Seventh Place, Suite 400
St. Paul, Minnesota 55101

No proposals submitted by facsimile machine will be accepted.

Minnesota Department of Human Services

Continuing Care for the Disabled Division

Request for Proposals for Planning Consultant for HIV "Access to Care" Systems Development

The State of Minnesota, through its Department of Human Services (hereafter "STATE" or "DHS") is seeking a qualified social service and/or health care system professional to manage and implement a comprehensive project to redesign the delivery system of access services that help persons living with HIV/AIDS find and utilize HIV prevention, health and support services. It is the intention of the STATE to award a twelve-month, maximum \$60,000.00 grant to an individual or organization to carry out the necessary assessment, design and implementation planning phases of this project. The purpose of this project is to improve the "access to care" delivery system in terms of cost efficiency, statewide availability, administrative simplification for both the STATE and service providers, effectiveness and ease of access to persons living with HIV/AIDS.

For the purposes of this RFP the term "access to care services" refers to those services which help people with HIV determine what exactly they need, learn what services are available to meet those needs and help people utilize those services. Access to care services range from case management services for people with the highest, most complex needs, delivered by skilled professionals to one-time information and referral services. The services that fall under the purview of this project include but are not necessarily limited to:

- HIV Case Management
- HIV Care Advocacy
- HIV Services Outreach
- Information and Referral Services

A copy of the complete RFP, which will be sent free of charge to interested vendors, is available by contacting:

Michelle D. Sims
HIV/AIDS Division
Minnesota Department of Human Services
444 Lafayette Road North
St. Paul, MN 55155-3872
Phone: (651) 582-1983
Fax: (651) 582-1989
Email: michelle.sims@state.mn.us

Proposals submitted in response to this RFP must be received at the address above. All applicants must provide one original proposal and five (5) copies of the proposal **no later than 4:00 p.m., Wednesday, October 16, 2002. Late proposals will not be considered. Faxed or emailed proposals will not be considered.**

This request does not obligate the State to complete this project. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

State Contracts

Informal Solicitations: Effective March 1, 2002, informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) website. Interested vendors are encouraged to monitor the P/T Contract section of the MMD website at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Department of Administration State Designer Selection Board

Request for Proposals for Designer Selection for Minnesota State Colleges and Universities - Addition and Remodeling Lake Superior College - Duluth, Minnesota (Project 02-19) To Minnesota Registered Design Professionals:

The State of Minnesota (State) through its State Designer Selection Board has been requested to select a design team for the above project. Proposals from interested firms must be received by, 11:00 a.m. Monday, October 7, 2002 to:

Terry Lewko, Executive Secretary
State Designer Selection Board
Department of Administration
c/o Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, Minnesota 55155
Phone: (651) 297-1545

PROPOSALS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

Questions concerning procedures, or schedule are to be referred to the Executive Secretary at (651) 297-1545. Questions relating to the project are to be referred to the project contact(s) in Item 1.j.

1. PROJECT 02-19

- a. **PROJECT DESCRIPTION:** Office of the Chancellor intends to retain architectural and engineering consulting services for the design of a new addition and remodeling of existing spaces at Lake Superior College.

Project Scope

The new addition will be two stories totaling approximately 39,100 gross square feet connected to an existing building. This building will consist of multi-media classrooms, open lab support spaces for information technology, workforce development areas, and office space for Enrollment Services, Career and Counseling, Business Services and Administration. The class rooms and open labs will be used for high tech computer classes that will implement state of the art electronics.

The remodeled space is approximately 12,440 gross square feet located on two floors. This first floor area will be remodeled for Student Life Center containing student lounge, game area, workstation area, conference room, storage areas, and support spaces. The second floor will include faculty offices, 2-D Art classrooms and support spaces and reconstructed Surgical Technology Assistant and Nursing Assistant program teaching labs.

- b. **REQUIRED CONSULTANT SERVICES:** The selected design team shall:

1. Provide a comprehensive scope of services including Schematic Design (SD), Design Development (DD), Construction Documents (CD), Bidding and Construction Administration to follow when additional project funding is approved by the 2004 Legislature.
2. Prepare all design documents using computer aided design and drafting technology in an electronic data exchange file format acceptable to Minnesota State Colleges and Universities. All drawings and specifications must conform to Minnesota State Colleges and Universities design standards and adhere to all applicable building, life safety, and energy codes and meet all ADA regulations and program requirements.
3. Demonstrate experience in the design and construction of institutional collegiate student service spaces, college classrooms, including state-of-the-art telecommunications systems, computer lab facilities, ITV rooms, and similar spaces that are part of the program requirements.

State Contracts

4. Integrate the remodeled spaces of the Project with the existing facility.
5. Complete all designs, drawings and specifications in accordance with, as a minimum:
 - a. Current MnSCU Design Standards
 - b. All applicable building, life safety and energy codes
 - c. ADA regulations and
 - d. Program requirements
6. Design building spaces for:
 - a. Energy efficiency
 - b. Efficient space utilization
 - c. Flexibility
 - d. High indoor air quality
 - e. Complete fire suppression systems, and
 - f. A contemporary telecommunications environment.
7. Provide all architectural services, including interiors and furniture, fixtures and equipment design, cost estimating, and project scheduling, and all engineering services including civil, structural, mechanical, fire protection, electrical, telecommunications systems design, audio/visual design, construction administration services, all in accordance with Minnesota State Colleges and Universities standard A/E contract form.

