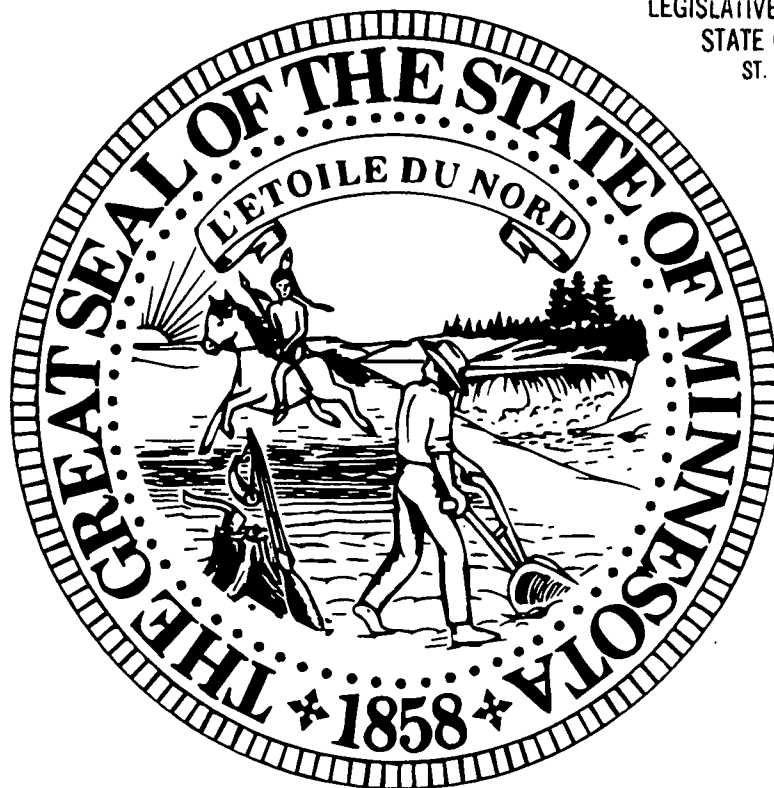


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The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, professional-technical-consulting contracts, non-state bids and public contracts and grants.

A *Contracts Supplement* is published Tuesday, Wednesday and Friday and contains bids and proposals for commodities, including printing bids.

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Vol. 20 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
# 50	Monday 10 June	Friday 24 May	Monday 3 June
# 51	Monday 17 June	Monday 3 June	Monday 10 June
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Contact: House Information Office (612) 296-2146
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The *Professional-Technical-Consulting Contract Award Reports* is published monthly.

The *State Register Contracts Supplement* with commodities and price contracts advertised by the state is published every Tuesday, Wednesday and Friday. Award results are currently only available from the Materials Management Helpline.

Individual copies and subscriptions for both publications are available through Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757.

Vendors interested in responding to the commodity and price contracts advertised in the Contracts Supplement should contact the Department of Administration **Materials Management Division Helpline** 612/296-2600.

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 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

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

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-657-3757.

* All page numbers with an asterisk represent pages that were incorrectly used in *State Register* Vol. 20 Issue 42 - 15 April 1996 and Vol. 20 Issue 43 - 22 April 1996. Pages were not numbered in correct sequential order resulting in page numbers 2241 - 2314 being used twice in Vol 20. Because rule cites include the month, day and year of the notice, these page numbers will be left as they are. Correct numbering was resumed with page 2441 of Vol. 20 #44 20 April, 1996.

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

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

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

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

Department of Labor and Industry

Occupational Safety and Health

Proposed Permanent Exempt Rules Relating to Safety and Health Standards

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* § 182.655 (1994). This notice proposes the adoption by reference of corrections and amendments to Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

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

Any person may file with the Commissioner written objections to the proposed amendments stating the grounds for those objections and may request a public hearing. A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. Requests for hearing must include the name and address of the person submitting the request, define the reasons for the request, and discuss any proposed changes. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes* § 182.655 and *Minnesota Rules* 5210.0010 to 5210.0100.

Written comments or requests for a public hearing should be sent to: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307. A complete copy of the standards proposed for adoption is available by writing to this address, or by calling (612) 297-3254 or (612) 282-5806.

Gary W. Bastian
Commissioner

SUMMARY OF CHANGES

The following is a brief summary of the proposed amendments. Persons interested in reviewing the complete *Federal Register* notices referenced below may obtain copies from the above address.

A) "Occupational Exposure to Lead, Amendments to Final Rule." On October 11, 1995, Federal OSHA published its final determination that it is economically feasible for the brass and bronze ingot manufacturing industry as a whole to achieve an air lead limit of 75 $\mu\text{g}/\text{m}^3$ within six years by means of engineering and work practice controls. The notice amends Table I of paragraph (e)(1), the Compliance Implementation Schedule, of the final rule on Occupational Exposure to Lead, 29 CFR 1910.1025, to reflect that determination. The notice also amended Table I to reflect the lifting of a judicial stay on March 8, 1990 and July 19, 1991, for other, specific industries. The stay had been in effect with respect to compliance requirements set forth in paragraph (e)(1) of the lead standard. Accordingly, lead industries affected by the lifting of the stay must implement engineering and work practice controls in accordance with paragraph (e)(1) of the lead standard by the date specified for the particular industry in Table I of paragraph (e)(1), as amended.

Proposed Rules

In addition, the notice made technical changes and corrections to the standard, amending portions of the standard that are unclear, obsolete or inconsistent with current compliance requirements. It also amended certain information in the Appendices to 29 CFR 1910.1025 that may have been misleading.

By this notice, Minnesota OSHA proposes to adopt the amendments to the Lead Standard, 1910.1025, as published in the *Federal Register* on October 11, 1995. The compliance dates established by Federal OSHA in amended Table I will also be the compliance dates in Minnesota.

B) "Miscellaneous Minor and Technical Amendments; Corrections and Technical Amendments to Final Rule." Federal OSHA issued a final rule on March 7, 1996, that removes 275 of approximately 3,000 pages of regulations, by deleting, clarifying, and reorganizing text, and making technical amendments. This action was the result of a comprehensive review initiated by President Clinton's March 1995 directive. The March 7, 1996 *Federal Register* notice contains minor and noncontroversial amendments, and does not change the substantive requirements of the standards.

Some resulting changes include: 1) Merging the 13 carcinogen standards into single standards in 29 CFR Parts 1910, 1915, and 1926; 2) Consolidating in a single section all consensus standards and the addresses of the organizations that published the consensus standards incorporated by reference in 29 CFR Part 1910; 3) Codifying effective dates under 29 CFR Part 1910; 4) Making editorial corrections to 29 CFR Part 1910; 5) Making minor revisions to 29 CFR Part 1926 standards incorporated from 29 CFR Part 1910, as well as miscellaneous technical amendments to 29 CFR Part 1926; 6) Revising standards addressing roll-over protection structures for tractors under 29 CFR Parts 1926 and 1928; 7) Revising the cadmium standard under 29 CFR Part 1928; and 8) Revoking most of the requirements related to agreements with and grants to states.

By this notice, Minnesota OSHA proposes to adopt the Miscellaneous Minor and Technical Amendments to 29 CFR Parts 1910, 1915, 1926, and 1928, as published in the *Federal Register* on March 7, 1996.

C) "Grain Handling Facilities; Technical Amendment to Final Rule." Federal OSHA published a final rule March 8, 1996, revising the grain handling standard to clarify requirements intended to provide protection for employees who enter flat storage structures. The technical amendment assures that protection against engulfment, mechanical, and other hazards is provided without regard to the point at which the employee enters the storage structure. The revised standard also requires that all mechanical, electrical, and pneumatic equipment that presents a danger to employees inside grain storage structures shall be deenergized and disconnected, locked-out and tagged, blocked-off, or otherwise stopped by other equally effective means or methods. It also adds a definition of "flat storage structure" to clarify OSHA's original intent as to the scope of the entry provisions of the standard.

By this notice, Minnesota OSHA proposes to adopt the technical amendment to the Grain Handling Facility standard, 1910.272, published in the *Federal Register* on March 8, 1996.

Rules as Proposed

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

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

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978, and corrected in Volume 43, No. 216 on November 7, 1978, which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes as follows:

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

R. *Federal Register*, Volume 60:

[For text of subitems (1) to (8), see M.R.]

(9) *Federal Register*, Vol. 60, No. 196, page 52856, dated October 11, 1995: "Occupational Exposure to Lead; Amendments to Final Rule, (1910.1025)."

S. *Federal Register*, Volume 61:

(1) *Federal Register*, Vol. 61, No. 46, page 9228, dated March 7, 1996: "Miscellaneous Minor and Technical Amendments; Final Rule; Corrections and Technical Amendments."

(2) *Federal Register*, Vol. 61, No. 47, page 9578, dated March 8, 1996: "Grain Handling Facilities; Final Rule; Technical Amendment, (1910.272)."

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

Proposed Rules

Subp. 3. **Part 1915.** Part 1915: Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the *Federal Register* on April 20, 1982; all changes made prior to December 31, 1986, which consolidated Part 1915 and Part 1916; technical amendments and redesignations published in Volume 58, No. 125, of the *Federal Register* on July 1, 1993; and additional changes as follows:

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

P. *Federal Register*, Vol. 61, No. 46, page 9228, dated March 7, 1996: "Miscellaneous Minor and Technical Amendments; Final Rule: Corrections and Technical Amendments."

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979, which incorporates changes, additions, deletions, and corrections made up to October 17, 1978, the incorporation and redesignation of the regulatory text of the General Industry Occupational Safety and Health Standards (29 CFR Part 1910) that have been identified as applicable to construction work as published in the *Federal Register*, Volume 58, No. 124, dated June 30, 1993, and corrected in Volume 58, No. 143, dated July 28, 1993; and additional changes as follows:

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

L. *Federal Register*, Vol. 61, No. 46, page 9228, dated March 7, 1996: "Miscellaneous Minor and Technical Amendments; Final Rule: Corrections and Technical Amendments."

Subp. 7. **Part 1928.** Part 1928: Occupational Safety and Health Standards for Agriculture as published in Part II, Volume 40, No. 81 of the *Federal Register* on April 25, 1975, and subsequent changes as follows:

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

I. *Federal Register*, Vol. 61, No. 46, page 9228, dated March 7, 1996: "Miscellaneous Minor and Technical Amendments; Final Rule: Corrections and Technical Amendments."

Adopted Rules

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

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

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

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

Board of Dentistry

Adopted Permanent Rules Relating to Faculty and Resident Dentist Licensure

The rules proposed and published at *State Register*, Volume 20, Number 26, pages 1602-1605, December 26, 1995 (20 SR 1602), are adopted with the following modifications:

3100.1150 LICENSE TO PRACTICE DENTISTRY AS A FACULTY DENTIST.

Subpart 1. Licensure.

B. The board must license a person to practice dentistry as a faculty dentist if:

(3) the dean of a school of dentistry ~~or the director of an advanced dental education program~~ accredited by the Commission on Accreditation certifies to the board, in accordance with the requirements of item C, that the person is a member of the school's faculty and practices dentistry; and

C. The board must accept an applicant as a faculty dentist if the dean of a school of dentistry ~~or the director of an advanced dental education program~~ accredited by the Commission on Accreditation provides to the board the following information:

Subp. 2. Termination of licensure.

A. A person's license to practice dentistry as a faculty dentist is terminated when the person is no longer practicing dentistry ~~as a member of the faculty of a school of dentistry or when the person discontinues practicing dentistry.~~

B. A person licensed to practice dentistry as a faculty dentist must inform the board when the licensee is no longer practicing dentistry ~~as a member of the faculty of a school of dentistry or when the person discontinues practicing dentistry.~~

3100.1160 LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.

Subpart 1. Licensure.

A. In order to practice dentistry as directly related to a respective graduate or advanced educational clinical experience, an enrolled graduate student or a student of an advanced education program must be licensed by the board.

3100.1750 TERMS AND RENEWAL OF LICENSURE; FACULTY AND RESIDENT DENTISTS.

Subp. 2. **Terms.** An initial license issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. An annually renewed license issued by the board is valid from July 1 of the year for which it was issued until renewed no later than the following June 30 or terminated in accordance with the procedures specified in this part.

Subp. 3. Renewal applications.

A. A faculty or resident dentist must complete and submit to the board an application form furnished by the board, together with the applicable annual renewal ~~and late fees~~, no later than June 30 ~~of the year preceding the year for the 12-month period~~ for which licensure renewal is requested. ~~The board must not accept a renewal application received by the board after the first workday following Applications for renewal will be considered timely if received by the board no later than June 30 or postmarked on June 30. If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after June 30.~~

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

Adopted Rules

3100.2000 FEES.

[For text of ~~subs subp 3 to 10~~, see M.R.]

Subp. 4. **Annual license or registration late fee.** Applications for renewal of any license or registration received after the time specified in part 3100.1700 or 3100.1750 are subject to a late fee equal to 50 percent of the annual renewal fee.

[For text of ~~subs 5 to 10~~, see M.R.]

EFFECTIVE DATE. *Minnesota Rules*, parts 3100.0100, subparts 11, 11a, and 18a; 3100.1150; 3100.1160; 3100.1700, subparts 1 and 1a; 3100.1750; and 3100.2000, subparts 1 ~~and~~, 2, and 4, are effective August 31, 1997.

Gambling Control Board

Adopted Permanent Rules Relating to Bingo

The rules proposed and published at *State Register*, Volume 20, Number 34, pages 2156-2182, February 20, 1996 (20 SR 2156), are adopted with the following modifications:

Rules as Adopted

7861.0010 DEFINITIONS.

Subp. 18. **Control number.** "Control number" means ~~an a~~ unique alphanumeric or numeral code assigned by the organization which serves to uniquely identify a bingo paper sheet, bingo paper sheet packet, or bingo paper package as required by the board in part 7861.0070, subpart 7. The control number of the bingo paper sheet, ~~bingo paper sheet packet, or bingo paper package~~ may be the serial number printed on the bingo paper sheet ~~or bingo paper sheet packet~~ by the manufacturer. The control number of the bingo paper sheet packet may be the serial number printed on the top sheet of the bingo paper sheet packet by the manufacturer. The control number of the bingo paper package may be the serial number printed by the manufacturer on the top sheet of the bingo paper sheet packet used to assemble the bingo paper package, provided that the serial number on the top sheet of the bingo paper packet used to assemble the bingo paper package has not been previously used as a control number by the organization.

7861.0070 BINGO.

Subpart 1. **Restrictions.** The following items are restrictions on the conduct of bingo. For purposes of this part, the term "employee" includes a "volunteer." The requirements of item B shall not apply to a bingo volunteer who works for an organization with gross receipts from bingo of less than \$150,000 in its last fiscal year. For purposes of this part, the term "gross receipts from bingo of less than \$150,000" means the gross receipts from bingo after any coupon discounts have been applied by the organization.

D. An organization shall not cut bingo paper sheets (~~each~~ case paper), and an organization shall not separate or cut bingo paper sheet packets (collated paper).

Subp. 7. **General bingo records and reports.** The following records and reports shall be completed by the organization, and maintained for a period of 3-1/2 years. The records and reports shall be made available to the board, the commissioner of revenue, the commissioner of public safety, or their agents upon demand:

I. Effective on the first day of the sixth month from the effective date of this rule, the following information shall be recorded for each bingo occasion conducted by an organization.

(2) For organizations using bingo paper sheets, bingo paper sheet packets, or bingo paper packages, the following information shall be recorded in a format prescribed by the board for each bingo occasion conducted by an organization. A computer-generated form may be used with the approval of the board director if it complies with the requirements of this part:

(b) the total amount, by control number or serial number, of bingo paper sheets and/or bingo paper sheet packets available for sale at the bingo occasion and the total amount, by control number or serial number, of bingo paper sheets and/or bingo paper sheet packets which are returned to inventory at the end of the occasion. A separate form must be completed by each seller working at the bingo occasion;

(c) a summary of total admission sales for the occasion, including total cash on hand at the beginning of the occasion, total cash receipts from admission sales, the quantity by dollar value of all coupons redeemed at the occasion, and the net admission sales for each occasion;

(e) ~~(d)~~ for each bingo game conducted, the number of bingo paper sheets and the selling price of each bingo paper sheet, sold by each floor seller;

(d) (e) the total value of prizes awarded for each game, including the cash value and fair market value for noncash prizes, and the serial number and face number of each winning bingo paper sheet face;

(e) (f) a copy of the caller verification form;

(f) (g) a copy of the occasion's bingo program shall be attached to the bingo occasion record;

(g) (h) a bingo occasion summary, including the total number of players in attendance, total gross and net sales, total value of coupons redeemed, and total value including cash value and fair market value for noncash prizes awarded at the occasion;

(h) (i) for any bingo game with a cash or merchandise prize valued at \$100 or more, a prize receipt as required in subpart 6a, item L; and

(i) (j) for any bingo game where the value of the prize is determined by the selling price of the packet of bingo paper sheets or bingo paper package, a prize receipt as required in subpart 6a, item L.

Gambling Control Board

Adopted Permanent Rules Relating to Gambling Managers

The rules proposed and published at *State Register*, Volume 20, Number 34, pages 2150-2155, February 20, 1996 (20 SR 2150), are adopted as proposed.

Department of Health

Adopted Permanent Rules Governing the Registration of Occupational Therapists and Occupational Therapy Assistants

The rules proposed and published at *State Register*, Volume 20, Number 24, pages 1330-1354, December 11, 1995 (20 SR 1330), are adopted with the following modifications:

Rules as Adopted

4666.0020 DEFINITIONS.

Subp. 8. **Credentialing examination for occupational therapist.** "Credentialing examination for occupational therapist" means the examination sponsored by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy for credentialing as an occupational therapist, registered, ~~or another credentialing examination for occupational therapists approved by the commissioner.~~

Subp. 9. **Credentialing examination for occupational therapy assistant.** "Credentialing examination for occupational therapy assistant" means the examination sponsored by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy for credentialing as a certified occupational therapy assistant, ~~or another credentialing examination for occupational therapy assistants approved by the commissioner.~~

Subp. 23. **Qualified supervisor.** "Qualified supervisor" means the supervisor of an applicant for provisional registration, under part 4666.0060, subpart 3, who:

A. supervises occupational therapists, or before the adoption of parts 4666.0010 to 4666.1400, supervised persons certified as occupational therapists by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy; or

C. ~~the commissioner determines~~ has submits evidence of sufficient knowledge of occupational therapy evaluations, intervention planning, and therapeutic procedures to assess the extent to which the applicant has performed these tasks.

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

Adopted Rules

Subp. 27. **Registration by equivalency.** "Registration by equivalency" means a method of registration described in part 4666.0080 by which an individual who possesses a credential from the ~~American Occupational Therapy Certification Board~~ or another national credentialing organization approved by the commissioner National Board for Certification in Occupational Therapy may qualify for registration.

Subp. 31. **Temporary registration.** "Temporary registration" means a method of registration described in part 4666.0100, by which an individual who (1) has completed an approved or accredited education program but has not met the examination requirement; or (2) possesses a credential from another jurisdiction or the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy but who has not submitted the documentation required by part 4666.0200, subparts 3 and 4, may qualify for Minnesota registration for a limited time period.

4666.0030 PROTECTED TITLES AND RESTRICTIONS ON USE; EXEMPT PERSONS; SANCTIONS.

Subp. 4. **Exempt persons.** Subpart 1 does not apply to:

C. a person performing occupational therapy services in the state, if the services are performed no more than 30 days in a calendar year in association with an occupational therapist registered under parts 4666.0010 to 4666.1400, and:

(2) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA), established by the ~~American Occupational Therapy Certification Board~~ or another national credentialing organization approved by the commissioner National Board for Certification in Occupational Therapy.

4666.0050 REGISTRATION REQUIREMENTS; PROCEDURES AND QUALIFICATIONS.

An applicant for registration must comply with the general registration procedures in part 4666.0200. To qualify for registration, an applicant must satisfy one of the requirements in items A to E and not be subject to denial of registration under part 4666.1300.

A. A person who applies for registration as an occupational therapist and who has not been credentialed by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in part 4666.0060.

B. A person who applies for registration as an occupational therapy assistant and who has not been credentialed by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in part 4666.0070.

C. A person who is certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy may apply for registration by equivalency and must meet the requirements in part 4666.0080.

4666.0060 QUALIFICATIONS FOR OCCUPATIONAL THERAPIST.

Subpart 1. **Education required.**

A. An applicant who has received professional education in the United States or its possessions or territories must successfully complete all academic and fieldwork requirements of an educational program for occupational therapists approved or accredited by the Accreditation Council for Occupational Therapy Education or another national accrediting organization approved by the commissioner.

B. An applicant who has received professional education outside the United States or its possessions or territories must successfully complete all academic and fieldwork requirements of an educational program for occupational therapists approved by a member association of the World Federation of Occupational Therapists or another organization approved by the commissioner.

Subp. 2. **Qualifying examination score required.**

B. The commissioner shall determine the qualifying score for the credentialing examination for occupational therapist. In determining the qualifying score, the commissioner shall consider the cut score recommended by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the commissioner, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

Subp. 3. **Waiver of education requirement.**

A. This subpart is effective as long as the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy allows the commissioner to authorize persons to take the certification examination for state registration only or for three years after the effective dates of parts 4666.0010 to 4666.1400, whichever occurs first.

E. The effective date of parts 4666.0010 to 4666.1400 is the first day of the three-year provisional registration period. Applications for registration under this subpart will not be accepted after the expiration of if the National Board for Certification in Occupational Therapy discontinues offering the certification examination for state registration only or the three-year provisional registration period expires, whichever occurs first.

4666.0070 QUALIFICATIONS FOR OCCUPATIONAL THERAPY ASSISTANTS.

Subpart 1. **Education required.** An applicant must successfully complete all academic and fieldwork requirements of an occupational therapy assistant program approved or accredited by the Accreditation Council for Occupational Therapy Education or another national accrediting organization approved by the commissioner.

Subp. 2. **Qualifying examination score required.**

B. The commissioner shall determine the qualifying score for the credentialing examination for occupational therapy assistants. In determining the qualifying score, the commissioner shall consider the cut score recommended by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the commissioner, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

Subp. 3. **Waiver of education requirement.**

A. This subpart is effective as long as the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy allows the commissioner to authorize persons to take the certification examination for state registration only or for three years after the effective dates of parts 4666.0010 to 4666.1400, whichever occurs first.

E. The effective date of parts 4666.0010 to 4666.1400 is the first day of the three-year provisional registration period. Applications for registration under this subpart will not be accepted ~~after the expiration of~~ if the National Board for Certification in Occupational Therapy discontinues offering the certification examination for state registration only or the three-year provisional registration period expires, whichever occurs first.

