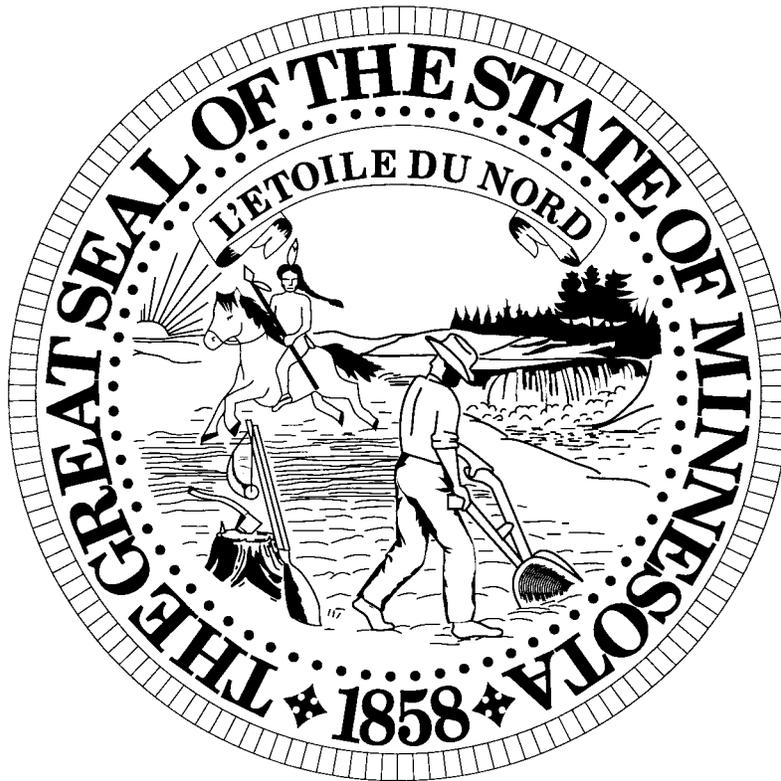


State of Minnesota

State Register

Rules and Official Notices Edition



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State Register

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Vol. 27 Issue Number	PUBLISH DATE	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Both Adopted and Proposed RULES
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#36	Monday 3 March	Noon Tuesday 25 February	Noon Wednesday 19 February
#37	Monday 10 March	Noon Tuesday 4 March	Noon Wednesday 26 February
#38	Monday 17 March	Noon Tuesday 11 March	Noon Wednesday 5 March

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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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Proposed Rules

Comments on Planned Rules or Amendments

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

Rules to be Adopted After a Hearing

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

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rules Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Department of Human Services

Mental Health Division

Proposed Permanent Rules Relating to Mental Health Services

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

Proposed Amendment to Rules Governing Partial Hospitalization, *Minnesota Rules*, Part 9505.0323, subdivisions 1 and 14 (Mental Health Services)

Amend part 9505.0323, subpart 1 (Definitions); and

Repeal part 9505.0323, subpart 14 (Payment limitation; partial hospitalization)

Introduction. The Department of Human Services intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. by March 17, 2003, a public hearing will be held at the Department of Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155 in room 1A starting at 9:00 a.m. on April 3, 2003. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after March 17, 2003 and before April 3, 2003.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Jon Hall at the Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155; **phone** (651) 297-1485; **fax** (651) 297-7949; **e-mail** jon.hall@state.mn.us. TTY users may call the Department of Human Services at (651) 296-7385.

Subject of Rules and Statutory Authority. The Minnesota Department of Human Services (“DHS” or “Department”) proposes amendments to *Minnesota Rules*, Part 9505.0323, subparts 1 and 14. Authority for the rule is rooted in both state and federal law. The medical assistance program in Minnesota is the joint state-federal program that implements the provisions of Title XIX of the Social Security Act by providing for the medical needs of low income or disabled persons and families of dependent children. (See *United States Code*, title 42, section 1396a, hereafter abbreviated as 42 U.S.C. 1396a). *Code of Federal Regulations*, Title 42, section 431.10 (42 C.F.R. 431.10) requires a state to designate a single state agency to supervise the administration of a state’s medical assistance program. The Department has been so designated in *Minnesota Statutes*, section 256B.04, subdivision 1. Further, 42 C.F.R. 431.10 requires the designated agency to make rules it will follow in administering the state plan. The state plan is the Department’s comprehensive written commitment to administer and supervise the medical assistance program according to federal requirements. Correspondingly, *Minnesota Statutes*, section 256B.04, subdivision 2 requires the Commissioner of Human Services to establish uniform rules and regulations, not inconsistent with law to ensure that the medical assistance program will be carried out in an efficient, economic and impartial manner. Further justification for the rule is found at *Minnesota Statutes*,

Proposed Rules

section 256B.04, subdivision 4, which states that the Department must cooperate with the federal government in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program. The Department intends to amend rule 9505.0323, subparts 1 and 14 as explained in this statement, and offer a public hearing to allow interested persons, including persons who may be affected by the rules an opportunity to comment on the procedures and standards the Department intends to employ to implement its mandates.

Partial hospitalization is authorized by *Minnesota Rules*, Part 9505.0323, subpart 1, item U. The Department proposes to expand the types of facilities in subpart 1, item U that qualify for medical assistance reimbursement for partial hospitalization services to include any provider who is certified for Medicare reimbursement. Limitations on payment for partial hospitalization are imposed by Part 9505.0323, subpart 14. The Department proposes to repeal subpart 14 because it believes the limitations are overly burdensome, costly and restrictive. This will broaden the group of eligible providers to include Medicare-certified community mental health centers; and delete the payment limitations in subpart 14.

A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on March 17, 2003, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on March 17, 2003. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

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

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for April 3, 2003, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 297-1485 after March 17, 2003 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Steve M. Mihalchick is assigned to conduct the hearing. Judge Mihalchick can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone** (612) 349-2544 and **FAX** (612) 349-2665.

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

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1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

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

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

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, **telephone** (651) 296-5148 or 1-800-657-3889.

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

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

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

Dated: January 29, 2003

Kevin P. Goodno
Commissioner

9505.0323 MENTAL HEALTH SERVICES.

Subpart 1. **Definitions.** For this part, the following terms have the meanings given them.

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

U. "Partial hospitalization" or "partial hospitalization program" means a time-limited, structured program of psychotherapy and other therapeutic services as defined in *United States Code*, title 42, chapter 7, subchapter XVIII, section 1395x, (ff), and provided in an outpatient hospital licensed under *Minnesota Statutes*, sections 144.50 to 144.55 and accredited by the Joint Committee on Accreditation of Hospitals an outpatient hospital facility or community mental health center that meets Medicare requirements to provide partial hospitalization services, and which submits proof of Medicare enrollment to the department. Partial hospitalization is an appropriate alternative or adjunct to inpatient hospitalization for a client who is experiencing an acute episode of mental illness that meets the criteria for an inpatient hospital admission as specified in part 9505.0540, subpart 1, and who has the family and community resources necessary and appropriate to support the client's residence in the community. Partial hospitalization consists of multiple and intensive therapeutic services provided by a multidisciplinary staff to treat the client's mental illness. The goal of partial hospitalization is to resolve or stabilize an acute episode of mental illness. ~~Examples of services provided in partial hospitalization are individual, group, and family psychotherapy services.~~

[For text of items V to Z, see M.R.]

