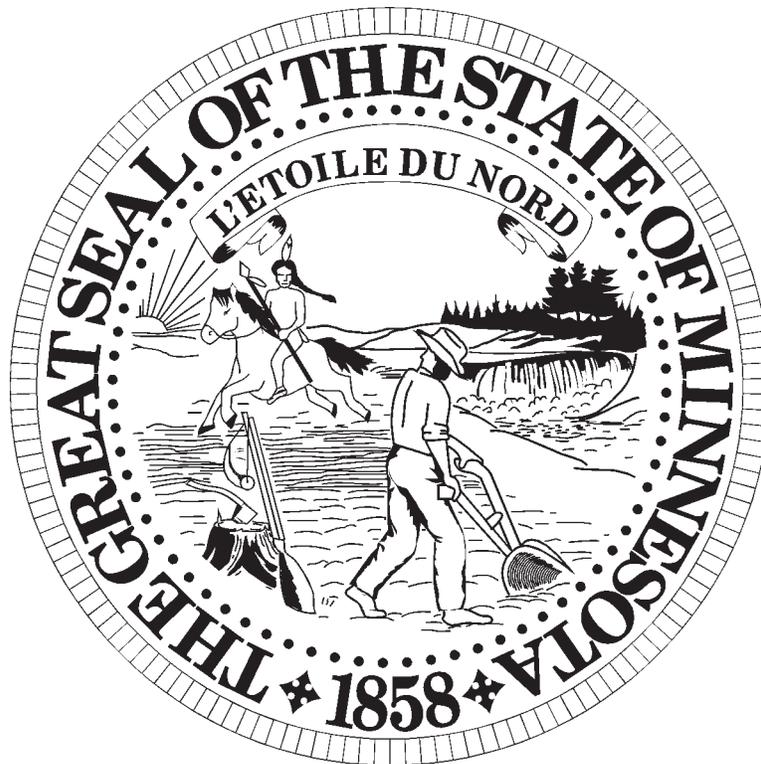


State of Minnesota

# State Register



**Rules, Executive Orders, Appointments,  
Commissioners' Orders, Revenue Notices, Official Notices, Grants,  
State Contracts & Loans, Non-State Bids, Contracts & Grants**  
Published every Monday (Tuesday when Monday is a holiday)

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# State Register

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- state grants and loans
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# 6	Monday 6 August	Noon Tuesday 31 July	Noon Wednesday 25 July
# 7	Monday 13 August	Noon Tuesday 7 August	Noon Wednesday 1 August
# 8	Monday 20 August	Noon Tuesday 14 August	Noon Wednesdays 8 August
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# Minnesota Rules: Amendments and Additions

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

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 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, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

## Minnesota Board of Water and Soil Resources Adopted Exempt Permanent Rules Relating to Wetland Rules ORDER ADOPTING RULE

Adoption of Exempt Permanent Rule Relating to Wetland Rules, *Minnesota Rules* Chapters 6115 and 8420

### WHEREAS:

1. All notice and procedural requirements in *Minnesota Statutes*, chapter 14, *Minnesota Rules*, chapter 1400, other applicable law have been complied with and a copy of the resolution adopted by the Board on June 27, 2007 to propose the rule is attached.

2. The rule has been adopted under the exempt rule provisions of chapter 14; therefore an official comment period and a public hearing were not required.

3. The following rule amendments are made to ensure consistency with the statutory changes contained in *Laws of Minnesota*, Chapter 57: chapter 6115; 8420.0115; 8420.0122; 8420.0200; 8420.0250; 8420.0290; 8420.0541, subp. 10; 8420.0543; and 8420.0650.

4. The following rule amendments are made to implement policy proposals included in the Wetland Conservation Act Assessment adopted by the Board on December 20, 2006 and accepted by the Clean Water Cabinet on February 21, 2007, and the Wetland Mitigation Memorandum of Understanding that the Board entered into with the U.S. Army Corps of Engineers on May 23, 2007: 8420.0510; 8420.0520; 8420.0541, subp. 7; 8420.0542; 8420.0546; 8420.0549; and 8420.0650.

5. Following review by the Office of Administrative Hearings, the rule as submitted for review is amended as shown below:

#### A. Minn. R. 8420.0122, subp. 4, item A

A. activities in a wetland restored or created for conservation purposes under a contract or easement providing the landowner with the right to drain the restored or created wetland. The landowner must provide a contract or easement conveyance or affidavit demonstrating that the landowner or a predecessor restored or created the wetland for conservation purposes but retained the right to subsequently drain the restored or created wetland; . . .

This change is consistent with the intentions of the Board and the amended statutory language which appears in *Laws of Minnesota 2007*, chapter 131, article 1, section 55.

# Exempt Rules

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**B. Minnesota Rules 8420.0549, subp. 2 (page 34, lines 37-40), as follows:**

Calcareous fen Palustrine; emergent; narrow-leaved persistent; scrub/shrub; broad-leaved deciduous  
Type 2: Inland fresh meadow Type 6: Shrub swamp

This change is consistent with the intentions of the Board and the table appearing in the Wetland Mitigation Memorandum of Understanding that the Board entered into with the U.S. Army Corp of Engineers on May 23, 2007.

6. The rule is needed and reasonable.

7. A copy of the resolution adopted by the Board on June 27, 2007 to propose the rule is attached.

**IT IS ORDERED** that the above-rule is adopted.

Dated: July 25, 2007

John Jaschke, Executive Director  
Board of Water and Soil Resources

## **6115.0250 PERMIT REVIEW.**

[For text of subs 1 to 4, see M.R.]

### **Subp. 5. Public water wetland permit processing.**

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

#### **D. Public waters work permits in public water wetlands:**

[For text of subitem (1), see M.R.]

(2) the commissioner shall not waive the requirement for a public waters work permit in a public water wetland for activities:

(a) allowed under part 8420.0122, subparts 1 to 8 7 and 10;

[For text of units (b) to (d), see M.R.]

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

[For text of subs 6 to 8, see M.R.]

## **8420.0115 SCOPE OF EXEMPTION STANDARDS.**

Persons proposing to conduct an exempt activity are encouraged to contact the local government unit or the local government unit's designee for advice on determining whether a proposed project is eligible for an exemption and to evaluate alternatives to avoid or minimize wetland impacts.

An activity is exempt if it qualifies for any one of the exemptions, even though it may be indicated as not exempt under another exemption.

These exemptions do not apply to calcareous fens as identified by the commissioner.

No exemptions apply to wetlands that have been previously restored or created as a result of an approved replacement plan. All such wetlands are subject to replacement on subsequent drainage, excavation, or filling.

Wetlands may not be partially drained, excavated, or filled in order to claim an exemption or no-loss determination on the remainder. Therefore, ~~no exemptions an exemption~~ or no-loss ~~determinations can~~ determination may not be applied to the remaining wetland ~~that if it~~ would not have been applicable before the impact. Exemptions may not be combined on a wetland that is impacted by a project.

~~Present and future owners of wetlands drained or filled without replacement under an exemption in part 8420.0122, subparts 1 and 2, item B, can make no use of the wetland area after it is drained, excavated, or filled, other than as agricultural land, for ten years after the draining, excavating, or filling, unless it is first replaced under the requirements of Minnesota Statutes, section 103G.222. Also, for ten years the wetland may not be restored for replacement credit. Except for land in public ownership, at the time of draining, excavation, or filling, the landowner shall record a notice of these restrictions in the office of the county recorder for the county in which the project is located. At a minimum, the recorded document must contain the name or names of the landowners, a legal description of the property to which the restrictions apply, a statement of the restrictions, the date on which the ten-year period expires, the name of the local government which certified the exemption, if such occurred, the signatures of all owners, and an acknowledgment.~~

A person conducting an activity in a wetland under an exemption in part 8420.0122 shall ensure that:

A. appropriate erosion control measures are taken to prevent sedimentation of the water;

B. the activity does not block fish activity in a watercourse; and

C. the activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management

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# Exempt Rules

practices as listed in part 8420.0112, and water resource protection requirements established under Minnesota Statutes, chapter 103H.

## 8420.0122 EXEMPTION STANDARDS.

Subpart 1. **Agricultural activities.** A replacement plan for wetlands is not required for:

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

~~B.~~ activities in a wetland that is or has been enrolled in the federal Conservation Reserve Program that was planted with annually seeded crops or was in a crop rotation seeding in six of the last ten years prior to being enrolled in the program, and has not been restored with assistance from a public or private wetland restoration program. Federal documentation that the wetland is or has been enrolled in the federal Conservation Reserve Program may be used as evidence for this exemption. The landowner must also meet the same requirements of item A, except that the years required are at least six of the ten years preceding the year of enrollment in the federal Conservation Reserve Program. The landowner must also state in writing that the wetland was not restored with assistance from a public or private wetland restoration fund, or that the restoration was done under a contract or easement providing the landowner with the right to drain the restored wetland;

~~C.~~ activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county USDA office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985. The landowner must provide United States Department of Agriculture documents confirming that the county USDA office determined before September 19, 1988, that drainage had begun before December 23, 1985, and that the determination has not been overturned by subsequent appeal or review and is not currently under administrative review;

~~D.~~ (1) ~~B.~~ activities in a type 1 wetland on agricultural pasture land that remains in the same use, except for bottomland hardwood type 1 wetlands, and activities in a type 2 or type 6 wetland that is less than two acres in size and located on agricultural pasture land that remains in the same use;

(2) this exemption may be expanded to additional acreage, including types 1, 2, and 6 wetlands that are part of a larger wetland system, when the additional acreage is part of a conservation plan approved by the local soil and water conservation district, the additional draining or filling is necessary for efficient operation of the farm, the hydrology of the larger wetland system is not adversely affected, and wetlands other than types 1, 2, and 6 are not drained or filled;

(3) the exemption in subitem (2) is subject to the size limits included in subitem (1);

~~C.~~ activities in a wetland conducted as part of normal farming practices. For purposes of this item, “normal farming practices” means farming, silvicultural, grazing, and ranching activities such as plowing, seeding, cultivating, and harvesting for the production of feed, food, and fiber products, but does not include activities that result in the draining of wetlands;

~~D.~~ soil and water conservation practices that do not permanently drain or fill a wetland and that are approved by the soil and water conservation district after review by the technical evaluation panel. For purposes of this item, examples of soil and water conservation practices include those identified in the State Cost Share Program Manual, available at the Board of Water and Soil Resources Web site (<http://www.bwsr.state.mn.us/cs/costsharemanual.pdf>), and federally funded demonstration, research, and cost share programs and projects;

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

~~F.~~ wild rice production activities, including necessary diking and other activities authorized under a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, *United States Code*, title 33, section 1344; and

~~G.~~ normal agricultural practices to control noxious or secondary weeds as defined by rule of the commissioner of agriculture, in accordance with applicable requirements under state and federal law, including established best management practices; and

~~H.~~ agricultural activities that are:

(1) in a wetland that is on agricultural land annually enrolled in or determined to be eligible for benefits under the federal Agriculture Improvement and Reform Act of 1996, Public Law 104127; or

(2) subject to subsequent federal farm program restrictions that meet minimum state standards under this chapter and *Minnesota Statutes*, sections 103A.202 and 103B.3355, and that have been approved by the Board of Water and Soil Resources, the commissioners of natural resources and agriculture, and the Pollution Control Agency. The approved conditions and standards shall be noticed by the board to local government units and published in the *State Register*. The conditions and standards shall take effect 30 days after publication and remain in effect unless superseded by subsequent statute, rule, or notice in the *State Register*. This exemption may be applied to agricultural land annually enrolled in the federal Farm Program as long as wetlands are not drained, excavated, or filled beyond what is:

(a) (1) allowed under the other exemptions in this part;

(b) (2) necessary to replace, maintain, or repair existing private drainage infrastructure with a capacity not to exceed that which was originally constructed; or

(c) (3) replaced at a ratio of 1:1 or greater under United States Department of Agriculture provisions as supported by documentation from the United States Department of Agriculture which must be included as evidence to support this exemption.