4666.0080 REGISTRATION BY EQUIVALENCY.

Subpart 1. **Persons certified by ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy before effective date of parts 4666.0010 to 4666.1400.** Persons certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy as an occupational therapist before the effective date of parts 4666.0010 to 4666.1400 may apply for registration by equivalency for occupational therapist. Persons certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy as an occupational therapy assistant before the effective date of parts 4666.0010 to 4666.1400 may apply for registration by equivalency for occupational therapy assistant.

Subp. 2. **Persons certified by ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy after effective date of parts 4666.0010 to 4666.1400.** The commissioner may register any person certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy as an occupational therapist after the effective dates of parts 4666.0010 to 4666.1400, if the commissioner determines the requirements for certification are equivalent to or exceed the requirements for registration as an occupational therapist under part 4666.0060. The commissioner may register any person certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy as an occupational therapy assistant after the effective dates of parts 4666.0010 to 4666.1400, if the commissioner determines the requirements for certification are equivalent to or exceed the requirements for registration as an occupational therapy assistant under part 4666.0070. Nothing in this part limits the commissioner's authority to deny registration based upon the grounds for discipline in parts 4666.0010 to 4666.1400.

4666.0100 TEMPORARY REGISTRATION.

Subpart 1. **Application.** The commissioner ~~may~~ shall issue temporary registration as an occupational therapist or occupational therapy assistant to applicants who have applied for registration under part 4666.0060, subparts 1 and 2, 4666.0070, subparts 1 and 2, 4666.0080, or 4666.0090 and who are not the subject of a ~~pending investigation or~~ disciplinary action or past disciplinary action, nor disqualified ~~for any other reason on the basis of items listed in part 4666.1300, subpart 1.~~

Subp. 2. **Procedures.** To be eligible for temporary registration, an applicant must submit the application materials required by part 4666.0200, subpart 1, the fees required by part 4666.1200, and one of the following:

C. a copy of a current and unrestricted certificate from the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist or occupational therapy assistant.

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

Adopted Rules

Subp. 3. **Additional documentation.** Persons who are credentialed by the ~~American Occupational Therapy Certification Board National Board for Certification in Occupational Therapy~~ or another jurisdiction must provide an affidavit with the application for temporary registration stating that they are not the subject of a pending investigation or disciplinary action and have not been the subject of a disciplinary action in the past.

Subp. 5. **Expiration of temporary registration.** A temporary registration issued to a person pursuant to subpart 2, item A, expires ten weeks after the next credentialing examination for occupational therapists and occupational therapy assistants or on the date the commissioner grants or denies registration, whichever occurs first. A temporary registration issued to a person pursuant to subpart 2, item B or C, expires 90 days after it is issued. Upon application for renewal, a temporary registration may shall be renewed once to persons who have not met the examination requirement under part 4666.0060, subpart 2, or 4666.0070, subpart 2, within the initial temporary registration period and who are not the subject of a disciplinary action nor disqualified on the basis of items in part 4666.1300, subpart 1. Upon application for renewal, a temporary registration may shall be renewed once to persons who are able to demonstrate good cause for failure to meet the requirements for registration under part 4666.0080 or 4666.0090 within the initial temporary registration period and who are not the subject of a disciplinary action nor disqualified on the basis of items in part 4666.1300, subpart 1.

4666.0200 GENERAL REGISTRATION PROCEDURES.

Subp. 2. **Persons applying for registration under part 4666.0060 or 4666.0070.** Persons applying for registration under part 4666.0060, subparts 1 and 2, or 4666.0070, subparts 1 and 2, must submit the materials required in subpart 1 and the following:

B. the applicant's test results from the examining agency, ~~or another source approved by the commissioner,~~ as evidence that the applicant received a qualifying score on a credentialing examination meeting the requirements of part 4666.0060, subpart 2, or 4666.0070, subpart 2.

Subp. 3. **Applicants who are certified by ~~American Occupational Therapy Certification Board National Board for Certification in Occupational Therapy.~~** An applicant who is certified by the ~~American Occupational Therapy Certification Board National Board for Certification in Occupational Therapy~~ must provide the materials required in subpart 1 and the following:

A. Verified documentation from ~~American Occupational Therapy Certification Board the National Board for Certification in Occupational Therapy~~ stating that the applicant is certified as an occupational therapist, registered or certified occupational therapy assistant, the date certification was granted, and the applicant's certification number. The document must also include a statement regarding disciplinary actions. The applicant is responsible for obtaining this documentation by sending a form provided by the commissioner to the ~~American Occupational Therapy Certification Board National Board for Certification in Occupational Therapy.~~

B. A waiver authorizing the commissioner to obtain access to the applicant's records maintained by the ~~American Occupational Therapy Certification Board National Board for Certification in Occupational Therapy.~~

Subp. 4. **Applicants credentialed in another jurisdiction.** In addition to providing the materials required in subpart 1, an applicant credentialed in another jurisdiction must request that the appropriate government body in each jurisdiction in which the applicant holds or held an occupational therapy credential send a letter to the commissioner that verifies the applicant's credentials. Except as provided in part 4666.0100, registration will not be issued until the commissioner receives letters verifying each of the applicant's credentials. Each letter must include the applicant's name, date of birth, credential number, date of issuance, a statement regarding investigations pending and disciplinary actions taken or pending against the applicant, current status of the credential, and the terms under which the credential was issued.

4666.0400 RENEWAL OF REGISTRATION; AFTER EXPIRATION DATE.

Subp. 3. **Registration renewal four years or more after registration expiration date.** Except as provided in subpart 4, an individual who ~~submitted~~ submits a registration renewal four years or more after the registration expiration date must submit the following:

D. proof of successful completion of one of the following:

(1) verified documentation of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall obtain limited registration. To apply for limited registration, the applicant shall submit the completed limited registration application, fees, and agreement for supervision of an occupational therapist or occupational therapy assistant practicing under limited registration signed by the supervising therapist and the applicant. The supervising occupational therapist shall state the proposed level of supervision on the supervision agreement form provided by the commissioner. The supervising therapist shall determine the frequency and manner of supervision based on the condition of the patient or client, the complexity of the procedure, and the proficiencies of the supervised occupational therapist. At a minimum, a supervising occupational therapist shall:

(c) provide daily face-to-face collaboration for the purpose of observing service competency of the occupational therapist or occupational therapy assistant, discussing treatment procedures and each client's response to treatment, and reviewing and modifying, as necessary, each treatment plan. ~~The commissioner may require additional supervision than the supervision proposed in the supervision agreement.~~ The supervising therapist shall document the supervision provided. The occupational therapist participating in a supervised practice is responsible for obtaining the supervision required under this subitem and must comply with the commissioner's requirements for supervision during the entire 160 hours of supervised practice. The supervised practice must be completed in two months and may be completed at the applicant's place of work;

4666.1100 CONTINUING EDUCATION REQUIREMENTS.

Subp. 2. **Standards for approval determining qualified continuing education activities.** Except as provided in subpart 3, item E, in order to qualify as a continuing education activity, the activity must:

Subp. 4. **Activities not qualifying for continuing education contact hours.** No credit shall be granted for the following activities: hospital rounds, entertainment or recreational activities, employment orientation sessions, holding an office or serving as an organizational delegate, meetings for the purpose of making policy, noneducational association meetings, training related to payment systems (including covered services, coding, and billing), training required by part 4666.1000, subparts 3, item B; 4, item B; and 5, item B; and any other activities the commissioner determines do not meet the requirements of this part.

4666.1200 FEES; SURCHARGE.

Subpart 1. **Initial registration fee.** The initial registration fee for occupational therapists is \$180. The initial registration fee for occupational therapy assistants is \$100. The commissioner ~~may~~ shall prorate fees based on the number of quarters remaining in the biennial registration period.

Subp. 5. **Provisional registration renewal fee.** The provisional registration renewal fee for occupational therapists is \$90. The provisional registration renewal fee for occupational therapy assistants is \$50. The commissioner ~~may~~ shall prorate fees based on the number of quarters remaining in the annual registration period.

Pollution Control Agency

Adopted Permanent Rules Relating to Procedural Rules

The rules proposed and published at *State Register*, Volume 20, Number 25, pages 1475-1481, December 18, 1995 (20 SR 1475), are adopted as proposed.

Board of Water and Soil Resources

Adopted Exempt Rules Relating to Wetlands

NOTICE IS HEREBY GIVEN that the above entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, section 14.386. The legislative authority for the adoption of these rules is 1996 *Minnesota Laws*, chapter 462, section 39. These rules amend *Minnesota Rules*, chapter 8420. Except as amended by these rules, *Minnesota Rules*, chapter 8420 remains in full force and effect.

The Revisor of Statutes has approved the form of these rules by certificate, and the Office of Administrative Hearings has approved these rules as to legality. These rules are effective for two years from the date of publication of these rules in the *State Register* unless they are superseded by permanent rules.

Dated: 29 May 1996

Ronald D. Harnack, Executive Director
Minnesota Board of Water and Soil Resources

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Adopted Rules

Rules as Adopted

8420.0100 PURPOSE.

This chapter implements the Wetland Conservation Act of 1991, *Laws of Minnesota* 1991, chapter 354, as amended by Laws 1993, chapter 175; Laws 1994, chapter 627; and Laws 1996, chapter 462. This chapter shall be interpreted to implement the purpose of the act, which is to:

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

8420.0102 INTRODUCTION.

The Wetland Conservation Act achieves the purpose in part 8420.0100 by requiring persons proposing to impact a wetland by draining or filling to first, attempt to avoid the impact; second, attempt to minimize the impact; and finally, replace any impacted area with another wetland of equal function and value. As specified in greater detail in part 8420.0122, certain projects are exempt from the requirement for a replacement plan under the Wetland Conservation Act.

The Wetland Conservation Act is administered by local government units with oversight provided by the Board of Water and Soil Resources. Enforcement of the act is provided by Department of Natural Resources conservation officers and other peace officers. The Wetland Conservation Act became effective on January 1, 1992, and this chapter and portions of *Minnesota Statutes*, chapters 103A, 103B, 103E, 103F, and 103G, govern its implementation. The public is encouraged to contact their local government unit or soil and water conservation district for general information on wetlands and the interpretation of this chapter. This part is for general introductory information only. The other parts of this chapter shall control over this part.

8420.0103 WETLAND FUNCTIONS FOR DETERMINING PUBLIC VALUES.

The public values of wetlands must be based upon the functions of wetlands for:

- A. water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, shoreline protection, and utilization of the wetland as a recharge area for groundwater;
- B. flood water and storm water retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;
- C. public recreation and education, including hunting and fishing areas, wildlife viewing areas, and nature areas;
- D. commercial uses, including wild rice and cranberry growing and harvesting and aquaculture;
- E. fish, wildlife, and native plant habitats;
- F. low-flow augmentation; and
- G. other public uses.

8420.0105 SCOPE.

After July 26, 1993, Wetlands must not be drained or filled wholly or partially unless replaced by restoring or creating wetland areas of at least equal public value, except that a local government unit may elect to operate under Article 7 of the act, *Minnesota Statutes*, section 103G.2369, after July 1, 1993, but not beyond December 31, 1993.

This chapter does not prevent the use of the bed of wetlands for pasture or cropland during dry periods if dikes, ditches, tile lines, or buildings are not constructed and the agricultural use does not result in the drainage of the wetlands. This chapter does not prevent filling a wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage. This chapter does not prevent control of noxious weeds if the control does not drain or fill the wetland. This chapter does not prevent excavation in wetlands if done in a manner such that the wetlands are not wholly or partially drained or filled.

This chapter does not apply to the public waters and public waters wetlands as defined in *Minnesota Statutes*, section 103G.005, subdivisions 15 and 18, which have been inventoried by the commissioner of natural resources according to *Minnesota Statutes*, section 103G.201. This chapter is in addition to other regulations including those of the United States Army Corps of Engineers, United States Department of Agriculture, Minnesota state agencies, watershed districts, and local governments.

This chapter does not apply to peat mining as defined in *Minnesota Statutes*, section 93.461, which is subject to the permit to mine and reclamation requirements of *Minnesota Statutes*, sections 93.44 to 93.51, and the rules of the commissioner adopted under those sections.

This chapter does not require state agencies to obtain local government unit approvals. However, state agencies shall coordinate with local government units when conducting activities in wetlands within the jurisdiction of the local government unit. The state agencies shall follow the same sequencing and replacement requirements as prescribed by this chapter.

In addition to the provisions of this chapter, governmental decisions on draining and filling of wetlands are subject to *Minnesota Statutes*, chapters 116B and 116D, which provide that an action which is likely to have material adverse effects on natural resources

must not be allowed if there is a feasible and prudent alternative consistent with the requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its natural resources. Economic considerations alone do not justify adversely effective actions.

8420.0110 DEFINITIONS.

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

Subp. 1a. Account or wetland bank account. "Account" or "wetland bank account" means a record of wetland banking debits and credits established by an account holder within the state wetland banking system.

Subp. 1b. Account holder. "Account holder," in the state wetland banking system, is a person, corporation, government agency, or organization that is the owner of credits.

Subp. 2. Act. "Act," when not used in reference to a specific state or federal act, means the Wetland Conservation Act of 1991, Laws 1991, chapter 354, as amended by Laws 1993, chapter 175; Laws 1994, chapter 627; and Laws 1996, chapter 462.

[For text of subp 3, see M.R.]

Subp. 4. Agricultural land. "Agricultural land," for use in part 8420.0120, ~~subparts 7 and 8,~~ means land devoted to the production of used for horticultural, row, close grown, ~~introduced~~ pasture, ~~introduced and~~ hayland crops; and; growing nursery stock.

~~For use in all other places in this chapter, agricultural land means land devoted to the production of horticultural, row, close grown, introduced pasture, and introduced hayland crops; and to the pasturing of livestock and dairy animals; growing nursery stock, and stocks; animal feedlots; and shall include contiguous land and buildings under the same ownership associated with the production of the above, for example; farmyards; associated building sites; and public and private drainage systems and field roads located on any of these lands.~~

Subp. 5. [See repealer.]

Subp. 5a. Applicant. "Applicant" is a person, corporation, government agency, or organization that makes an application to withdraw wetland banking credits from the wetland bank.

[For text of subps 6 to 12, see M.R.]

Subp. 13. [See repealer.]

[For text of subps 14 to 18, see M.R.]

Subp. 18a. 50 to 80 percent area. "50 to 80 percent area" means a county or watershed with at least 50 percent but less than 80 percent of the presettlement wetland acreage intact.

[For text of subps 19 and 20, see M.R.]

Subp. 20a. Greater than 80 percent area. "Greater than 80 percent area" means a county or watershed where 80 percent or more of the presettlement wetland acreage is intact and:

A. ten percent or more of the current total land area is wetland; or

B. 50 percent or more of the current total land area is state or federal land.

Subp. 20b. Hayland. "Hayland" means an area that was mechanically harvested or that was planted with annually seeded crops in a crop rotation seeded to grasses or legumes in six of the last ten years prior to January 1, 1991.

[For text of subps 21 to 24, see M.R.]

Subp. 25. Infrastructure. "Infrastructure" means public water facilities, storm water and sanitary sewer piping, outfalls, inlets, street subbase, roads, and ditches, culverts, bridges, and any other work defined specifically by a local government unit as constituting a capital improvement within the context of an approved development plan.

Subp. 26. [See repealer.]

Subp. 27. [See repealer.]

[For text of subps 28 and 29, see M.R.]

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Subp. 29a. Less than 50 percent area. "Less than 50 percent area" means a county or watershed with less than 50 percent of the presettlement wetland acreage intact or any county or watershed not defined as a greater than 80 percent area or 50 to 80 percent area.

[For text of subs 30 and 31, see M.R.]

Subp. 31a. New wetland credit or NWC. "New wetland credit" or "NWC" means wetland replacement credit that can be used for any portion of wetland replacement.

[For text of subp 32, see M.R.]

Subp. 33. Pasture. "Pasture" means land used for grazing by domestic livestock an area that was grazed by domesticated livestock or that was planted with annually seeded crops in a crop rotation seeded to grasses or legumes in six of the last ten years prior to January 1, 1991.

[For text of subp 34, see M.R.]

Subp. 34a. Presettlement wetland. "Presettlement wetland" means a wetland or public waters wetland that existed in this state at the time of statehood in 1858.

Subp. 35. Project. "Project" means an action or series of actions necessary to accomplish an ultimate purpose and that will cause a physical manipulation of the environment, directly or indirectly. Draining or filling of wetlands may be a component of a project a specific plan, contiguous activity, proposal, or design necessary to accomplish a goal as defined by the local government unit. As used in this chapter, a project may not be split into components or phases for the sole purpose of gaining additional exemptions.

[For text of subs 36 and 37, see M.R.]

Subp. 37a. Public value credit or PVC. "Public value credit" or "PVC" means wetland replacement credit that can only be used for the portion of wetland replacement requiring greater than a 1:1 ratio.

Subp. 38. Public value of wetlands. "Public value of wetlands" means the public benefit and use of wetlands for water quality, floodwater retention, public recreation, commercial uses, and other public uses as determined based upon an assessment of the wetland functions listed in part 8420.0103.

Subp. 39. Public waters wetlands. "Public waters wetlands" means all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), that were inventoried by the Department of Natural Resources as public waters under *Minnesota Statutes*, section 103G.201.

Subp. 40. Replacement wetland. "Replacement wetland" means a wetland restored or created or an area designated in part 8420.0540, subpart 2, items D and E, to replace area or public values lost at an impacted wetland.

[For text of subs 41 to 44, see M.R.]

Subp. 44a. Shoreland wetland. "Shoreland wetland" means a wetland located in the shoreland wetland protection zone.

Subp. 44b. Shoreland wetland protection zone.

A. For local government units that have a shoreland management ordinance approved under *Minnesota Statutes*, sections 103F.201 to 103F.221, "shoreland wetland protection zone" means:

(1) 1,000 feet from the ordinary high water level of a water basin that is a public water identified in the shoreland management ordinance or the shoreland area approved by the commissioner as provided in the shoreland management rules adopted under *Minnesota Statutes*, section 103F.211, whichever is less; or

(2) 300 feet from the ordinary high water level of a watercourse identified in the shoreland management ordinance or the shoreland area approved by the commissioner as provided in the shoreland management rules adopted under *Minnesota Statutes*, section 103F.211, whichever is less; and

B. For local government units that do not have a shoreland management ordinance approved under *Minnesota Statutes*, sections 103F.201 to 103F.221, "shoreland wetland protection zone" means:

(1) 1,000 feet from the ordinary high water level of a water basin that is a public water that is at least ten acres in size within municipalities and at least 25 acres in size in unincorporated areas; or

(2) 300 feet from the ordinary high water level of a watercourse identified by the public waters inventory under *Minnesota Statutes*, section 103G.201.

Subp. 45. Silviculture. "Silviculture" means the scientific management of forest trees.

[For text of subp 46, see M.R.]

Subp. 47. [See repealer.]

Subp. 47a. State wetland banking system, wetland bank, or bank. “State wetland banking system,” “wetland bank,” or “bank” means a system of identifying wetlands restored or created for replacement credit, providing for, and facilitating and tracking the exchange of wetland banking credits for projects that require replacement plans.

[For text of subps 48 to 51, see M.R.]

Subp. 51a. Wetland banking credits. “Wetland banking credits” means acres or parts of acres of restored or created wetland by type and topographic setting, or areas as described in part 8420.0540, subpart 2, that have been approved for deposit in the wetland bank.

Subp. 52. Wetlands, a wetland, the wetland, or wetland area.

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

D. The wetland size is the area within its boundary. The boundary must be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). The wetland type must be determined according to United States Fish and Wildlife Service Circular No. 39 (1971 edition). The local government unit may seek the advice of the technical evaluation panel as to the wetland size and type.

[For text of subps 53 and 54, see M.R.]

Subp. 54a. Wetland type. “Wetland type” means a wetland type classified according to Wetlands of the United States, United States Fish and Wildlife Service Circular 39 (1971 edition), as summarized in this subpart.

A. “Type 1 wetlands” are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season. Type 1 wetlands are located in depressions and in overflow bottomlands along watercourses, and in which vegetation varies greatly according to season and duration of flooding and includes bottomland hardwoods as well as herbaceous growths.

B. “Type 2 wetlands” are inland fresh meadows in which soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes, and various broad-leaved plants. Meadows may fill shallow basins, sloughs, or farmland sags, or may border shallow marshes on the landward side.

C. “Type 3 wetlands” are inland shallow fresh marshes in which soil is usually waterlogged early during a growing season and often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. These marshes may nearly fill shallow lake basins or sloughs, or may border deep marshes on the landward side and are also common as seep areas on irrigated lands.

D. “Type 4 wetlands” are inland deep fresh marshes in which soil is usually covered with six inches to three feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes, and wild rice. In open areas, pondweeds, naiads, coontail, water milfoils, waterweeds, duckweeds, water lilies, or spatterdocks may occur. These deep marshes may completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or may border open water in such depressions.

E. “Type 5 wetlands” are inland open fresh water, shallow ponds, and reservoirs in which water is usually less than ten feet deep and is fringed by a border of emergent vegetation similar to open areas of type 4 wetland.

F. “Type 6 wetlands” are shrub swamps in which soil is usually waterlogged during growing season and is often covered with as much as six inches of water. Vegetation includes alders, willows, buttonbush, dogwoods, and swamp privet. This type occurs mostly along sluggish streams and occasionally on floodplains.

G. “Type 7 wetlands” are wooded swamps in which soil is waterlogged at least to within a few inches of the surface during growing season and is often covered with as much as one foot of water. This type occurs mostly along sluggish streams, on floodplains, on flat uplands, and in shallow basins. Trees include tamarack, arborvitae, black spruce, balsam, red maple, and black ash. Northern evergreen swamps usually have a thick ground cover of mosses. Deciduous swamps frequently support beds of duckweeds and smartweeds.

H. “Type 8 wetlands” are bogs in which soil is usually waterlogged and supports a spongy covering of mosses. This type occurs mostly in shallow basins, on flat uplands, and along sluggish streams. Vegetation is woody or herbaceous or both. Typical

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plants are heath shrubs, sphagnum moss, and sedges. In the north, leatherleaf, Labrador-tea, cranberries, carex, and cottongrass are often present. Scattered, often stunted, black spruce and tamarack may occur.