[For text of subps 2 to 13, see M.R.]

Subp. 14. [See repealer].

[For text of subps 15 to 32, see M.R.]

REPEALER. *Minnesota Rules*, part 9505.0323, subpart 14, is repealed.

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 only be used 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 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 Agriculture

Adopted Exempt Permanent Rules Relating to Noxious Weeds

1505.0740 SECONDARY NOXIOUS WEEDS.

The weeds on this list may be added to a county prohibited or restricted list by following the process in part 1505.0750. The common and botanical names for secondary noxious weeds are those listed in the following table.

Common Name	Botanical Name
Alyssum, hoary	Berteroa incana (L.) DC.
*Artichoke, Jerusalem	Helianthus tuberosus (L.)
Buckwheat, wild	Polygonum convolvulus (L.)
*Buffalobur	Solanum rostratum (Dunal)
Burdock	Arctium minus (Hill) Bernh.
Buttercup, tall	Ranunculus acris (L.)
*Bracken	Pteridium aquilinum (L.) Kuhn
Carrot, wild	Daucus carota (L.)
Catchfly, nightflowering	Silene noctiflora (L.)
Cockle, white	Lychnis alba (Mill.)
*Cocklebur, common	Xanthium pennsylvanicum (Wallr.)
Daisy, oxeye	Chrysanthemum leucanthemum (L.)
Dock, curly	Rumex crispus (L.)
Flixweed	Descurainia sophia (L.) Webb
Foxtail, giant	Setaria faberii (Herrm.)
<u>Grecian Foxglove</u>	<u>Digitalis lanata</u>
*Gumweed, curlycup	Grindelia squarrosa (Pursh) Dunal
Hawksbeard, narrowleaf	Crepis tectorum (L.)
Hawksbeard, smooth	Crepis capillaris (L.) Wallr.
Hawkweed, orange	Hieracium aurantiacum (L.)
Jimsonweed	Datura Stramonium (L.)
Knapweed, Russian	Centaurea repens (L.)
Knapweed, spotted	Centaurea maculosa (Lam.)
Kochia	Kochia scoparia (L.) Roth
Lamb's-quarters, common	Chenopodium album (L.)
Mallow, Venice	Hibiscus trionum (L.)

*Marsh elder	Iva xanthifolia (Nutt.)
*Milkweed, common	Asclepias syriaca (L.)
*Muhly, wire stem	Muhlenbergia frondosa (Poir.) Fern.
Mustard, wild	Brassica kaber (DC.) L. C. Wheeler
Nightshade, black	Solanum nigrum (L.)
Nutsedge, yellow (nutgrass)	Cyperus esculentus (L.)
Oat, wild	Avena fatua (L.)
Panicum, fall	Panicum dichotomiflorum (Michx.)
Panicum, wild proso millet	Panicum miliaceum (L.)
Pigweed, redroot	Amaranthus retroflexus (L.)
Pigweed, prostrate	Amaranthus blitoides (S. Wats.)
Quackgrass	Agropyron repens (L.) Beauv.
Radish, wild	Raphanus raphanistrum (L.)
*Ragweed, common	Ambrosia artemisiifolia (L.)
*Ragweed, giant	Ambrosia trifida (L.)
*Sanbur, long spined	Cenchrus longispinus (Heck.) Fern.
*Smartweed, Pennsylvania	Polygonum pennsylvanicum (L.)
Smartweed (lady's thumb)	Polygonum persicaria (L.)
Sorghum-almum	Sorghum almum (Parodi)
*Sunflower, common (except cultivars)	Helianthus annuus (L.)
Tansy	Tanacetum vulgare (L.)
Thistle, Russian	Salsola kali (L.)
Velvetleaf	Abutilon theophrasti (Medic.)
Yellow rocket	Barbarea vulgaris R. Br.
Wooly cupgrass	Eriochloa villosa (Thunb.) Kunth
*Wormwood, absinth	Artemisia absinthium (L.)
*Native species to Minnesota	

Appointments

Minnesota Statutes, Section 15.06, Subd. 5 requires a notice of the designation of a 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 Health

Notice of Appointment of Commissioner Dianne Mandernach

NOTICE IS HEREBY GIVEN, pursuant to *Minnesota Statutes*, Section 15.06, Subd. 5, that Governor Tim Pawlenty appointed Dianne Mandernach to the office of Commissioner of the Minnesota Department of Health effective February 18, 2003. She succeeds Aggie Leitheiser appointed acting commissioner effective January 6, 2003.

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 Health are:

- *Minnesota Statutes*, 62D, 62J, 62L, 62N, 62P, 62Q, 62R, 103H, 103I, 144, 144A, 145, 145A, 149, 157, 326 and 327
- *Minnesota Rules* 4600-4799

Commissioner Mandernach resides at Route 2, Box 709, Sturgeon Lake, Minnesota, 55783, Pine County, Congressional District Eight.

She can be reached at the Minnesota Department of Health, Golden Rule Bldg., 85 E. 7th Place, Suite 400, St. Paul, MN 55101.

Telephone: (651) 296-8401. Internet home page: <http://www.mdh.state.mn.us>

Commissioner's Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners' orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Department of Commerce

Office of Administrative Hearings for the Department of Commerce

Order: In the Matter of the Petition for Review of the Minnesota Department of Commerce Policy Pronouncement and Guidance Document Regarding Insurance/Credit Scoring Filings

By a Petition filed on December 12, 2002, the Insurance Federation of Minnesota, the National Association of Independent Insurers, the Alliance of American Insurers, and the American Insurance Association, ("Petitioners") seek an order directing the Department of Commerce to cease enforcement of an unadopted rule. The Department of Commerce ("the Department") filed a written response on January 6, 2003. That date was the final submission.

John A. Knapp, Esq. and Jeffrey D. Bland, Esq. of the firm Winthrop and Weinstine, P.A., 3200 Minnesota World Trade Center, 30 East 7th Street, St. Paul, MN 55101, represented the Petitioners. Stephen K. Warch, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, MN 55101-2130, represented the Department of Commerce.

Based upon all of the filings by the parties and for the reasons set out in the Memorandum which follows,

IT IS HEREBY ORDERED:

1. That the Department of Commerce shall cease enforcement of the November 7, 2002 document entitled "Information for Insurance Companies Regarding Filings under *Laws of Minnesota* Chapter 357 (*Minnesota Statutes* § 72A.20, subd. 36)."
2. The Department shall publish this decision in the *State Register*.
3. The Petitioners shall remit one-half of the cost of this proceeding to the Department of Commerce.