If the activity would result in loss of eligibility, the landowner cannot qualify for the exemption.

# Exempt Rules

## Subp. 2. **Drainage.**

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

B. A replacement plan is not required for draining of type 1 wetlands, or up to five acres of type 2 or type 6 wetlands, in an unincorporated area on land that has been assessed drainage benefits for a public drainage system, provided that:

[For text of subitem (1), see M.R.]

(2) the wetlands are not drained for conversion to:

(a) platted lots;

(b) planned unit, commercial, or industrial developments; or

(c) any development with more than one residential unit per 40 acres, except for parcels subject to local zoning standards that allow family members to establish an additional residence on the same 40 acres.

If wetlands drained under this item are converted to uses prohibited under subitem (2) during the ten-year period following drainage, the wetlands must be replaced under Minnesota Statutes, section 103G.222.

[For text of items C and D, see M.R.]

For items C and D, the landowner must provide documentation that the wetlands which will be partially or completely drained by the maintenance have not existed for more than 25 years. Documentation may include, but is not limited to: aerial photographs, climatological records, soil borings, vegetative analysis, elevation surveys, or sworn affidavits.

~~E. A replacement plan is not required for draining, excavating, or filling of wetlands resulting from activities conducted as part of a public drainage system improvement project that received final approval from the drainage authority before July 1, 1991, and after July 1, 1986, if:~~

~~(1) the approval remains valid;~~

~~(2) the project remains active; and~~

~~(3) no additional drainage will occur beyond that originally approved.~~

~~E. A replacement plan is not required for draining agricultural land that:~~

~~(1) was planted with annually seeded crops prior to July 5, except for crops that are normally planted after this date, in eight out of the ten most recent years prior to the impact;~~

~~(2) was in a crop rotation seeding of pasture grass, cover crop, or legumes or was fallow for a crop production purpose in eight out of the ten most recent years prior to the impact; or~~

~~(3) was enrolled in a state or federal land conservation program and met the requirements of subitem (1) or (2) prior to enrollment. Documentation, such as aerial photographs, United States Department of Agriculture records, or an affidavit of the landowner or another landowner with knowledge of the subject agricultural land may be required by the local government unit as evidence for the exemption under this item.~~

[For text of items F and G, see M.R.]

~~H. Present and future owners of wetlands drained or filled without replacement under an exemption in item B or E may make no use of the wetland area after it is drained, excavated, or filled, other than as agricultural land, for at least ten years after the draining, excavating, or filling, unless it is first replaced under the requirements of *Minnesota Statutes*, section 103G.222. Also, for at least ten years, the wetland may not be restored for replacement credit. Except for land in public ownership, at the time of draining, excavation, or filling, the local government unit may require the landowner to record a notice of these restrictions in the office of the county recorder for the county in which the project is located. The local government unit may require recording a notice of these restrictions if it determines the wetland area drained is at risk of conversion to a nonagricultural use within ten years based on the zoning classification, proximity to a municipality or full service road, or other criteria as determined by the local government unit. In making a determination under this item, the local government unit must review the applicable comprehensive plan when evaluating the risk of conversion to a nonagricultural use and monitor and enforce the prohibition on using the area drained, filled, or excavated for a nonagricultural purpose for at least ten years. At a minimum, the recorded document must contain the name or names of the landowners, a legal description of the property to which the restrictions apply, a statement of the restrictions, the date on which the restrictions expire, the name of the local government that certified the exemption, if such occurred, the signatures of all owners, and an acknowledgment.~~

Subp. 3. **Federal approvals.** A replacement plan for wetlands is not required for activities described in items A and B:

~~A. Activities exempted from federal regulation under *United States Code*, title 33, section 1344(f), as in effect on January 1, 1991.~~

~~The local government unit may certify the exemption only if the landowner furnishes proof of qualification for one of the exemptions from the United States Army Corps of Engineers.~~

~~This exemption does not apply to a project with the purpose of converting a wetland to a nonwetland, either immediately or gradually, or converting the wetland to another use, or when the fill will result in significant discernible change to the flow or circulation of water in the wetland, or partly draining it, or reducing the wetland area.~~

~~B. Activities authorized under section 404 of the federal Clean Water Act, *United States Code*, title 33, section 1344, or section 10 of the Rivers and Harbors Act of 1899, *United States Code*, title 33, section 403, and regulations that meet minimum state standards under this~~

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chapter and that have been approved by the board of water and soil resources, the department of agriculture, the department of natural resources, and the pollution control agency.

Subp. 4. **Wetland restoration.** A replacement plan for wetlands is not required for:

A. activities in a wetland restored or created for conservation purposes under a contract or easement providing the landowner with the right to drain the restored or created wetland. The landowner must provide a contract or easement conveyance or affidavit demonstrating that the landowner or a predecessor restored or created the wetland for conservation purposes but retained the right to subsequently drain the restored or created wetland; or

B. activities in a wetland restored or created by a landowner without any assistance or financing from public agencies or private entities other than the landowner and the wetland has not been used for wetland replacement or deposited in the state wetland bank. For purposes of this item, assistance by public agencies does not include consultation on project design or advice on the project's relationship to state or federal programs. The landowner must provide a contract, billing statements, or an affidavit demonstrating that the landowner or a predecessor restored or created the wetland without any assistance or financing from public agencies or private entities other than the landowner. The landowner must also provide sufficient information to determine that the area was not wetland prior to the restoration or creation activity.

[For text of subp 5, see M.R.]

Subp. 6. **Utilities; public works.**

A. A replacement plan for wetlands is not required for:

A. placement, maintenance, repair, enhancement, or replacement of utility or utility type service if:

(1) the impacts of the proposed project on the hydrologic and biological characteristics of the wetland have been avoided and minimized to the extent possible; and

(2) the proposed project significantly modifies or alters less than one-half acre of wetlands;

B. activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland;

C. alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline within all existing or acquired interstate pipeline rights-of-way;

D. emergency repair and normal maintenance and repair of existing public works, provided the activity does not result in additional intrusion of the public works into the wetland and does not result in the draining or filling, wholly or partially, of a wetland;

E. normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland; or

F. repair and updating of existing individual sewage treatment systems as necessary to comply with local, state, and federal regulations. For new placement and enhancement of existing facilities, the utility must demonstrate that the character and extent of the impacts of the proposed project on the wetlands have been minimized.

For maintenance, repair, and replacement, the local government unit may issue a seasonal or annual exemption certification or the utility may proceed without local government unit certification if it is carrying out the work according to best management practices. Work of an emergency nature may proceed as necessary and any drain or fill activities shall be addressed with the local government unit after the emergency work has been completed.

(1) new placement or maintenance, repair, enhancement, or replacement of existing utility or utility-type service, including pipelines, if:

(a) the direct and indirect impacts of the proposed project have been avoided and minimized to the extent possible; and

(b) the proposed project significantly modifies or alters less than one-half acre of wetlands;

(2) activities associated with the operation, routine maintenance, or emergency repair of existing utilities and public work structures, including pipelines, provided the activities do not result in additional wetland intrusion or additional draining or filling of a wetland either wholly or partially; or

(3) repair and updating of existing individual sewage treatment systems necessary to comply with local, state, and federal regulations.

B. For maintenance, repair, and replacement, the local government unit may issue a seasonal or annual exemption certification or the utility may proceed without local government unit certification if the utility is carrying out the work according to approved best management practices. Work of an emergency nature may proceed as necessary and any drain or fill activities shall be addressed with the local government unit after the emergency work has been completed.

[For text of subp 7, see M.R.]

Subp. 8. [See repealer.]

Subp. 9. **De minimis.**

A. Except as provided in items B and C, a replacement plan for wetlands is not required for draining, excavating, or filling the following amounts of wetlands as part of a project:

(1) 10,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, outside of the shoreland wetland

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protection zone and that are not fringe areas of type 3, 4, or 5 wetlands in a greater than 80 percent area;

(2) 5,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, outside of the shoreland wetland protection zone and that are not fringe areas of type 3, 4, or 5 wetlands in a 50 to 80 percent area;

(3) 2,000 square feet of type 1, 2, or 6 wetland, outside of the shoreland wetland protection zone and that are not fringe areas of type 3, 4, or 5 wetlands in a less than 50 percent area;

(4) 400 square feet of wetland types not listed in subitems (1) to (3) outside of shoreland wetland protection zones in all counties; or

(5) 400 square feet of type 1, 2, 3, 4, 5, 6, 7, or 8 wetland, in the shoreland wetland protection zone, except that in a greater than 80 percent area, the local government unit may increase the de minimis amount up to 1,000 square feet in the shoreland wetland protection zone in areas beyond the building setback if the wetland is not a type 3, 4, or 5 wetland, is isolated, and is determined to have no direct surficial connection to the public water. To the extent that a local shoreland management ordinance is more restrictive than this subitem, the local shoreland ordinance applies:

(1) in a greater than 80 percent area, including Isanti County:

(a) 10,000 square feet of type 1, 2, 6, or 7 wetland, except for white cedar and tamarack wetland, outside of the shoreland wetland protection zone; or

(b) 400 square feet of type 1, 2, 6, or 7 wetland, except for white cedar and tamarack wetland, outside of the building setback zone, as defined in the local shoreland management ordinance, but within the shoreland wetland protection zone. This amount may be increased to 1,000 square feet by the local government unit if the wetland is isolated and determined to have no direct surficial connection to the public water;

(2) in a 50 to 80 percent area:

(a) 5,000 square feet of type 1, 2, 6, or 7 wetland, except for white cedar and tamarack wetland, outside of the shoreland wetland protection zone and outside of the 11-county metropolitan area;

(b) 2,500 square feet of type 1, 2, 6, or 7 wetland, except for white cedar and tamarack wetland, outside of the shoreland wetland protection zone and inside the 11-county metropolitan area; or

(c) 400 square feet of type 1, 2, 6, or 7 wetland, except for white cedar and tamarack wetland, outside of the building setback zone, as defined in the local shoreland management ordinance, but within the shoreland wetland protection zone;

(3) in a less than 50 percent area:

(a) 2,000 square feet of type 1, 2, or 6 wetland outside of the shoreland wetland protection zone and outside the 11-county metropolitan area;

(b) 1,000 square feet of type 1, 2, or 6 wetland outside of the shoreland wetland protection zone and inside the 11-county metropolitan area;

(c) 400 square feet of type 1, 2, or 6 wetland outside of the the building setback zone, as defined in the local shoreland management ordinance, but within the shoreland wetland protection zone; or

(d) 100 square feet of type 7 wetland outside of the building setback zone, as defined in the local shoreland management ordinance; or

(4) statewide:

(a) 100 square feet of type 3, 4, 5, 8, and white cedar and tamarack wetland outside of the building setback zone, as defined in the local shoreland management ordinance; or

(b) 20 square feet of wetland, regardless of type, inside the building setback zone, as defined in the local shoreland management ordinance.