8420.0112 INCORPORATION BY REFERENCE.

This ~~rule~~ chapter incorporates by reference the following documents:

- A. Wetlands of the United States (United States Fish and Wildlife Service Circular No. 39, (1971 edition).
 - B. Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989) United States Army Corps of Engineers Wetland Delineation Manual (January 1987).
 - C. Cowardin, et al. 1979, Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et al., 1979 edition).
 - D. Criteria and Guidelines for Assessing Geologic Sensitivity of Groundwater Resources in Minnesota (Minnesota Department of Natural Resources, 1991).
 - E. United States Geological Survey Hydrologic Unit Map for Minnesota (1974).
 - F. Minnesota Routine Assessment Methodology for Evaluating Wetland Functions (Board of Water and Soil Resources, Version 1.0 - May 1996).
 - G. Minnesota Wetland Evaluation Methodology for the North Central United States (United States Army Corps of Engineers, September 1988).
 - H. The Hydrogeomorphic Functional Assessment Methodology (as developed by the United States Army Corps of Engineers based on Wetlands Research Program Technical Report WRP-DE-3, August 1993).
 - I. Oregon Freshwater Wetland Assessment Methodology (Oregon Division of State Lands, December 1993).
 - J. Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire (New Hampshire Department of Environmental Services, March 1991).
- State of Minnesota Watershed Boundaries - 1979 (a map).
- K. National Wetland Inventory maps (United States Fish and Wildlife Service).
 - L. Anderson and Craig, 1984, Growing Energy Crops on Minnesota Wetlands: The Land Use Perspective.

These documents are available through the ~~Minitex interlibrary loan system~~ state law library, except the National Wetland Inventory maps, which are available at Minnesota soil and water conservation district offices. None of the documents are subject to frequent change.

8420.0115 SCOPE OF EXEMPTION STANDARDS.

When considering if a drain or fill activity qualifies for an exemption listed in a specified clause of *Minnesota Statutes*, section 103G.2241, ~~subdivision 1~~, the exemption standards in part ~~8420.0120~~ 8420.0122 apply.

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 minimizing 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 or filling.

Nonexempt wetlands cannot be partially drained or filled in order to claim an exemption or no-loss determination on the remainder. Therefore, no exemptions or no-loss determinations can be applied to the remaining wetland that would not have been applicable before the impact.

Present and future owners of wetlands drained or filled without replacement under an exemption in part ~~8420.0120~~ 8420.0122, ~~subparts 1, and 2, item B, 4, 7, 8, and 23,~~ can make no use of the wetland area after it is drained or filled, other than as agricultural land, for ten years after the draining or filling, unless it is first replaced under the requirements of *Minnesota Statutes*, section 103G.222, ~~paragraph (g)~~. Also, for ten years the wetland may not be restored for replacement credit. At the time of draining 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 ~~8420.0120~~ 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 practices 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:

A. activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grass or legumes, or was required to be set aside to receive price support or other payments under *United States Code*, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991. Documentation, such as aerial photographs, United States Department of Agriculture records, or affidavit of landowner must be required by the local government unit to show and use as evidence for this exemption. Set aside land used for this exemption must be wetland types 1 and 2;

B. activities in a wetland that is or has been enrolled in the federal Conservation Reserve Program under *United States Code*, title 16, section 3831, that:

(1) was planted with annually seeded crops, was in a crop rotation seeding, or was required to be set aside to receive price support or payment under *United States Code*, title 7, sections 1421 to 1469, in six of the last ten years prior to being enrolled in the program; and

(2) 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) activities in a type 1 wetland on agricultural land, 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 land;

(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);

E. aquaculture activities including pond excavation and construction and maintenance of associated access roads and dikes authorized under, and conducted in accordance with, 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, but not including construction or expansion of buildings;

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;

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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 in a wetland that is on agricultural land annually enrolled in the federal Food, Agricultural, Conservation, and Trade Act of 1990, United States Code, title 16, section 3821, subsection (a), clauses (1) to (3), as amended, and is subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991, except that land enrolled in a federal farm program is eligible for easement participation for those acres not already compensated under a federal program. The federal Food, Agricultural, Conservation, and Trade Act of 1990 has been replaced with the federal Agriculture Improvement and Reform Act of 1996. This exemption may be applied to agricultural land annually enrolled in the federal Agriculture Improvement and Reform Act as long as wetlands are not drained or filled beyond what would have been allowed under the federal Food, Agricultural, Conservation, and Trade Act of 1990, United States Code, title 16, section 3281, subsection (a), clauses (1) to (3), as amended, subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991. Documentation from the United States Department of Agriculture may be used as evidence to support this exemption. If the activity would result in loss of eligibility, the landowner cannot qualify for the exemption by withdrawing from the program.

Subp. 2. Drainage.

A. For the purposes of this subpart, "public drainage system" means a drainage system as defined in Minnesota Statutes, section 103E.005, subdivision 12, and any ditch or tile lawfully connected to the drainage system.

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:

(1) during the 20-year period that ended January 1, 1992:

(a) there was an expenditure made from the drainage system account for the public drainage system;

(b) the public drainage system was repaired or maintained as approved by the drainage authority; or

(c) no repair or maintenance of the public drainage system was required under Minnesota Statutes, section 103E.705, subdivision 1, as determined by the public drainage authority; and

(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.

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.

C. A replacement plan is not required for draining or filling of wetlands, except for draining types 3, 4, and 5 wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing public drainage systems.

D. A replacement plan is not required for draining or filling of wetlands, except for draining wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing drainage systems other than public drainage systems.

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 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.

F. The public drainage authority may, as part of the repair, install control structures, realign the ditch, construct dikes along the ditch, or make other modifications as necessary to prevent drainage of the wetland.

G. Wetlands of all types that would be drained as a part of a public drainage repair project are eligible for the permanent wetlands preserve under Minnesota Statutes, section 103F.516. The board shall give priority to acquisition of easements on types 3, 4, and 5 wetlands that have been in existence for more than 25 years on public drainage systems and other wetlands that have the greatest risk of drainage from a public drainage repair project.

Subp. 3. Federal approvals. A replacement plan for wetlands is not required for:

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, and conducted in accordance with, an applicable general 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, except the nationwide permit in *Code of Federal Regulations*, title 33, section 330.5, paragraph (a), clauses (14), limited to when a new road crosses a wetland, and (26), as in effect on January 1, 1991.

This exemption is for the following nationwide permits as they existed on January 1, 1991, and includes the associated regional conditions: 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, and 25, issued under *Code of Federal Regulations*, title 33, section 330.5. The local government unit may certify such an exemption only if the applicant furnishes proof of qualification for one of these nationwide permits from the United States Army Corps of Engineers. Nationwide permit 14 for a new road does not qualify for this exemption, nor do nationwide permits under numbers not listed in this exemption.

To qualify for a nationwide permit, the applicant for a United States Army Corps of Engineers permit must meet any regional conditions imposed by the United States Army Corps of Engineers, and must obtain from the Minnesota Pollution Control Agency an individual section 401 certification when required.

Subp. 4. Wetland restoration. A replacement plan for wetlands is not required for activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland.

The landowner must provide a contract or easement conveyance or affidavit demonstrating that the landowner or a predecessor restored the wetland for conservation purposes but retained the right to subsequently drain the restored wetland.

Subp. 5. Incidental wetlands. A replacement plan for wetlands is not required for activities in a wetland created solely as a result of:

- A. beaver dam construction;
- B. blockage of culverts through roadways maintained by a public or private entity;
- C. actions by public or private entities that were taken for a purpose other than creating the wetland; or
- D. any combination of items A to C.

Wetland areas created by beaver activities may be drained by removing those materials placed by beaver. Drainage is permitted by removing or moving materials blocking installed roadway culverts and drainage structures. Additional excavation or removal of other materials is not permitted unless it can be shown by aerial photographs that the proposed activity will not drain or fill wetland that was there before the beaver dam was built or before the culvert became plugged.

Wetlands may be drained or filled if the landowner can show that the wetland was created solely by actions, the purpose of which was not to create the wetland.

Impoundments or excavations constructed in nonwetlands solely for the purpose of effluent treatment, storm water retention, soil and water conservation practices, and water quality improvements, and not as part of a compensatory wetland mitigation process that may, over time, take on wetland characteristics, are also exempt.

Subp. 6. Utilities; public works. 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;

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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

E. 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.

Subp. 7. Forestry. A replacement plan for wetlands is not required for:

A. temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activity does not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters; or

B. permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch, or tile line; filling is avoided wherever possible; and there is no drainage of the wetland or public waters.

This exemption is for roads constructed for the primary purpose of providing access for the conduct of silvicultural activities.

Subp. 8. Approved development. A replacement plan for wetlands is not required for development projects and ditch improvement projects in the state that have received preliminary or final plat approval or have infrastructure that has been installed or has local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before July 1, 1991. As used in this subpart, "infrastructure" means public water facilities, storm water and sanitary sewer piping, outfalls, inlets, culverts, bridges, and any other work defined specifically by a local government unit as constituting a capital improvement to a parcel within the context of an approved development plan.

Subdividers who obtained preliminary plat approval in the specified time period, and other project developers with one of the listed approvals timely obtained, provided approval has not expired and the project remains active, may drain and fill wetlands, to the extent documented by the approval, without replacement. Those elements of the project that can be carried out without changing the approved plan and without draining or filling must be done in that manner. If wetlands can be avoided within the terms of the approved plan, they must be avoided.

For county, joint county, and watershed district ditch projects, this exemption applies to projects that received final approval in the specified time period.

Subp. 9. De minimis.

A. Except as provided in items B to D, a replacement plan for wetlands is not required for draining or filling the following amounts of wetlands as part of a project, regardless of the total amount of wetlands filled 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 protection zone 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 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 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 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.

B. The amounts listed in item A may not be combined on a project.

C. This exemption no longer applies to a landowner's portion of a wetland when the cumulative area of the landowner's portion drained or filled since January 1, 1992, is the greater of:

- (1) the applicable area listed in item A, if the landowner owns the entire wetland;
- (2) five percent of the landowner's portion of the wetland; or
- (3) 400 square feet.

D. Persons proposing to conduct an activity under this subpart shall contact the board at a toll-free telephone number to be provided for information on minimizing wetland impacts. Failure of the person to call does not constitute a violation of this subpart.

E. This exemption may not be combined with another exemption on a project in this part.

Subp. 10. Wildlife habitat. A replacement plan for wetlands is not required for:

A. deposition of spoil resulting from excavation within a wetland for a wildlife habitat improvement project, if:

(1) the area of deposition does not exceed five percent of the wetland area or one-half acre, whichever is less, and the spoil is stabilized and permanently seeded to prevent erosion;

(2) the project does not have an adverse impact on any species designated as endangered or threatened under state or federal law; and

(3) the project will provide wildlife habitat improvement as certified by the soil and water conservation district; or

B. duck blinds.

PROCEDURES

8420.0200 DETERMINING LOCAL GOVERNMENT UNIT.

The local government unit responsible for making exemption and no-loss determinations and approving replacement plans shall be determined according to items A to C.

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

C. If the activity in a wetland is located in two jurisdictions, the local government unit shall be the one exercising zoning authority over the project or if both have zoning authority, the one in which most of the wetland loss will occur. If no zoning permits are required, the local government unit shall be the one in which most of the wetland loss will occur. If an activity will affect wetlands in more than one local government unit, the board will coordinate the project review to ensure consistency and consensus among the local government units involved.

The board will resolve all questions as to which government entity is the responsible authority, applying the guidelines in items A to C.

Notwithstanding items A to C, the Department of Natural Resources shall be the approving authority for activities associated with projects requiring permits to mine under *Minnesota Statutes*, section 93.481.

8420.0210 EXEMPTION DETERMINATIONS.

A landowner intending to drain or fill a wetland without replacement, claiming exemption under part ~~8420.0120~~ 8420.0122, may contact the local government unit before beginning draining or filling activities for determination whether or not the activity is exempt. A landowner who does not request a determination may be subject to the enforcement provisions in part 8420.0290 and *Minnesota Statutes*, section 103G.2372. The local government unit must keep on file all documentation and findings of fact concerning exemption determinations for a period of ten years.

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Local government units may offer exemption certificates as part of the wetland program within their jurisdiction. An exemption applies whether or not the local government unit chooses to issue certificates of exemption. If the wetland qualifies for an exemption, and the landowner requests a certificate of exemption, then the local government unit must issue one.

The landowner applying for exemption is responsible for submitting the proof necessary to show qualification for the particular exemption claimed.

The local government unit may place the decision authority for exemption applications with the zoning administrator, or establish other procedures it considers appropriate.

The local government unit decision shall be based on the exemptions standards in part ~~8420.0120~~ 8420.0122. If the decision requires a finding of wetland size or type, the local government unit should seek the advice of the technical panel as described in part 8420.0240. The local government unit decision must be made in compliance with Minnesota Statutes, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit decision must be mailed to the landowner, members of the technical evaluation panel, the watershed district or water management organization if there is one, the commissioner of natural resources, and individual members of the public who request a copy within ten days of the decision.

~~A landowner draining or filling a wetland under an exemption shall ensure that appropriate erosion control measures are taken to prevent sedimentation of the water, the drain or fill does not block fish passage, and the drain or fill is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under Minnesota Statutes, chapter 103H.~~

8420.0220 NO-LOSS DETERMINATIONS.

A landowner unsure if proposed work will result in a loss of wetland may apply to the local government unit for a determination. A landowner who does not request a determination may be subject to the enforcement provisions in part 8420.0290 and *Minnesota Statutes*, section 103G.2372. The local government unit must keep on file all documentation and findings of fact concerning no-loss determinations for a period of ten years.

The landowner applying for a no-loss determination is responsible for submitting the proof necessary to show qualification for the claim.

The local government unit may place the decision authority for no-loss applications with the zoning administrator, or establish other procedures it considers appropriate. The local government unit decision must be made in compliance with Minnesota Statutes, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit decision must be mailed to the landowner within ten days of the decision.

The local government unit shall issue a no-loss certificate if the landowner requests and if either:

- A. the work will not drain or fill a wetland;
- B. water level management activities will not result in the conversion of a wetland to another land use;
- C. the activities are in a surface impoundment for containment of fossil fuel combustion waste or water retention, and are not part of a compensatory wetland mitigation program; or
- D. the activity is being conducted as part of an approved replacement or banking plan or is conducted or authorized by public agencies for the purpose of wetland restoration and the activity is restricted to placing fill in a previously excavated drainage system to restore a wetland to its original condition.

8420.0230 REPLACEMENT PLAN DETERMINATIONS.

Subpart 1. Application. A landowner intending to drain or fill a wetland who does not qualify for an exemption or no-loss determination shall obtain approval of a replacement plan from the local government unit before beginning draining or filling. A person who does not do so is subject to the enforcement provisions in this chapter and *Minnesota Statutes*, section 103G.2372.

~~The local government unit may use its usual notice and comment procedures on the application for approval of a replacement plan if; Within ten days of receipt of an application for an activity affecting less than 10,000 square feet of wetland, the local government unit must mail a summary of the application, which includes information to identify the applicant and the location and scope of the project, to members of the technical evaluation panel, the commissioner of natural resources, and individual members of the public who have requested a copy. The project notification must state when the comment period ends.~~

~~Within ten days of receipt of the an application for approval of a replacement plan for an activity affecting 10,000 square feet or more of wetland, the local government unit mails must mail a copy of the application and an invitation to submit comments to the board, which will publish it in the Environmental Quality Board Monitor; members of the public who have requested a copy; the soil and water conservation district members of the technical evaluation panel; the watershed district or water management organization, if there is one; the county board; mayors of cities within the watershed; and the commissioners commissioner of agriculture~~

and natural resources and individual members of the public who request a copy. Individual members of the public who request a copy must be sent a summary of the application that includes information to identify the applicant and the location and scope of the project. The project notification must state when the comment period ends. At the same time, the local government unit shall publish notice of the application with an invitation for comment in a general circulation newspaper in the area affected.

The local government unit shall not make its decision before 30 days and not more than 60 days have elapsed from the mailing of notice, publication in the Environmental Quality Board Monitor, when required, or publication in the newspaper, whichever is later. The local government unit decision shall not be effective until 30 days after a copy of the decision has been mailed to the Environmental Quality Board Monitor for publication, when required, and mailed to the same list specified above for notice of the application, and to the applicant. The mailing to the applicant shall be by registered mail and must advise that the decision is not effective for 30 days, and is stayed if it is appealed.

Publication in the Environmental Quality Board Monitor of replacement plan applications and decisions is required, except for the fill activities described in the next paragraph, when the local government unit publishes a general notice in the Environmental Quality Board Monitor that it will not be publishing notice of such individual activities, but will instead provide mailed notice of each project to anyone asking to be put on the local government unit's mailing list for such projects. This notice must be published not less often than once every year. The notice must advise how persons may submit their names and addresses to be put on the mailing list.

Projects eligible for this form of Environmental Quality Board Monitor notice are all those which will fill less than one-tenth acre of wetland; and all those which will fill less than one-quarter acre of wetland; and result from a private road fill or the construction or expansion of a single-family dwelling unit or a farm building when the project cannot be modified so as to avoid the fill.

An application for approval of a replacement plan includes a revised application for replacement plan approval and an application for a revision to an approved replacement plan if:

(1) the wetland area to be drained or filled under the revised replacement plan is at least ten percent larger than the area to be drained or filled under the original replacement plan; or

(2) the wetland area to be drained or filled under the revised replacement plan is located more than 500 feet from the area to be drained or filled under the original replacement plan.

Subp. 2. Decision. The local government unit decision shall be based on the replacement standards in parts 8420.0500 to 8420.0630, and on the ~~technical determination of the technical evaluation panel~~ panel's determination, if there is one, concerning the wetland function and resulting public values, location, size, and type of the wetland being altered. The local government unit shall consider the ~~recommendation of the technical evaluation panel to approve, modify, or reject the proposed replacement plan.~~ decision must be made in compliance with Minnesota Statutes, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit shall consider and include the technical evaluation panel's recommendation, if there is one, to approve, modify, or reject the proposed replacement plan. The local government unit decision must be mailed to the landowner within ten days of the decision. A summary of the government unit decision must be mailed within ten days of the decision to those required to receive notice of the application.

For wetland replacement plans involving more than one local government unit, approval of all local government units involved or as specified in part 8420.0200 shall constitute final approval of the replacement plan and is required before the project may proceed. The local government unit with jurisdiction for the impact site must approve all components of the replacement plan, following the procedures in parts 8420.0500 to 8420.0630. The local government unit with jurisdiction for the replacement site shall limit the review to evaluation of the replacement site as in parts 8420.0540 to 8420.0630 and make a decision accordingly.

As part of the approval of the replacement plan, the local government unit with jurisdiction for the replacement site assumes responsibility for ensuring compliance with monitoring provisions according to parts 8420.0600 to 8420.0630. The local government unit with jurisdiction for the replacement site may enter into joint powers agreements with a local government unit with jurisdiction for the impact site, assess fees, or develop other procedures considered necessary to facilitate the process.

8420.0240 TECHNICAL EVALUATION PANEL PROCEDURES.

For each local government unit, there is a technical evaluation panel of three persons: a technical professional employee of the board, a technical professional employee of the soil and water conservation district of the county in which the activity is occurring, and a technical professional with expertise in water resources management appointed by the local government unit. One member

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selected by the local government unit shall act as the contact person and coordinator for the panel. Two members of the panel must be knowledgeable and trained in applying methodologies of the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (January 1989), "United States Army Corps of Engineers Wetland Delineation Manual" (January 1987), "Wetlands of the United States" (United States Fish and Wildlife Service Circular 39, 1971 edition), and "Classification of Wetlands and Deepwater Habitats of the United States" (Cowardin, et al., 1979 edition), and evaluation of wetland functions and the resulting public values. The technical evaluation panel may invite additional wetland experts to help the panel in its work.

The panel shall make technical determinations on questions of wetland functions and the resulting public values, location, size, and type for replacement plans, exemption and no-loss requests, avoidance and minimization requests, and for comprehensive wetland protection and management plans if requested to do so by the local government unit, the landowner, or a member of the technical evaluation panel. The panel may review replacement plans and recommend to the local government unit either approval, approval with changes or conditions, or rejection. The panel shall make no determinations or recommendations without at least one member having made an on-site inspection. Panel determinations and recommendations must be endorsed by at least two of the three members.

If the local government unit has a comprehensive wetland protection and management plan that delineates location, size, and type for all wetlands, approved by the technical evaluation panel, and subsequently incorporated into local ordinance, then the local government unit can make determinations in place of the technical evaluation panel.

The panel, or one of its members when so authorized by all of the members, may assist the local government unit in making wetland size and type determinations when asked to do so by the local government unit as part of making an exemption or no-loss determination.

If requested by the local government unit, the landowner, or a member of the technical evaluation panel, the panel shall answer technical questions or participate in the monitoring of replacement wetlands according to parts 8420.0600 to 8420.0630, and shall similarly participate in the monitoring of banked wetlands according to parts 8420.0700 to 8420.0760.

8420.0250 APPEAL OF LOCAL GOVERNMENT UNIT DECISIONS APPEALS.

Subpart 1. **Appeal of replacement plan, banking plan, exemption, and no-loss decisions.** The decision of a local government unit to approve, approve with conditions, or reject a replacement plan, banking plan, exemption, or no-loss request becomes final if not appealed to the board within 30 15 days after the date on which the decision is mailed to those required to receive notice of the decision.

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 notice of appeal petition and payment of a nonrefundable filing fee of \$200 to the board with an affidavit evidence that a copy of the notice of appeal petition has been mailed to the local government unit. 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 notice of the appeal petition to all those to whom it was required by part 8420.0230 to mail a copy of the notice of decision.

Subp. 2. [See repealer.]

Subp. 3. **Board appeal procedures.** Within 30 days after receiving the petition, the board or its dispute resolution committee or executive director shall decide whether to grant the petition and hear the appeal. The board or its dispute resolution committee or executive director shall grant the petition unless the appeal is deemed meritless, trivial, or brought solely for the purposes of delay; that the petitioner has not exhausted all local administrative remedies; or that the petitioner has not posted a letter of credit, cashier's check, or cash if required by the local government unit.

The appeal will be heard by the dispute resolution committee and decided by the board within 60 days after receiving the notice of appeal and affidavit or granting the petition. Parties to the appeal are the appellant, the landowner, the local government unit, and in the case of replacement plan appeals, all those required to receive notice of the local government unit decision.

Upon appeal, the local government unit shall forward to the board the record on which it based its decision. The board will make its decision on the appeal after hearing. Thirty days' notice of the hearing shall be given by the board to the parties. The parties may present written and oral argument. When the local government unit has made formal findings contemporaneously with its decision and there is an accurate verbatim transcript of the proceedings and the proceedings were fairly conducted, the board will base its review on the record. Otherwise it may take additional evidence, or remand the matter.