Dated this 15th day of January 2003.

George A. Beck
Administrative Law Judge

Notice

This decision is the final administrative decision under *Minnesota Statutes* § 14.381. It can be appealed to the Minnesota Court of Appeals under *Minnesota Statutes* §§ 14.44 and 14.45.

Memorandum

The Petitioners seek an Order determining that the Department is enforcing two recently issued documents as a duly appointed rule. If the record demonstrates this to be the case, the Administrative Law Judge must direct the Department to cease enforcement of the unadopted rule under a recently adopted provision of the Minnesota Administrative Procedure Act.¹

The Petition challenges two documents issued by the Department to all insurers writing private passenger auto or homeowners insurance in Minnesota. One document provides guidance to insurance companies as to what information they should file to fulfill their legislatively prescribed obligations under a new statute ("the guidelines"). The new law regulates the use of credit scoring or insurance scoring in the underwriting of insurance coverage in Minnesota. The new statute precludes insurers from rejecting, canceling or not renewing an automobile or homeowners policy in whole or in part on the basis of credit information, including a credit score, without consideration and inclusion of any other applicable underwriting factor.² Under the new law a credit score may not be the sole criteria for rejecting, canceling or non-renewing a policy. The Petitioners also challenge a letter sent with the guidelines that asks for general information to allow the Department to examine compliance with the statute ("the letter").

The new statute specifically requires that the following information be provided to that Commissioner:

- g) Insurers that employ a credit scoring or insurance scoring system in underwriting of coverage described in paragraph (a) must have on file with the commissioner:
 - (1) the insurer's credit scoring or insurance scoring methodology; and
 - (2) information that supports the insurer's use of a credit score or insurance score as an underwriting criterion.³

After the new legislation was passed insurers who utilize credit scoring in underwriting began contacting the Department asking what they needed to file in order to comply with subd. 36(g). The Department issued the November 7, 2002 guidelines to insurers

¹ *Minnesota Statutes* § 14.381

² *Minnesota Statutes* § 72A.20, subd. 36.

³ *Minnesota Statutes* § 72A.20, subd. 36 (g).

Commissioner's Orders

in response to those requests. The Department notes that the house author of the legislation, Rep. Gregory Davids, stated on the House floor that the insurers had to file a complete methodology concerning their underwriting program, not just a summary description of it. He also stated that insurers were to verify that the credit scoring system used by the insurer does what the insurer claims it does.

The Petitioners argue that the November 7, 2002 guidelines require the submission of detailed information well beyond any statutory filing requirements.⁴ They suggest that rather than simply requiring a methodology and supporting information, the pronouncement requires an entire analysis, including the formula, an explanation of the formula, a description of the characteristics, the underlying data and a sample calculation. With respect to supportive information, the Petitioners point out that they are required to provide "corroborating evidence that verifies the effectiveness of the credit scoring system" as well as extensive information regarding the insurer's data that demonstrates a correlation between credit/insurance scores and losses, an explanation of their premium and loss data used, an explanation of the length of time for which the score is considered valid, actual company premium and loss experience using credit/insurance scores, and an explanation of how credit/insurance scoring will be used relative to other underwriting.

Generally, when an agency's interpretation of a statute in a written directive coincides with the plain meaning of that statute, the agency is not deemed to have engaged in rulemaking.⁵ In other words, if an agency statement is consistent with the plain meaning of the statute interpreted, the agency action is authorized by the statute itself and the fact that no rule was adopted did not render the statement invalid.⁶ However, when an agency's announced policy is inconsistent with the statute or a rule, the courts have often invalidated that policy.⁷ And where the policy makes new law without the public input required by the APA, the policy will be invalidated.⁸ So the question is whether or not the guidelines issued by the Department are a permissible interpretation of the statute, consistent with its plain meaning, or whether it constitutes the improper adoption of a new rule.

The Department's November 7, 2002 letter also requires insurers to submit information relating to the consumer protection provisions of the statute.⁹ It requires submission of underwriting guidelines, forms, and general information demonstrating compliance with the statute. The Department supports its argument that it has authority to request the information specified by citing to its general powers to investigate insurance companies. The Commissioner is authorized to make public or private investigations and to conduct investigations and hold hearings for the purpose of compiling information related to his duties.¹⁰ An insurer must also comply with a request for information from the Department within the time specified.¹¹ The Commissioner also has free access to all of the records of an insurance company to ascertain its compliance with law.¹² The Commissioner's specific authority to conduct investigations relating to his duties and to request information from insurance companies adequately supports the request set out in its November 7, 2002 letter requiring submission of information about consumer protection practices. The general information sought will allow the Department to examine the procedures put in place by insurance companies in connection with credit scoring.

The Department argues that the guidelines document simply reflects the Department's understanding of what the legislature intended insurers to file to fulfill their obligations under the statute. It argues that the request does not state that the listed information *must* be filed with the Commissioner nor does it threaten enforcement action if the specific information is not filed. The Department does state in the document however, that the information described will satisfy the requirements of the statute and notes that electing not to submit complete information will prolong the time needed by the Department to complete its review. The format of this information request is not voluntary. The document states that "submission of complete information, clearly, articulated, will expedite our determination of whether your filing complies with the new legislation." An insurer would have little choice but to submit the detailed information called for in the Department's directive.

The Department's guidelines are meant to interpret the statutory language at *Minnesota Statutes* § 72A, subd. 36(g). In Minnesota, interpretive rules are required to be adopted through rulemaking under the Administrative Procedures Act.¹³ Rules are defined as "every agency statement of general applicability and future effect ... adopted to implement or make specific the law enforced or administered by that agency..."¹⁴ The guidelines in question implement the statute and make specific the information called for by the legislature.

⁴ The November 7, 2002 documents are attached to this Order as Exhibit A.

⁵ *Cable Communications Board v. Nor-west Cable Communications Partnership*, 356 N.W. 2d 658, 667 (Minn. 1984).

⁶ *Sellner Manufacturing Co. v. Commissioner of Taxation*, 202 N.W. 2d 886, 888-89 (Minn. 1972).

⁷ *Swenson v. State Department of Public Welfare*, 329 N.W. 2d 320, 324 (Minn. 1983)

⁸ *Johnson Brothers Wholesale Liquor Co. v. Novak*, 295 N.W. 2d 238, 243 (Minn. 1980).

⁹ *Minnesota Statutes* § 72A.20, subd. 36 (a)-(f).

¹⁰ *Minnesota Statutes* § 45.027, subd. 1 (1) and (4).

¹¹ *Minnesota Statutes* § 45.027, subd. 1a.

¹² *Minnesota Statutes* § 60A.031, subd. 3.

¹³ *Minnesota Statutes* § 14.28, subd. 1.

¹⁴ *Minnesota Statutes* § 14.02 subd. 4.