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

E. Property may not be subdivided solely to increase the amounts listed in item A.

F. For purposes of this subpart, for wetlands greater than 40 acres, the wetland type may be determined to be the wetland type with the deepest water regime within the wetland and within 300 feet of the impact.

G. For purposes of this subpart, the 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

[For text of subp 10, see M.R.]

## 8420.0200 DETERMINING LOCAL GOVERNMENT UNIT; DUTIES.

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

### Subp. 2. Local government unit duties.

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

B. The local government unit may place the decision authority for exemption, no-loss, wetland boundary and type, replacement plan, and wetland banking determinations with local government unit staff according to procedures it establishes. For final determinations made by staff, the local government unit must establish a local appeal process that includes a public hearing before appointed or elected officials.

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The determination of staff becomes final if not appealed to the local government unit within 30 days after the date on which the decision is mailed to those required to receive notice of the decision. Notwithstanding the time frames of Minnesota Statutes, section 15.99, or any other law to the contrary, the local government unit must make a ruling within 30 days from the date of the filing of the appeal, unless the appellant and local government unit mutually agree, in writing, to an extension of time beyond the 30 days. Appeal of a final determination made by staff may be made by the landowner, by any of those required to receive notice of the decision, or by 100 residents of the county in which a majority of the wetland is located.

C. The notice of decision mailed by the local government unit must include information on the process and time frames to appeal the decision of the local government unit.

D. The local government unit and soil and water conservation district may charge processing fees in amounts not greater than are necessary to cover the reasonable costs of implementing this chapter and for technical and administrative assistance to landowners in processing other applications for projects affecting wetlands.

### **8420.0250 APPEALS.**

Subpart 1. **Appeal of local government unit decisions.** The decision of a local government unit to approve, approve with conditions, or reject a replacement plan, banking plan, public road project notice, exemption, no loss, or wetland boundary or type request becomes final if not appealed to the board within 30 days after the date on which the decision is mailed to those required to receive notice of the decision. Appeals of decisions made by local government staff must be made to the local government unit as provided for in part 8420.0200, subpart 2, item B. This subpart applies to those determinations which are made under comprehensive wetland protection and management plans.

Appeal may be made by the landowner, by any of those required to receive notice of the decision, or by 100 residents of the county in which a majority of the wetland is located.

Appeal is effective upon mailing of the petition and payment of a nonrefundable filing fee of \$200, or an amount otherwise determined by the board not to exceed \$1,000, to the

board with evidence that a copy of the petition has been mailed to the local government unit. The filing fee is not required for appeals petitioned by state agencies or members of the technical evaluation panel. Another filing fee is not required for appeals that have been remanded if the filing fee was paid and the same party appeals the new decision made under remand. Subsequent to receipt of a petition, the local government unit may require the petitioner to post a letter of credit, cashier's check, or cash in an amount not to exceed \$500 per appeal. The amount posted must be returned to the petitioner unless there is a finding under subpart 3 that the appeal is meritless, trivial, or brought solely for the purposes of delay. The local government unit shall then mail a copy of the petition to all those to whom it was required by part 8420.0230 to mail a copy of the notice of decision.

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

### **8420.0290 ENFORCEMENT PROCEDURES.**

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

Subp. 3c. **Appeals of replacement and restoration orders.** A landowner or responsible party may appeal the terms and conditions of a restoration or replacement order issued pursuant to subpart 3 to the board's executive director within 30 days of receipt of written notice by filing a written request for review and paying a nonrefundable filing fee to the board. The filing fee is \$200, or an amount otherwise determined by the board not to exceed \$1,000. If the written request is not submitted within 30 days, the restoration or replacement order becomes final. The executive director shall review the request and supporting evidence and render a decision within 60 days of the request for review. The executive director may stay the restoration or replacement order until the appeal is resolved.

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

### **8420.0510 REPLACEMENT PLAN PROCEDURES.**

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Evaluation.** As provided for in part 8420.0240, technical questions concerning the public value, location, size, and type of wetland shall be submitted to the technical evaluation panel. The local government unit may use a technical evaluation panel to predetermine public value, location, size, or type of wetlands under its jurisdiction and use this determination in administering the act. Wetland boundaries must be determined using the methodologies in the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). Wetland type must be identified according to Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et al., 1979) and according to, United States Fish and Wildlife Service Circular No. 39 (1971 edition) "Wetlands of the United States;" or Wetland Plants and Plant Communities of Minnesota and Wisconsin (S. Eggers and D. Reed, 1997), as modified by the Board of Water and Soil Resources-United States Army Corps of Engineers Wetland Mitigation Memorandum of Understanding (May 2007). The documents referenced under this subpart are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system or on the board's Web site at <http://www.bwsr.state.mn.us>. The technical evaluation panel

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shall provide its determinations to the local government unit for consideration.

## 8420.0520 SEQUENCING.

[For text of subs 1 to 4, see M.R.]

Subp. 5. **Determination of impact rectification.** Temporary impacts to a wetland must be rectified by repairing, rehabilitating, or restoring the affected wetland.

A. Activities may qualify for a no-loss determination in part 8420.0220 by meeting all of the following conditions:

(1) the physical characteristics of the affected wetland, including ground elevations, contours, inlet dimensions, outlet dimensions, substrate, plant communities, and hydrologic regime, are restored to preproject conditions sufficient to ensure that all preproject functions and values are restored;

[For text of subitems (2) and (3), see M.R.]

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

[For text of subs 6 to 9, see M.R.]

## 8420.0530 REPLACEMENT PLAN COMPONENTS.

On an application form approved by the board in consultation with the commissioner of natural resources, provided through the local government unit, and with required attachments supplied by the applicant, the following documentation must be provided, except that for replacement plans utilizing the wetland bank in parts 8420.0700 to 8420.0760, items B, subitem (1); and D, do not apply; instead the applicant shall submit the wetland banking credit withdrawal form prescribed in part 8420.0740, subpart 2, item E:

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

B. either:

(1) a signed statement confirming that the wetland acres and values will be replaced before in advance of or concurrent with the actual draining or filling of a wetland; or

(2) an irrevocable bank letter of credit, a performance bond, or other security acceptable to the local government unit in an amount sufficient to guarantee the successful completion of the wetland replacement;

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

## 8420.0541 ACTIONS ELIGIBLE FOR CREDIT.

[For text of subs 1 to 6, see M.R.]

Subp. 7. **Wetlands previously restored via conservation easements.** Wetland areas previously restored for conservation purposes under terminated easements or contracts are eligible for up to 75 percent new wetland credit and adjacent upland buffer areas reestablished to permanent native, noninvasive vegetative cover are eligible for public value credit above a 1:1 ratio in an amount not to exceed 25 percent of the restored wetland area.

[For text of subs 8 and 9, see M.R.]

Subp. 10. **Water quality treatment areas.**

A. ~~Replacement~~ New wetland credit of up to 100 percent for wetland areas constructed as part of water quality treatment ponds constructed to pretreat stormwater runoff prior to discharge to wetlands or public waters is allowed systems may be granted by the local government unit with the concurrence of the technical evaluation panel, provided that:

(1) the local government unit has an approved and active stormwater management plan;

(2) the water quality treatment system design includes pretreatment of runoff before discharge to the wetland area receiving credit;

(3) the basins are wetland area receiving credit is constructed in nonwetland areas; ~~and~~

~~(4) the basins are~~ water quality treatment system is associated with an ongoing or proposed project that will impact a wetland or public waters;

~~B. Credits are determined according to subitems (1) to (3) by the local government unit with concurrence of the technical evaluation panel.~~

~~(1) Public value credit may be allowed for up to 100 percent of the normal pool area of an isolated one-cell, wet detention basin or the upper cell of a two-cell system, or for the one-year design pool of a stormwater infiltration area that also has an established native, noninvasive vegetative cover.~~

~~(2) New wetland credit may be allowed for up to 100 percent of the normal pool area of the downstream cell of a two-cell, wet detention system, provided:~~

~~(a) the two cells are completely separated by a barrier for up to the ten-year critical event;~~

~~(b) the upstream basin meets the criteria in subitem (1);~~

~~(5) the wetland area receiving credit is separated from the water quality treatment system that pretreats runoff before discharge to the wetland area receiving credit;~~

~~(e) (6) the downstream cell wetland area receiving credit is designed for a maximum 24-inch rise in water level for the ten-year critical storm event;~~

~~(d) (7) the standards in part 8420.0550 are followed; and~~

~~(e) (8) the design goal wetland area receiving credit is a fully functioning wetland for the downstream cell.~~

~~(3) Buffer areas installed adjacent to two-celled systems that are consistent with subitem (2) and subpart 6 may be allowed for public value credit.~~

~~C. B. Stormwater detention basins allowed for replacement are not eligible for the exemptions in part 8420.0122 and are subject to parts 8420.0500 to 8420.0630.~~

[For text of subp 11, see M.R.]

## **8420.0542 TIMING OF REPLACEMENT.**

Replacement of wetland functions and values must be completed ~~before~~ in advance of or concurrent with the actual draining, excavation, or filling of a wetland, unless an irrevocable bank letter of credit or other security acceptable to the local government unit is submitted to the local government unit to guarantee successful completion of the replacement. Local government units may require performance bonds or similar instruments to assure that the replacement wetland is successfully established. All wetlands to be restored or created for replacement must be designated for replacement before restoration or creation. Submission to the local government unit of the information required in part 8420.0530 and subsequent approval shall be considered evidence of designation for replacement, provided the information is submitted before the actual restoration or creation. The exceptions contained in part 8420.0544 do not apply to replacement completed using wetland banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.

## **8420.0543 WETLAND REPLACEMENT SITING.**

A. Siting wetland replacement must follow this priority order:

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

~~(4) for replacement by wetland banking, in the same wetland bank service area as the impacted wetland, except that impacts in a 50 to 80 percent area must be replaced in a 50 to 80 percent area and impacts in a less than 50 percent area must be replaced in a less than a 50 percent area;~~

~~(5) for project specific replacement, in an adjacent watershed or county to the affected wetland or, for replacement by wetland banking, in an adjacent wetland bank service area, except that impacts in a 50 to 80 percent area must be replaced in a 50 to 80 percent area and impacts in a less than 50 percent area must be replaced in a less than 50 percent area; and~~

~~(5) statewide, for:~~

~~(a) wetlands affected in greater than 80 percent areas; and~~

~~(b) (6) notwithstanding subitems (1) to (5), public transportation projects may be replaced statewide, except that wetlands affected in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands affected in the seven-county metropolitan area must be replaced at a ratio of two to one in:~~

~~(a) the affected county or;~~

~~(b) if no restoration opportunities exist in the affected county, in another seven-county metropolitan area county; or~~

~~(c) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one-to-one must be replaced within the seven-county metropolitan area;~~

~~(7) notwithstanding subitems (1) to (5), siting wetland replacement in greater than 80 percent areas may follow the priority order under this subitem:~~

~~(a) by wetland banking after evaluating onsite replacement and replacement within the watershed;~~

~~(b) replaced in an adjacent wetland bank service area if wetland bank credits are not reasonably available in the same wetland bank service area as the affected wetland, as determined by a comprehensive inventory approved by the board; or~~

~~(c) statewide; or~~

~~(8) notwithstanding subitems (1) to (5), siting wetland replacement in the seven-county metropolitan area must follow the priority order under this subitem:~~

~~(a) in the affected county;~~

~~(b) in another of the seven metropolitan counties; or~~

~~(c) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one-to-one must be replaced within the seven-county metropolitan area.~~

~~B. Until December 31, 2012, existing wetland bank account holders outside of the seven-county metropolitan area, but within a major watershed that is wholly or partially within the seven-county metropolitan area, may withdraw wetland credits according to part 8420.0541 that was in effect at the time of the deposit of the public value credit or new wetland credits.~~

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C. Until December 31, 2012, local government units may approve wetland replacement plans that propose replacement via wetland banking, using credits established according to the replacement siting rule in effect on August 5, 2007.