The board will affirm the local government unit's decision if the local government unit's findings of fact are not clearly erroneous; if the local government unit correctly applied the law to the facts, including this chapter; and if the local government unit made no procedural errors prejudicial to a party. Otherwise, the board will reverse the decision, amend it, or remand it with instructions for further proceedings.

Subp. 4. County or watershed reclassification.

A. A local government unit may request the board to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. After receipt of satisfactory documentation from the local government, the board shall change the classification of a county or watershed. If requested by the local government unit, the board must assist in developing the documentation. Within 30 days of its action to approve a change of wetland classifications, the board shall publish a notice of the change in the Environmental Quality Board Monitor.

B. One hundred citizens who reside within the jurisdiction of the local government unit may request the local government unit to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. In support of their petition, the citizens shall provide satisfactory documentation to the local government unit. The local government unit shall consider the petition and forward the request to the board or provide a reason why the petition is denied.

Subp. 5. Metropolitan area public transportation project replacement. Disputes about restoration opportunities for wetland replacement sites for public transportation projects in the seven-county metropolitan area (1) in a county as required in part 8420.0540, subpart 5, (2) using created wetlands, or (3) using wetland banking credits may be appealed to the board's committee for dispute resolution.

8420.0260 PENALTY FOR LOCAL GOVERNMENT UNIT FAILURE TO APPLY LAW.

The board shall send copies of this chapter to all local government units at least 60 days before July 1, 1993. By January 1, 1994, each local government unit of the state, except tribal lands, shall acknowledge to the board that it is assuming its responsibilities under this chapter and the act. Local government units from which an affirmative response is not received will be given notice by the board that there is a 60-day moratorium in the local government unit's jurisdiction on exemption, no-loss, replacement plan, and banking determinations. The board will end the moratorium within the 60 days upon agreement by the local government unit that it will assume its duties under this chapter and the act. If at the end of the initial 60-day moratorium an agreement has not been made for the local government unit to apply the law, the board can extend the moratorium until the local government unit agrees to apply the law.

If the board has information that a local government unit is not following this chapter or the act in making exemption, no-loss, replacement plan, or banking determinations, the board shall notify the local government unit of its concerns. If not satisfied with the local government unit's response, the board shall ask the local government unit to appear at a hearing before the board to discuss the matter. If it is determined at the hearing, that corrective action is necessary, the board shall write the local government unit directing specific corrective action within 60 days. The notice shall explain the reason for the action.

If, after the 60-day period described in this part the local government unit has not corrected the problem to the satisfaction of the board, the board shall take appropriate legal action to ensure compliance.

8420.0268 COMPENSATION CLAIMS AGAINST LOCAL GOVERNMENT UNITS.

Subpart 1. Intervention. At the request of a local government unit against which a compensation action is brought based at least in part on the local government unit's application of Minnesota Statutes, section 103G.222, 103G.2241, 103G.2242, 103G.237, or 103G.2372, or rules adopted by the board to implement these sections, the state, through the attorney general, shall intervene in the action on behalf of the local government unit and shall thereafter be considered a defendant in the action. A local government unit making a request under this subpart shall provide the attorney general with a copy of the complaint as soon as possible after being served. If requested by the attorney general, the court shall grant additional time to file an answer equal to the time between service of the complaint on the local government unit and receipt of the complaint by the attorney general.

Subp. 2. Liability of state for certain costs. The state is liable for costs, damages, fees, and compensation awarded in the action based on the local government unit's adoption or implementation of standards that are required by state law, as determined by the court. The local government unit is liable for costs, damages, fees, and compensation awarded in the action based on local standards that are more restrictive than state law and rules.

Subp. 3. Definition. For purposes of this part, "compensation action" means an action in which the plaintiff seeks compensation for taking private property under the state or federal constitution.

8420.0290 ENFORCEMENT PROCEDURES.

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

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Adopted Rules

Subp. 2. **Cease and desist orders.** Site-specific cease and desist orders may be issued when the enforcement authority has probable cause that a drain or fill activity is being or has been conducted in a wetland and does not qualify for an exemption or a no-loss determination under parts 8420.0210 and 8420.0220 and is being or has been conducted without prior approval of a replacement plan by a local government unit under part 8420.0230.

A cease and desist order must not be issued if the landowner has a valid certificate of exemption or no-loss from the local government unit, or has evidence to support an exemption. Otherwise:

- A. the enforcement authority may issue a cease and desist order upon discovery of the drain or fill activity;
- B. the order may be withheld to give the landowner time to produce the evidence required by part ~~8420.0120~~ 8420.0122 to the enforcement authority of qualification for an exemption or no-loss determination; or
- C. a cease and desist order may be issued with an effective date three weeks from the date of issuance. The enforcement authority shall exercise this option when the enforcement authority cannot readily make a determination on the facts and circumstances to deny a landowner's claim of exemption or no-loss, and continued drain or fill activity would not cause irreparable harm to the wetland.

The enforcement authority shall advise the landowner that the landowner's application, if any, for an exemption or no-loss determination, should be made immediately to the local government unit and that whatever drain and fill work the landowner has done may require restoration according to a restoration plan designed by the soil and water conservation district, if the application for exemption or no-loss determination is denied.

The enforcement authority issuing a cease and desist order shall promptly submit copies to the soil and water conservation district, local government unit, and Department of Natural Resources.

If an application for an exemption or no-loss determination is triggered by a cease and desist order, the local government unit or the technical evaluation panel shall make a decision within three weeks from the date of the application. The local government unit or technical evaluation panel shall review evidence of exemption or no-loss produced by the landowner, inspect the site if necessary, and determine:

- (1) if the area in question is a wetland; and
- (2) if the activity qualifies for an exemption or no-loss determination under parts 8420.0210 and 8420.0220.

In cases where the cease and desist order has been issued to a local government unit, the determination of exemption or no-loss shall be made by the board.

If the decision is that the activity is exempt or results in a no-loss determination, the decision maker shall issue a certificate of exemption or no-loss, request that the enforcement authority rescind the cease and desist order, and notify the soil and water conservation district, the Department of Natural Resources, and the landowner.

If the application is denied, the decision-maker shall immediately notify the soil and water conservation district, ~~the department,~~ the enforcement authority, and the landowner.

Subp. 3. **Restoration and replacement orders.** The enforcement authority shall issue a restoration order or replacement order when the drain or fill has already been completed when discovered, or after a cease and desist order has been issued and the landowner does not seek an exemption or no-loss determination within three weeks, or the local government unit denies the application.

Promptly upon being informed by the enforcement authority of the need, the soil and water conservation district staff person shall inspect the site and prepare a plan in consultation with the local government unit for restoring the site to its prealtered condition, unless the soil and water conservation district person, with the concurrence of the technical evaluation panel and the enforcement authority, concludes that restoration is impossible. The soil and water conservation district shall incorporate its plan into a restoration or replacement order and send it to the enforcement authority for service in person or by certified mail to the landowner.

The restoration order must specify a date by which the landowner must either:

- A. restore the wetland according to the soil and water conservation district plan and obtain a certificate of satisfactory restoration from the soil and water conservation district; or
- B. submit a replacement plan to the local government unit.

The order shall state that it will be canceled when the landowner obtains a certificate of exemption or no-loss from the local government unit, or a certificate that ~~restoration~~ replacement has been completed according to an approved ~~restoration~~ replacement plan. Otherwise, the landowner must restore the wetland in the manner required by the restoration order.

If the soil and water conservation district, with the concurrence of the technical panel and the enforcement authority, determines that restoration will not restore all the loss caused by the drain or fill activity, the enforcement authority may order a combination of

restoration and replacement, or may order replacement rather than restoration, as determined by the soil and water conservation district with the concurrence of the technical panel and the enforcement authority. The order must direct the landowner to obtain replacement plan approval from the local government unit. The order must specify that if replacement plan approval is not obtained, the landowner must restore the wetland in a manner determined by the soil and water conservation district.

Each cease and desist, restoration, and replacement order shall tell the landowner that violation of the order is a misdemeanor.

If, as part of a misdemeanor proceeding, the court orders restoration or replacement, the soil and water conservation district, with the concurrence of the technical panel and the enforcement authority, shall determine which is appropriate, and if it is restoration, the method of restoration. If the court orders replacement, the landowner must follow the replacement plan process in parts 8420.0500 to 8420.0630 unless the court orders otherwise.

Subp. 4. After-the-fact replacement. If a landowner seeks approval of a replacement plan after the proposed project has already impacted the wetland, the local government unit may require the landowner to replace the impacted wetland at a ratio not to exceed twice the replacement ratio otherwise required.

8420.0300 MINING.

Wetlands may not be drained or filled as part of a project for which a permit to mine is required by *Minnesota Statutes*, section 93.481, except as approved by the commissioner. Draining or filling of wetlands created by pits, stockpiles, or tailing basins by actions whose purpose was not to create the wetland are exempt under part ~~8420.0120, subpart 40~~ 8420.0122.

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

8420.0350 HIGH PRIORITY REGIONS AND AREAS.

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

Subp. 2. High priority areas.

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

C. In all counties, plans may identify additional high priority areas where preservation, enhancement, restoration, and establishment of wetlands would have high public value by providing benefits for water quality, flood water retention, public recreation, commercial use, and other public uses. High priority areas should be delineated by minor or major watershed. For the purposes of this part, "watershed" means major or minor watershed or subwatershed. To identify high priority areas, the local government unit shall consider at least the landscape characteristics in subitems (1) to (11).

[For text of subitems (1) to (9), see M.R.]

(10) Public ownership. Wetlands in watersheds with a high proportion of land in public ownership are likely to have high value for public recreation. These watersheds ~~should~~ may be considered as high priority preservation and restoration areas.

[For text of subitem (11), see M.R.]

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

8420.0400 WETLAND PRESERVATION AREAS.

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

Subp. 2. Landowner application for wetland preservation area. A landowner may apply to the county, if the county chooses to accept wetland preservation areas, for designation of a wetland as a wetland preservation area on forms provided by the board. The applicant must include a strip of upland 16.5 feet wide around the perimeter of the wetland. The applicant may include up to four acres of upland for each acre of wetland.

The application must be accompanied by a restrictive covenant on a form provided by the board. The covenant will contain the same limitations on use that are provided in *Minnesota Statutes*, section 103F.515, subdivision 4, including a covenant that the enrolled upland area will be vegetated by the landowner to permanent vegetation other than noxious weeds. The covenant must be signed, acknowledged, and ready for recording.

Subp. 3. County review of application. The county ~~shall~~ may accept the application if the wetland is in a high priority region and high priority area, if it includes the 16.5 foot strip, and is accompanied by the proper covenant.

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Adopted Rules

The county may limit or reject additional upland proposed to be included according to standards the county establishes.

The county may reject the application if the application does not qualify, or send it back for modification and resubmittal if that is appropriate. If the application qualifies, the county shall may approve it and mark the date of approval on the application. The county shall notify the landowner of the acceptance or denial of the application within 60 days from the date of the application.

Within five days of approval of the application, the county shall forward it to the county recorder for recording of the restrictive covenant or memorialization of the application on the certificate of title. The county shall also send a copy of the approved application to the county assessor for entry in the assessor's records as a wetland preservation area. The county shall also send copies of the approved application to the soil and water conservation district, ~~the regional development commission,~~ the local government unit, and the board.

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

Subp. 5. Commencement of wetland preservation area. The wetland is a wetland preservation area commencing 30 days from the date the county notifies the landowner of acceptance of the application under subpart 3.

Subp. 6. Fee. The county may require an application fee to defray administrative costs of the program.

Subp. 7. Maps. The county shall maintain wetland preservation area maps illustrating land covenanted as wetland preservation areas.

8420.0505 ~~INTERIM~~ PREVIOUSLY APPROVED REPLACEMENT PLANS.

Replacement plans ~~approved under the interim guidelines in Minnesota Statutes, section 103G.2369, must be completed in entirety by June 30, 1995. If the replacement plan is not completed by June 30, 1995, replacement of the impacted wetland becomes subject to the process and provisions in parts 8420.0500 to 8420.0630. This does not apply to phased projects approved during the interim period. Phased projects may be completed under the laws, rules, conditions, and guidelines for which in effect when they were approved.~~

8420.0510 PROCEDURES.

Subpart 1. **Generally.** No person shall drain or fill a wetland, wholly or partially, without first having a wetland value replacement plan approved by the governing body of the local government unit, or the lead local government unit if so designated by the board, consistent with parts ~~8420.0120~~ 8420.0122 to 8420.0290, and provided that the activity is not prohibited under the special considerations provisions in part 8420.0540, subpart 9.

[For text of subp 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 ~~federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989)~~ United States Army Corps of Engineers Wetland Delineation Manual (January 1987). Wetland type must be identified according to ~~Cowardin, et al., 1979, 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." The technical evaluation panel shall provide its determinations to the local government unit for consideration.

8420.0520 SEQUENCING.

Subpart 1. **Requirement.** Except for wetlands located in cultivated fields that are subject to subpart 8, and calcareous fens that are subject to subpart 9, the local government unit may not consider or approve a wetland replacement plan unless the local government unit finds that the applicant has demonstrated that the activity impacting a wetland has complied with all of the following principles in descending order or priority:

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

E. replaces unavoidable impacts to the wetland by restoring or, if wetland restoration opportunities are not reasonably available, creating substitute wetland areas having equal or greater public value as provided for in parts 8420.0530 to ~~8420.0630~~ 8420.0760.

Subp. 2. **Application options.** An applicant may either submit the information required for sequencing analysis as part of the application for replacement plan approval or apply for a preliminary sequencing determination from the local government unit before preparing a replacement plan. The local government unit may request additional information needed to make a determination. For projects impacting wetland areas less than ~~0.4~~ 10,000 square feet more than the de minimis amount listed in part 8420.0122, subpart 9, item A, the local government unit may provide an on-site sequencing determination without written documentation from the applicant; ~~except for projects which are located in wetlands adjacent to and within 1,000 feet of outstanding~~

resource value waters as defined in chapter 7050; trout streams as designated in Commissioner's Order Number 2294; and trout lakes as designated in Commissioner's Order Number 2230.

Subp. 3. Determination of impact avoidance.

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

C. Alternatives analysis:

(1) The applicant shall provide the local government unit with documentation describing at least two alternatives in addition to the proposed project, one of which may be the no-build alternative, that would avoid impacts to wetlands, except that for repair or rehabilitation projects on existing infrastructure only one alternative is required. The alternatives may include consideration of alternate sites or alternative project configurations on the proposed site. The alternatives must be judged by the local government unit as good faith efforts, or the local government unit may require the applicant to redraft them for reconsideration.

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

[For text of subps 4 to 7, see M.R.]

Subp. 7a. Sequencing flexibility.

A. Sequencing flexibility cannot be implemented unless alternatives have been considered and unless the proposed replacement wetland is certain to provide equal or greater functions and public values as determined based on a functional assessment reviewed by the technical evaluation panel using a methodology approved by the board. The project sponsor must provide the necessary information and the local government unit must document the application of sequencing flexibility in the replacement plan approval.

B. Flexibility in application of the sequencing steps may be applied, subject to the conditions in item A, as determined by the local government unit if:

(1) the wetland to be impacted has been degraded to the point where replacement of it would result in a certain gain in function and public value;

(2) preservation of a wetland would result in severe degradation of the wetland's ability to function and provide public values, for example, because of surrounding land uses and the wetland's ability to function and provide public values cannot reasonably be maintained through other land use controls or mechanisms;

(3) the only feasible and prudent upland site available for wetland replacement or development has greater ecosystem function and public value than the wetland. Although this is a rare circumstance since there will usually be several options for siting the replacement wetland or development, it may be appropriate if the project sponsor:

(a) demonstrates impact minimization to the wetland;

(b) agrees to perpetually preserve the designated upland site; and

(c) completely replaces the impacted wetland's functions and public values;

(4) alternatives are demonstrably cost prohibitive such that the only available alternatives would make the projected cost substantially greater than the costs normally associated with similar projects; or

(5) the wetland is a site where human health and safety is a factor.

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

8420.0530 REPLACEMENT PLAN COMPONENTS.

On an application form provided by the local government unit, and with needed 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 and D do not apply; instead the applicant shall submit the wetland banking credit transfer withdrawal form prescribed in part 8420.0740, subpart 2, item E:

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

B. either ~~an affidavit~~ a signed statement confirming that the wetland acres and values will be replaced before or concurrent

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Adopted Rules

with the actual draining or filling of a wetland or an irrevocable bank letter of credit or other security acceptable to the local government unit to guarantee the successful completion of the wetland value replacement;

C. for the impacted wetland:

- (1) a recent aerial photograph or accurate map of the impacted wetland area;
- (2) the location of the wetland, including the county, watershed name or number, and the quarter section public land survey coordinate of ~~approximate~~ the wetland center;
- (3) the size of the wetland, in acres or square feet;
- (4) the type of wetland using United States Fish and Wildlife Service Circular No. 39 (1971 edition) and National Wetland Inventory mapping conventions (Cowardin et al., 1979);
- (5) a list of the dominant vegetation in the impacted wetland area; ~~including common names of the vegetation exceeding 20 percent coverage and an estimate of coverage, for example, 50 percent willow, 20 percent cattails, and 30 percent sedge;~~
- (6) a soils map of the site showing soil type and substrate, where available;
- (7) the estimated size of the watershed that drains surface water into the wetland as determined from a United States Government Survey topographical map or other suitable topographical survey;
- (8) the locations of any surface inlets or outlets, natural or otherwise, draining into or out of the wetlands, and if the wetland is within the shoreland wetland protection zone or floodplain of a stream, river, or other watercourse, the distance and direction to the watercourse;
- (9) a map, photograph, or written description of the land use of the immediate watershed ~~within one mile of the impacted wetland. The surrounding land use information shall also indicate the presence and location, if any, of wetland preservation regions and areas, wetland development avoidance regions and areas, and wetland deficient regions and areas as identified in the comprehensive water plan;~~
- (10) the nature of the proposed project, its areal extent, and the impact on the wetland must be ~~shown~~ described in sufficient detail to allow the local government unit to determine the amount and types of wetland to be impacted and to demonstrate compliance with the replacement sequencing criteria in part 8420.0520, if applicable;

[For text of subitems 11 to 13, see M.R.]

D. for the replacement wetland, item C, subitems (1) to (9) and (11) to (13), and:

[For text of subitems (1) to (10), see M.R.]

(11) a plan for monitoring the success of the replacement plan in meeting the project goal in subitem (1), and as specified in parts 8420.0610 and 8420.0620; ~~and~~

(12) evidence that a person proposing to create or restore a wetland within the easement of a pipeline as defined in Minnesota Statutes, section 299J.02, subdivision 11, has first notified the easement holder and the director of the Office of Pipeline Safety in writing. The person may not create or restore the wetland if, within 90 days after receiving the required notice, the easement holder or the director of the Office of Pipeline Safety provides to the person a written notice of objection that includes the reasons for the objection; and

(13) other information considered necessary for evaluation of the project by the local government unit.

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

8420.0540 REPLACEMENT PLAN EVALUATION CRITERIA.

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

Subp. 2. Type of replacement.

A. The order of preference for the method of replacement, from most preferred to least preferred, is ~~project-specific restoration, project-specific then creation, then wetland banking.~~

B. Modification or conversion of nondegraded wetlands from one wetland type to another, for example by impoundment of additional water, does not constitute adequate replacement.

C. Wetlands drained or filled under an exemption may not be restored for replacement credit for ten years after draining or filling.

D. The following actions are eligible for replacement credit or wetland banking credit as determined by the local government unit in parts 8420.0500 to 8420.0760:

(1) reestablishment of permanent vegetative cover on a wetland that was planted with annually seeded crops, was in a crop rotation seeded to pasture grasses or legumes, or was required to be set aside to receive price supports or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991. Replacement credit may not exceed 50 percent of the total wetland area vegetatively restored;

(2) buffer areas of permanent vegetative cover established on upland adjacent to replacement wetlands, provided that the upland buffer must be established at the time of wetland replacement and replacement credit for the buffer may not exceed 75 percent of the replacement wetland area and may only be used as public value credits for replacement above a 1:1 ratio;

(3) wetlands restored for conservation purposes under terminated easements or contracts, provided that up to 75 percent of the restored wetland area is eligible for new wetland credit and adjacent upland buffer areas reestablished to permanent 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; and

(4) water quality treatment ponds constructed to pretreat storm water runoff prior to discharge to wetlands, public waters, or other water bodies, provided that the water quality treatment ponds must be associated with an ongoing or proposed project that will impact a wetland and replacement credit for the treatment ponds may not exceed 75 percent of the treatment pond area and may only be used for public value credit above a 1:1 ratio.

E. The local government unit may allow constructed storm water detention basins for new wetland credit if the basin conforms to the following specifications:

(1) the basin design uses a two-cell system in which the upstream cell has a 24-hour retention time for a two-year storm event;

(2) the downstream cell is designed for a maximum 12-inch rise in water level for a ten-year storm event;

(3) the standards in part 8420.0550 are followed; and

(4) the design goal is a palustrine emergent wetland.

Only the downstream cell can be counted for new wetland credit, and the replacement plan must include a plan and schedule for maintenance of the storm water basin system. Storm water 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.

Storm water management basins constructed for the primary purpose of controlling or treating storm water runoff from impervious surfaces or developed areas, not conforming to the specifications in subitems (1) to (4), are not considered wetlands.

Subp. 3. **Timing of replacement.** Replacement of wetland values must be completed before or concurrent with the actual draining or filling of a wetland, unless an irrevocable bank letter of credit or other security acceptable to the responsible government unit is submitted to the responsible government unit to guarantee successful completion of the replacement. 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 subpart 5 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.

Subp. 4. **Location of replacement wetlands.** Replacement wetlands shall be located within the same watershed or county as the impacted wetlands, except that ~~counties or watersheds in which greater than 80 percent or more of the presettlement acreage is intact areas~~ may accomplish replacement in ~~counties or watersheds in which less than 50 percent or more of the presettlement wetland acreage has been filled, drained, or otherwise degraded areas~~. When environmentally preferable, replacement wetlands should be located as close to the impacted wetland as possible, preferably in the same watershed.

Subp. 5. **Statewide Replacement for public transportation projects.**

A. Wetlands impacted by public transportation projects may be replaced statewide, provided they are approved by the commissioner under an established wetland banking system, or under the rules in parts 8420.0700 to 8420.0760, except that wetlands impacted in a less than 50 percent area must be replaced in a less than 50 percent area, and wetlands impacted in the seven-county metropolitan area by public highways must be replaced in the affected county, or, if no restoration opportunities exist in the county, in another seven-county metropolitan area county.

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B. The board must maintain a public list of restoration opportunities within the seven-county metropolitan area. The list will be maintained for informational purposes only. Replacement of wetlands may be accomplished under the rules for wetland banking as provided for in parts 8420.0700 to 8420.0760.