Commissioner's Orders

The Department also argues that its request for information comports with a common definition of "methodology" as "a body of methods" or "set of procedures." "Support" is sometimes defined as "to provide with substantiation." But the central question is whether or not the Department's request adds to the statute and creates new requirements beyond that intended by the legislature. The Petitioners argue that the legislature weighed the burdens on the insurance industry when it decided what to require, and that the Department is adding new requirements not authorized by the law. The question is whether the Department's guidelines are more burdensome than the legislature intended.

The statute calls for the insurer's credit scoring methodology and information to support the use of credit scoring as a underwriting criterion. The Department's request is far more detailed. For example, in regard to the scoring methodology, rather than simply asking for a formula and a sample calculation, it goes on to require that variables such as inquiries, be clearly defined and explain the way in which variables are used. It also requires a detailed description of the characteristics of the underlying data. In regard to support for the use of credit scoring as an underwriting criterion, even more detail is asked for including an explanation of the premium and loss data used in the analysis, an explanation of length of time for which the score is considered valid and actual company premium loss experienced using credit insurance scores.

These requests do not restate or comport with the plain meaning of the statute. Their detailed and burdensome nature are not consistent with the brief statutory requirements. Instead, they go beyond the statute and add to its requirements. This can only be done through legislation or through rulemaking under the Administrative Procedure Act. Accordingly, the Department is ordered to cease enforcement of the November 7, 2002, guidelines directed to insurance companies.

The Department seeks recovery of the costs of the review of this petition by the Office of Administrative Hearings. Under the statute:

If the administrative law judge rules in favor of the agency, the agency may recover all or a portion of the costs from the petitioner unless the petitioner is entitled to proceed in forma pauperis under section 563.01 or the administrative law judge determines that the petition was brought in good faith and that an assessment of costs would constitute an undue hardship for the petitioner.¹⁵

The Department has partially prevailed in this proceeding since the information request in its November 7, 2002 letter is determined not to be an unadopted rule. Although the petition was brought in good faith, an assessment of costs against the petitioners will not create an undue hardship. It is therefore ordered that the Petitioners must remit one-half of the amount billed by OAH to the Department.

¹⁵ Minnesota Statutes § 14.381, subd. 3.

Official Notices

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

Department of Commerce

Presumed Legal Cigarette Prices

The presumed prices for wholesalers and retailers, as provided for by *Minnesota Statutes*, chapter 325D, are shown in this schedule. The computations are based on manufacturers' list prices available as of 17 February 2003. All cigarettes in a wholesaler's or retailer's inventory must be priced to reflect the new presumed prices within seven (7) calendar days after the manufacturer's price change is reflected on a purchase invoice. A wholesaler or retailer may sell for less if they can show that their actual costs of doing business are lower than the presumed minimum. For questions, contact the Department of Commerce at (651) 296-9428.

	Presumed Minimum Wholesale Price Per Carton	Presumed Minimum Retail Price Per Carton	Presumed Minimum Retail Price Per Pack
Major Brands	\$33.90	\$36.61	\$3.66
Benson & Hedges, Players, Lark, L & M, Saratoga, Winston, Merit, Commanders, Eve, Jade, Advance, Barclay, Kool, Lucky			

Official Notices

Strike, Raleigh (Kings, 100's, Plain End), Pall Mall (Gold, Red), Silva Thins, Tall, Tareyton, Capri, Camel, More, Now, Salem, Vantage, "B", Planet, Kent, Newport, Carlton, True, Satin, Triumph, Max
(Kings, Regulars, 100's, 120's)

Philip Morris Marlboro, Parliament, Virginia Slims (Kings, Regulars, 100's, 120's)	\$27.11	\$29.28	\$2.93
Old Gold, Bucks, Sterling, Doral, Magna, Cambridge, Bristol, Alpine, Maverick (Kings, Regulars, 100's, 120's)	\$31.08	\$33.57	\$3.36
Philip Morris Basic (Kings, Regulars, 100's, 120's)	\$24.29	\$26.23	\$2.62
Raleigh Extra (Kings, 100's)	\$29.82	\$32.21	\$3.22
Monarch, Best Value	\$21.83	\$23.58	\$2.36
GPC's, Viceroy's Misty's, Pall Mall Box	\$22.20	\$23.98	\$2.40
Liggett Pyramid (Kings, Regulars, 100's)	\$19.11	\$20.64	\$2.06
Liggett Select (Kings, 100's)	\$17.44	\$18.84	\$1.88
Star Tobacco Main Street, G-Smoke, Sport (Kings, 100's)	\$14.84	\$16.03	\$1.60
Winner Brand (Kings, 100's)	\$12.28	\$13.26	\$1.33

Minnesota Comprehensive Health Association

Notice of Meeting of the Finance Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Finance Committee will be held at 9:00 a.m. on Monday, March 3, 2003. The meeting will take place at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 953-9609.

Official Notices

Executive Council State Board of Investment Land Exchange Board Investment Advisory Council

Official Notice of Meetings of the Executive Council State Board of Investment, Land Exchange Board, and the Investment Advisory Council

The Executive Council, State Board of Investment and the Land Exchange Board will meet on Wednesday, March 5, 2003 at 9:00 A.M. in Room 125, State Capitol, St. Paul, MN.

The Investment Advisory Council will meet on Tuesday, March 4, 2003 at 2:00 P.M. in the Board Room (Main Floor), 60 Empire Drive, St. Paul, MN.

Department of Human Services

Health Care Administration

Public Notice Regarding Payment Rate and Methodology Changes, and Services Changes, Under the Medical Assistance Program

NOTICE IS HEREBY GIVEN to recipients, providers of services, and the public of certain changes made to the Medical Assistance Program.

In part, this notice is published pursuant to title 42, part 447, section 205 (42 CFR §447.205), which requires publication of a notice where there is a change in the methods and standards for setting payment rates for Medical Assistance services.

On February 7, 2003, pursuant to *Minnesota Statutes*, §16A.152, subdivision 4, the Governor balanced the State Fiscal Year 2003 budget. To balance the budget, it was necessary to reduce current Department of Human Services spending. Some of the spending reductions that impact the Medical Assistance Program follow.

1. The implementation of Medical Assistance coverage for Intensive Early Intervention Behavior Therapy Services for children with autistic spectrum disorders is delayed until July 1, 2003. Legislation enacted in 2001 required coverage to begin January 1, 2003. On July 16, 2001, at 26 SR 56, information was published regarding the proposed payment rates.

The net effect of this change is a decrease in state expenditures of \$562,000 for the remainder of State Fiscal Year 2003.

2. The implementation of Medical Assistance coverage for home care case management services for recipients not receiving other case management services is delayed until July 1, 2003. Legislation enacted in 2001 required coverage to begin January 1, 2003.

On December 16, 2002, at 27 SR 917, information was published regarding the proposed payment rates.

The net effect of this change is a decrease in state expenditures of \$48,000 for the remainder of State Fiscal Year 2003.