B: D. When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in item A, the applicant may seek opportunities at the next level.

C: E. For the purposes of item B D, “reasonable, practicable, and environmentally beneficial replacement opportunities” means opportunities that:

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

D: F. Regulatory agencies, local government units, and other entities involved in wetland restoration shall collaborate to identify potential replacement opportunities within their jurisdictional areas.

## 8420.0544 REPLACEMENT FOR PUBLIC TRANSPORTATION PROJECTS.

A. Wetlands impacted by public transportation projects may be replaced statewide, only for wetlands affected in greater than 80 percent areas and for public transportation projects, except that wetlands affected in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands affected in the seven-county metropolitan area must be replaced at a ratio of two to one in:

(1) the affected county;

(2) in another of the seven metropolitan counties; or

(3) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one to one must be replaced within the seven-county metropolitan area.

Part 8420.0543, item A, subitem (5) (6), does not apply to replacement completed using wetlands banking credits established by an applicant who submitted a complete wetland banking application to a local government unit by April 1, 1996.

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

## 8420.0546 SIZE OF REPLACEMENT WETLANDS.

Replacement wetlands must be of a size sufficient to ensure that they provide equal or greater public value than the wetland that was drained or filled. ~~Except in greater than 80 percent areas, for a wetland located on nonagricultural land~~ The minimum amount of replacement wetland that must be provided is shown in part 8420.0549, subpart 4c. ~~For a wetland located on nonagricultural land in a 50 to 80 percent area or a less than 50 percent area, the minimum size of the replacement wetland must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland. For a wetland located on agricultural land, or in greater than 80 percent areas, the minimum size of the replacement wetland must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland. The actual replacement ratios required for a replacement wetland may be more than the minimum, subject to the evaluation of wetland functions and values in part 8420.0549.~~

~~Except in greater than 80 percent areas~~ For wetlands located in a 50 to 80 percent area or a less than 50 percent area, future owners may make no use of the wetland after it is altered, other than as agricultural land for a period of ten years unless future replacement to achieve a 2:1 ratio equaling or exceeding the appropriate ratio in part 8420.0549, subpart 4c, occurs. The landowner shall record a notice of this restriction in the office of the county recorder in which the project is located.

## 8420.0549 EVALUATION OF WETLAND FUNCTIONS AND VALUES.

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

Subp. 2. ~~Wetland types: wetlands classification equivalency chart.~~ For purposes of this part, the following table serves as a key for using Table 2 (subpart 4, item A) and as a wetland classification equivalency chart for the wetland classification developed by the United States Fish and Wildlife Service (Cowardin et al. 1979), and the approximate wetland type from the United States Fish and Wildlife Service Circular No. 39 (1971 edition): For wetland replacement ratio determinations, wetland type shall be based on the 12 wetland plant community types as listed in this subpart.

Table 1. Wetland Classification Equivalency Chart. The Cowardin classification includes system, subsystem, class, subclass, and/or water regime. The Circular 39 wetland type is approximated:

Cowardin System	Circular 39
L1 (all)	5*
L2ABF	4
L2ABG	5
L2ABH	5
L2EMA	5
L2EMB	5
L2EMF	4

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L2EMG	4
L2EMH	5
L2RS	5
L2UB	5
L2US	4
PABF	4
PABG	4
PABH	5
PEMA	1
PEMB	2, 8
PEMC	3
PEMD	3
PEME	2
PEMF	3
PEMG	4
PEMH	4
PEMJ	1
PEMU	3
PEMW	1
PEMY	3
PEMZ	4
PFOA	HL**
PFO1B	7
PFO2B	7
PFO4B	7
PFO5B	7
PFO6B	7
PFO7B	7
PFOC	7
PFOD	7
PFOF	7
PFOJ	HL**
PFOU	HL**
PFOW	HL**
PFOY	7
PMLB	8
PRB-(all)	5
PSSA	6
PSS1B	6
PSS2B	8
PSS3B	8
PSS4B	8
PSS5B	6
PSS6B	6
PSS7B	8
PSSC	6
PSSD	6
PSSF	6
PSSG	6
PSSH	6
PSSJ	6
PSSW	6
PSSY	6

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PSSZ	6
PSSU	6
PUBB	3
PUBF	4
PUBG	5
PUBH	5
PUS(all)	3
R1	R2***
R2(all)	R2***
R3(all)	R3***
R4(all)	R4***
R5	R4***

\* Circular No. 39 does not classify deep water as a wetland type, but for purposes of this table, these areas can be approximated as a type 5.

\*\* 1L wetlands by Circular No. 39 are Type 1 Bottomland Hardwoods.

\*\*\* No equivalent. Circular No. 39 does not address riverine wetlands.

“K” water regimes are often municipal/industrial water facilities.

NOTE: In the case of wetland identified using the Cowardin system with both numerator and denominator wetland types, the numerator type is considered the dominant wetland type, with the exception that the denominator wetland type is to be used when the numerator wetland type vegetation is dead.

<u>Wetland Plants and Plant Communities of Minnesota and Wisconsin (Eggers and Reed 1997), as modified by the Board of Water and Soil Resources-United States Army Corps of Engineers Wetland Mitigation Memorandum of Understanding (May 2007)</u>	<u>Classification of Wetlands and Deepwater Habitats of the United States (Cowardin et al. 1979)</u>	<u>Fish and Wildlife Service Circular 39 (Shaw and Fredine 1971)</u>
<u>Shallow, open water</u>	<u>Palustrine or lacustrine, littoral; aquatic bed; submergent, floating, and floating-leaved</u>	<u>Type 5: Inland open fresh water</u>
<u>Deep marsh</u>	<u>Palustrine or lacustrine, littoral; aquatic bed; submergent, floating, and floating-leaved; emergent; persistent and nonpersistent</u>	<u>Type 4: Inland deep fresh marsh</u>
<u>Shallow marsh</u>	<u>Palustrine; emergent; persistent and nonpersistent</u>	<u>Type 3: Inland shallow fresh marsh</u>

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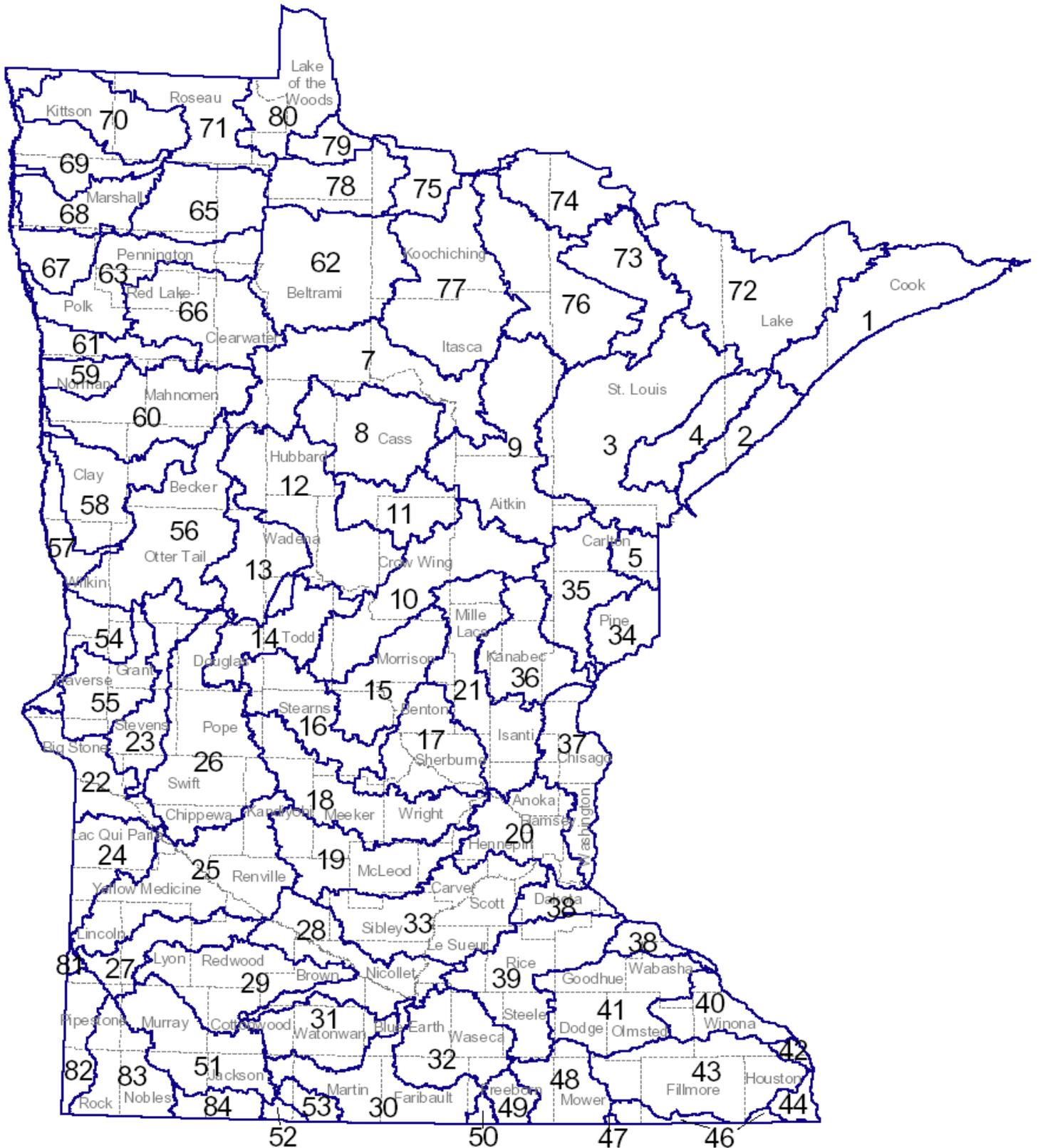
## Exempt Rules