C. For projects involving draining or filling of wetlands associated with a new public transportation project in a greater than 80 percent area, public transportation authorities, other than the state department of transportation, may purchase wetland banking credits if available from the state wetland bank established with proceeds from Laws 1994, chapter 643, section 26, subdivision 3, paragraph (c). Wetland banking credits may be purchased at the least of the following, but in no case shall the purchase price be less than \$400 per acre:

(1) the cost to the state to establish the credits;

(2) the average estimated market value of agricultural land in the township where the road project is located, as determined by the commissioner of revenue; or

(3) the average value of the land in the immediate vicinity of the road project as determined by the county assessor.

Public transportation authorities in a less than 80 percent area may purchase wetland banking credits from the state at the state's cost to establish wetland banking credits.

D. A replacement plan for wetlands is not required for individual projects that result in the filling or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This item only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling or draining associated with the project and consider mitigating important site-specific wetland functions on site; and

(2) submit annual reports by January 15 to the board and members of the public requesting a copy that indicate the location, amount, and type of wetlands that have been filled or drained during the previous year and a projection of the location, amount, and type of wetlands to be filled or drained during the upcoming year.

E. The technical evaluation panel shall review minimization and delineation decisions made by the public transportation authority and provide recommendations regarding on-site mitigation if requested to do so by the local government unit, a contiguous landowner, or a member of the technical evaluation panel.

F. Except for state public transportation projects, for which the state Department of Transportation is responsible, the board must replace the wetlands drained or filled by public transportation projects on existing roads. Replacement of the wetlands must occur in critical rural and urban watersheds.

G. Public transportation authorities at their discretion may deviate from federal and state design standards on existing road projects when practical and reasonable to avoid wetland filling or draining, provided that public safety is not unreasonably compromised. The local road authority and its officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the deviation from the design standards for construction or reconstruction under this item. This item does not preclude an action for damages arising from negligence in construction or maintenance on a highway.

Subp. 5a. Presettlement wetland acres and areas.

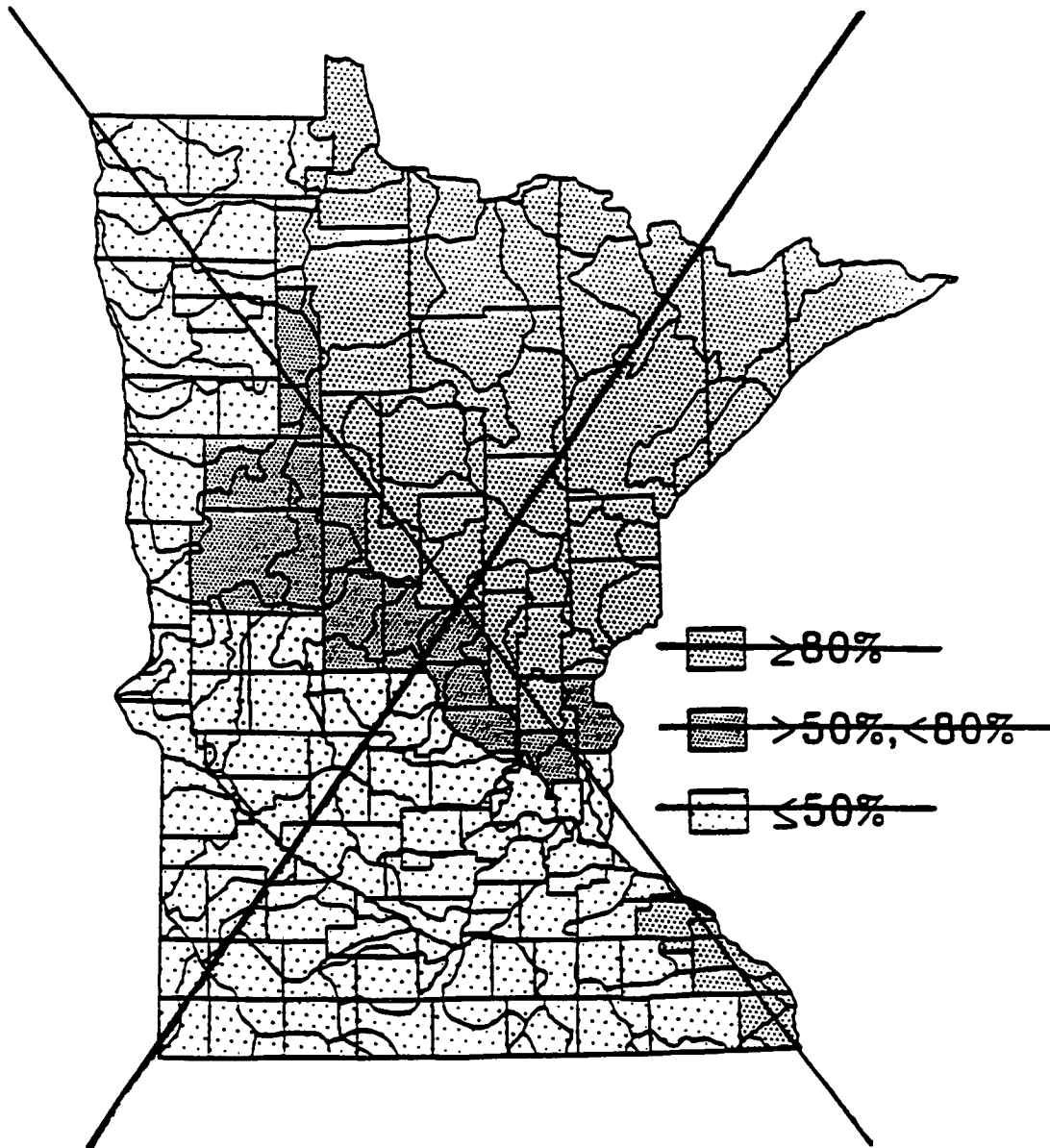
A. For purposes of this part, the following counties have are greater than 80 percent or more of their presettlement wetland acreage intact areas: Aitkin; Beltrami; Carlton; Cass; ~~Clearwater~~; Cook; Crow Wing; ~~Houston~~; Hubbard; Isanti; Itasca; Kanabec; Koochiching; Lake; Lake of the Woods; Mille Lacs; Pine; and St. Louis; ~~Wabasha~~; and ~~Winona~~.

B. For purposes of this part, the following counties have are less than 50 percent or less of their presettlement acreage intact areas: Big Stone; Blue Earth; Brown; Carver; Chippewa; Clay; Cottonwood; Dakota; Dodge; Douglas; Faribault; Fillmore; Freeborn; Goodhue; Grant; Hennepin; ~~Houston~~; Jackson; Kandiyohi; Kittson; Lac Qui Parle; Le Sueur; Lincoln; Lyon; Mahnomon; Marshall; Martin; McLeod; Meeker; Mower; Murray; Nicollet; Nobles; Norman; Olmsted; Pennington; Pipestone; Polk; Pope; Ramsey; Red Lake; Redwood; Renville; Rice; Rock; Roseau; Scott; Sibley; Stearns; Steele; Stevens; Swift; Traverse; ~~Wabasha~~; Waseca; Washington; Watonwan; Wilkin; ~~Winona~~; Wright; and Yellow Medicine.

C. For purposes of this part, the following counties are 50 to 80 percent areas: Anoka; Becker; Benton; Chisago; Morrison; Otter Tail; Sherburne; Todd; and Wadena.

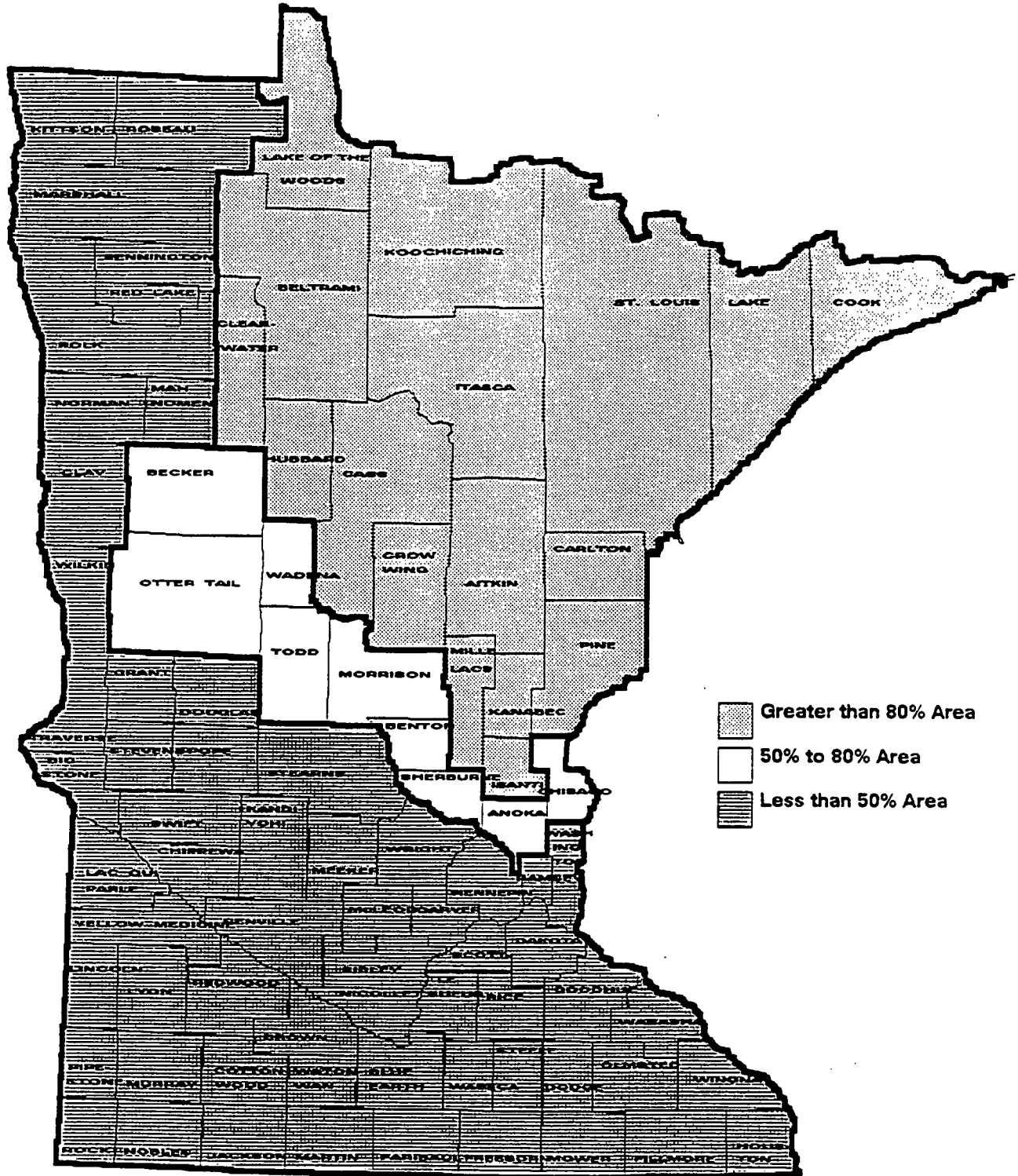
REMAINING ACREAGE OF PRESETTLEMENT WETLANDS WETLAND AREAS

Figure 1. Distribution of remaining acreage of presettlement wetlands by county with watersheds superimposed. Adapted from: Anderson and Craig, 1984.



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Minnesota Wetland Conservation Act: Wetland Areas



Subp. 6. **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 for counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists in greater than 80 percent areas,~~ for a wetland located on nonagricultural land, 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 ~~counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists 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 subpart 10.

~~Except for counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists in greater than 80 percent areas,~~ 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 occurs. The landowner shall record a notice of this restriction in the office of the county recorder in which the project is located.

[For text of subs 7 and 8, see M.R.]

Subp. 9. **Special considerations.** The factors in items A to I, when identified as being applicable to an impact site or a replacement site, must be considered by the local government unit in the review of replacement plans.

A. Federal or state-listed endangered species. A replacement plan for activities that involve sites where species listed in parts 6134.0200 to 6134.0400 are known to be present will not be approved if it is determined that the proposed activities will constitute a taking of those listed species under *Minnesota Statutes*, section 84.0895. Limited information on the presence of listed species at a particular site is available from the ~~department's~~ Department of Natural Resources' natural heritage program. Activities that involve taking listed species are subject to *Minnesota Statutes*, section 84.0895.

B. Rare natural communities. A replacement plan for activities that involve the modification of a rare natural community as determined by the ~~department's~~ Department of Natural Resources' natural heritage program will not be approved if the local government unit determines that the proposed activities will permanently adversely affect the natural community.

C. Special fish and wildlife resources. A replacement plan for activities that would have a significant adverse impact that cannot be mitigated on a special or locally significant fish and wildlife resource will not be approved. These activities include, but are not limited to:

- (1) fish passage and spawning areas;
- (2) colonial waterbird nesting colonies;
- (3) migratory waterfowl concentration areas;
- (4) deer wintering areas; and/or
- (5) wildlife travel corridors.

Activities involving streams must not block fish passage unless approved by the Department of Natural Resources.

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

Subp. 10. **Evaluation of wetland functions and values.**

A. Evaluation options. Replacement wetlands must replace the functions and values that are lost from a wetland that is drained or filled. When environmentally preferable, a replacement wetland should replace the same combination of functions and values provided by the impacted wetland. Replacement of wetland functions and values may occur at more than one location. The wetland type index system in items D and E uses relative values of wetland functions compared across wetland types to evaluate the adequacy of wetland replacement. The local government unit may allow the evaluation of wetlands by measuring and comparing public values specified in *Minnesota Statutes*, section 103B.3355, with the ~~current version of the Minnesota wetland evaluation methodology or another~~ a scientifically accepted methodology in ~~item~~ items G and H.

B. Wetland types: wetlands classification equivalency chart. For purposes of this part, the following table serves as a key for using Table 2 (~~part 8420.0540, subpart 10,~~ item D, subitem (1)) and Table 4 (part 8420.0550, subpart 3) 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).

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Adopted Rules

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 Class or Subsystem and Water Regime	Table 2 and 4 Row and Column Headings	Approximate Circular 39 Type
PEMA	PEA	1
PEMB	PEB	2
PEMC	PEC	3
PEMD	PEC	3
PEME	PEC	3
PEMF	PEF	4
PEMG	PEF	4
PEMH	PEF	4
PEMJ	PEA	1
PEMK	PEF	4
PEMW	PEA	1
PEMY	PEB	2
PEMZ	PEF	4
PEMU	PEF	4
PSSA	PSA	6
PSSB (except PSS3B)	PSB	6
PSS3B	PSX	8
PSSC	PSC	6
PSSD	PSC	6
PSSE	PSC	6
PSSF	PSC	6
PSSG	PSC	6
PSSH	PSC	6
PSSJ	PSA	6
PSSK	PSC	6
PSSW	PSA	6
PSSY	PSB	6
PSSZ	PSC	6
PSSU	PSC	6
PFOA	PFA	1
PFOB	PFB	7
PFOC	PFC	7
PFOD	PFC	7
PFOE	PFC	7
PFOF	PFC	7
PFOG	PFC	7
PFOH	PFC	7
PFOJ	PFA	1
PFOK	PFC	7
PFOW	PFA	1
PFOY	PFB	7
PFOZ	PFC	7
PFOU	PFC	7
PML (all)	PSX	8
PAB (all)	PA	5
PUB (all)	PU	5

Adopted Rules

PRB (all)	PU	5
POW (all)	PU	5
PUS (all)	PU	5
L1 (all)	L1	5*
L2 (all)	L2	5
R2 (all)	R2	**
R3 (all)	R3	**
R4 (all)	R4	**

Cowardin System

Circular 39

<u>L1 (all)</u>	<u>5*</u>
<u>L2ABF</u>	<u>4</u>
<u>L2ABG</u>	<u>5</u>
<u>L2ABH</u>	<u>5</u>
<u>L2EMA</u>	<u>5</u>
<u>L2EMB</u>	<u>5</u>
<u>L2EMF</u>	<u>4</u>
<u>L2EMG</u>	<u>4</u>
<u>L2EMH</u>	<u>5</u>
<u>L2RS</u>	<u>5</u>
<u>L2UB</u>	<u>5</u>
<u>L2US</u>	<u>4</u>
<u>PABF</u>	<u>4</u>
<u>PABG</u>	<u>4</u>
<u>PABH</u>	<u>5</u>
<u>PEMA</u>	<u>1</u>
<u>PEMB</u>	<u>2</u>
<u>PEMC</u>	<u>3</u>
<u>PEMD</u>	<u>3</u>
<u>PEME</u>	<u>2</u>
<u>PEMF</u>	<u>3</u>
<u>PEMG</u>	<u>4</u>
<u>PEMH</u>	<u>4</u>
<u>PEMJ</u>	<u>1</u>
<u>PEMU</u>	<u>3</u>
<u>PEMW</u>	<u>1</u>
<u>PEMY</u>	<u>3</u>
<u>PEMZ</u>	<u>4</u>
<u>PFOA</u>	<u>1L**</u>
<u>PFO1B</u>	<u>7</u>
<u>PFO2B</u>	<u>8</u>
<u>PFO4B</u>	<u>8</u>
<u>PFO5B</u>	<u>7</u>
<u>PFO6B</u>	<u>7</u>

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Adopted Rules

<u>PFO7B</u>	8
<u>PFOC</u>	7
<u>PFOD</u>	7
<u>PFOF</u>	7
<u>PFOJ</u>	<u>1L**</u>
<u>PFOU</u>	<u>1L**</u>
<u>PFOV</u>	<u>1L**</u>
<u>PFOY</u>	7
<u>PRB (all)</u>	5
<u>PSSA</u>	6
<u>PSS1B</u>	6
<u>PSS2B</u>	8
<u>PSS3B</u>	8
<u>PSS4B</u>	8
<u>PSS5B</u>	6
<u>PSS6B</u>	6
<u>PSS7B</u>	8
<u>PSSC</u>	6
<u>PSSD</u>	6
<u>PSSF</u>	6
<u>PSSG</u>	6
<u>PSSH</u>	6
<u>PSSI</u>	6
<u>PSSW</u>	6
<u>PSSY</u>	6
<u>PSSZ</u>	6
<u>PSSU</u>	6
<u>PUBB</u>	4
<u>PUBF</u>	4
<u>PUBG</u>	5
<u>PUBH</u>	5
<u>PUS (all)</u>	1
<u>R1</u>	<u>R2***</u>
<u>R2 (all)</u>	<u>R2***</u>
<u>R3 (all)</u>	<u>R3***</u>
<u>R4 (all)</u>	<u>R4***</u>
<u>R5</u>	<u>R4***</u>

* 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.

Table 4, in part 8420.0550, provides technical specifications for constructing wetland types. In evaluating a wetland replacement plan, the local government unit must determine whether the wetland type stated as the replacement plan goal will result from the replacement plan specifications. If a wetland type other than the replacement plan goal is likely to result, the local government unit must evaluate the plan based on this determination.

The local government unit may consider allowing constructed storm water detention basins for replacement credit if the basin conforms to the following specifications:

(a) the basin design uses a two-cell system in which the upstream cell has a 24-hour retention time for a two-year storm event;

(b) the downstream cell is designed for a maximum 12-inch rise in water level for a ten-year storm event;

(c) the standards in part 8420.0550 are followed; and

(d) the design goal is a palustrine emergent wetland that meets all statutory definitions of a wetland, for example, soils, hydrology, and vegetation.

Only the downstream cell can be counted for wetland credit, and the replacement plan must include a plan and schedule for maintenance of the storm water basin system. Storm water basins which allowed for replacement are not eligible for the exemption in part 8420.0120, subpart 10, and are subject to parts 8420.0500 to 8420.0630.

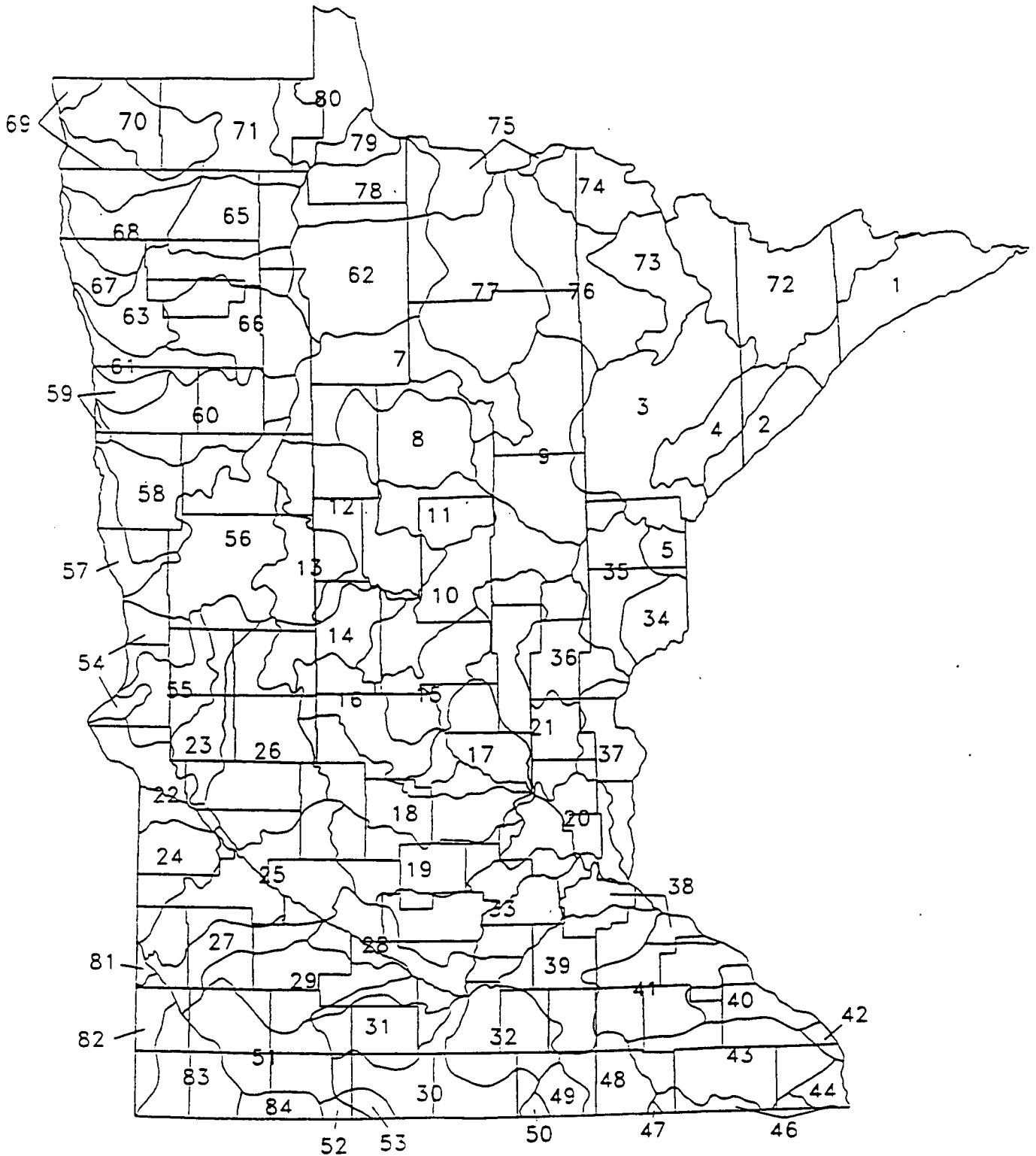
Stormwater management basins constructed for the primary purpose of controlling or treating stormwater runoff from impervious surfaces or developed areas, not conforming to the specifications in units (a) to (d), are not considered wetlands. These are therefore exempt from replacement plan requirements when constructed in nonwetlands, and also cannot be considered for credit as part of a replacement plan, regardless of their location.