3. Effective for drugs dispensed on or after March 1, 2003, pharmacy payment rates will be reduced from average wholesale price (AWP) less nine percent to AWP less 14 percent.

The Department requires Medical Assistance pharmacy providers to submit their usual and customary costs. Pharmacy providers are reimbursed at the lower of: the federal or state maximum allowable cost (MAC), plus a dispensing fee; the submitted usual and customary charge to the general public; or a discount off of average wholesale price, plus a dispensing fee. This discount off the AWP is what will change for drugs dispensed on or after March 1, 2003.

Also effective for drugs dispensed on or after March 1, 2003, the Department will impose a state maximum payment rate, the state MAC, on certain outpatient prescribed drugs, to encourage the use the generic drugs.

The net effect of these changes is a decrease in state expenditures of \$3,080,000 for the remainder of State Fiscal Year 2003.

Provider information is expected to be placed on the Department's **website** at: <http://www.dhs.state.mn.us/provider/upd/default.htm>.

If you have questions about this notice, contact Stephanie Schwartz, Minnesota Department of Human Services, 444 Lafayette Road North, St. Paul, Minnesota, 55155-3852; **phone:** (651) 297-7198 or **email:** stephanie.schwartz@state.mn.us.

Department of Human Services

Continuing Care for People with Disabilities

Public Notice Regarding Rate Change for Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR) Participating in the Medical Assistance Program

NOTICE IS HEREBY GIVEN to recipients, providers of services under the Medical Assistance Program, and to the public, of a payment rate change for ICFs/MR participating in the Medical Assistance Program.

This notice is published pursuant to 42 *United States Code* §1396a(a)(13)(A) (§1902(a)(13)(A) of the Social Security Act), which requires the Department to publish facility payment rates, the methodologies underlying the establishment of such rates, and the justification for such rates. This notice is also published pursuant to title 42, part 447, section 205 (42 CFR §447.205), which requires publication of a notice when there is a significant change in the methods and standards for setting payment rates for Medical Assistance services.

On February 7, 2003, pursuant to *Minnesota Statutes*, §16A.152, subdivision 4, the Governor balanced the State Fiscal Year 2003 budget. To balance the budget, it was necessary to reduce current Department of Human Services spending. Intermediate care facilities for persons with mental retardation participating in the Medical Assistance Program are impacted.

Effective April 1, 2003, ICF/MR temporary rate adjustments will be suspended until July 1, 2003.

Legislation was enacted in 2002 providing that after a discharge, ICFs/MR receive a temporary rate adjustment for the vacancy for up to 75 days or until the vacancy is filed (*Minnesota Statutes*, §256B.5013, subdivision 4). The temporary rate adjusts the occupied day rate in months in which the monthly occupancy rate of licensed beds is at least 75 percent. The temporary rate adjusts the rate of the occupied days in the month to compensate for lost revenues.

The net effect of this change is a decrease in state Medical Assistance expenditures of \$199,000 for the remainder of State Fiscal Year 2003.

Information is available from Barbara Nelson, Minnesota Department of Human Services, Community Supports for Minnesotans with Disabilities, 444 Lafayette Road North, St. Paul, Minnesota, 55155-3857; **phone** (651) 582-1969 or **email**: barbara.nelson@state.mn.us.

Department of Human Services

Health Care Purchasing and Delivery Systems Division

Public Notice Regarding Payment Rate Change For Hospitals Participating in the Medical Assistance Program

NOTICE IS HEREBY GIVEN to recipients, providers of services under the Medical Assistance Program, and to the public, of a payment rate change for hospitals participating in the Medical Assistance Program.

This notice is published pursuant to 42 *United States Code* §1396a(a)(13)(A) (§1902(a)(13)(A) of the Social Security Act), which requires the Department to publish facility payment rates, the methodologies underlying the establishment of such rates, and the justification for such rates. It is also published pursuant to title 42, part 447, section 205 (42 CFR §447.205), which requires publication of a notice when there is a significant change in the methods and standards for setting payment rates for Medical Assistance services.

On February 7, 2003, pursuant to *Minnesota Statutes*, §16A.152, subdivision 4, the Governor balanced the State Fiscal Year 2003 budget. To balance the budget, it was necessary to reduce current Department of Human Services spending. Hospitals participating in the Medical Assistance Program are impacted.

Effective for services provided on or after March 1, 2003, through June 30, 2003, payments to hospitals will be decreased by 5 percent, excluding: 1) inpatient mental health services; and 2) hospital services provided by facilities of the Indian Health Service or facilities operated by a tribe or tribal organization under funding authorized by Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638), as amended, or Title V of the Indian Self-Determination and Education Assistance Act (Public Law 106-260), operating as 638 facilities.

The net effect of this change is a decrease in state Medical Assistance expenditures of \$1,305,000 for the remainder of State Fiscal Year 2003. Including General Assistance Medical Care, a state-funded program providing health care services, the total decrease in state expenditures for the remainder of State Fiscal Year 2003 is \$1,968,000.

Hospital payment information is available from Paul Olson, Minnesota Department of Human Services, Health Care Purchasing and Delivery Systems Division, 444 Lafayette Road North, St. Paul, Minnesota, 55155-3853; **phone**: (651) 296-5620 or **email**: paul.olson@state.mn.us.

Official Notices

Department of Labor and Industry

Labor Standards unit

Notice of Correction to Commercial Prevailing Wage Rates

A correction has been made to the Commercial Prevailing Wage Rates certified 12/30/02 for: **Labor Code 425**, Drywall Taper in **Aitkin, Beltrami, Benton, Cass, Clearwater, Crow Wing, Chippewa, Hubbard, Kandiyohi, Lake of the Woods, Meeker, Mille Lacs, Morrison, Stearns and Wadena Counties**.

Copies of the certified wage rates for these Counties may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, or by calling (651) 284-5091, or accessing our **web site** at www.doli.state.mn.us. Charges for the cost of copying and mailing are \$.65 per page. Make check or money order payable to the State of Minnesota.

Jane Volz
Commissioner

Metropolitan Council

Public Hearing for an Amendment to the Water Resources Management Policy Plan - Wastewater System Plan

Metropolitan Council Offices, Mears Park Centre, Council Chambers, 230 E. Fifth St., St. Paul, MN 55101
Wednesday, March 26, 2003, 2:00 p.m.

The Metropolitan Council will hold a public hearing on a proposed amendment to its Water Resources Management Policy Plan - Wastewater System Plan that would reflect revised growth projections for the City of Blaine.