<u>Sedge meadow</u>	<u>Palustrine; emergent; narrow-leaved persistent</u>	<u>Type 2: Inland fresh meadow</u>
<u>Fresh (wet) meadow</u>	<u>Palustrine; emergent; broad- and narrow- leaved persistent</u>	<u>Type 1: Seasonally flooded basin or flat Type 2: Inland fresh meadow</u>
<u>Wet to wet-mesic prairie</u>	<u>Palustrine; emergent; broad- and narrow- leaved persistent</u>	<u>Type 1: Seasonally flooded basin or flat Type 2: Inland fresh meadow</u>
<u>Calcareous fen</u>	<u>Palustrine; emergent; narrow-leaved persistent; scrub/shrub; broad- leaved deciduous</u>	<u>Type 2: Inland fresh meadow Type 6: Shrub swamp</u>
<u>Open bog or coniferous bog</u>	<u>Palustrine; moss/lichen; scrub/shrub; broad- leaved evergreen; forested; needle-leaved evergreen and deciduous</u>	<u>Type 8: Bog</u>
<u>Shrub-carr or alder thicket</u>	<u>Palustrine; scrub/shrub; broad-leaved deciduous</u>	<u>Type 6: Shrub swamp</u>
<u>Hardwood swamp or coniferous swamp</u>	<u>Palustrine; forested; broad-leaved deciduous; needle-leaved evergreen and deciduous</u>	<u>Type 7: Wooded swamp</u>
<u>Floodplain forest</u>	<u>Palustrine; forested; broad-leaved deciduous</u>	<u>Type 1: Seasonally flooded basin or flat</u>
<u>Seasonally flooded basin</u>	<u>Palustrine; flat; emergent; persistent and nonpersistent</u>	<u>Type 1: Seasonally flooded basin or flat</u>

# Exempt Rules

STATE OF MINNESOTA WATERSHED BOUNDARIES - 1979  
(84 81 MAJOR WATERSHED UNITS)

## Minnesota Counties and Watersheds



## LIST OF ~~84~~ 81 MAJOR WATERSHED UNITS OF MINNESOTA

- 1 Lake Superior (north)
- 2 Lake Superior (south)
- 3 St. Louis River
- 4 Cloquet River
- 5 Nemadji River
- 7 Mississippi River (Headwaters, Lake Winnibigoshish)
- 8 Leech Lake River
- 9 Mississippi River (Grand Rapids)
- 10 Mississippi River (Brainerd)
- 11 Pine River
- 12 Crow Wing River
- 13 Redeye River (Leaf River)
- 14 Long Prairie River
- 15 Mississippi River (Sartell)
- 16 Sauk River
- 17 Mississippi River (St. Cloud)
- 18 North Fork Crow River
- 19 South Fork Crow River
- 20 Mississippi River (Metro)
- 21 Rum River
- 22 Minnesota River (Headwaters)
- 23 Pomme de Terre River
- 24 Lac qui Parle River
- 25 Minnesota River (Granite Falls)
- 26 Chippewa River
- 27 Redwood River
- 28 Minnesota River (Mankato)
- 29 Cottonwood River
- 30 Blue Earth River
- 31 Watonwan River
- 32 Le Sueur River
- 33 Minnesota River (Shakopee)
- 34 St. Croix River (Upper)
- 35 Kettle River
- 36 Snake River
- 37 St. Croix River (Stillwater)
- 38 Mississippi River (Red Wing) and Lake Pepin
- 39 Cannon River
- 40 Mississippi River (Winona)
- 41 Zumbro River
- 42 Mississippi River (La Crescent)
- 43 Root River
- 44 Mississippi River (Revo)
- 46 Upper Iowa River
- 47 Wapsipinican River (Headwaters)
- 48 Cedar River
- 49 Shell Rock River
- 50 Winnebago River (Lime Creek)
- 51 West Fork des Moines River (Headwaters)
- 52 West Fork des Moines River (Lower)
- 53 East Fork des Moines River
- 54 Bois de Sioux River
- 55 Mustinka River

# Exempt Rules

- 56 Otter Tail River
- 57 Red River of the North (Headwaters)
- 58 Buffalo River
- 59 Marsh River
- 60 Wild Rice River
- 61 Sandhill River
- 62 Upper and Lower Red Lake
- 63 Red Lake River
- 65 Thief River
- 66 Clearwater River
- 67 Grand Marais Creek (Red River of the North)
- 68 Snake River
- 69 Tamarack River (Red River of the North)
- 70 Two River
- 71 Roseau River
- 72 Rainy River (Headwaters)
- 73 Vermillion River
- 74 Rainy River (Rainy Lake)
- 75 Rainy River (Manitou)
- 76 Little Fork River
- 77 Big Fork River
- 78 Rapid River
- 79 Rainy River (Baudette)
- 80 Lake of the Woods
- 81 Big Sioux River (Medary Creek)
- 82 Big Sioux River (Pipestone)
- 83 Rock River
- 84 Little Sioux River

Subp. 3. **In-kind wetland replacement.** Wetland replacement for drainage, excavation, or fill shall be considered in-kind if ~~one of the following applies:~~

- ~~A. the replacement wetland is of the same type as the impacted wetland;~~
- ~~B. the replacement wetland is within the same county as the impacted wetland; or~~

~~C. the replacement wetland is in the same watershed as the impacted wetland. For in-kind replacement, the minimal replacement ratio shall be used to determine the necessary size of the replacement wetland. For impacted wetlands on agricultural land, or in greater than 80 percent areas, the minimum replacement ratio is 1:1, requiring an equal area be replaced for the area impacted. For less than 80 percent areas and for impacted wetlands on nonagricultural land, the minimum replacement ratio is 2:1, and public value credits can be used for the portion of replacement required above 1:1.~~

Subp. 4. **Out-of-kind wetland replacement.** Out-of-kind replacement is any replacement that is not in-kind in subpart 3.

If a wetland to be drained or filled exhibits more than one wetland type as determined by the technical evaluation panel, and more than one wetland type is proposed to be drained or filled, the local government unit shall use the following procedure to determine needed replacement. The acreage of each wetland type to be impacted shall be determined. The sum of the replacement for each wetland type shall be the resultant acreage requirement.

Table 2:

Replacement Type	Impact Location	
	>80% Area or Ag Land	<80% Area and NonAg Land
In-kind (same wetland type or same watershed or same county)	1:1	2:1
Out-of-kind: direct replacement	1.5:1	2.5:1
Out-of-kind: banking	1.25:1	2.25:1

# Exempt Rules

\*See Table 1 of subpart 2 for wetland classification equivalency.

The topographic setting characteristics of a replacement wetland and an impacted wetland shall be described as topographic, riverine, floodplain, flowthrough, tributary, or isolated.

Subp. 4a. **In advance replacement.** Replacement is in advance if the replacement is:

A. approved wetland bank credits; or

B. a replacement site that has established wetland hydrology and vegetation, but the vegetation may not be mature. At a minimum, the replacement site must have wetland hydrology and hydrophytic vegetation established one full growing season (April-October) prior to the impact. Further, the site must meet all performance standards applicable to that development stage of the replacement site.

Subp. 4b. **In-place replacement.** Replacement is in-place if the mitigation occurs within the same watershed as the permitted activity or, if wetland credits are withdrawn from an approved wetland bank site, in the same bank service area as that where the permitted impact occurred, according to the map in this subpart. The following exceptions apply to this definition:

A. replacement for impacts in bank service area 10 can be accomplished in bank service area 9 or the Des Moines River Basin in bank service area 8 with no increase in the replacement ratio;

B. replacement for impacts in bank service area 1 can be accomplished in bank service area 2 with no increase in the replacement ratio; and

C. the board may approve special replacement ratios based on data derived from comprehensive inventories of replacement opportunities. The board shall give notice of the replacement ratios to local government units and shall publish the ratios in the *State Register*. The board shall provide opportunities for public input and comment prior to publishing the special replacement ratios. The conditions and standards shall take effect 30 days after publication and remain in effect unless superseded by subsequent statute, rule, or notice in the *State Register*.

Subp. 4c. **Minimum wetland replacement ratios.** The minimum wetland replacement ratios are based on the location of the impact and replacement, the wetland type, and the timing of replacement, as determined by the table below.

<u>Impact Location</u>	<u>Replacement Location (in-place)</u>	<u>Type of Replacement Wetland (in type)</u>	<u>Replacement Process (in time)</u>	<u>Minimum Replacement Ratio</u>
<u>&gt; 80% area (or agricultural land)</u>	<u>In-place</u>	<u>Same type as impact wetland</u>	<u>In advance</u>	<u>1:1</u>
			<u>Not in advance</u>	<u>1.25:1</u>
	<u>Not in-place</u>	<u>Same type as impact wetland</u>	<u>In advance</u>	<u>1.25:1</u>
			<u>Not in advance</u>	<u>1.5:1</u>
		<u>Different type</u>	<u>In advance</u>	<u>1.25:1</u>
			<u>Not in advance</u>	<u>1.5:1</u>
<u>&lt; 80% area (and non-agricultural land)</u>	<u>In-place</u>	<u>Same type as impact wetland</u>	<u>In advance</u>	<u>2:1</u>
			<u>Not in advance</u>	<u>2.25:1</u>
	<u>Not in-place</u>	<u>Same type as impact wetland</u>	<u>In advance</u>	<u>2.25:1</u>
			<u>Not in advance</u>	<u>2.5:1</u>
		<u>Different type</u>	<u>In advance</u>	<u>2.25:1</u>
			<u>Not in advance</u>	<u>2.5:1</u>

# Exempt Rules

<u>Different</u>	<u>In advance</u>	<u>2.5:1</u>
<u>type</u>	<u>Not in advance</u>	<u>2.5:1</u>

[For text of subs 5 to 8, see M.R.]

## 8420.0650 LOCAL COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.

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

Subp. 2. **Plan contents.** The comprehensive wetland protection and management component of the local water plan may:

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

E. in a greater than 80 percent area, based on the classification and criteria set forth in the plan, expand the application of the exemptions in part 8420.0122, subpart 1, item ~~D~~ **B**, to also include nonagricultural land, provided there is no net loss of wetland values;

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

[For text of subs 2a to 8, see M.R.]

**REPEALER.** Minnesota Rules, part 8420.0122, subpart 8, is repealed.

## Executive Orders

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

## Office of the Governor

### Emergency Executive Order # 07-09: Declaring a State of Emergency in the State of Minnesota

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

**WHEREAS**, on August 1, 2007 at approximately 6:05 pm, the Interstate 35W bridge spanning the Mississippi collapsed totally destroying the bridge; and

**WHEREAS**, the catastrophic collapse of the bridge caused significant injuries and loss of life; and

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# Executive Orders

**WHEREAS**, the response to the collapse has involved City of Minneapolis, Hennepin County, and other local, state and federal emergency response agencies; and

**WHEREAS**, significant local, state and federal resources are needed to continue recovery efforts, investigate the cause of the collapse and respond to the continuing needs of the victims of the collapse and infrastructure needs of the City of Minneapolis, the state and the nation; and

**NOW, THEREFORE**, I hereby order that:

1. A peacetime emergency under *Minnesota Statutes*, Section 12.21 exists as a result of the collapse of the bridge effective 6:05 p.m. CST. The damage caused by the collapse of the bridge also meets the definition of a disaster as defined in *Minnesota Statutes*, Section 12.03, Subdivision 2.

2. The Department of Public Safety, Division of Homeland Security and Emergency Management will open the State Emergency Operations Center and continue activation of the Minnesota Emergency Operations Plan, including the provision of on-site support and assistance to the affected local governments.

3. All state agencies are directed to provide the assistance necessary to help local, state and federal units of government respond to and recover from this emergency.

4. The extent of the damage to Interstate 35W, impact on the governments, employers, and residents of the city, county and state are severe and constitute an emergency contemplated by the terms of 23 U.S.C. 120(e) and 125.

5. Damage to Interstate 35W, a Federal aid highway, is extensive and significantly impairs the transportation infrastructure of the city, county and State such that immediate repairs and rebuilding are vital to the security, well-being, health and commerce of the residents of the State of Minnesota.

6. I request that the Secretary of Transportation, or other appropriate federal highway official, concur in the declaration of this emergency.