The Office of the Chancellor may retain other specialty consultants to assist in the Project work.

NOTE: A roof design consultant designated by MnSCU will be assigned to and become an integral part of the consultant's design team. The consultant's fee shall include the fee and reimbursables of the roof design consultant.

- c. **SERVICES PROVIDED BY OTHERS:** The Owner will contract for or arrange to provide:
 1. Site property survey
 2. Geotechnical investigations and recommendations
 3. Asbestos survey, design and abatement to the existing building if required.
- d. **SPECIAL CONSIDERATIONS:** Design Team Requirement: The design team shall have applicable prior experience in the design and construction of similar projects, in a college setting. The firm shall provide examples of current and recent higher education academic and computer lab design experience. The design team shall demonstrate their use of life cycle costing during the design process. Life cycle items include, but are not limited to energy efficiency, sustainability, and the maintainability of design, materials, and equipment.

A history of constructability, meeting schedule deadlines, accurate cost estimating and designing within a project budget are critical criteria for selection of a designer. Quality control and complete, accurate and fully coordinated contract documents are an important element of the selected design team's services. A change order history of recent past projects and how the team proposes to address this issue should be provided as part of their submittal.

The design team shall provide examples of recently completed projects, including innovative solutions, for review by the selection committee. The design team shall provide a list of clients and involved contractors for similar projects worked on within the last five years including the names, addresses and phone numbers of contact persons.

The design team shall also:

 1. Demonstrate prior experience with remodeling projects
 2. Include verification of existing conditions and systems in their scope of services.
 3. Evaluate existing adjacent buildings structural, mechanical and electrical systems to determine capabilities and capacities to support the proposed new uses of building spaces.
 4. Assist in the preparation of project information to support the appropriation submittal to the Minnesota State Colleges and Universities Board of Trustees and the 2004 Minnesota Legislature for construction funding.
- e. **PROJECT BUDGET/FEES:** The estimated total project cost is \$9,700,000.00. This cost includes all professional fees and reimbursable fees, site investigations and surveys, hazardous materials design and abatement, building and site construction, project management, construction inspection and testing, furniture, fixtures, equipment, contingency

cies, art and inflation factors. Lake Superior College will fund the Schematic Design phase. The anticipated design fee for this project is 8.0% of the budgeted construction cost plus reimbursable expenses. Final total fees will be negotiated with the selected design team.

The funds to complete the design and construction are anticipated from the 2004 Legislative session.

- f. **PROJECT SCHEDULE:** The following preliminary schedule is suggested

<i>Schematic Design Phase:</i>	Begin December 2002, complete in March 2003.
<i>Design Development Phase:</i>	Begin July 2004, complete no later than September 2004.
<i>Construction Documentation Phase:</i>	Begin October 2004, complete no later than January 2005.
<i>Construction Phase:</i>	Receive bids in February 2005, complete all construction by July 2006.

- g. **PROJECT PRE-DESIGN INFORMATION:** A Pre-design Report dated August 14, 2000, prepared by LHB Engineers and Architects. A copy of this document is available for review at the Department of Administration in the Division of State Building Construction office. For review, contact Terry Lewko at (651) 297-1545.

Copies of the Pre-design Report document (on CD-R format) will be made available only to firms that are short-listed.

- h. **PROJECT INFORMATIONAL MEETING (S)/SITE VISIT (S):** An informational meeting is tentatively scheduled for **Thursday, September 26, 2002, at 1:00 p.m.**, in Room **2028** Administrative Conference Room at Lake Superior College, 2101 Trinity Road, Duluth, MN. All firms interested in this meeting should contact Rick Halverson **phone** at: (218) 733-7613 or **email** at: r.halverson@lsc.mnscu.edu to sign up for the meeting.

- i. **STATE DESIGNER SELECTION BOARD SCHEDULE:**

<i>Project Information Meeting and/or Site Visit:</i>	Thursday, September 26, 2002, 1:00 p.m.
<i>Project Proposals Due:</i>	Monday, October 7, 2002, by 11:00 a.m.
<i>Project Shortlist:</i>	Tuesday, October 22, 2002
<i>Project Information Meeting for Shortlisted firms:</i>	None
<i>Project Interviews and Award:</i>	Tuesday, November 5, 2002

- j. **PROJECT CONTACT (S)**

Questions concerning the project should be referred to:

Rick Halverson: Lake Superior College; **phone:** (218) 733-7613; **fax:** (218) 733-5977; **email:** r.Halverson@lsc.mnscu.edu, mail address Lake Superior College, Trinity Road, Duluth, MN 55811-3399 or,

Jim Morgan: Minnesota State Colleges and Universities; **phone:** (651) 649-5934; **fax:** (651) 649-5779; **email:** james.morgan@so.mnscu.edu; mail address MnSCU, ETC Building Suite 300, 1450 Energy Park Drive, St. Paul, MN 55108-5227

- k. **SAMPLE CONTRACT (if DSBC project) NOT REQUIRED FOR THIS PROJECT**

The successful responder will be required to execute the State's Basic Services Agreement which contains the State's standard contract terms and conditions, include insurance requirements and compliance with Designer Procedures Manual, Design Guidelines and Computer Aided Drafting (CAD) Guidelines. A copy is available on Web Site <http://www.dsbc.admin.st.mn.us>.