Current Water Resources Management Policy Plan - Wastewater System Plan

City of Blaine Population Projections

<u>Year</u>	<u>Sewered Population</u>	<u>Sewered Households</u>	<u>Sewered Employment</u>
2010	52,000	19,500	19,200
2020	57,500	23,000	20,100
2030	---	---	---

Proposed Water Resources Management Policy Plan - Wastewater System Plan Amendment

City of Blaine Projections

<u>Year</u>	<u>Sewered Population</u>	<u>Sewered Households</u>	<u>Sewered Employment</u>
2010	52,900	20,384	18,700
2020	58,980	24,080	20,300
2030	68,000	29,200	21,100

After receiving the public's input, the Council will consider the amendment to the Water Resources Management Policy Plan - Wastewater System Plan, tentatively scheduled for April 2003. Approval of this amendment would allow for subsequent Council consideration of the City of Blaine's request for an amendment to its comprehensive plan.

Should the Council approve the amendments to the Water Resources Management Policy Plan - Wastewater System Plan and the City's comprehensive plan amendment, the projected wastewater flow from the City of Blaine, when it reaches its built-out condition, will be 1.8 million gallons per day higher than shown in the city's 2000 comprehensive plan update. The flow from this increased growth in Blaine would be served by two Metropolitan Council Environmental Services regional interceptor sewers. The flow would exceed the capacity of approximately 9,800 feet of one of these interceptors in approximately 2021. That would require reconstruction of this interceptor, as well as other downstream interceptors at a later date.

All interested persons are encouraged to attend the March 26 public hearing and provide comments.

You also may submit comments, which must be *received* by the Metropolitan Council no later than April 7, 2003:

- Send written comments to: Tim O'Donnell at Metropolitan Council Environmental Services, 230 E. Fifth St., St. Paul, MN 55101
- Fax comments to Tim O'Donnell at (651) 602-1477
- Record comments on: Metropolitan Council Public Comment Line at (651) 602-1500
- E-mail comments to: data.center@metc.state.mn.us
- Send TTY comments to (651) 291-0904

Upon request, the Council will provide reasonable accommodations to persons with disabilities. Please submit such requests to Tim O'Donnell via mail or fax (see above) or by phone at (651) 602-1269 before March 19, 2003.

Metropolitan Council

Public Hearing on 2004-2009 Metropolitan Regional Parks Capital Improvement Program

The Metropolitan Council has scheduled a public hearing on the 2004-2009 Metropolitan Regional Parks Capital Improvement Program (CIP) as an amendment to the *Recreation Open Space Development Guide/Policy Plan*. The CIP, contained in Publication No. 78-03-008, includes:

- 1) Prioritized lists of land acquisition, recreation facility rehabilitation and recreation facility development capital improvements for the Metropolitan Regional Park System for the period 2004 to 2009. Policies from the *Recreation Open Space Development Guide/Policy Plan* that were used to evaluate and prioritize the capital improvements are included as well.
- 2) Proposed revenue sources to finance each capital improvement project including State bonds, Environmental Trust Fund appropriations and Metropolitan Council bonds.
- 3) An explanation on how each project was prioritized based on Council policies.

The public hearing has been scheduled from Monday, March 17 at 4:00 p.m. in Conference room 1-A at the Metropolitan Council offices, Mears Park Centre, 230 E. Fifth St., St. Paul. The proposed amendment may effect the standards for determining projects of metropolitan significance in the Metropolitan Significance rules.

Interested persons are encouraged to attend the hearing and offer comments. People may register in advance to speak by calling Karen Patraw at (651) 602-1456 or (651) 291-0904 (TDD). Upon request, the Council will provide reasonable accommodations to persons with disabilities.

Comments may also be submitted as follows (**all comments must be received by 4:30 p.m., Monday March 31, 2003**):

- Send written comments to: Metropolitan Council Data Center, ATTN: 2004-09 Parks CIP Public Comments, Mears Park Centre, 230 E. 5th St., St. Paul, MN 55101-1626
- Fax comments to Data Center at (651) 602-1464
- Record comments on the Council's Public Comment Line: (651) 602-1500
- Send comments electronically to: data.center@metc.state.mn.us

Copies of the *Draft 2004-2009 Metropolitan Regional Parks Capital Improvement Program* (Publication No. 78-03-008) are available for review at major public libraries in the seven-county Twin Cities Metropolitan Area or by contacting the Council's Regional Data Center at (651) 602-1140 or (651) 291-0904 (TTY). You can also view this document on the Council's website: www.metrocouncil.org.

Metropolitan Council

Notice of Public Hearing on Proposed Transit Service Reductions and Fare Adjustments

The Metropolitan Council will hold a series of public hearings on proposed transit service reductions and fare adjustments. The hearings are part of the effort to address the projected \$4.2 billion dollar state funding shortfall for fiscal years 2004-05.

Reductions would affect regular route transit services operated by Metro Transit and Metropolitan Transportation Services, which operates several contracted regular routes and Metro Mobility, the region's paratransit system. Service reductions would be effective September 2003.

The Council will also hear comment on a proposal to adjust regional bus fares effective July 1, 2003. The proposed fare adjustments may effect all regular route transit services in the region, including those operated by suburban providers, as well as Metro Mobility.

Official Notices

Detailed information about the proposed service reductions and fare adjustments will be available to the public no later than March 21, 2003. The proposals will be available online at www.metrotransit.org, by calling the Metropolitan Council Data Center at (651) 602-1140, or visiting the Metro Transit Stores, 719 Marquette Avenue in downtown Minneapolis; at 101 East 5th Street, U.S. Bank Center, Skyway Level, in downtown St. Paul, or Mall of America, 50 East Broadway in Bloomington.

All interested persons are encouraged to attend the hearing and offer comments. Those attending may register in advance to speak by calling the Metropolitan Council Data Center at (651) 602-1140 or (651) 291-0904 (TDD). Upon request, reasonable accommodations to persons with disabilities will be provided.

The public hearings will be held at the following times and locations:

- Monday, March 31, 6:30 - 8:30 p.m.
Ridgedale Library, 12601 Ridgedale Drive, Minnetonka
- Tuesday, April 1, 11:30 a.m. - 1:30 p.m.
Metropolitan Council Chambers, 230 East Fifth Street, St. Paul
- Tuesday, April 1, 6:30 - 8:30 p.m.
Fridley City Hall, 6431 University Avenue NE, Fridley
- Wednesday, April 2, 11:30 a.m. - 1:30 p.m. (Public Meeting)
University of St. Thomas Thornton Auditorium,
1000 LaSalle Avenue South, Minneapolis
- Thursday, April 3, 6:30 - 8:30 p.m.
Burnsville City Hall, 100 Civic Center Drive, Burnsville
- Friday, April 4, 6:30 - 8:30 p.m.
Midtown YMCA, 2121 East Lake Street, Minneapolis
- Monday, April 7, 6:30 - 8:30 p.m.
Metropolitan Council Chambers, 230 East Fifth Street, St. Paul
- Tuesday, April 8, 6:30 - 8:30 p.m.
Maplewood Community Center, 2100 White Bear Ave., Maplewood
- Wednesday, April 9, 6:30 - 8:30 p.m.
North Community Center, 1801 James Avenue North, Minneapolis

The Council will also receive comments as follows:

- Written comments to: Regional Data Center,
Metropolitan Council, 230 E. 5th St., St. Paul, MN 55101
- Fax comments to: Regional Data Center at (651) 602-1464
- Send TTY comments to: Regional Data Center at (651) 291-0904
- Record comments on the Council's Public Comment Line at (651) 602-1500
- Online at: www.metrotransit.org
- Comment cards available on Metro Transit and regional buses, at Metro Transit stores or from the Metropolitan Council Data Center.