7. The Department of Public Safety, Division of Homeland Security and Emergency Management, and other state agencies are directed to work with local and federal officials to determine the need for supplemental federal assistance and take all actions necessary to obtain needed assistance.

8. All state agencies are directed to provide support, assistance and cooperation as requested by the National Transportation Safety Board, which has been identified as the lead agency investigating the cause of the bridge collapse.

Pursuant to *Minnesota Statutes* 2006, 4.035, Subdivision 2, this emergency executive order shall be effective immediately and will remain in effect until the conclusion of the emergency.

**IN TESTIMONY WHEREOF**, I have set my hand this 2<sup>nd</sup> day of August, 2007.

Signed: **TIM PAWLENTY**  
**Governor**

Filed According to Law:

Signed: **MARK RITCHIE**  
**Secretary of State**

## Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

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

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## Board of Animal Health

### Notice of Quarterly Meeting September 12, 2007

The Board of Animal Health will hold its quarterly meeting on Wednesday, September 12, 2007 at the MinnWest Technology Campus, 1800 Technology Campus Drive NE Willmar, MN 56201 in the auditorium on the lower level at 9:30am.

## Minnesota Department of Commerce

### REQUEST FOR COMMENTS on Possible Waiver of Statutes and Rules Governing the Issuance of Medicare Supplement Policies for a Proposed Demonstration Project

**Subject of Rules.** The Minnesota Department of Commerce requests comments on Possible Waiver of *Minnesota Statutes* Sections 62A.3161 and 62A.3162 and Other Applicable Statutes and Rules Governing the Issuance of Medicare Supplement Policies for a Proposed Demonstration Project

**Background.** Blue Cross Blue Shield of Minnesota has submitted a request to the Commissioner of Commerce for authority to proceed with a Medicare supplement demonstration project as authorized under *Minnesota Statutes* Section 62A.421. If granted, Blue Cross intends to issue policies described in sections 62A.3161 and 62A.3162 with the foreign travel benefit described in section 62A.316(4) and the preventive medical care benefit described in section 62A.316(5). Blue Cross intends to offer these individual products to Minnesota Medicare beneficiaries with Parts A and B as well as to employers to offer to their Medicare retirees. The benefits in these new plans would not comply with the mandated list of coverage described in *Minnesota Statutes* Sections 62A.3161 and 62A.3162. The request also seeks a waiver of *Minnesota Statutes* Sections 62A.43, Subd 1 and 62A.44 to allow eligible individuals to enroll on an opt-out basis without the necessity of a signed, completed and delivered application prior to enrollment. In accordance with *Minnesota Statutes* Section 62A.421, Blue Cross has asked for a waiver in order to proceed with the demonstration project.

**Persons Affected.** The waiver would affect individual Minnesota residents who are enrolled in Parts A and B of Medicare. The waiver would also affect individuals enrolled in Parts A and B of Medicare whose employer elects to offer these plans to their Medicare retirees.

**Statutory Authority.** *Minnesota Statutes* Section 62A.421 requires the Commissioner of Commerce to provide an opportunity for the public to comment before granting a waiver of compliance with any statute or rule for demonstration project applicants.

**Request for Comments.** The Commissioner of Commerce requests comments on the possible waiver of statutes governing Medicare supplement policies intended for issue to Minnesota residents who are enrolled in Parts A and B of Medicare and individuals who are enrolled in Parts A and B of Medicare whose employer elects to offer these plans to their Medicare retirees. Interested persons or groups may submit comments or information until 4:30 PM on September 5, 2007.

**Agency Contact Person.** Written comments, questions, and requests for additional information on the possible waiver should be directed to: Brian M. Pennington, (651) 296-8218 or [brian.pennington@state.mn.us](mailto:brian.pennington@state.mn.us).

Dated: July 31, 2007

Glenn Wilson, Commissioner  
Department of Commerce

## Department of Human Services

### Health Care Purchasing and Delivery Systems Division

### Health Care Administration

### Public Notice of Maximum Allowable Costs of Medical Assistance Outpatient Prescribed Drugs

**NOTICE IS HEREBY GIVEN** to recipients, providers of services, and to the public of additions to the state Medical Assistance maximum allowable cost (state MAC) list for certain outpatient prescribed drugs.

At least once each calendar year, the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services, publishes a federal upper limit (FUL) payment schedule for many commonly prescribed multiple-source drugs. The federal upper limit is set at a rate equal to 150 percent of the published price for the least costly therapeutic equivalent that can be purchased by pharmacists. This FUL payment schedule constitutes the federal MAC list. For many multiple-source drugs that are not on the federal MAC list, the Department establishes a state MAC list. Additionally, the Department imposes a state MAC for many multiple-source drugs that are on the federal MAC list, as long as the savings are at least as much as the savings would be using the federal MAC list.

The Department requires Medical Assistance pharmacy providers to submit their usual and customary costs. Pharmacy providers are reimbursed at the lower of: 1) the federal or state MAC, plus a dispensing fee; 2) the submitted usual and customary charge to the general public; or 3) a discount off of average wholesale price, plus a dispensing fee.

On January 13, 2003 at 27 SR 1117-1130, the Department published the MAC list, listing the federal and state MACs. Additional changes to the state MAC list were published on February 18, 2003 (27 SR 1331-1334), March 3, 2003 (27 SR 1386-1393), April 21, 2003 (27 SR 1583-1584), August 4, 2003 (28 SR 102-103), October 13, 2003 (28 SR 505-506), October 20, 2003 (28 SR 528-529), December 15, 2003 (28 SR 784-785), January 26, 2004 (28 SR 934-935), March 8, 2004 (28 SR 1089-1090), April 5, 2004 (28 SR 1232), April 19, 2004 (28 SR 1313-1314), May 3, 2004 (28 SR 1367-1368), August 9, 2004 (29 SR 173), August 23, 2004 (29 SR 224-225), November 8, 2004 (29 SR 510), November 15, 2004 (29 SR 534-535), February 7, 2005 (29 SR 923-924), February 14, 2005 (29 SR 951-952), March 7, 2005 (29 SR 1038-1039), April 11, 2005 (29 SR 1174-1175), June 27, 2005 (29 SR 1607), July 18, 2005 (30 SR 49-50), August 15, 2005 (30 SR 147), August 29, 2005 (30 SR 226-227), October 17, 2005 (30 SR 402-403), November 14, 2005 (30 SR 511-512), December 12, 2005 (30 SR 617-618), January 9, 2006 (30 SR 770-771), January 30, 2006 (30 SR 833), February 13, 2006 (30 SR 884), February 27, 2006 (30 SR 926-927), March 20, 2006 (30 SR 1006-1007), April 10, 2006 (30 SR 1109), May 30, 2006 (30 SR 1249-1250), July 31, 2006 (31 SR 138-139), August 21, 2006 (31 SR 268), September 18, 2006 (31 SR 380 - 381), October 2, 2006 (31 SR 474-477), October 16, 2006 (31 SR 519-520), November 6, 2006 (31 SR 614), January 2, 2007 (31 SR 867-868), January 29, 2007 (31 SR 958-959), February 26, 2007 (31 SR 1169-1170), April 23, 2007 (31SR 1444-1445), April 30, 2007 (31 SR 1523), June 18, 2007 (31 SR 1810-1811) and July 23, 2007 (32 SR 219-220).

# Official Notices

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Effective August 7, 2007 the Department will add the following outpatient prescribed drugs to the state MAC list:

Drug Name	Strength	MAC Price
TERBINAFINE HCL	250MG	\$0.75
AMLODIPINE BESYLATE/BENAZEPRIL	10-20MG	\$2.64
AMLODIPINE BESYLATE/BENAZEPRIL	5-20MG	\$2.28
AMLODIPINE BESYLATE/BENAZEPRIL	5-10MG	\$2.16

These additions are made to bring Medical Assistance reimbursement to pharmacists more closely in line with the actual acquisition cost of the drugs listed above. The Department estimates that there will be a state savings of \$40,000 for State Fiscal Year 2006 (July 1, 2007 through June 30, 2008).

This notice is published pursuant to *Code of Federal Regulations*, Title 42, section 447.205, which requires publication of a notice when there is a rate change in the methods and standards for setting payment rates for Medical Assistance services.

Written comments and requests for information may be sent to Kristin Young, Pharmacy and Program Manager, Health Care Purchasing and Delivery Systems Division, Health Care Administration, Minnesota Department of Human Services, P.O. Box 64984, St. Paul, Minnesota 55164-0984; **phone:** (651) 431-2504 or **email:** *kristen.c.young@state.mn.us*

## Minnesota Department of Labor and Industry Construction Codes and Licensing Division REQUEST FOR COMMENTS on Possible Rules Governing Radon Control, *Minnesota Rules, chapter 1322 (proposed)*

**Subject of Rules.** The Minnesota Department of Labor and Industry, Construction Codes and Licensing Division, requests comments on its possible rules governing radon control, which will be included in its possible rules governing residential energy. The Department intends to propose the adoption of Appendix F of the 2006 International Residential Code, which pertains specifically to radon control methods, along with any amendments necessary to coordinate the rules with the other administrative rule chapters of the Minnesota Building Code. The Department will propose these radon control rules with the proposed rules governing residential energy that we intend to publish in September/October 2007.

**Persons Affected.** The rules would likely affect municipal building inspection department personnel, residential building contractors, architects, professional engineers, manufacturers of manufactured housing, and the general public.

**Statutory Authority.** Pursuant to the Department of Administration Reorganization Order No. 193, dated April 4, 2005, the responsibilities of the Department of Administration in relation to State Building Codes and Standards as set forth in Minnesota Statutes, section 16B.59 through 16B.76 (2004) were transferred to the Department of Labor and Industry.

*Minnesota Statutes*, sections 16B.59, 16B.61, and 16B.64, requires the Department to adopt rules that will: provide “basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security ... and provide for the use of modern methods, devices, materials, and techniques...;” govern “matters of structural materials, design and construction, fire protection health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control...;” and that are reasonably “in conformity with the policy and purpose of the code and justified under the particular circumstances involved.”

Additionally, 2007 Minnesota Laws, chapter 40, provides that the Commissioner of Labor and Industry “shall adopt rules for radon control as part of the State Building Code for all new residential buildings. These rules shall incorporate the radon control methods found in the International Residential Code appendix as the model language, with necessary amendments to coordinate with the other adopted construction codes in Minnesota.”

**Public Comment.** Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on Wednesday, September 5, 2007. The Department does not contemplate appointing an advisory committee to comment on the possible rules because it has already appointed an advisory committee to comment on possible rules governing residential energy, which included those model code provisions within Appendix F of the 2006 International Residential Code.

**Rules Drafts.** The Department does not anticipate that a draft of the rules will be available before the publication of the proposed residential energy rules, which the Department anticipates will be available when the notice of intent to adopt is published in the State Register.

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these possible rules should be directed to: Ms. Carrie Rohling, Department of Labor and Industry, Third Floor, 443 Lafayette Road N., St. Paul, MN 55155, phone (651) 284-5217, or FAX (651) 284-5725. TTY users may call the Department at (651) 297-4198.

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

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submitted comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: July 26, 2007

Michael Houliston, Deputy Commissioner  
Department of Labor and Industry

## Department of Labor and Industry

### Labor Standards Unit

### Notice of Additional Rate to Commercial Prevailing Wage Rates for Wiring System Installer in Kandiyohi County

An additional rate has been added to the Commercial Prevailing Wage Rates certified 02/12/07, for Labor Code 431, Wiring System Installer in Kandiyohi County.