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Adopted Rules

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

Figure 2.



LIST OF 81 MAJOR WATERSHED UNITS OF MINNESOTA

1	Lake Superior (north)	44	Mississippi River (Nevo)
2	Lake Superior (south)	46	Upper Iowa River
3	St. Louis River	47	Wapsipinican River (Headwaters)
4	Cloquet River	48	Cedar River
5	Nemadji River	49	Shell Rock River
7	Mississippi River (Headwaters, Lake Winnibigoshish)	50	Winnebago River (Lime Creek)
8	Leech Lake River	51	West Fork des Moines River (Headwaters)
9	Mississippi River (Grand Rapids)	52	West Fork des Moines River (Lower)
10	Mississippi River (Brainerd)	53	East Fork des Moines River
11	Pine River	54	Bois de Sioux River
12	Crow Wing River	55	Mustinka River
13	Redeye River (Leaf River)	56	Otter Tail River
14	Long Prairie River	57	Red River of the North (Headwaters)
15	Mississippi River (Sartell)	58	Buffalo River
16	Sauk River	59	Marsh River
17	Mississippi River (St. Cloud)	60	Wild Rice River
18	North Fork Crow River	61	Sandhill River
19	South Fork Crow River	62	Upper and Lower Red Lake
20	Mississippi River (Metro)	63	Red Lake River
21	Rum River	65	Thief River
22	Minnesota River (Headwaters)	66	Clearwater River
23	Pomme de Terre River	67	Grand Marais Creek (Red River of the North)
24	Lac qui Parle River	68	Snake River
25	Minnesota River (Granite Falls)	69	Tamarack River (Red River of the North)
26	Chippewa River	70	Two River
27	Redwood River	71	Roseau River
28	Minnesota River (Mankato)	72	Rainy River (Headwaters)
29	Cottonwood River	73	Vermillion River
30	Blue Earth River	74	Rainy River (Rainy Lake)
31	Watonwan River	75	Rainy River (Manitou)
32	Le Sueur River	76	Little Fork River
33	Minnesota River (Shakopee)	77	Big Fork River
34	St. Croix River (Upper)	78	Rapid River
35	Kettle River	79	Rainy River (Baudette)
36	Snake River	80	Lake of the Woods
37	St. Croix River (Stillwater)	81	Big Sioux River (Medary Creek)
38	Mississippi River (Red Wing) and Lake Pepin	82	Big Sioux River (Pipestone)
39	Cannon River	83	Rock River
40	Mississippi River (Winona)	84	Little Sioux River
41	Zumbro River		
42	Mississippi River (La Crescent)		
43	Root River		

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Adopted Rules

C. Replacement ratios for in-kind replacement. When wetland functions lost as a result of drainage or filling are replaced by restoring a wetland of the same type, and having the same topographic setting, in the same watershed and with the same inlet and outlet characteristics topographic setting ratio as described in item D, subitem (3) (2), and related definitions, the replacement shall be considered to be in-kind and the minimal replacement ratio shall be used to determine the necessary size of the replacement wetland. For impacted wetlands on agricultural land, or in counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists, the minimum replacement ratio is 1:1, requiring an equal area be replaced for the area impacted. Except for counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists, for impacted wetlands on nonagricultural land, the minimum replacement ratio is 2:1, requiring two times the impacted area be replaced.

D. Out-of-kind replacement ratios. If the wetland functions lost as a result of drainage or filling are to be replaced by creating a wetland or restoring a wetland of a different type or in a different topographic setting than the impacted wetland, or if the replacement wetland is in a watershed other than the impacted wetland or had different inlet and outlet characteristics than the impacted wetland, the replacement shall be considered to be out-of-kind and the local government unit shall use the replacement ratios in this subpart to determine the amount of replacement wetland needed to replace the lost wetland values.

(1) Wetland type ratio. Differences in wetland functions and values among wetland types are to be evaluated and replaced using the wetland type ratio table in this part, to be applied as specified in subitem (5) (4). The wetland type ratio table incorporates an evaluation of public values as specified in *Minnesota Statutes*, section 103B.3355, for the purposes of comparison among wetland types.

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 converted to nonwetland shall be determined. The wetland type ratio table shall then be used to determine the amount of replacement wetland for each wetland type. The sum of the replacement for each wetland type shall be the resultant acreage requirement for the wetland type ratio.

Table 2. Wetland type ratio values for use in determining wetland replacement ratios for out-of-kind replacement. Circular No. 39 wetland types include Type 1 (seasonally flooded basin or flat), Type 1L (bottomland hardwoods), Type 2 (wet meadow), Type 3 (shallow marsh), Type 4 (deep marsh), Type 5 (shallow open water), Type 6 (shrub swamp), Type 7 (wooded swamp), Type 8 (bog), R2 (lower perennial river), R3 (upper perennial river), and R4 (intermittent river).

IMPACTED WETLAND	REPLACEMENT WETLAND																	
	FFA	FFB	FFC	PSA	PSB	PSC	P6X	P7A	P7B	P7C	P7E	PA	PU	L1	L2	R2	R3	R4
FFA	1.0	1.5	1.5	2.0	1.5	2.0	2.0	2.0	1.5	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
FFB	1.5	1.0	1.0	2.0	1.0	2.0	2.0	2.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
FFC	1.5	1.5	1.0	2.0	1.0	2.0	2.0	2.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
PSA	1.5	1.5	1.0	1.0	1.0	1.5	2.0	2.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
PSB	1.5	1.5	1.0	1.0	1.0	1.5	2.0	2.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
PSC	1.5	1.5	1.0	1.0	1.0	2.0	2.0	2.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
P6X	1.0	1.5	1.0	2.0	1.0	2.0	1.0	1.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
P7A	1.5	1.5	1.0	2.0	1.0	2.0	1.5	1.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
P7B	1.5	1.5	1.0	2.0	1.0	2.0	2.0	2.0	1.0	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
P7C	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
P7E	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.5	1.5	1.5	1.5	2.0	1.5	2.0
PA	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.5	2.0	1.0	2.0
PU	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.5	2.0	1.0	2.0
L1	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.5	2.0	1.0	2.0
L2	2.0	1.5	1.5	2.0	1.5	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.0	2.0	1.0	2.0
R2	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.5	1.0	1.0	1.5
R3	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.5	2.0	1.0	2.0
R4	1.5	1.5	1.5	2.0	2.0	2.0	2.0	2.0	1.5	1.0	1.0	1.0	1.0	1.0	1.5	1.0	1.0	1.0

<u>Impacted Wetland</u>	<u>Replacement Wetland</u>					
	<u>1</u>	<u>1L</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
<u>1</u>	<u>1.0</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>1L</u>	<u>3.0</u>	<u>1.0</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>2</u>	<u>1.0</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>3</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>4</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>5</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
<u>6</u>	<u>2.0</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>7</u>	<u>2.0</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>8</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>R2</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
<u>R3</u>	<u>3.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
<u>R4</u>	<u>2.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

<u>Impacted Wetland</u>	<u>Replacement Wetland</u>					
	<u>6</u>	<u>7</u>	<u>8</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>
<u>1</u>	<u>2.0</u>	<u>1.0</u>	<u>1.5</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>
<u>1L</u>	<u>2.0</u>	<u>1.5</u>	<u>3.0</u>	<u>2.0</u>	<u>1.5</u>	<u>2.0</u>
<u>2</u>	<u>2.0</u>	<u>1.0</u>	<u>2.0</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>
<u>3</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>
<u>4</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>
<u>5</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>2.0</u>	<u>1.0</u>	<u>2.0</u>
<u>6</u>	<u>1.0</u>	<u>1.0</u>	<u>2.0</u>	<u>2.0</u>	<u>1.5</u>	<u>2.0</u>
<u>7</u>	<u>2.0</u>	<u>1.0</u>	<u>2.0</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>
<u>8</u>	<u>2.0</u>	<u>1.0</u>	<u>1.0</u>	<u>2.0</u>	<u>1.5</u>	<u>2.0</u>
<u>R2</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.5</u>
<u>R3</u>	<u>3.0</u>	<u>1.5</u>	<u>3.0</u>	<u>2.0</u>	<u>1.0</u>	<u>2.0</u>
<u>R4</u>	<u>3.0</u>	<u>1.5</u>	<u>2.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

*See text Table 1 of subpart 10, item B, for wetland classification equivalency.

NOTE: Wetland types L1, L2, and R2 are generally not subject to this chapter and cannot be used for wetland replacement, but are included for possible future coordination purposes.

(2) Hydrologic unit ratio:

(a) Except as noted in unit (b), when a replacement wetland is located in a different hydrologic unit than the impacted wetland, as indicated by the United States Geological Survey Hydrologic Unit Map for Minnesota (Figure 2), the following ratios must be applied, as specified in subitem (5):

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Adopted Rules

Location of sites	Replacement ratio
Within same watershed	0.0
Different watershed	0.1
Different accounting unit	0.3
Different subregion	0.5
Different region	1.0

(b) The hydrologic unit ratio does not apply when replacement for impacts within counties or watersheds having 80 percent or more of their presettlement wetland acreage intact is accomplished in counties or watersheds in which 50 percent or more of the presettlement acreage has been drained or filled.

(3) Inlet and outlet characteristics (2) Topographic setting ratio. If the inlet and outlet topographic setting characteristics of a replacement wetland differ from those of the impacted wetland, the following ratios shall be applied, as specified in subitem (4).

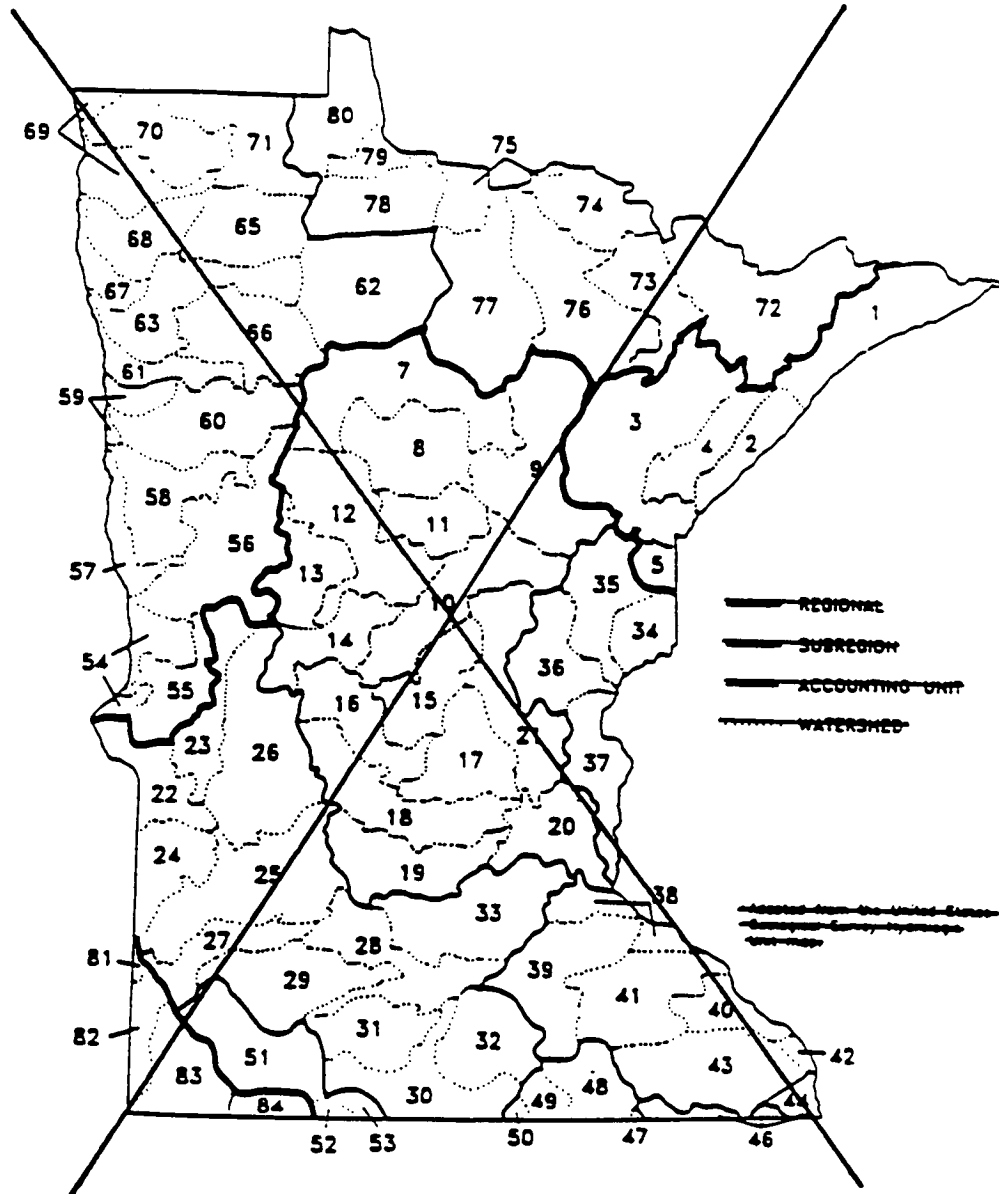
The inlet and outlet characteristics The topographic setting ratio does not apply when replacement for impacts within counties or watersheds having a greater than 80 percent or more of their presettlement wetland acreage intact is accomplished in counties or watersheds in which area is accomplished in a less than 50 percent area or more of the presettlement acreage has been drained or filled to wetland replacement projects conducted by the board for public transportation projects on existing roads.

Table 3: Inlet and Outlet Characteristics:

Impact Wetland	Replacement Wetland	Flow-Through	Tributary	Floodplain	Isolated
Riverine	0.0	0.2	0.4	0.6	1.0
Flow-Through	0.2	0.0	0.4	0.6	0.8
Tributary	0.4	0.2	0.0	0.2	0.4
Floodplain	0.6	0.6	0.2	0.0	0.2
Isolated	1.0	0.8	0.4	0.2	0.0

HYDROLOGIC UNITS

Figure 2:



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

Figure 3-

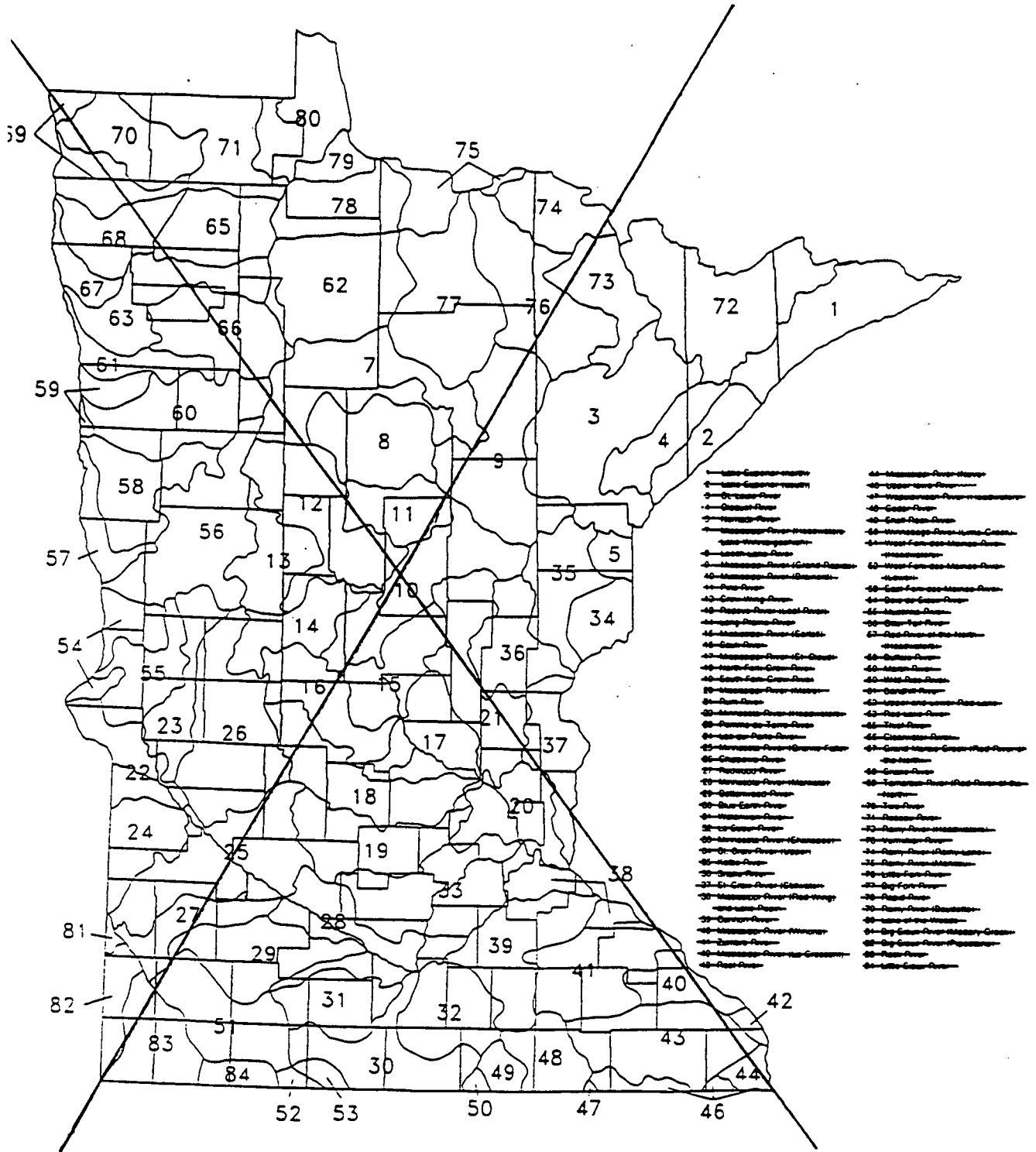


Table 3. Topographic Setting Ratios.

<u>Impacted Wetland</u>	<u>Replacement Wetland</u>		
<u>Topographic Setting</u>	<u>Shoreland</u>	<u>Riverine</u>	<u>Floodplain</u>
<u>Shoreland</u>	<u>0</u>	<u>0.2</u>	<u>0.4</u>
<u>Riverine</u>	<u>0</u>	<u>0</u>	<u>0.2</u>
<u>Floodplain</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Flow-Through</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Tributary</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Isolated</u>	<u>0</u>	<u>0</u>	<u>0</u>

<u>Impacted Wetland</u>	<u>Replacement Wetland</u>		
<u>Topographic Setting</u>	<u>Flow-Through</u>	<u>Tributary</u>	<u>Isolated</u>
<u>Shoreland</u>	<u>0.6</u>	<u>0.8</u>	<u>1.0</u>
<u>Riverine</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>
<u>Floodplain</u>	<u>0.2</u>	<u>0.4</u>	<u>0.6</u>
<u>Flow-Through</u>	<u>0</u>	<u>0.2</u>	<u>0.4</u>
<u>Tributary</u>	<u>0</u>	<u>0</u>	<u>0.2</u>
<u>Isolated</u>	<u>0</u>	<u>0</u>	<u>0</u>

(4) (3) Local public value ratio. A local government unit may by ordinance establish additional local public value ratios to address wetland conservation or preservation issues of local concern. These ratios must have a minimum value of zero and should be based on wetland management objectives of a local water management plan adopted under *Minnesota Statutes*, chapter 103B or 103D. The local ~~preservation~~ public value ratios must be applied as specified in subitem (5) (4).

(5) (4) Application of replacement ratios. The required replacement ratio for out-of-kind replacement shall be the sum of the wetland type ratio plus the ~~hydrologic unit~~ topographic setting ratio ~~plus the inlet and outlet characteristics ratio~~ plus the local public value ratio. When this ratio is less than the minimum in-kind ratio of 1:1 for wetlands on agricultural land or in ~~counties or watersheds in which greater than 80 percent or more of the presettlement wetland acreage exists~~ areas, or 2:1 for wetlands on non-agricultural lands in ~~counties where 50 percent or less of presettlement wetlands exist~~ less than 80 percent areas, the minimum in-kind ratio shall be the required replacement ratio.

E. Determining impacts of partial drainage. In cases where wetlands will be partially or incompletely drained, the amount of wetland to be replaced must be determined ~~according to the following formula~~ as follows:

Where:
$$NI = OA - \frac{(RA)}{RR}$$

NI = Net impact (acres of original wetland type to be replaced)
 OA = Original acreage of original wetland type
 RR = Replacement ratio, determined from table
 1, using the original wetland type as the

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impacted wetland type and the wetland type resulting from the partial drainage as the replacement wetland type

RA = Remaining acres of the original wetland

Calculation of partial drainage credit is explained by the following example:

A ten-acre type 3 (PEMC) wetland is partially drained resulting in a five-acre type 1 (PEMA) wetland. $(NI = 10 - 1/3(5) = 8 \frac{1}{3})$ Eight and one-third acres of type 3 wetland is the net impact subject to replacement.

The area impacted by partially draining a wetland is determined in two parts. The wetland area where the hydrology is totally removed must be replaced in its entirety. The area that is partially drained must be replaced in an amount that is 50 percent of the acreage of the remaining wetland area.

Calculation of partial drainage is explained by the following example:

Partial drainage of a ten-acre Type 3 (PEMC) wetland to a five-acre Type 1 (PEMA) wetland would require replacing five acres of Type 3 wetland plus 2.5 acres of Type 3 wetland for a total of 7.5 acres of Type 3 acres of replacement wetland.