Comments on the proposed service reductions and fare increase will be accepted until 5 p.m., April 19, 2003.

State Rehabilitation Council

March 2003 Meeting Notice

The State Rehabilitation Council will meet on March 26 at the designated location. Meeting time is 9:00 to 3:00. For more information on locations please contact the Minnesota Department of Economic Security at: **phone:** (800) 328-9095; (651) 296-5616. **TTY:** (800) 657-3973; (651) 296-3900.

March 26, 2003

Kelly Inn
161 St. Anthony Avenue
Saint Paul, MN 55103
(651) 227-8711

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.

Department of Administration

Governor's Council on Developmental Disabilities

Notice of Cosponsorship Funds for Leadership Training Conferences

The Governor's Council on Developmental Disabilities (GCDD) is pleased to announce the availability of a total of cosponsorship funds for training conferences held in Minnesota. Conferences should focus on providing best practices information and leadership skills training. The primary audience for these conferences must be people with developmental disabilities and their families.

Conferences must be held no later than September 15, 2003. Eligible applicants are Minnesota associations/organizations of parents, people with developmental disabilities, advocates, providers, or professionals; Minnesota chapters of national organizations; or national organizations that are holding a conference in Minnesota. Application deadline is Wednesday, March 19, 2003 at 4:00 p.m. Please note: The GCDD reserves the right to award less than the maximum of \$2,000 to an applicant, refuse to cosponsorship a conference, or withdraw the availability of funds with notice.

For additional information or to request an application form, please contact:

Mary Jo Nichols
Governor's Council on Developmental Disabilities
370 Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Phone: (651) 282-2899 **Toll free:** (877) 348-0505
TTY: (651) 296-9962 **Email:** admin@state.mn.us

The application is also available at www.mnddc.org OR www.mncdd.org.

Go to "The Council" and then "News and Events."

Minnesota Board on Aging

Notice of Funds Availability: Opportunity to Sponsor the Retired and Senior Volunteer Program in St. Louis County

The Minnesota Board on Aging, a state agency, in collaboration with the Minnesota office of the Corporation for National and Community Service, a federal agency, is seeking a qualifying non-profit public or private organization to assume sponsorship of the Retired and Senior Volunteer Program (RSVP) operating in St. Louis County. The program's service area is Duluth, Hermantown, Proctor and surrounding townships.

The Minnesota Board on Aging (MBA) is a state agency that provides state funding and support for the RSVP, Senior Companion, Foster Grandparents and a variety of programs and services for older adults. The Corporation for National and Community Service is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community based service. RSVP, one of three programs of the Corporation's National Senior Service Corps (the Senior Companion and Foster Grandparent programs are the other two), facilitates the engagement of people 55 and older in volunteer opportunities in local communities. A more complete description of RSVP is available from the Corporation for National and Community Service.

A project sponsor administers the recruitment, placement, and support of RSVP volunteers at community locations in the project area. Examples of current sponsors for the twenty-two RSVP projects operating in Minnesota include non-profit organizations and city and county governmental units. RSVP operating procedures and policy are governed by federal legislation contained in the Domestic Volunteer Service Act of 1973 as amended. RSVP, as well as the Senior Companion and Foster Grandparent programs, operates in Minnesota with additional state support provided through the MBA. The Corporation for National and Community Service (CNCS) will designate the selection of a new sponsor for St. Louis County in consultation with the MBA.

Currently there are approximately 800 active RSVP volunteers serving at 100 locations or "stations" in the program's service area. The sponsor selected to assume operations will be expected to maintain the Retired Senior Volunteers (RSVs) and stations enrolled in the program while seeking new volunteers and assignments in the future.

State Grants & Loans

It is anticipated that \$88,759 in federal funds from the Corporation for National and Community Service will be available on an annualized basis. The sponsor must provide financial support, cash and/or in-kind, to meet the matching requirements of the federal funding. The match requirement is 10% in the first year, 20% in the second year and 30% in the third and all subsequent years. It is expected that a new sponsor will assume operations by July 1, 2003.

An application and further instructions are available from the Corporation for National and Community Service, Room 2480, 431 S. Seventh Street, Minneapolis, MN. 55415; **phone:** (612) 334-4083. A public meeting for all prospective sponsors will be held on Thursday, March 13, 2003 from 1:00 p.m. until 3:00 p.m. in the Green Room at the Duluth Public Library, 520 West Superior Street Duluth, MN 55802. Interested parties should call the Corporation for National and Community Service for additional details about the public meeting or with other questions.

Department of Human Services

Correction to January 27, 2003 Notice

CORRECTION: Request for Proposals from prepaid health plans for Minnesota Health Care Programs recipients in Blue Earth County published in the *State Register* on January 27, 2003.

Notice is hereby given that proposals must be submitted by 4:30 p.m. on Friday, March 14, 2003.

Minnesota Department of Human Services

Deaf and Hard of Hearing Services Division

Notice of Request For Proposals to Provide Regionally Based Interpreter Referral Services and to Build Regional Capacity in All Parts of Minnesota, Excluding the Seven County Metropolitan Area

The State of Minnesota Department of Human Services Deaf and Hard of Hearing Services Division is soliciting proposals from qualified individuals or organizations interested in: 1) providing regionally-based interpreter referral services in northern, central and southern Minnesota used by Deaf, hard of hearing and Deafblind individuals and a variety of public and private human service agencies and, 2) building regional interpreter resource capacity to provide interpreting services in Greater Minnesota.

The purpose of the interpreter referral project is to ensure that all public and private agencies and deaf, deafblind and hard of hearing individuals living in Greater Minnesota have access to needed sign language, tactile, Cued Speech and oral interpreting services. The purpose of the regional interpreter capacity building project is to help ensure that there is an adequate supply of qualified interpreters and transliterators in Greater Minnesota to meet the communication needs of deaf, deafblind and hard of hearing people. This project does *not* include the seven-county Twin Cities area. Detailed information about regional boundaries is defined in the full text of the RFP.

Contract activities must also include evaluation of consumer satisfaction with interpreter services, interpreter referral services and regional capacity building activities; a complaint mechanism; and providing reports to the state in the format specified and participation in quarterly evaluations of the interpreter referral service and regional interpreter capacity building

Based on approval from the 2003 Legislature, the Department anticipates awarding up to \$294,000 for the biennium, fiscal years 2004 and 2005 (July 1, 2003-June 30, 2005) to accomplish both the interpreter referral project and the regional interpreter capacity building project. A maximum of \$252,000 (\$126,000 per year) is available for the regional interpreter referral and \$42,000 (\$21,000 per year) for regional interpreter capacity building.