Copies 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](http://www.doli.state.mn.us). Charges for the cost of copying and mailing are \$.25 per page for the first 100 pages, \$.65 per page after that. Make check or money order payable to the State of Minnesota.

Steve Sviggum, Commissioner  
Labor and Industry Department

## Official Notices

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### **Minnesota State Retirement System (MSRS) Public Employees Retirement Association (PERA) Teachers Retirement Association (TRA) Meeting of the Post Fund Committee of the Boards August 10, 2007**

The Boards of the Minnesota State Retirement System (MSRS), Public Employees Retirement Association (PERA), and Teachers Retirement Association (TRA) are scheduled to hold a joint Post Fund Committee meeting on Friday, August 10, 2007, at 9:30 a.m. in the Retirement Systems of Minnesota Building, 60 Empire Drive, Suite 106 (Training Center), Saint Paul, Minnesota.

### **Teachers Retirement Association Notice of Meeting of the Board of Trustees August 21, 2007**

The Board of Trustees, Minnesota Teachers Retirement Association will hold a planning and educational retreat on Tuesday, August 21, 2007 at 9:30 a.m. in the Honeywell Commons Room located in the Minnesota History Center, 345 Kellogg Blvd., St. Paul, MN.

### **Department of Public Safety CriMNet Program Criminal and Juvenile Justice Information Policy Group Request for Public Comment on Recommendations Relating to Expungement and Background Check Policies**

The Criminal and Juvenile Justice Information Policy Group (Policy Group) is requesting public comment on recommendations related to expungement and background check policies as adopted by the Policy Group on May 15, 2007 and June 27, 2007, respectively. The Policy Group is authorized by *Minnesota Statutes* 299C.65 and is responsible for the oversight of statewide criminal justice integration and information sharing efforts.

The recommendations can be accessed on the CriMNet Web site at [www.crimnet.state.mn.us](http://www.crimnet.state.mn.us). Written comments may be sent to the CriMNet Program Office at the Bureau of Criminal Apprehension (1430 Maryland Avenue East, St. Paul, MN 55106) or may be submitted electronically to [crimnet.support@state.mn.us](mailto:crimnet.support@state.mn.us) on or before Friday, Sept. 7, 2007.

Written comments will be considered by the Policy Group before legislative recommendations are finalized for the 2008 session of the Minnesota Legislature.

### **Minnesota Board of Water and Soil Resources REQUEST FOR COMMENTS on Planned Amendments to Rules Governing Wetland Conservation, Minnesota Rules 6115 and 8420**

**Subject of Rules.** The Board of Water and Soil Resources requests comments on its planned amendments to the rules governing the Wetland Conservation Act. The Board is considering rule amendments that will include making permanent the amendments to the rules that were adopted in the exempt rules that were published in the State Register on August 6, 2007. Other amendments may address rule provisions relating to exemptions, wetland replacement, wetland banking, monitoring of wetland replacement sites, local government duties and responsibilities, appeals and enforcement.

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## State Contracts

**Persons Affected.** The planned amendments to the rules will affect many sectors whose activities may influence Minnesota's wetlands resources. These groups include: landowners, local governments, environmental, agricultural, development and public advocacy individuals and organizations. The board does contemplate appointing an advisory committee to comment on the possible rule.

**Statutory Authority.** Minnesota Statutes, section 103G.2242, authorizes the board to adopt rules for wetland conservation.

**Public Comment.** Interested persons or groups may submit comments or information on this possible rule in writing or orally until 4:30 p.m. on September 20, 2007. The agency has not yet prepared a draft of the possible rules amendments. Written or oral comments, questions, requests to receive a draft of the rule, when it has been prepared, and requests for more information on this possible rule should be addressed to:

David Weirens  
Land and Water Section Manager  
Board of Water and Soil Resources  
520 Lafayette Road  
St. Paul, Mn 55155  
**Phone:** (651) 297-3432  
**Fax:** (651) 296-5615  
**E-mail:** *david.weirens@bwsr.state.mn.us*

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

John Jaschke, Executive Director  
Board of Water and Soil Resources

## 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 Department of Human Services HIV/AIDS Division

#### Notice of Request for Proposals to Provide Refugee HIV Case Management and/or Outreach and Education to African American, African-born Immigrants and/or Hispanic/Latino Residents Who Are Diagnosed with HIV/AIDS and in Need of AIDS Drug Assistance Medications

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Human Services is requesting proposals to provide HIV case management and/or outreach and education services.

Work is proposed to start September 15, 2007. For more information, or to obtain a copy of the Request for Proposal, contact:

Michelle D. Sims  
Department of Human Services  
HIV/AIDS Program Division  
P.O. Box 64972  
Elmer L. Andersen Human Services Building  
540 Cedar Street, St. Paul, MN 55155  
**Phone:** (651) 431-2406  
**Fax:** (651) 431-2714  
**E-mail:** [Michelle.sims@state.mn.us](mailto:Michelle.sims@state.mn.us)

This is the only person designated to answer questions by potential responders regarding this request.

Proposals submitted in response to this Request for Proposals must be received at the address above no later than **4:00 p.m., Central Time, August 27, 2007. Late proposals will not be considered.** Fax or e-mailed proposals will **not** be considered.

This request does not obligate the State to complete the work contemplated in this notice. 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 Register Binders

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## State Contracts

**Informal Solicitations:** 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) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Web site at [www.mmd.admin.state.mn.us](http://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.

**Requirements:** There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements:

- \$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600
- \$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days;
- \$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and
- anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days

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It's all E-mailed to you, at end-of-day on Friday, instead of waiting for the non-subscriber's issue released on Monday. Contact Cathy Hoekstra, our subscriptions manager, at (651) 297-8777, or **Fax:** (651) 297-8260, or **E-mail:** [cathy.hoekstra@state.mn.us](mailto:cathy.hoekstra@state.mn.us)

## Minnesota State Colleges and Universities (MnSCU)

### Anoka Technical College

### Opportunity for Proposal on Alignment Rack and Computerized System

#### GENERAL STATEMENT/SCOPE:

Request for proposal is for One (1) Hunter Alignment Rack and Computerized System to include Floor Mounting Plates for the Anoka Technical College Automotive Program.

Proposals must include installation and on-site training.

Electrical and compressed air connection to equipment are to be the responsibility of Anoka Technical College.

Separate out all discounts.

Provide estimate on freight.

Delivery/install: 2 to 3 weeks upon receipt of order.

**NOTE:** Other brands/models may be submitted for possible consideration; however, proposal is for new parts/equipment as stated in specs.

TO RECEIVE A COMPLETE COPY OF THE PROPOSAL REQUEST/SPECS, PLEASE CONTACT PAMELA MOGENSEN at (763) 576-4785.

# State Contracts

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Proposals must be sealed with a notation on the outside of the envelope stating: "ALIGNMENT RACK & COMPUTERIZED SYSTEM PROPOSAL – DELIVER IMMEDIATELY".

Mail or deliver (faxes will not be accepted) sealed proposal by AUGUST 16, 2007, NO LATER THAN 2 PM to:

Anoka Technical College  
Purchasing Office, Attn. Pam Mogensen  
1355 West Highway 10,  
Anoka, Minnesota 55303  
**Phone:** (763) 576-4785  
**Fax:** (763) 576-4715

**BID CLOSE DATE IS AUGUST 16, 2007 – 2 PM**

## Minnesota State Colleges and Universities (MnSCU) Saint Paul College – A Community and Technical College Request for Proposals for Evaluation of PEPNet-Midwest

**REQUEST FOR PROPOSAL** for an external evaluation of the effectiveness of the Postsecondary Education Programs Network (PEPNet) regional centers.

**Process** and **Outcome** evaluations are expected. Work is proposed to start after August 21, 2007. Year 1 report to be submitted December 1, 2007.

The Request for Proposal can be obtained from:

David Buchkoski, Director  
PEPNet-Midwest  
St. Paul College – A Community & Technical College  
235 Marshall Ave  
St. Paul, MN 55102  
**Phone:** (651) 846-1437  
**Cell:** (651) 308-2990  
**E-mail:** *dave@pepnet.org*

**Proposal due Date and Time:** August 21, 2007 at 2:00 pm.

Proposal must be received at the address: 235 Marshall Ave, Business Office, Room 160.

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

## Minnesota State Colleges and Universities (MnSCU) Southwest Minnesota State University ADVERTISEMENT FOR BIDS for Building Decommissioning and Demolition

**Sealed Bids for:** **F Hall Decommissioning / Demolition**  
Southwest Minnesota State University  
Marshall, Minnesota

will be received by: **Mr. Jeff Kuiper**  
SMSU Business Services  
Southwest Minnesota State University  
IL 139  
1501 State Street  
Marshall, Minnesota 56258

Until **2:00 PM** local time, **Tuesday August 28, 2007** at which time the bids will be opened and publicly read aloud.

**Project Scope:** The Work consists of complete asbestos and regulated waste abatement, demolition, and site restoration.

A mandatory Pre-Bid Meeting will be held at **10:00 AM on Monday August 20 2007**, at **F Hall, 1461 Birch Street, Southwest Minnesota State University in Marshall, Minnesota, Minnesota**. The Engineer and/or College/University Representatives will review the bidding procedures, Bidding Documents and other conditions with interested Bidders and answer questions.

**Bidding Documents** as prepared by the Project Engineer; **Geomatrix Consultants, Inc.**, are on file at the offices of the:

- 1) above named Project Engineer.
- 2) following Builders' Exchanges: Minneapolis Builders Exchange, Builders Exchange of St. Paul, Southwest Builders Exchange (Marshall), Sioux Falls Builders Exchange.
- 3) McGraw Hill Construction Plan Room
- 4) Reed Construction Data Plan Room
- 5) MEDA Minority Contractors Plan Room
- 6) National Association of Minority Contractors of Upper Midwest

Complete sets only of Bidding Documents for use by Bidders in submitting a bid may be obtained at the following address:

**Geomatrix Consultants, Inc.**  
14525 Highway 7, Suite 104  
Minneapolis, Minnesota 55343  
(952) 935-1010

A non-refundable fee of **\$50.00** is required for each set.

Prospective Bidders requesting that Bidding Documents (complete sets only) be mailed to them, may send a separate non-refundable payment (check made out to the Engineer) for **\$15.00** per set for shipping & handling (in addition to the **\$50.00** fee) to the Engineer. Such deposits and payments may be sent prior to **August 21, 2007**. Documents will be sent to street addresses only (P.O. Boxes not acceptable).

Each bid which totals over \$15,000.00 shall be accompanied by a certified check, payable to **Minnesota State Colleges and Universities**, in the sum of not less than 5% of the total base bid; or a corporate surety bond of a surety company duly authorized to do business in the state of Minnesota in the same amount; which is submitted as bid security, conditioned upon the Bidder entering into a contract with Minnesota State Colleges and Universities in accordance with the terms of the bid.

## **Minnesota State Colleges and Universities (MnSCU)**

### **ISEEK**

### **Request for Proposals to Sponsor Career Exploration Publication**

**NOTICE IS HERBY GIVEN** that iSeek Solutions is offering the opportunity for businesses and public agencies to sponsor *MnCareers*. The organization receives the chance to promote career or education issues, an industry or a career option with the *2008 MnCareers* publication, on ISEEK.org and in related venues.