F. Determining credit for restoration of partially drained wetlands. In cases where partially drained wetlands are restored to their former state, the acres credited for restoring a partially drained wetland is in two parts. The first is the new wetland credit (NWC) caused by the restoration (for example, if the prerestoration wetland is one acre and postrestoration will be three acres, the new wetland credit is two acres). The second credit is for the change in value of the prerestoration wetland acres. This is the public value credit (PVC) and must be computed as follows:

$$PVC = \left(\frac{RR - 1}{RR} \right) OA$$

Where:

PVC = Public value credit

RR = Replacement ratio, determined from table 1, using the prerestoration wetland type as the replacement wetland type, and the postrestoration type as the impacted wetland type

OA = Wetland acreage before restoration

The credit for increase in new acres can be used in its entirety. The public value credit can only be used for that portion of wetland replacement requiring greater than a 1:1 ratio.

Calculation of partial restoration credits is explained by the following example:

A partially drained five-acre type 1 (PEMA) wetland is to be restored to a ten-acre type 3 (PEMC) wetland.

$$\left(\frac{3 - 1}{3} \right) 5 = 3 \frac{1}{3} PVC$$

This restoration is proposed as replacement for a ten-acre type 6 (PSSA) wetland. The wetland is located on nonagricultural land in a "less than 80 percent county or watershed" so the minimum replacement ratio is 2:1. This means 20 acres of replaced wetland is needed.

From the wetland type value in table 2, the replacement ratio is 1-. The replacement is located in the same watershed, so the hydrologic unit ratio is 0.0. The inlet and outlet characteristics are isolated for the impacted wetland and tributary for the replacement wetland, so the inlet and outlet characteristics ratio is 0.4. The out-of-kind replacement ratio is the sum of 1.0 + 0.0 + 0.4 = 1.4. This is less than the minimum of 2:1, so additional acreage is needed.

To ensure no-net loss of wetlands, at least ten acres of new wetland credit must be used to offset the ten acres of wetland lost. The remaining ten acres of required replacement can use either new wetland credit or public value credit.

The proposed restoration is insufficient to replace the proposed impact, therefore an identical site is also selected for restoration. From site one, new wetland credit equals five; from site two, new wetland credit equals five; ($5 + 5 = 10$ acres of NWC). The no-net loss wetland acreage requirement is satisfied. Ten acres must still be found to satisfy the 2:1 requirement. Site one still has three and one-third acres of public value credit, as does site two; ($3 \frac{1}{3} + 3 \frac{1}{3} = 6 \frac{2}{3}$). An additional three and one-third acres of either new wetland credit or public value credit must be found to meet the additional acreage requirements. The determination of acres credited for fully restoring the hydrology of a wetland that has been partially, but demonstrably, affected by drainage, is in two parts. The first is the new wetland credit (NWC) caused by the restoration, for example, if the preresoration wetland is one acre and postrestoration will be three acres, the new wetland credit is two acres. The second credit is for the change in value of the pre-restoration wetland acres. This is the public value credit (PVC) and is equal to 50 percent of the acreage of the preresoration wetland.

The credit for increase in new acres can be used in its entirety. The public value credit can only be used for that portion of wetland replacement requiring greater than a 1:1 ratio.

Calculation of partial restoration credits is explained by the following example:

A partially drained five-acre Type 1 (PEMA) wetland is to be restored to its former state, which would be a ten-acre Type 3 (PEMC) wetland.

New Wetland Credit = five acres of Type 3 (PEMC) wetland

Public Value Credit = 2.5 acres of Type 3 (PEMC) wetland (50 percent of five acres of preresoration acreage)

G. Alternative Evaluation Methodologies. The local government unit may evaluate the replacement plan using a scientifically accepted methodology that evaluates all wetland functions specified in Minnesota Statutes, section 103B.3355, for both the impacted and replacement wetlands. Such alternative methodologies must be approved by the board, in consultation with the commissioners of natural resources and agriculture, and local government units. Currently acceptable alternative methodologies include: "Minnesota Routine Assessment Methodology for Evaluating Wetland Functions" (Board of Water and Soil Resources, Version 1.0 - May 1996); "Minnesota Wetland Evaluation Methodology (for the North Central United States)" (United States Army Corps of Engineers, September 1988); The Hydrogeomorphic Functional Assessment Methodology (as developed by the United States Army Corps of Engineers based on Wetlands Research Program Technical Report WRP-DE-3, August 1993); Oregon Freshwater Wetland Assessment Methodology (Oregon Division of State Lands, December 1993); and Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire (New Hampshire Department of Environmental Services, March 1991). Other methodologies may be used following board approval and publication in the Environmental Quality Board Monitor.

When using alternative evaluation methodologies to evaluate replacement plans, the ratio of impact wetland to replacement wetland must not be less than the minimum acreage requirements as listed in subpart 6, except as provided for in part 8420.0650, subpart 2. When using an alternative evaluation methodology to evaluate a wetland replacement plan, the replacement wetland must be projected to have an equal or greater functional level than the impacted wetland for each of the functions listed in part 8420.0103, unless the technical evaluation panel determines that the overall functional level for each of the functions will be maintained within the local government unit's jurisdiction.

H. Special cases or appeals. For projects of unusual complexity, or replacement plans that have been denied and are being appealed, and for which the local government unit believes an alternative evaluation process may produce a substantially different replacement requirement, the local government unit may evaluate the replacement plan using the current version of the Minnesota wetland evaluation methodology or another scientifically accepted methodology approved by the board, in consultation with the commissioner, that evaluates all wetland functions and values for both the impacted and replacement wetlands.

When using the Minnesota wetland evaluation methodology or another board, in consultation with the commissioner, approved a board-approved methodology to evaluate replacement plans, the ratio of impact wetland to replacement wetland must not be less

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than the minimum acreage requirements as listed in part 8420.0540, subpart 6. Further, the hydrologic unit ratio in item D, subitem (2); the inlet and outlet characteristics topographic setting ratio in item D, subitem (3) (2), and the local public value ratio, if any, in item D, subitem (4) (3), must also be considered when using the Minnesota wetland evaluation methodology or another board, in consultation with the commissioner, approved a board-approved methodology.

H. I. Adequacy decision. A replacement plan that fails to meet the requirements in items A to G H must be considered inadequate in replacing lost functions and values and shall not be approved by the local government unit. A replacement plan that has been considered by the local government unit and not approved may be revised and resubmitted for consideration by the local government unit. As required by part 8420.0250, the decision of a local government unit to approve, approve with conditions, or not approve a replacement plan becomes final if not appealed to the board within 30 15 days after the date on which the decision is mailed to those required to receive notice of the decision. Before construction of the replacement wetland may proceed, the notice specified in part 8420.0530, item D, subitem (6), must be recorded and proof of recording provided to the local government unit.

I. Replacement wetlands eligible for RIM. A landowner who drains or fills a wetland and replaces it by restoring an impacted wetland on the landowner's property under an approved replacement plan may apply to the board for enrollment of the replacement wetland into the Reinvest in Minnesota program no sooner than one year after completion of the replacement project.

8420.0550 WETLAND REPLACEMENT STANDARDS.

Subpart 1. General requirements. The standards and guidelines in this part shall be used in wetland creation and restoration efforts to ensure adequate replacement of wetland functions and values.

Table 4 provides general guidelines for the physical characteristics that each type of replacement wetland should have, in subpart 3, provides technical specifications for constructing wetland types. In evaluating a wetland replacement plan, the local government unit must determine whether the wetland type stated as the replacement plan goal will result from the replacement plan specifications. If a wetland type other than the replacement plan goal is likely to result, the local government unit must evaluate the plan based on this determination.

Subp. 2. Specific requirements. The standards in items A to H shall be followed in all wetland replacements unless the technical evaluation panel determines that a standard is clearly not appropriate.

A. Water control structures must be constructed using specifications provided in the Minnesota Wetland Restoration Guide or their equivalent. Control structures may be subject to the Department of Natural Resources dam safety regulations.

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

C. For replacement wetlands where the dominant vegetation of the wetland type identified as the replacement goal in part 8420.0530, item D, subitem (1), is not likely to recover naturally in a five-year period, wooded and shrub wetlands especially, the replacement wetland must be seeded or planted with appropriate species, as determined by the soil and water conservation district, in coordination with the department technical evaluation panel. If the replacement wetland is seeded or planted, the seed or planting stock should be of local wetland origin to preserve local genotypes. During the monitoring period, the applicant must take reasonable steps to prevent invasion by any species, for example, purple loosestrife and Eurasian water milfoil, that would defeat the revegetation goal of the replacement plan.

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

Subp. 3. Table 4. Physical characteristics of wetlands referencing the wetland classification equivalency chart found in part 8420.0540, subpart 10, item B.

WETLAND TYPE	MEAN DEPTH*	WATERSHED RATIO	DOMINANT VEGETATION**	DEPRESSIONAL?
FORESTED				
PFA (T1)	INTMTNT	—	TREES	SOMETIMES
PFB (T7)	SATUR'D	≥ 3:1	TREES	YES
PFC (T7)	6" - 3'	≥ 5:1	TREES	YES
SCRUB-SHRUB				
PSA (T6)	INTMTNT	—	SHRUBS	YES
PSB (T6)	SATUR'D	≥ 3:1	SHRUBS	YES
PSX (T8)	SATUR'D	≥ 3:1	SHRUBS	SOMETIMES
PSC (T6)	SAT.-INT.	—	SHRUBS	YES
EMERGENT				
PEA (T1)	INTMTNT	—	HERB/EMERG	YES
PEB (T2)	SATUR'D	≥ 3:1	HERB/EMERG	YES
PEC (T3)	6" - 2'	≥ 5:1	HERB/EMERG	YES

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PEF (T4) DEEP MARSH	2' - 4'	≥ 10:1	HERB/EMERG	YES
PA (T5)	4' - 6'	≥ 15:1	AQUATIC BED	YES
PU (T5) LAKES	4' - 6'	≥ 15:1	ALGAE/FLOATG	YES
L1 (T5)	≥ 6'	≥ 25:1	ALGAE/FLOATG	YES
L2 (T5) RIVERINE	≤ 6'	≥ 25:1	HERB	YES
R2 (NA)	≥ 2'	—	ALGAE, SUB	FLOWAGE
R3 (NA)	6" - 2'	—	ALGAE, SUB	FLOWAGE
R4 (NA)	INTMTNT	—	RIPARIAN	FLOWAGE

* INTMTNT = Intermittent or temporarily flooded, SATUR'D = Saturated in the rooting zone

** HERB = Herbaceous, EMERG = Emergent, SUB = Submergent, FLOATG = Floating-leaved

8420.0610 DURATION OF MONITORING.

Monitoring shall be by means of an annual report as specified in part 8420.0620 and shall continue for five years following completion of the wetland replacement project, or until the technical evaluation panel deems the replacement wetland to be fully functional. Through written notification to the applicant, the local government unit may extend the required monitoring period for not more than an additional five-year period if, ~~at the end of the initial five-year period~~, the goal of the replacement plan has not been achieved, but may be achieved with more time.

8420.0620 MONITORING ANNUAL REPORT.

Subpart 1. **Purpose.** The purpose of the annual report is to describe actual wetland restoration or creation activities completed during the past year, activities planned for the upcoming year, and the information in subpart 2. The applicant shall submit the annual report to the local government unit where the replacement wetland is located on a date determined by the local government unit until the applicant has fulfilled all of the requirements of the local government unit. The local government unit, at its discretion, may prepare the annual report for the applicant.

Subp. 2. **Report content.** The annual report shall include the following information and other site-specific information identified by the local government unit:

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

C. hydrology measurements: at least three seasonal water level elevations during the period April through October (msl or referenced to a known bench mark);

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

8420.0650 LOCAL COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.

Subpart 1. General requirements; notice and participation.

A. As an alternative to the rules adopted under Minnesota Statutes, section 103G.2242, subdivision 1, and the public value criteria established or approved under Minnesota Statutes, section 103B.3355, a comprehensive wetland protection and management plan may be developed by a local government unit, or one or more local government units operating under a joint powers agreement, provided that:

(1) a notice is made at the beginning of the planning process to the board, the commissioner of natural resources, the Pollution Control Agency, local government units, and local citizens to actively participate in the development of the plan; and

(2) the plan is implemented by ordinance as part of the local government unit's official controls under Minnesota Statutes, chapter 394, for a county; Minnesota Statutes, chapter 462, for a city; Minnesota Statutes, chapter 366, for a town; and by rules adopted under Minnesota Statutes, chapter 103D, for a watershed district; and Minnesota Statutes, chapter 103B, for a watershed management organization.

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B. An organization that is invited to participate in the development of the local plan, but declines to do so and fails to participate or to provide written comments during the local review process, waives the right during board review to submit comments, except comments concerning consistency of the plan with laws and rules administered by that agency. In determining the merit of an agency comment, the board shall consider the involvement of the agency in the development of the local plan.

Subp. 2. Plan contents. A comprehensive wetland protection and management plan may:

A. provide for classification of wetlands in the plan area based on:

(1) an inventory of wetlands in the plan area;

(2) an assessment of the wetland functions listed in *Minnesota Statutes*, section 103B.3355, using a methodology chosen by the technical evaluation panel from one of the methodologies established or approved by the board under that section; and

(3) the resulting public values;

B. vary application of the sequencing standards in *Minnesota Statutes*, section 103G.222, subdivision 1, paragraph (b), for projects based on the classification and criteria set forth in the plan;

C. vary the replacement standards of *Minnesota Statutes*, section 103G.222, subdivision 1, paragraphs (f) and (g), based on the classification and criteria set forth in the plan, for specific wetland impacts provided there is no net loss of public values within the area subject to the plan, and so long as:

(1) in a 50 to 80 percent area, a minimum acreage requirement of one acre of replaced wetland for each acre of drained or filled wetland requiring replacement is met within the area subject to the plan; and

(2) in a less than 50 percent area, a minimum acreage requirement of two acres of replaced wetland for each acre of drained or filled wetland requiring replacement is met within the area subject to the plan, except that replacement for the amount above a 1:1 ratio can be accomplished as described in part 8420.0540, subpart 2;

D. in a greater than 80 percent area, allow replacement credit, based on the classification and criteria set forth in the plan, for any project that increases the public value of wetlands, including activities on adjacent upland acres; and

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 *Minnesota Statutes*, section 103G.2241, subdivision 1, paragraph (a), clause (4), to also include nonagricultural land, provided there is no net loss of wetland values.

Subp. 3. Board review and approval; mediation; judicial review.

A. The plan is deemed approved 60 days after the local government unit submits the final plan to the board, unless the board disagrees with the plan as provided in item D.

B. The board may not disapprove a plan if the board determines the plan meets the requirements of this part.

C. In its review of a plan, the board shall advise the local government unit of those elements of the plan that are more restrictive than state law and rules.

D. If the board disagrees with the plan or any elements of the plan, the board shall, in writing, notify the local government unit of the plan deficiencies and suggested changes. The board shall include in the response to the local government unit the scientific justification, if applicable, for the board's concerns with the plan. Upon receipt of the board's concerns with the plan, the local government unit has 60 days to revise the plan and resubmit the plan to the board for reconsideration, or the local government unit may request a hearing before the board. The board shall hold a hearing within the boundaries of the jurisdiction of the local government within 60 days of the request for hearing. After the hearing, the board shall, within 60 days, prepare a report of its decision and inform the local government unit.

E. If, after the hearing, the board and local government unit disagree on the plan, the board shall, within 60 days, initiate mediation through a neutral party. If the board and local government unit agree in writing not to use mediation or the mediation does not result in a resolution of the differences between the parties, then the board may commence a declaratory judgment action in the district court of the county where the local government unit is located. If the board does not commence a declaratory judgment action within the applicable 60-day period, the plan is deemed approved.

F. The declaratory judgment action must be commenced within 60 days after the date of the written agreement not to use mediation or 60 days after conclusion of the mediation. If the board commences a declaratory judgment action, the district court shall review the board's record of decision and the record of decision of the local government unit. The district court shall affirm the plan if it meets the requirements of this part.

Subp. 4. Effective date; replacement decisions.

A. The plan becomes effective as provided in subpart 3, items D to F, and after adoption of the plan into the official controls of the local government unit.

B. After the effective date of the plan, a local government unit shall make replacement decisions consistent with the plan.

Subp. 5. Plan amendments. Amendments to the plan become effective upon completion of the same process required for the original plan.

Subp. 6. Water planning processes apply. Except as otherwise provided for in this part, all other requirements relating to development of the plan must be consistent with the water plan processes under Minnesota Statutes, sections 103B.231 and 103B.311.

STANDARDS AND CRITERIA FOR STATE WETLAND BANKING

8420.0720 PRINCIPLES OF WETLAND BANKING.

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

Subp. 2. **Sequencing prerequisite.** The state wetland banking system may only be used for replacement of drained or filled wetlands when the local government unit determines that the applicant has complied with all of the sequencing requirements of part 8420.0520; that the project would otherwise be allowed if adequate replacement could be secured by the applicant; that project-specific replacement is not reasonable or desirable; and that the owner of the account agrees to the withdrawal of wetland banking credits from the account.

Subp. 3. **Geographic limitations.** In counties having greater than 80 percent of their presettlement wetlands intact, Wetland banking is allowed for any impact, however, wetland impacts should be replaced in a location that either most closely resembles lost functions and public values at the impact site or in a location that maximizes important wetland functions and public values. Wetland banking in counties with less than 80 percent of their presettlement wetlands intact can be considered only in situations involving impacts of less than five acres, except in certain circumstances as noted in part 8420.0740, subpart 2, item B, subitem (2).

Subp. 4. **Eligible wetlands.** Restored wetlands are eligible for deposit into the wetland bank. Created wetlands are eligible for deposit in the wetland bank in counties in which 80 percent or more of the presettlement wetlands are intact. In other counties, created wetlands are eligible for deposit in the bank only if they are created by excavation in nonwetlands, by dikes or dams along public or private drainage ditches, or by dikes or dams associated with the restoration of previously drained or filled wetlands. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

Subp. 5. **Ineligible wetlands.** Wetlands that are drained or filled under an exemption in part ~~8420.0120~~ 8420.0122 and subsequently restored are not eligible for deposit in the wetland bank. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

[For text of subp 6, see M.R.]

Subp. 7. **Wetland banking credit transfers.** Wetland banking credits may be transferred to another account holder providing the fee title or easement or license is transferred also, and providing all the remaining wetland banking credit for a wetland remains in one account. Wetland banking credits may be withdrawn by an applicant and partial withdrawals are allowed. The account holder is responsible for the success of the wetland until completion of monitoring. After completion of monitoring, the fee title owner or easement or license holder and anyone who has contracted with the owner is responsible for maintaining the wetland and replacing it according to this chapter if the wetland is subsequently drained or filled, by structural failure, or otherwise.

[For text of subp 8, see M.R.]

Subp. 9. **Qualification.** A wetland cannot be deposited for wetland banking credit that cannot, under parts 8420.0500 to 8420.0630, be used for replacement.

8420.0730 ADMINISTRATION AND MANAGEMENT AUTHORITY.

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

Subp. 2. **Deposit prerequisites.** To be deposited into the wetland bank, a wetland must be certified as eligible for deposit by the local government unit in which it is located, according to part 8420.0740, subpart 1. The method of certification by local government units is optional, but wetland banking credits may not be deposited into the bank within that local government units jurisdiction without certification. If a local government unit elects to certify wetlands for the wetland bank, the local government unit is also responsible for ensuring that the monitoring provisions in part 8420.0750 are fulfilled. A local government unit may decline to

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

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certify all wetlands within its jurisdiction or, based on a comprehensive local water plan, a local government unit may elect to certify wetlands for deposit into the wetland bank only in selected areas, for example, high priority regions and areas. If the local government unit elects to reject or limit banking, it must do so by rule or ordinance, as applicable.

[For text of subp 3, see M.R.]

8420.0740 PROCEDURES.

Subpart 1. Deposits and credits.

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

E. There is no maximum wetland acreage eligible for deposit in the wetland bank. The local government unit, upon recommendation of the technical evaluation panel, must identify the acreage that will receive credit. As an incentive to encourage the deposit of small wetlands, the local government unit shall assign wetland banking credit to wetland acreage as follows:

Wetland Acreage	<u>Wetland Banking Credit</u>
0 to 10 acres	100 percent
over 10 acres	90 percent

The local government unit may modify the credit given, up to a maximum of 100 percent, if agreed to by the technical evaluation panel.

F. The initial deposit of wetland banking credits must be done by the fee title owner or easement or license holder of the wetland.

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

H. In cases where a wetland is proposed to be restored or created solely for wetland banking purposes, that is, the wetland is not part of a project-specific wetland replacement plan, the depositor must submit to the local government unit a bank plan containing the information required in part 8420.0530, items A and D.

A copy of the bank plan shall be mailed to members of the technical evaluation panel, members of the public who have requested a copy, and members of the watershed district or watershed management organization if there is one. Based on input from the technical evaluation panel and other comments received, the local government unit must determine the likelihood that the restoration or creation will be successful and, if affirmative, approve the plan and advise the depositor of the wetland acreage banking credits likely to be accepted into the wetland bank. Approval of the plan shall be considered official acknowledgment that the wetland is designated for

I. In cases where a wetland is to be restored or created by an agency, department, or subdivision of the local government unit for deposit into the wetland bank, the local government unit must prepare the information required in part 8420.0530, items A and D, and notice this information according to ~~part 8420.0740, subpart 1, item H.~~

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

K. No sooner than six months after construction has been completed and approved for restored wetlands, and no sooner than one year after construction has been completed and approved for created wetlands, the depositor shall contact the local government unit to request a final determination of wetland bank acceptability and approved quantities of wetland banking credits for deposit. The technical evaluation panel shall ensure that sufficient time has been allowed for the wetland to become established, especially vegetation and hydrology, before making this determination. If the technical evaluation panel has reason to believe that the wetland characteristics may change substantially, the panel must postpone its recommendation to the local government unit until the wetland has stabilized.

Based on a site visit, the technical evaluation panel will determine the size and type of wetland, ~~using the abbreviated Cowardin et al. classification in part 8420.0540, subpart 10, item B,~~ as well as ~~inlet and outlet topographic setting~~ characteristics and, if applicable, the new wetland credits and public value credits resulting from the to be deposited wetland. The technical evaluation panel will provide the information to the local government unit.

L. The local government unit shall notify the depositor of its findings as to the suitability of the wetland and approved wetland banking credits. If the depositor chooses to proceed with a deposit into the bank, the depositor must record the notice specified in part 8420.0530, item D, subitem (6), and submit proof of the recording to the local government unit for the wetlands to be deposited. If the depositor chooses not to proceed with the deposit, the depositor may return the wetland to its preconstruction condition without replacement within five years. At any time within the five-year period, the depositor may request certification for deposit into the bank or may amend the bank plan and submit the plan to the local government unit for approval and subsequent certification. After five years, any activity in the wetland is subject to this chapter.