NOTE TO RESPONDERS: Changes May Have Been Made in the Following As of 11 June 2002.

2. PROPOSAL REQUIREMENTS

- a. 12 copies
- b. 8-1/2 X 11, soft bound, portrait format
- c. Maximum 20 faces (excluding front and back covers, blank dividers, affidavit of non-collusion, and affirmative action data page)
- d. All pages numbered

State Contracts

3. PROPOSAL CONTENTS

a. COVER

- name and number
- Prime firm name, address, telephone number, fax number
- Contact person, telephone number, fax number, and email address

b. COVER LETTER

Single face letter with original signature (on at least one copy) of principal of prime firm, including:

- Brief overview of proposal
- Statement that proposal contents are accurate to the best knowledge of signatory

c. INFORMATION ON FIRM (S)

For prime firm and each consultant firm provide brief description including:

- Name and location
- Year established
- Legal status
- Ownership
- Staffing by discipline
- For firms with multiple offices briefly summarize for each office

d. PROJECT TEAM

- Brief statement of team's past or present working relationships

For each team member provide:

- Name and position in firm, include name of firm
- Home base (if in multi-office firm)
- Responsibility on this project
- Years of experience
- Relevant recent experience (if in another firm, so note)
- Registration (including specialty if engineer)

e. TEAM ORGANIZATION

If planning or design consultants are a part of the team explain how they will be utilized (e.g. major role during design, absent during construction, etc). Matrix or chart *may* be used.

f. PROJECT EXPERIENCE

For architectural, planning, and/or landscape architecture firms, provide examples of relevant projects recently completed or in progress including:

- Photographs, sketches and/or plans
- Name and location
- Brief description (e.g. size, cost, relevance)
- Firm of record
- Involvement of proposed project team members (*may* be separate matrix; if in another firm so note)
- Completion date or current status

For engineering or technical firms provide examples of relevant projects recently completed or in progress including the above except that photographs, sketches and/or plans are to be for only that portion of the work for which firm was responsible.

g. APPROACH/METHODOLOGY

Describe your understanding of the project, significant issues to be addressed and your *specific* approach to the planning, design and construction process for *this* project.

h. UNIQUE QUALIFICATIONS

Briefly summarize your team’s unique qualifications for this project.

i. OTHER REQUIREMENTS

- A statement of commitment to enter into the work promptly, if selected, by engaging the consultants and assigning the persons named in the proposal along with adequate staff to meet requirements of the work.
- A statement indicating that consultants listed have been contacted and have agreed to be a part of the team.
- A complete Affidavit of Non-collusion. (Not counted as part of the 20 faces)
- If appropriate, provide a list of all entities that create a conflict of interest (see 5.b.)
- A completed Affirmative Action Data Page regarding compliance with Minnesota Human Rights Requirements. A copy of the form is available on **website:** <http://www.dsb.admin.state.mn.us>, click on forms. (Not counted as part of the 20 faces)
- A list of all State and Minnesota State Colleges and Universities current and past projects and studies awarded to the prime firm(s) responding to this request for proposal during the four years immediately preceding the date of this request for proposal.

Projects and studies shall mean those projects and studies (1) funded by the state legislature, by state/user agencies or Minnesota State Colleges and Universities operating funds, or by funding raised from the private sector or individuals by state/user agencies or the Minnesota State Colleges and Universities; (2) awarded as a result of the State Designer Selection Board process or awarded directly by state/user agencies or the Minnesota State Colleges and Universities without employing the State Designer Selection Board process; or (3) related to design-bid-build or design/build project delivery systems.

The prime firm(s) shall list and total all gross fees associated with the above projects and studies, whether the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid, or are anticipated to be paid, to engineering or other specialty consultants employed, or anticipated to be employed, on the projects and studies listed pursuant to the above. The prime firm(s) shall subtract consultant fees from gross fees to determine total net fees using the format below.

PROJECT	(A) GROSS FEES	(B) SUBDESIGNERS PORTION	(C) NET TOTAL PROJECT FEE
TOTAL			

(The total shown in column (A) shall equal the sum of those shown in columns (B) and (C).

4. SELECTION CRITERIA

Criteria for selection shall be as stated in the project description. Technical and aesthetic experience and capabilities are paramount. In addition, the Board seeks equitable distribution of fees among qualified firms and gives consideration to geographical location of firms with respect to project site.

5. CONTRACT REQUIREMENTS

a. AFFIDAVIT OF NONCOLLUSION

Each responder must attach a completed Affidavit of Noncollusion. A copy of the form is available on **website:** <http://www.dsb.admin.state.mn.us>, click on forms.

b. CONFLICTS OF INTEREST

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

State Contracts

c. DISPOSITION OF RESPONSES

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with *Minnesota Statutes* 13.591 after the evaluation process is completed. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, *Minnesota Statutes* § 13.37, the responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the responder to be proprietary or trade secret materials.