# State Contracts

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**Background/Purpose:** *MnCareers* is an annual publication of Minnesota-specific career exploration, labor market and education information for students and job seekers. In its 15<sup>th</sup> year, the 130-page publication is used by teen and adult job seekers, career professionals, school counselors, teachers and parents. *MnCareers* is sold for \$7/single copy; \$100/box of 25. Donations of \$5,000-\$25,000 will help offset production costs of 2008 *MnCareers* (distribution September 2007) to ensure that the publication reaches a broader audience. Proposals will be accepted on an ongoing basis.

**Questions:** Requests for information may be submitted to:

Denise Felder, *MnCareers* Editor  
iSeek Solutions  
30 7<sup>th</sup> Street East, Suite 340  
St. Paul, MN 55101  
**Fax:** (651) 215-9525  
**TTY:** (651) 215-9526  
**E-mail:** [denise.felder@so.mnscu.edu](mailto:denise.felder@so.mnscu.edu)

## Department of Education NOTICE OF REQUEST FOR PROPOSALS for the Provision of Services as a Positive Behavioral Intervention and Support (PBIS) Implementation Assistant

The Department of Education, Division of Special Education Policy is soliciting proposals for the provision of coordination and organization of various PBIS training initiatives including management team meetings and committee meetings to ensure that PBIS initiatives are well organized and provided to school-wide staff and teams for their implementation and use when educating students. The selected contractor will also assist MDE in updating training materials, preparation of announcements and applications for participation including screening of applications with MDE. Other duties include sending out communications and maintenance of databases. Travel to MDE would be necessary with limited travel to trainings provided out of the Metro area within Minnesota.

The Department of Education has estimated the cost of this project should not exceed \$90,000 for the initial contract period.

The anticipated project period and initial contract period is proposed to be 10/17/07 - 6/30/09.

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

JulAnn Meech  
Minnesota Department of Education  
Program Accountability & Improvement P-27  
1500 Highway 36 West  
Roseville, MN 55113  
**Fax:** (651) 582-8494  
**E-mail:** [Julann.Meech@state.mn.us](mailto:Julann.Meech@state.mn.us)

Responses are due by Tuesday, August 28, 2007, 2:30 P.M. **Late proposals will not be considered.** Fax or E-Mail proposals will **not** be considered.

This request does not obligate the State to award a contract or complete the work contemplated in this notice. The State reserves the right to cancel this solicitation if it considered to be in its best interest. All expenses incurred in responding to this notice are solely the responsibility of the responder.

**Department of Human Services  
State Operated Services****Request for Proposals to Provide a Polygraph Examiner to Perform Polygraphs on  
Select Patients**

**Nature of Work/Contract Title:** Provide a polygraph examiner to perform polygraphs on select patients.

**Description of Work:** A polygraph examiner will use a polygraph instrument to collect physiological data from the patient. The examiner will discuss the test with the patient and familiarize the patient with the testing procedure. During the test the examiner will ask the patient a variety of questions while administering and collecting polygraph charts. The examiner will then analyze the charts and render an opinion as to the truthfulness of the person taking the test.

**Estimated Cost:** Contract ranging from \$75,000.00 to \$90,000.00 per fiscal year

**Contracting Agency:** Department of Human Services/State Operated Services

**Location of Work:** Minnesota Sex Offender Program located at Moose Lake, MN and St. Peter, MN.

**Agency Contract Person:** Cindy Zahratka

**E-Mail address:** *Cindy.Zahratka@state.mn.us*

**Phone:** (507) 931-7715

**Fax:** (507) 931-7676

**Minnesota State Lottery  
Request for Proposals for Sponsorship Agreements****Description of Opportunity**

The Minnesota State Lottery develops sponsorship agreements throughout the year with organizations, events, and sports teams to create excitement for lottery players, to interest new players and increase the visibility of lottery games. The Lottery encourages and continually seeks new sponsorship agreements to help achieve current Lottery marketing goals.

**Proposal Content**

A sponsorship proposal presented to the Lottery should meet the following three criteria:

**1. Maximize Lottery Visibility** – the event, sports or tie-in proposal should draw a large number of desired participants (typically 50,000 or more) whose demographics match the Lottery player profile. The Lottery is interested in effectively delivering its message of fun and entertainment to Minnesota adults whose demographics skew primarily towards those aged 25-64, with a household income of \$35,000-\$75,000, and having an educational background of some college or higher. The Lottery does not market to those under the age of 18, and family events with high levels of children present are generally not accepted. Attendance, on-site signage visibility and paid media exposure will be critical components that will be evaluated.

**2. Enhance Lottery Image-** – the event, sports or tie-in proposal should inherently project the attitude that the Lottery is a fun and socially acceptable part of the community. The Lottery's presence should fit well within the lineup of other sponsors. The Lottery is interested in creating opportunities whereby the sponsorship can translate into sales revenue, either via on-site sales from a Lottery booth, from sales-generating promotions with Lottery retailers or from joint programs with the sponsor's media partners.

**3. Provide Promotional Extensions** – the event, sports or tie-in proposal should offer exciting, value-added ways to interact with our players and have opportunities to motivate attendees, listeners and viewers to participate in and purchase Lottery games. The

# State Contracts

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proposal must include proper staffing availability or other considerations to help the Lottery implement any appropriate promotional extension ideas.

Proposals should address all pertinent elements of the sponsorship and how the Lottery criteria as stated above and on the Evaluation Form are to be met. To view or print copies of the Request for Proposal go to: <http://www.mnlottery.com/vendorops.html>

This Solicitation does not obligate the state to award a contract or pursue a proposed sponsorship opportunity, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

## Questions

Questions concerning this Solicitation should be directed to:

John Mellein, Marketing Director  
Minnesota State Lottery  
2645 Long Lake Road  
Roseville, MN 55113  
**Telephone:** (651) 635-8230  
**Toll-free:** (888) 568-8379 ext. 230  
**Fax:** (651) 297-7496  
**TTY:** (651) 635-8268  
**E-mail:** [johnm@mnlottery.com](mailto:johnm@mnlottery.com)

Other personnel are not authorized to answer questions regarding this Solicitation.

## Response Delivery

All responses must be in writing and delivered to the contact noted above. Proposals will be accepted on an ongoing basis.

## Minnesota Department of Public Safety Office of Traffic Safety Notice of Request for Proposals for Community Health Liaison for Promoting Traffic Safety Issues

The Minnesota Department of Public Safety is seeking proposals to contract for the professional and technical services for up to two experienced health professionals to provide liaison services within the health community to promote traffic safety issues. One liaison is needed to provide services in the Twin Cities Metropolitan Area and another liaison is needed to provide services in the Southern part of the State of Minnesota. Details are contained in a complete Request for Proposals (RFP) which may be obtained by calling or writing:

**Contact:** Vicki Continenza  
**Telephone:** (651) 201-7060  
**Fax:** (651) 297-4844  
**Address:** Department of Public Safety  
Office of Traffic Safety  
444 Cedar Street, Suite 150  
St Paul, Minnesota 55101-5150  
**E-mail:** [Vicky.Continenza@State.mn.us](mailto:Vicky.Continenza@State.mn.us)

Prospective respondents who have questions regarding this RFP may write Ms. Continenza by regular mail, by fax and/or by e-mail. Questions should be received by Ms. Continenza by 2:00 p.m. Central Daylight Time on August 14, 2007. All answers to questions will be in writing and sent to all entities requesting a complete RFP. Questions received after that time may not receive responses. Estimated total cost of each contract for services to be provided is \$48,500.00. The Department of Public Safety will however retain the option to extend the contracts for up to four additional one year periods. The value of the contract for the subsequent years may be adjusted. Final date for submitting proposals is August 27, 2007 by 2:00 p.m. Central Daylight Time. Late proposals will not be considered. This RFP does not obligate the state to complete the proposed project and the state reserves the right to cancel the solicitation if it is considered to be in the state's best interest. All expenses incurred in responding to this RFP shall be borne by the responder.

## Department of Revenue

### Request for Proposals for Integrated Tax System Software and Implementation Services

The Minnesota Department of Revenue is requesting proposals for the purpose of obtaining the software, its configuration, and services necessary to install and implement an Integrated Tax System which supports the core business processes and functions of the Revenue Department. Only proven Commercial Off-The-Shelf software products will be considered. The Department is not interested in purchasing professional services to develop a custom-designed system.

Sealed proposals labeled "Integrated Tax System" must be received no later than 1:00 p.m. CDT, in St. Paul, Minnesota, September 6, 2007. **Late responses will not be considered.**

A complete copy of the Request for Proposal may be obtained from:

Contracts Unit  
Minnesota Department of Revenue  
Mail Station 4220  
St. Paul, MN 55146-4220  
**Phone:** (651) 556-4023 or (651) 556-4024  
**Fax:** (651) 556-3122  
**E-mail:** [dor.rfp@state.mn.us](mailto:dor.rfp@state.mn.us)

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

## Department of Transportation (Mn/DOT)

### Engineering Services Division

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

This document is available in alternative formats for persons with disabilities by calling Brad Hamilton at (651) 366-4626 for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

Mn/DOT, worked in conjunction with the Consultant Reform Committee, the American Council of Engineering Companies of Minnesota (ACEC/MN), and the Department of Administration, to develop 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 awards most of its consultant contracts for highway-related technical activities using this method, however, Mn/DOT also reserves the right to use Request for Proposal (RFP) or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to use the Consultant Pre-Qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to see which highway related professional/technical services are available for application. Applications are 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 applications forms are available on Mn/DOT's Consultant Services web site at: <http://www.dot.state.mn.us/consult>.

Send completed application material to:

Brad Hamilton  
Consultant Services

# State Contracts

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Office of Technical Support  
Minnesota Department of Transportation  
395 John Ireland Blvd. Mail Stop 680  
St. Paul Minnesota 55155

**Note: DUE DATE: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.**

## Department of Transportation (Mn/DOT) Engineering Services Division 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](http://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 Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the 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.

## University of Minnesota Subscribe to Bid Information Service (BIS)

The University of Minnesota offers 24 hour/day, 7day/week access to all Request for Bids/Proposals through its web-based Bid Information Service (BIS). Subscriptions to BIS are free. Visit our website at [bidinfo.umn.edu](http://bidinfo.umn.edu) or call the BIS Coordinator at (612) 625-5534.

Request for Bids/Proposals are also available to the public each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Minneapolis, Minnesota 55454.

## State Register Binders

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- **Minnesota Treasures** - Stories Behind the State's Historical Places, by Richard Moe, \$39.95
- **No More Gallant a Deed** - A Civil War Memoir of the First Minnesota Volunteers, by James A. Wright, edited by Steven J. Keillor, \$34.95
- **Minnesota's Indian Mounds and Burial Sites:** A Synthesis of Prehistoric and Early Historic Archaeological Data, by Constance M. Arzigian and Katherine P. Stevenson, \$44.95
- **Mike Lynch's Minnesota Starwatch** - The Essential Guide to Our Night Sky, \$24.95
- **Minnesota's State Capitol** - The Arts and Politics of a Public Building, \$16.95
- **A Birders's Guide to Minnesota**, by Kim R. Eckert, \$20.00
- **Celebrate Saint Paul** - 150 Years of History, \$49.95
- **Minnesota Guidebook to State Agency Services** - Owners manual for Minnesotans, \$14.95

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