Contracts will be effective July 1, 2003, and continue for 24 months with an option to be renewed for up to a total of five years based on satisfactory performance of the provider and the needs of the State. However, any future funding will be based on legislative approval.

The full text of the Request For Proposals is available upon request by contacting:

Amy McQuaid
Deaf and Hard of Hearing Services Division
444 Lafayette Road North
St. Paul, MN 55155-3814
(651) 296-8978 voice, (651) 297-1506 tty
Email: Amy.McQuaid@state.mn.us

Proposals must be submitted in the format described in the Request For Proposals. Proposals must be received no later than 2:00 p.m. on April 4, 2003. Late proposals will not be considered and will be returned unopened to the submitting party.

State Contracts

Informal Solicitations: Effective March 1, 2002, informal solicitations for all contracting opportunities for professional/technical (consultant) contracts with values estimated to be over \$5,000 and under \$50,000 must be posted on the Department of Administration, Materials Management Division web page (www.mmd.admin.state.mn.us) and access P/T Contracts.

Formal Requests for Proposals: Department of Administration procedures require that formal notice of any professional/technical (consultant service) contract which has an estimated value over \$50,000 must be printed in the *State Register*. Certain quasi-state agencies and Minnesota State Colleges and Universities institutions are by law exempt from these requirements.

Minnesota Historical Society

Notice of Request for Bids for Printing Services - *Minnesota Eats Out*

February 24, 2003

The Minnesota Historical Society (Society) is seeking bids from qualified firms and individuals for the printing of 5,000 books, titled *Minnesota Eats Out* (5,000 casebound books, additional 100's, plus 100 extra jackets to ship with the job). Shipping date to the MHS Warehouse of September 1, 2003 must be maintained.

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

Bids must be received no later than 2:00 p.m., Local Time, Monday March 17, 2003. No late bids will be accepted.

Department of Public Safety

Driver & Vehicle Services

Request for Information for Minnesota Digitized Driver's Licensing and Identification Card System

Notice of Request for Information to assist the Driver and Vehicle Services Division in gathering information for the development of a Request for Proposal, for a Minnesota Digitized Driver's Licensing and Identification Card system.

NOTICE IS HEREBY GIVEN that the Department of Public Safety, Driver & Vehicle Services Division (DVS) is seeking information from vendors in the industry that supply equipment and software, which captures, stores, and retrieves a digitized image of an individual, along with specified demographic information and identification credentials in the form of biometric images and/or electronic signature of a Minnesota Driver License or Identification Card applicant. The DVS is requesting information on the most current process for capturing a digitized image of an individual that accurately reflects the applicant's facial features, and other biometric features (e.g. finger images, retinal scan) and/or signature, which can be stored efficiently in an electronic medium and retrieved rapidly through various access methods. The DVS is interested in what security features are available in the Minnesota Driver's License and Identification Card to prevent fraudulent use.

For a copy of the full Request for Information, or more information, contact:

Department of Administration, Materials Management Division
Jack Bauer, Acquisition Management Specialist
50 Sherburne Avenue, 112 Administration Building, St. Paul, MN 55155
Phone: (651) 296-2621
Fax: (651) 297-3996
Email: jack.bauer@state.mn.us

Responses are due by **2:30 p.m. CST, or March 14, 2003**. No late proposals will be considered.

Department of Transportation

Program Support Group

Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (the "Consultant Pre-Qualification Program")

This document is available in alternative formats for persons with disabilities by calling Robin Valento at (651) 284-3622 for persons who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529.

Mn/DOT, working in conjunction with the Consultant Reform Committee, the Minnesota Consulting Engineers Council, and the

State Contracts

Department of Administration, has developed the Consultant Pre-Qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT anticipates that most consultant contracts for highway related technical activities will be awarded using this method, however, Mn/DOT also reserves the right to use RFP or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to complete or use the Consultant Pre-qualification Program.

Mn/DOT is currently requesting application from consultants in the following service areas: preliminary design, highway design, bridge inspection and environmental studies. Technical and administrative qualification requirements are located on the web site indicated below. In the future, Mn/DOT will be requesting applications for additional highway related consulting services as those services become available. Following advertisement of a particular category of services, applications will be accepted on a continual basis.

All expenses incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program Information, application requirements and application forms are available on Mn/DOT's web site at <http://www.dot.state.mn.us/consult>

Send completed application material to:

Robin Valento
Pre-Qualification Administrator
Minnesota Department of Transportation
Consultant Services
395 John Ireland Boulevard, Seventh Floor, Mail Stop 680
St. Paul, MN 55155

NOTE: Due Date: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

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 M/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 indicated within the public

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 editor for further details.

Metropolitan Council

Notice of Request for Proposals (RFP) for Regular Route and Peak Services in the Twin Cities

Contract Number 03P009

The Metropolitan Council is requesting service proposals for regular route and peak services in the Twin Cities area including the cities of Minnetonka, St. Louis Park, Hopkins, communities west of Lake Minnetonka, Brooklyn Center, Brooklyn Park, Crystal, White Bear Lake, Maplewood, Woodbury, and St. Paul. There is a potential of up to thirteen routes.

<i>Issue request for Proposals</i>	February 28, 2003
<i>Pre-Proposal Meeting</i>	March 13, 2003
<i>Receive Proposals</i>	April 8, 2003
<i>Contract negotiated, executed, NTP</i>	May, 2003

Non-State Contracts & Grants

The proposal process will be conducted to make it eligible for potential future FTA funding. All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Harriet Simmons, Senior Administrative Assistant
Contracts and Procurement Unit
Metropolitan Council
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1086 **Fax:** (651) 602-1138
E-mail: harriet.simmons@metc.state.mn.us

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.

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 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 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.

Business Forms

WH347 Payroll Forms	Stock No. 16-45 \$23.00/pad of 100
CRV (PE-20)	Stock No. 8-2 \$10.00/pkg. of 50
CRV (PE-20A)	Stock No. 8-5 \$5.00/pkg. of 20
Hazardous Waste Manifest	
Standard	Stock No. 8-8 \$14.95/pkg. of 25
Pin-Fed	Stock No. 8-7 \$159.95/pkg. of 250

Workers' Comp. Reference Guide

A quick reference brochure features the basics of state workers compensation laws. **Stock No. 10-16 \$4.00/pkg. of 25**

Employees' Guide to the Workers' Comp. System

Brochure covers topics such as worker rights, what to do when injured, benefits and return to work.

Stock No. 10-17 \$4.00/pkg. of 10

Guide to Workers' Compensation in MN

Reference guide for employers, employees, insurance companies, rehabilitations professionals, unions, etc. Statutory references provided. Looseleaf, 150pp. **Stock No. 10-18 \$15.95**