Responses to this RFP will not be open for public review until the State decides to pursue a contract and that contract is awarded.

d. CONTINGENCY FEES PROHIBITED

Pursuant to *Minnesota Statutes* Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

e. ORGANIZATIONAL CONFLICTS OF INTEREST

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, the responder is unable or potentially unable to render impartial assistance or advice to the State, or the responder's objectivity in performing the contract work is or might be otherwise impaired, or the responder has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division, 112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the contracting officer, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor (consultant), and the terms "contract," "contractor (consultant)," and "contracting officer" modified appropriately to preserve the State's rights.

f. STATE EMPLOYEES

In compliance with *Minnesota Statutes* § 16C.07, the availability of this work is being offered to State employees. The State will evaluate the responses of any State employee, along with other responses to this Request for Proposals.

g. PREFERENCE TO TARGETED GROUP AND ECONOMICALLY DISADVANTAGED BUSINESS AND INDIVIDUALS

In accordance with *Minnesota Rules* 1230.1810, subpart B and *Minnesota Rules* 1230.1830, certified Targeted Group Businesses or individuals and certified Economically Disadvantaged Businesses or individuals submitting proposals as prime contractors (consultants) will receive up to six percent preference in the evaluation of their proposals. For information regarding certification, contact the Department of Administration, Materials Management Helpline at: (651) 296-2600, TTY (651) 282-5799.

h. HUMAN RIGHTS REQUIREMENTS

For all contracts estimated to be in excess of \$100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by *Minnesota Rules* 5000.3600, "It is hereby agreed between the parties that *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it". A copy of *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are available on **website**: <http://www.dsbcd.admin.state.mn.us>

- i. Any changes in team members for the project requires approval by the State.
- j. All costs incurred in responding to this RFP will be borne by the responder. This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Administration State Designer Selection Board

Request for Proposals for Designer Selection for Central Chiller Plant, - University of Minnesota, St. Paul Campus (Project 02-18)

To Minnesota Registered Design Professionals:

The State of Minnesota (State) through its State Designer Selection Board has been requested to select a design team for the above project. Proposals from interested firms must be received by, 11:00 a.m. Monday, October 7, 2002 to:

Terry Lewko, Executive Secretary
State Designer Selection Board
Department of Administration
c/o Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, Minnesota 55155
Phone: (651) 297-1545

PROPOSALS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

Questions concerning procedures, or schedule are to be referred to the Executive Secretary at (651) 297-1545. Questions relating to the project are to be referred to the project contact(s) in Item 1.j.

1. PROJECT 02-18

- a. **PROJECT DESCRIPTION:** The University of Minnesota intends to enter into a contract with a consultant to provide complete design and construction administration services for the Central Chiller Plant project on the St. Paul Campus. The University's long-range plan is to develop a central system to ultimately provide approximately 9,000 tons of cooling for the entire campus at a single facility, replacing numerous chillers that serve individual buildings. The Central Chiller Plant project is a multi-phased project with anticipated implementation over a six-year period. Funding for Phase I of this project was appropriated by the Legislature during the 2002 bonding session. Additional phase funding is pending appropriation. Phase I will consist of:

- construction of an 18,000 GSF central chilled water plant with equipment to produce 3,000 tons of cooling;
- installation of new primary electrical transformers and switchgear;
- construction of freestanding cooling towers adjacent to the plant;
- partial installation of the chilled water distribution piping; and
- connection of at least four buildings to the central system.

The plant and distribution system must be designed to allow phased expansion to extend service to the entire campus.

The proposed site for the chiller plant is immediately south of the campus heating plant in an area where coal was previously stored. This project will include the cleanup of contaminated soil, soil stabilization for construction of the plant and distribution system, and site restoration in a manner compatible with an adjacent wetland improvement project. The design of the facility must be sensitive to the nearby residential development, and the distribution piping system must be designed to minimize disruption of the campus landscape.

State Contracts

A detailed pre-design study for the project was completed in April 2002 (and supplemented in August 2002).

- b. **REQUIRED CONSULTANT SERVICES:** The scope of the project includes full engineering/architectural services for the project including mechanical, electrical, structural, civil, architectural, landscape architectural, interior design, scheduling, cost estimating, and construction administration services. (Funding for only Phase I of the project has been appropriated. Work on future project phases is contingent upon receiving additional funds.) The pre-design for the project is complete; and the information contained within that pre-design will be used as a starting point for the selected consultant.
- c. **SERVICES PROVIDED BY OTHERS:** None.
- d. **SPECIAL CONSIDERATIONS:** The scope of the work is primarily mechanical and civil engineering, and the designer shall have applicable prior experience in the design and construction of similar projects, preferably in a University setting. Experience with historical rehabilitation will be essential. The firm shall have proven experience in working with and directing the efforts of a University building advisory committee. The firm shall demonstrate their use of life cycle costing during the design process. Life cycle items important to the University include, but are not limited to energy efficiency, sustainability, and the maintainability of design, materials and equipment.

A history of constructability, meeting schedule deadlines, accurate cost estimating, and designing within a project budget are critical criteria for selection of a designer. Quality control and complete contract documents are important elements of the selected team's services. A change order history of recent past projects and how the team addresses this issue should be provided as part of the submittal.

The consultant shall provide examples of recently completed projects for review by the selection committee. The consultant shall provide a list of clients for similar projects worked on within the last five years along with the names, phone numbers, email addresses, and street addresses of contact persons.

- e. **PROJECT BUDGET/FEES:** The Central Chiller Plant project is a multi-phased project. The current Phase I construction budget is estimated to be approximately \$15,700,000, escalated to the midpoint of construction. The total Phase I project costs, including all fees, permits, and other non-construction costs, have been fixed at a maximum of \$20,000,000. The maximum designer fees available for all phases of the project, including basic services, programming, interior design, FF&E design, voice/data design, and construction phase services is 11% of the estimated construction costs plus reimbursable expenses. Final total fees shall be negotiated with the selected consultant.
- f. **PROJECT SCHEDULE:** The preliminary implementation schedule for Phase I work anticipates completion of design and construction documents by March 2003; bidding and award in April and May 2003; a construction start in June 2003; and completion of construction in July 2004.
- g. **PROJECT PRE-DESIGN INFORMATION:** Copies of the pre-design study and its supplements are available to interested parties at: www.facm.umn.edu/facm/rfp.htm
- h. **PROJECT INFORMATIONAL MEETING (S)/SITE VISIT (S):** There shall be a mandatory site visit/informational meeting for firms short-listed for interviews by the State Designer Selection Board. The meeting shall be held on the University of Minnesota, St. Paul Campus prior to the required interview date. Short-listed firms shall be contacted directly by the University with confirmed tour starting location, date, and time information.
- i. **STATE DESIGNER SELECTION BOARD SCHEDULE:**

<i>Project Information Meeting and/or Site Visit:</i>	None
<i>Project Proposals Due:</i>	Monday, October 7, 2002, by 11:00 a.m.
<i>Project Shortlist:</i>	Tuesday, October 22, 2002
<i>Project Information Meeting for Shortlisted firms:</i>	To be Set by user agency
<i>Project Interviews and Award:</i>	Tuesday, November 5, 2002

- j. **PROJECT CONTACT (S):**

Questions concerning the project should be referred to:

Ken Almer
Facilities Management
University of Minnesota
207 Facilities Management Building
1936 Commonwealth Ave.
St. Paul, MN 55108
Phone: (612) 624-3211
Fax: (612) 624-1296
Email: almerk@facm.umn.edu

k. SAMPLE CONTRACT (if DSBC project) NOT REQUIRED FOR THIS PROJECT

The successful responder will be required to execute the State's Basic Services Agreement which contains the State's standard contract terms and conditions, include insurance requirements and compliance with Designer Procedures Manual, Design Guidelines and Computer Aided Drafting (CAD) Guidelines. A copy is available on **website:** <http://www.dsbc.admin.st.mn.us>

NOTE TO RESPONDERS: Changes May Have Been Made in the Following As of 11 June 2002**2. PROPOSAL REQUIREMENTS**

- a. 12 copies
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- d. All pages numbered

3. PROPOSAL CONTENTS**a. COVER**

- Project name and number
- Prime firm name, address, telephone number, fax number
- Contact person, telephone number, fax number, and email address

b. COVER LETTER

Single face letter with original signature (on at least one copy) of principal of prime firm, including:

- Brief overview of proposal
- Statement that proposal contents are accurate to the best knowledge of signatory

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For prime firm and each consultant firm provide brief description including:

- Name and location
- Year established
- Legal status
- Ownership
- Staffing by discipline
- For firms with multiple offices briefly summarize for each office

d. PROJECT TEAM

- Brief statement of team's past or present working relationships

For each team member provide:

- Name and position in firm, include name of firm
- Home base (if in multi-office firm)
- Responsibility on this project
- Years of experience
- Relevant recent experience (if in another firm, so note)
- Registration (including specialty if engineer)

e. TEAM ORGANIZATION

If planning or design consultants are a part of the team explain how they will be utilized (e.g. major role during design, absent during construction, etc). Matrix or chart *may* be used.

State Contracts

f. PROJECT EXPERIENCE

For architectural, planning, and/or landscape architecture firms, provide examples of relevant projects recently completed or in progress including:

- Photographs, sketches and/or plans
- Name and location
- Brief description (e.g. size, cost, relevance)
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- Completion date or current status

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Describe your understanding of the project, significant issues to be addressed and your *specific* approach to the planning, design and construction process for *this* project.

h. UNIQUE QUALIFICATIONS

Briefly summarize your team's unique qualifications for this project.

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- A statement of commitment to enter into the work promptly, if selected, by engaging the consultants and assigning the persons named in the proposal along with adequate staff to meet requirements of the work.
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- A complete Affidavit of Non-collusion. (Not counted as part of the 20 faces)
- If appropriate, provide a list of all entities that create a conflict of interest (see 5.b.)
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- A list of all State and University of Minnesota current and past projects and studies awarded to the prime firm(s) responding to this request for proposal during the four years immediately preceding the date of this request for proposal.

Projects and studies shall mean those projects and studies (1) funded by the state legislature, by state/user agencies or University of Minnesota operating funds, or by funding raised from the private sector or individuals by state/user agencies or the University of Minnesota; (2) awarded as a result of the State Designer Selection Board process or awarded directly by state/user agencies or the University of Minnesota without employing the State Designer Selection Board process; or (3) related to design-bid-build or design/build project delivery systems.

The prime firm(s) shall list and total all gross fees associated with the above projects and studies, whether the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid, or are anticipated to be paid, to engineering or other specialty consultants employed, or anticipated to be employed, on the projects and studies listed pursuant to the above. The prime firm(s) shall subtract consultant fees from gross fees to determine total net fees using the format below.

PROJECT	(A) GROSS FEES	(B) SUBDESIGNERS PORTION	(C) NET TOTAL PROJECT FEE
TOTAL			

(The total shown in column (A) shall equal the sum of those shown in columns (B) and (C).

4. SELECTION CRITERIA

Criteria for selection shall be as stated in the project description. Technical and aesthetic experience and capabilities are paramount. In addition, the Board seeks equitable distribution of fees among qualified firms and gives consideration to geographical location of firms with respect to project site.

5. CONTRACT REQUIREMENTS**a. AFFIDAVIT OF NONCOLLUSION**

Each responder must attach a completed Affidavit of Noncollusion. A copy of the form is available on **website:** <http://www.dsb.admin.state.mn.us>, click on forms.

b. CONFLICTS OF INTEREST

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

c. DISPOSITION OF RESPONSES

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with *Minnesota Statutes* 13.591 after the evaluation process is completed. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, *Minnesota Statutes* § 13.37, the responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the responder to be proprietary or trade secret materials.

Responses to this RFP will not be open for public review until the State decides to pursue a contract and that contract is awarded.

d. CONTINGENCY FEES PROHIBITED

Pursuant to *Minnesota Statutes* Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

e. ORGANIZATIONAL CONFLICTS OF INTEREST

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, the responder is unable or potentially unable to render impartial assistance or advice to the State, or the responder's objectivity in performing the contract work is or might be otherwise impaired, or the responder has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division, 112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the contracting officer, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor (consultant), and the terms "contract," "contractor (consultant)," and "contracting officer" modified appropriately to preserve the State's rights.

f. STATE EMPLOYEES

In compliance with *Minnesota Statutes* § 16C.07, the availability of this work is being offered to State employees. The State will evaluate the responses of any State employee, along with other responses to this Request for Proposals.

State Contracts

g. PREFERENCE TO TARGETED GROUP AND ECONOMICALLY DISADVANTAGED BUSINESS AND INDIVIDUALS

In accordance with *Minnesota Rules* 1230.1810, subpart B and *Minnesota Rules* 1230.1830, certified Targeted Group Businesses or individuals and certified Economically Disadvantaged Businesses or individuals submitting proposals as prime contractors (consultants) will receive up to six percent preference in the evaluation of their proposals. For information regarding certification, contact the Department of Administration, Materials Management Helpline at: (651) 2960-2600, **TTY:** (651) 282-5799.

h. HUMAN RIGHTS REQUIREMENTS

For all contracts estimated to be in excess of \$100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by *Minnesota Rules* 5000.3600, "It is hereby agreed between the parties that *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it". A copy of *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are available on **website:** <http://www.dsb.admin.state.mn.us>

- i. Any changes in team members for the project requires approval by the State.
- j. All costs incurred in responding to this RFP will be borne by the responder. This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Colleges and Universities, Minnesota State (MnSCU)

Minneapolis Community and Technical College

Request for Bids for Printing College Class Schedules

Response to this Solicitation is Due No Later Than October 9, 2002 at 2:00 CST

Reference: Bid #09-AT01

DESCRIPTION: Request bids for printing 125,000; 150,000; or 250,000 each of Spring 2003, Summer 2003, and Fall 2003 College Class Schedules in a 10-3/8" x 17" format on Tabloid Newsprint using 35# alternative stock with pages to be folded off line and saddled stitched into 10-3/8" x 8-1/2" booklets. Page counts are expected to be 32 pages for the Spring Schedule, 16 pages for the Summer Schedule, and 32 pages for the Fall Schedule. Ink color will be: PMS-485+ with black/medium coverage; double sided. No bleeds allowed. Bidders will be expected to pick up copy; and to drop off and pickup all proofs. Printer must be available for press check within 30 mile radius of the college campus. Options should include: (1) hourly costs for additional charges beyond the original 2 rounds of proofs; and (2) costs for adding, or subtracting, a 4-page signature for each edition. Bidders are also asked to provide bulk mail processing costs which list mailing costs separately from printing costs.

Contact Person:

Aneisha Tucker
Electronic Publishing Coordinator
Minneapolis Community and Technical College
1501 Hennepin Avenue
Minneapolis, MN 55403
Phone: (612) 341-7362
Email: tuckeran@metc.mnscu.edu

Bids Specs Can Be Obtained from:

Jim Roberson
Purchasing Manager
Minneapolis Community and Technical College
1501 Hennepin Avenue
Minneapolis, MN 55403
Phone: (612) 359-1592
Email: robersonji@metc.mnscu.edu

Department of Employee Relations

Request for Proposals for Competency Modeling

The Minnesota Department of Employee Relations (DOER) is seeking an individual or institution/organization to assist them in the identification, possible customization and implementation of a competency model for non-managerial technical, professional and supervisory employees working the fields of human resources and labor relations for the State of Minnesota.

The goal of this project is to identify and implement a research-based competency model for human resource and managerial job classes by December 2002. Currently there are approximately 2000 employees in more than 20 separate job classes which will be collapsed into one to several broadly defined groups. By 2006 the competency model will be implemented state-wide (approximately 55,000 employees).

Individuals/organizations interested in this project should request a copy of the RFP from:

Linda Draze
Minnesota Department of Employee Relations
200 Centennial Office Building
658 Cedar Street, St. Paul, MN 55155
Phone: (651) 296-1713
Fax: (651) 297-8118
Email: Linda.draze@state.mn.us

Proposals are due no later than **4:00 p.m. Central Daylight Time, October 14, 2002.**

Minnesota Historical Society

Request for Bids for Construction of an Interpretive Center Addition – Split Rock Lighthouse Historic Site

S.P. 94-595-08: Minnesota Project. No. MHS MUSM (007)

The Minnesota Historical Society is seeking bids from qualified firms and individuals for Construction of an Interpretive Center Addition at the Split Rock Lighthouse Historic Site in Two Harbors, Minnesota. **A MANDATORY PRE-BID MEETING will be held at the Split Rock Lighthouse Historic Site at 1:00 p.m., Local Time, on Wednesday, October 2, 2002.** The Request for Bids is available by calling or writing Mary Green-Toussiant, Contracting and Procurement Assistant, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102. **Phone:** (651) 297-7007, **email:** mary.green-toussaint@mnhs.org

Bids must be submitted in the format that will be described in the Request for Bids. **Sealed bids must be received by Chris M. Bonnell, Contracting Officer, or an authorized agent, at the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102, by 2:00 p.m., Local Time, Wednesday, October 16, 2001. Late bids will not be accepted.**

Minimum wage rates to be paid by the Contractors have been predetermined and are subject to the Work Hours Act of 1962, P.L. 87-581 and implementing regulations.

READ CAREFULLY THE WAGE SCALES AND DIVISION A OF THE SPECIAL PROVISIONS AS THEY AFFECT THIS/THESE PROJECT/PROJECTS

The Minnesota Department of Transportation hereby notifies all bidders:

In accordance with Title VI of the Civil Rights Act of 1964 (Act), as amended and Title 49, *Code of Federal Regulations* Subtitle A Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded maximum opportunity to participate and/or to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color, disability, age, religion, sex or national origin in consideration for an award;

In accordance with Title VI of the Civil Rights Act of 1964 as amended, and Title 23, *Code of Federal Regulations*, Part 230 Subpart A-Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (including supportive services), it will affirmatively assure increased participation of minority groups

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and disadvantaged persons and women in all phases of the highway construction industry, and that on any project constructed pursuant to this advertisement equal employment opportunity will be provided to all persons without regard to their race, color, disability, age, religion, sex or national origin;

In accordance with the Minnesota Human Rights Act, *Minnesota Statute* 363.03 Unfair discriminatory Practices, it will affirmatively assure that on any project constructed pursuant to this advertisement equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age;

In accordance with the Minnesota Human Rights Act, *Minnesota Statute* 363.073 Certificates of Compliance for Public Contracts, and 363.074 Rules for Certificates of Compliance, it will assure that appropriate parties to any contract entered into pursuant to this advertisement possess valid Certificates of Compliance.

If you are not a current holder of a compliance certificate issued by the Minnesota Department of Human Rights and intend to bid on any job in this advertisement you must contact the Department of Human Rights immediately for assistance in obtaining a certificate. The following notice from the Minnesota Department of Human Rights applies to all contractors:

“It is hereby agreed between the parties that *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 are incorporated into any contract between these parties based on this specification or any modification of it. A copy of *Minnesota Statute* 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 is available upon request from the contracting agency.”

“It is hereby agreed between the parties that this agency will require affirmative action requirements be met by contractors in relation to *Minnesota Statute* 363.073 and *Minnesota Rules* 5000.3600. Failure by a contractor to implement an affirmative action plan or make a good faith effort shall result in revocation of its certificate or revocation of the contract (*Minnesota Statute* 363.073, Subd. 2 and 3).”

A minimal goal of 6.52% Good Faith Effort to be subcontracted to disadvantaged Business Enterprises.

Minnesota Department of Public Safety

State Patrol Division

Notice of Availability of Contract for a State Safety Oversight Program Related to Hiawatha Light Rail Fixed Guideway System

The Minnesota Department of Public Safety’s State Patrol Division is requesting proposals from professional organizations to develop and implement a State Safety Oversight Program related to the Hiawatha Light Rail Fixed Guideway System.

Details are contained in a complete Request for Proposals that may be obtained by calling or writing:

Jan Birkeland
Department of Public Safety
State Patrol Division
444 Cedar Street
St. Paul MN 55101-5130
Phone: (651) 215-1769

All questions concerning this RFP must be in writing and should be submitted to the above address no later than **2:00 p.m. Central Daylight Time on October 4, 2002**. All answers to questions will be in writing and sent to all entities requesting a complete RFP. Final date for submitting proposals is **2:00 p.m., Central Daylight Time on October 14, 2002**. **Late proposals will not be considered**. This Request for Proposal does not obligate the State to complete the proposed project and the State reserves the right to cancel solicitation if it is considered to be in the State’s best interest. All expenses incurred in responding to this notice shall be borne by the responder. The DPS will retain an option to extend the contract, with the contractor’s consent, for two additional one-year periods. This will only be done if the state finds it necessary to do follow-up work if changes are made to the program. The value of the contracts for subsequent years may be adjusted.

Department of Transportation

Program Support Group

Notice Concerning Professional/Technical Contract Opportunities

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services **website** at: www.dot.state.mn.us/consult

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Non-State 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 No. 02P045 for Metro Mobility Agency Paratransit Service

NOTICE IS HEREBY GIVEN that the Metropolitan Council is soliciting proposals from paratransit service providers to provide agency bus operations service for the 2003-2007 operation of Metro Mobility Agency Paratransit Service.

The Americans with Disabilities Act (ADA) defines a core, minimum service area for comparable paratransit service that matches the fixed route bus service area. This service is provided, managed and operated through the Council's Metro Mobility/Metropolitan Transit Services Division. Contractors will provide State of Minnesota STS-compliant vehicles with a variety of capacity configurations, including a minimum of 15% wheelchair accessibility within the fleet to operate agency service. Contractor's fleet must be maintained at an average age of four years old throughout the contract period. Contractors must ensure safe transportation meeting ADA paratransit service requirements. Contractors will be expected to provide transportation services during periods of rain, sleet, ice, snow and/or other adverse conditions when Council's Metro Transit and regular route transit and circulator services are operating. Contractors may propose on one or more of the three service blocks available.

The Metropolitan Council provides mass transit, circulator and complementary ADA bus service to metropolitan, suburban and the outlying Twin Cities areas of Minneapolis and St. Paul. The Council is seeking proposals from firms that have an FTA-compliant Drug and Alcohol Program, a proven bus maintenance program, and who have the capability of providing a fully trained cadre of drivers and maintenance personnel within three weeks of NTP. Local and national providers of paratransit services, paratransit charter companies, private paratransit companies, non-profits and public agencies that provide paratransit services are encouraged to propose.

Non-State Contracts & Grants

All proposals must be submitted in accordance with the RFP. The tentative schedule is as follows:

<i>RFP Issue Date</i>	October 3, 2002
<i>RSVP for Mandatory Pre-proposal Conference</i>	October 10, 2002
<i>Mandatory Pre-proposal Conference</i>	October 17, 2002
<i>Questions Due (in writing)</i>	Ten days after Pre-proposal Conference
<i>Proposals Due</i>	November 19, 2002
<i>Evaluation Process</i>	December 2002 - January, 2003
<i>Oral Interviews, if necessary</i>	January, 2003
<i>Council Action</i>	February, 2003
<i>Contract Negotiations/Execution</i>	March, 2003
<i>Notice to Proceed</i>	April, 2003
<i>Contract Start-up Date</i>	June 30, 2003

All firms interested in this project should request a copy of the RFP through:

Amanda Houston, Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council
Mears Park Centre
230 East Fifth Street
St. Paul, MN 55101
Phone: (651) 602-1585
Fax: (651) 602-1138
Email: amanda.houston@metc.state.mn.us

All other inquiries regarding this procurement shall be directed by email, fax or letter to Mary DeMers at the above address: **Phone:** (651) 602-1120, **Fax:** (651) 602-1138, **email:** mary.demers@metc.state.mn.us. **From this point forward, no unauthorized contact is allowed between proposing entities and the issuing department. To do so risks Proposer disqualification.**

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 Proposal 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. The Minnesota Data Practices Act governs data submitted in response to this RFP. It provides that all information submitted by a Proposer in response to an RFP, with the exception of trade secret data as defined in *Minnesota Statutes*, section 13.37, becomes public at the times specified in the Act and is then available to any person upon request. Any information in its response for which proposer claims trade secret protection must be limited and set apart in the proposal on separate pages, with a heading that identifies the information as trade secret information. Blanket-type identification on whole pages or sections containing trade secret information will not assure protection. A statement that submitted information is copyrighted or otherwise protected does not prevent public access.

Paul Bunyan Scenic Byway Association

Request for Proposals for Development of an Interpretive Plan

The Paul Bunyan Scenic Byway Association is seeking proposals for development of an interpretive plan (IP) for the Paul Bunyan Scenic Byway (PBSB) located in northern Crow Wing County of Central Minnesota. The IP will carry forward the suggested interpretive foundation found in the Paul Bunyan Scenic Byway's Corridor Management Plan (CMP) and will include a strong emphasis on weaving together the past and present local stories within the framework of the IP. The IP should also include an analysis of relevant surveys and studies, development of a local sensitive template for assessing interpretive value of sites and information, establishment of a strong overall PBSB theme and sub-themes, if appropriate. Further, the IP should match a broad array of dissemination methods to the interpretive information. A clearly delineated implementation timeline for the IP is also required. Proposals must include time for attendance at up to three meetings per month, varying from 1-3 hours in length, and phone/email correspondence time of up to 10 hours per month.

Detailed specifications and submission requirements are available by contacting Lynn Scharenbroich, chairperson, Paul Bunyan Scenic Byway Association, P.O. Box 401, Pequot Lakes, MN 56472, or **email:** infor@paulbunyan scenicbyway.org. Complete proposals must be returned to the above address by **4:00 p.m., CST, October 10, 2002.**

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.