M. To be deposited into the bank, the following information concerning the wetland must be submitted to the board by the local government unit in which the wetland is located:

- (1) name, address, and telephone number of the depositor;
- (2) location of the wetland, including legal description, public land survey coordinates, county, and watershed;
- (3) a copy of the deed for the property containing the wetland with the required covenant recorded;
- (4) size of the wetland acreage to be deposited, to the 0.1 acre, by wetland type, using the abbreviated Cowardin, et al. classification in part 8420.0540, subpart 10, item B, and inlet and outlet topographic setting characteristics and, if applicable, the new wetland credits and public value credits; and
- (5) certification that the wetland is approved for deposit into the bank.

[For text of items N to P, see M.R.]

Subp. 2. **Withdrawals.**

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

B. The use of the wetland bank is ~~limited to:~~

- ~~(1) projects occurring in counties having greater than 80 percent of their presettlement wetlands;~~
- ~~(2) counties with less than 80 percent of their presettlement wetlands remaining, with the use of the wetland bank limited to:~~
 - ~~(a) linear-type transportation or utility projects with impacts less than five acres per basin, minus any project-specific replacement acreage;~~
 - ~~(b) other projects with a cumulative impact of less than five acres, minus any project-specific replacement acreage; or~~
 - ~~(c) allowed whenever the local government unit determines that the use of the wetland bank is reasonable and desirable.~~

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

D. The board, on request, will provide the following information to persons making inquiries concerning available wetland bank deposits with a local government unit jurisdiction, county, or watershed:

- (1) account holder: name, address, and telephone number;
- (2) available wetlands: wetland acres by abbreviated Cowardin et al. classification type and inlet and outlet topographic setting characteristics, and, if applicable, the new wetland credits and public value credits;
- (3) location: section, township, range, county, and watershed.

E. The applicant may then contact, negotiate, and purchase the required wetland acreage banking credits from the account holder. When the account holder and applicant come to agreement, the applicant will provide requested information on a notarized wetland banking credit transfer withdrawal form developed by the board, and include the wetland banking credit transfer withdrawal form as part of the wetland replacement plan transmitted to the local government unit. The wetland banking credit transfer withdrawal form will include information indicating the wetland type by acres for ~~transfer~~ withdrawal, location of banked wetland, and the inlet and outlet topographic setting characteristics and, if applicable, the new wetland credits and public value credits of the banked wetland.

F. The local government unit must circulate the applicant's wetland replacement plan and the wetland banking credit transfer withdrawal form to identify specific wetland ~~bank~~ banking credits as the applicable replacement wetland, using the public comment and review process in part 8420.0230 and to the local government unit whose jurisdiction covers the location of the wetland ~~bank~~ acreage banking credits. The local government unit must contact the board to verify that replacement credits indicated on the wetland banking credit transfer withdrawal form are available before final approval of wetland bank withdrawals.

G. ~~Wetlands impacted by public transportation projects may be replaced statewide, provided the replacements are approved by the commissioner under an established wetland banking system or under the rules for wetland banking as provided for in parts 8420.0700 to 8420.0760.~~

~~The commissioner shall notify the local government unit and the board of the decision within 30 days of the date that the replace-~~

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Adopted Rules

ment plan is received by the commissioner. If the commissioner does not approve the replacement plan, the local government unit shall not approve the replacement plan.

H. On approval of the applicant's wetland replacement plan using wetland bank acreage banking credits as wetland replacement, the local government unit shall notify the board to debit the appropriate banked wetland by type and acreage. The board will complete the accounting transactions and send a notice of wetland banking credit transfer withdrawal to the account holder.

I. H. The applicant shall not be allowed to begin proposed drain or fill activities until the local government unit formally approves the wetland replacement plan using the acknowledged wetland bank banking credits as replacement.

J. I. An individual, corporation, local government unit, or other organization may buy and hold wetland banking credits from account holders in the bank for later use or resale. Transfer of wetland banking credits must be accomplished through use of a board wetland banking credit transfer form, and must be maintained in an account in the state wetland banking system. An account will be established for the individual or organization on presentation to the board of a wetland banking credit transfer form, and required organization information. The board will notify both account holders on transfer of the wetland banking credits. An account transfer must be accompanied by transfer of the fee title or easement or license. A wetland banking credit for a wetland may not be split between accounts. Wetland banking credits may also be transferred between banks approved by the board.

8420.0750 AUDITING AND MONITORING.

Subpart 1. Annual report and audit.

A. The board will develop wetland bank deposit, withdrawal, and credit transfer and withdrawal forms and distribute them to local government units indicating a desire to certify restored wetland acreage banking credits for deposit in the wetland bank.

B. The wetland bank data file maintained by the board will contain at least the following information:

(1) wetland acres by abbreviated Cowardin et al. classification type, inlet and outlet topographic setting characteristics, restoration or creation date, and bank acceptance date, fee owner, location by (public land survey coordinates, local government unit, county, and watershed of the banked wetland); and

(2) previous withdrawals against each banked wetland by impact wetland (wetland acres by abbreviated Cowardin, et al. classification type, inlet and outlet topographic setting characteristics, and, if applicable, the new wetland credits and public value credits, date of wetland impact), ownership (fee owner, address, telephone number) and location (public land survey coordinates, local government unit, county, and watershed of the impacted wetland).

C. The board may periodically inspect wetland bank records and correspondence maintained by a local government unit to determine compliance with this part.

D. An annual wetland bank report shall be prepared and distributed by the board to applicable local government units, soil and water conservation districts, watershed districts, watershed management organizations, the department departments of natural resources and agriculture, and on request.

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

STANDARDS AND CRITERIA FOR IDENTIFICATION, PROTECTION, AND MANAGEMENT OF CALCAREOUS FENS

8420.1010 PURPOSE.

The purpose of parts 8420.1010 to 8420.1060 is to provide minimum standards and criteria for the identification, protection, and management of calcareous fens as authorized by *Minnesota Statutes*, section 103G.223. Calcareous fens may not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the commissioner.

Part ~~8420.0120~~ 8420.0122 does not apply to calcareous fens.

8420.1040 MANAGEMENT PLANS.

Calcareous fens may not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the commissioner. The commissioner will provide technical assistance to landowners or project sponsors in the development of management plans.

REPEALER. Minnesota Rules, parts 8420.0110, subparts 5, 13, 26, 27, and 47; 8420.0120; 8420.0250, subpart 2; and 8420.0710, are repealed.

Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. §§14.14-14.28 supercede emergency rules.

Department of Natural Resources

Adopted Expedited Emergency Game and Fish Rules; 1996 Moose Season Quotas

NOTICE IS HEREBY GIVEN that the above entitled rule has been adopted through the process prescribed by *Minnesota Statutes*, section 84.027, subdivision 13(b). The statutory authority for the contents of this rule is *Minnesota Statutes*, section 97A.431.

Dated: 31 May 1996

Rodney W. Sando
Commissioner of Natural Resources

By

Gail Lewellan, Assistant Commissioner of
Human Resources and Legal Affairs

Rules as Adopted (all new material)

6232.3855 1996 QUOTAS FOR TAKING MOOSE.

The number of available licenses, for the 1996 moose hunting season is 246 and is distributed as follows:

- A. Moose Zone 8A: 5;
- B. Moose Zone 8B: 5;
- C. Moose Zone 9: 10;
- D. Moose Zone 10: 5;
- E. Moose Zone 14: 8;
- F. Moose Zone 15: 2;
- G. Moose Zone 16: 2;
- H. Moose Zone 17: 2;
- I. Moose Zone 20: 25;
- J. Moose Zone 21: 5;

Emergency Rules

- K. Moose Zone 22: 8;
- L. Moose Zone 23: 6;
- M. Moose Zone 24: 10;
- N. Moose Zone 25: 10;
- O. Moose Zone 29: 6;
- P. Moose Zone 30: 15;
- Q. Moose Zone 31: 10;
- R. Moose Zone 32: 18;
- S. Moose Zone 33: 5;
- T. Moose Zone 34: 7;
- U. Moose Zone 35: 8;
- V. Moose Zone 60: 3;
- W. Moose Zone 61: 9;
- X. Moose Zone 62: 14;
- Y. Moose Zone 63: 13;
- Z. Moose Zone 70: 4;
- AA. Moose Zone 72: 3;
- BB. Moose Zone 73: 5;
- CC. Moose Zone 74: 5;
- DD. Moose Zone 76: 6;
- EE. Moose Zone 77: 4;
- FF. Moose Zone 79: 5; and
- GG. Moose Zone 80: 3.

SUNSET. *Minnesota Rules*, part 6232.3855, expires December 31, 1996.

Pursuant to the provisions of Minnesota Statutes §14.101, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Department of Agriculture

Agronomy & Plant Protection Services Division

Notice of Location Change for the Minnesota Agriculture Chemical Response Compensation Board (ACRRA Board) Meeting

Notice of location change for the Agricultural Chemical Response Compensation Board (ACRRA Board) meeting scheduled for June 19, 1996. The regularly scheduled ACRRA Board meeting will convene at 9:00 a.m.; St. Paul Downtown/Holman Field Airport, 644 Bayfield, St. Paul, Minnesota, second floor conference room. Should you require additional information, please call the ACRRA Program at (612) 297-3490.

Minnesota Health Care Commission

Health Technology Advisory Committee (HTAC)

Notice of: 1) Availability of Preliminary HTAC Evaluation Report on "Cadaver Donor Pancreas Transplantation for Poorly Controlled Type I Diabetes"; and 2) Solicitation of Written Comments

The Health Technology Advisory Committee (HTAC) of the Minnesota Health Care Commission is charged under *Minnesota Statutes* 62J.152 with conducting evaluations of specific technologies and their specific use and application. For the purposes of evaluation, the definition of technologies in statute includes "... drugs, devices, procedures, or processes applied to human health care" As part of the evaluation process, HTAC is required to submit a preliminary report to the Minnesota Health Care Commission, and to solicit written comments on the report. Before completing its final comments and recommendations on the HTAC technology evaluation report, the Commission solicits and reviews public testimony on the report.

The HTAC has completed its preliminary technology evaluation report on "Cadaver Donor Pancreas Transplantation for Poorly Controlled Type I Diabetes". Any interested individuals or organizations may submit written comments regarding this technology evaluation report within-30 days from the publication of this notice to the attention of Susan Hudson at:

Minnesota Health Care Commission/Health Technology Advisory Committee
121 East 7th Place, Suite 400
P.O. Box 64975
St. Paul, MN 55164-0975
Fax: 612-282-5628

Any written material received by the Minnesota Health Care Commission shall be subject to the requirements of the Minnesota Data Practices Act (*Minnesota Statutes*, Section 13).

For information regarding HTAC, or to obtain a copy of the preliminary HTAC evaluation report on Cadaver Donor Pancreas Transplantation for Poorly Controlled Type I Diabetes, please contact Susan Hudson at 612-282-6374, or via fax at 612-282-5628.

Brief Summary of Preliminary HTAC Evaluation Report on Cadaver Donor Pancreas Transplantation for Poorly Controlled Type I

Conclusions:

In part because pancreas transplantation is not commonly performed, there continues to be a lack of definitive data on the efficacy, effectiveness, and relative costs of care to patients and society associated with the procedure. Improvement in quality of life after transplantation for patients and their families is also difficult to establish given currently available information.

Cadaver-donor pancreas transplant has moved from the stage of innovation to being considered routine care at some institutions, without consensus on its efficacy or effectiveness. Patients facing serious disease may expect, and even demand, unproven treat-

Official Notices

ments, resulting in conflicts among patients, providers, and health plans. Policy makers are then faced with balancing patient expectation against broad societal needs when considering optimal allocation of finite resources for medical care.

Recommendations:

The use of and reimbursement for pancreas transplant should be contingent upon the following:

1. adherence to strict patient selection criteria;
2. prior patient compliance with conventional therapies;
3. participation by both patients and the institutions performing pancreas transplants in cooperative data collection;
4. use of data collected to expand existing databases such as transplant registries, with special emphasis on patient selection criteria and patient outcomes including quality of life assessments.

Improved methods which produce a higher standard of evidence for assessing the value of emerging technologies are needed by providers, health plans, policy-makers and the public for sound decision-making.

Department of Health

Health Policy and Systems Compliance

Notice Regarding Quarterly Change in the Regional and National Consumer Price Index

Pursuant to *Minnesota Statutes* section 62J.04 Subdivision 1, the commissioner of health is required to publish the quarterly change in the regional consumer price index for urban consumers. The publication of this change is intended to monitor movement in the general inflation rate as measured by the quarterly change in the North Central CPI-U index. The quarterly change and annualized seasonally adjusted change in the U.S. city average CPI-U index is also published for comparative purposes.

The change in the average, unadjusted North Central CPI-U index for all items, from the 4th quarter 1995 to the 1st quarter 1996, is 0.94%.

The change in the average, unadjusted U.S. city CPI-U index for all items, from the 4th quarter 1995 to the 1st quarter 1996, is 0.91%.

The seasonally adjusted annualized rate of change in the average U.S. city CPI-U index, from the 4th quarter 1995 to the 1st quarter 1996, is 3.16%.

Office of the Ombudsman for Mental Health and Mental Retardation

Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will hold a general meeting from 9:00 a.m. until 1:00 p.m. on Thursday, June 20, 1996. The meeting will be held in Suite 400, Conference Room 1, Metro Square Building on 7th and Robert Street, St. Paul.

Minnesota Pollution Control Agency

Division of Hazardous Waste

Request for Comments on Planned Amendments to Rules Governing Aboveground Storage of Products Capable of Polluting the Waters of the State, *Minnesota Rules* 7100.0010-7100.0090

Subject of Rules. The Minnesota Pollution Control Agency (Agency) requests comments on its planned amendments to rules governing aboveground liquid storage facilities in the State of Minnesota. The department is considering rule amendments that would clarify the existing rules and to provide more guidance on technical issues.

Persons Affected. The amendments to the rules would likely affect owners of an aboveground storage tank system as defined in *Minnesota Rules* Chapter 7100, except as otherwise provided in *Minnesota Statutes*, section 115.03, subdivision 8, i.e., farm and residential tanks, or heating oil tanks with a capacity of 1,100 gallons or less storing heating oil for consumptive use on the premises. The department does contemplate appointing an advisory committee to comment on the planned rules.

Statutory Authority. *Minnesota Statute*, section 115.03, subdivision 1(e)(3), authorizes the Agency to adopt rules for storing liquid or solid substances.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on July 15, 1996. The agency does not anticipate that a draft of the rule amendments will be available before the publication of the proposed rules. Written or oral comments, questions, and requests for more information on these planned rules should be addressed to:

Thomas Honebrink
Hazardous Waste Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
612/297-8659

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

Charles W. Williams
Commissioner

Minnesota Property Insurance Placement Facility

Notice of Meeting of the Board of Directors

NOTICE IS HEREBY GIVEN that a meeting of the Board of Directors of the Minnesota Property Insurance Placement Facility will be held at 9:00 a.m. on Wednesday, June 12, 1996 at its office located at 1201 Marquette Avenue, Suite 310, Minneapolis, Minnesota. For additional information please call 338-7584.

Public Employees Retirement Association

Notice of Meeting of the Board of Trustees

A meeting of the Board of Trustees of the Public Employees Retirement Association (PERA) will be held on Thursday, June 13, 1996 at 9:30 a.m. in the offices of the association, 514 St. Peter Street, Suite 200, Saint Paul, Minnesota.

Department of Transportation

Appointment and Meeting Notice of a State Aid Variance Committee

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Wednesday, June 19, 1996 at 9:30 a.m. in Conference Room 194 Water's Edge Building, 1500 West County Road B-2, Roseville Minnesota, 55113.

This notice is given pursuant to *Minnesota Statute* 47k.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards and administrative procedures as governed by *Minnesota Rules* for State Aid Operations 8820.3300 adopted pursuant to *Minnesota Statutes* 161 and 162.

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The agenda will be limited to these questions:

1. **Petition of the City of South St. Paul** for a variance from *Minnesota Rules* on the proposed reconstruction project on 3rd Street North (Municipal State Aid Street No. 105) between 21st Avenue and Reid Lane in South St. Paul, to allow a 32 foot curb- to-curb street width with parking allowed on both sides, in lieu of the required 11.4 meter curb-to-curb street width with parking allowed on both sides.
2. **Petition of St. Louis County** for a variance from *Minnesota Rules* on the proposed reconstruction project on County State Aid Highway No. 144 (McKinley Avenue), between Fayal Road and Harrison Street in the City of Eveleth, Minnesota, to allow a 10.8 meter curb-to-curb street width with parking allowed on both sides, in lieu of the required 11.4 meter curb-to-curb street width with parking allowed on both sides.
3. **Petition of the City of North St. Paul** for a variance from *Minnesota Rules* on the proposed reconstruction project on Municipal State Aid Street No. 126 (Centennial Drive), at the intersection of Helen Street, to allow an 18 mph horizontal curve, in lieu of the required 50 kilometer/hour design speed.
4. **Petition of Fillmore County** for a variance from *Minnesota Rules* on the proposed reconstruction project on County State Aid Highway No. 12 in the City of Preston, Minnesota, to allow two sag vertical curves with 25 and 17 mph design speeds and one crest vertical curve with a 25 mph design speed, in lieu of the required 50 kilometer/hour design speed.
5. **Petition of the City of St. Paul** for a variance from *Minnesota Rules* on the proposed reconstruction project on Municipal State Aid Street No. 177 (Ohio Street), between Annapolis Street and George Street to allow a 36 foot curb-to-curb street width with parking allowed on both sides, in lieu of the required 11.4 meter street width with parking allowed on both sides.

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

9:30 a.m.	City of South St. Paul
9:45 a.m.	St. Louis County
10:00 a.m.	City of North St. Paul
10:15 a.m.	Fillmore County
10:30 a.m.	City of St. Paul

Dated: 1 June 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Department of Transportation

Petition of the City of North St. Paul for a Variance from State Aid Requirements for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the North St. Paul City Council has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project on Municipal State Aid Street No. 126 (Centennial Drive) at Helen Street in the City of North St. Paul.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9936, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit an 18 mph horizontal curve at the intersection of Centennial Drive (Municipal State Aid Street No. 126) and Helen Street, in lieu of the required 50 kilometer/hour design speed.

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

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

Dated: 1 June 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Department of Transportation

Petition of the City of St. Paul for a Variance from State Aid Requirements for STREET WIDTH

NOTICE IS HEREBY GIVEN that the St. Paul City Council has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project on Municipal State Aid Street No. 177 (Ohio Street), between Annapolis Street and George Street.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9936, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 36 foot curb-to-curb street width with parking allowed on both sides, in lieu of the required 11.4 meter curb-to-curb street width with parking allowed on both sides on the proposed reconstruction project on Municipal State Aid Street No. 177 (Ohio Street), between Annapolis Street and George Street in the City of St. Paul, Minnesota.

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

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

Dated: 1 June 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Department of Transportation

Petition of the Fillmore County Board for a Variance from State Aid Requirements for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the Fillmore County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project on County State Aid Highway No. 12 in the City of Preston, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9936, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit two sag vertical curves with 25 and 17 mph design speeds, and a crest vertical curve with design speed of 25 mph, in lieu of the required 50 kilometer/hour design speed on the proposed reconstruction project on County State Aid Highway No. 12 in the City of Preston, Minnesota.

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

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

Dated: 1 June 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Official Notices

Department of Transportation

Petition of St. Louis County for a Variance from State Aid Requirements for STREET WIDTH

NOTICE IS HEREBY GIVEN that the St. Louis County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed reconstruction project on CSAH 144 (McKinley Avenue), between Fayal Road and Harrison Street in the City of Eveleth, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9936, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 10.8 meter curb-to-curb street width with parking allowed on both sides, in lieu of the required 11.4 meter curb-to-curb street width with parking allowed on both sides on the proposed reconstruction project on County State Aid Highway No. 144 (McKinley Avenue), between Fayal Road and Harrison Street in the City of Eveleth, Minnesota.

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

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

Dated: 1 June 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Department of Transportation

Notice of Public Meeting for Listing a Rail Line for Possible Acquisition

The Commissioner of the Minnesota Department of Transportation hereby gives notice that the State of Minnesota is listing a rail line for possible acquisition through the State Rail Bank Program.

This notice is published pursuant to *Minnesota Statutes*, Section 222.63, Subdivision 3, in accordance with the rules governing the State Rail Bank Program, *Minnesota Rules* 1991, parts 8830.5800-8830.5860.

The Minnesota Department of Transportation has scheduled the following public meetings:

WED., JUNE 19, 1996, 7:00 p.m., Peoples Natural Gas Bldg., 301 2nd Street NW, in Bemidji for Beltrami County.

THURS. JUNE 20, 1996, 7:00 p.m., Clearbrook-Leonard Senior Citizen Center, First Avenue and Main Street in Clearbrook for Polk and Clearwater Counties.

1. The rail line is owned by CP Rail Systems (Soo Line) and is known as the Bemidji to Gully line, approximately 40 miles in length.
2. The rail line is located in Beltrami, Clearwater and Polk Counties.
3. The identified potential future uses for the rail line are: transportation purposes, transmission line (example fiber optics), or a recreational trail.
4. The Bemidji to Gully line, abandoned May 6, 1996, is a section of the Bemidji to Plummer rail line.

The agency requests information and opinions concerning said acquisition. Written statements should be directed to:

Melvin Loesch
State Rail Bank Coordinator
Office of Railroads & Waterways
Minnesota Department of Transportation
Mail Stop 470, 925 Kelly Annex
395 John Ireland Boulevard
St. Paul, Minnesota 55155-1899

Oral statements of information will be taken at the Public Meetings. Any written or recorded material shall become the property of the state of Minnesota.

United States Department of Agriculture

Natural Resources Conservation Service

Notice of Establishment of Technical Committee for Input on USDA Conservation Program

The USDA Natural Resources Conservation Service is establishing a State Technical Committee to provide input on USDA Conservation program.

Date: June 20, 1996
Time: 9:00 - 12:00
Where: AgriBank Building
Wisconsin Room
375 Jackson St.
St. Paul, MN

For more information call 290-3670.

State Grants

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

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

Minnesota Board on Aging

Notice of Availability of Funds for Senior Volunteer Programs

The Minnesota Board on Aging announces the expected availability of funds for Senior Volunteer Programs. \$150,000 is available for each of the following Senior Service Corp projects:

- Retired and Senior Volunteer Program—expansion to new counties and new initiatives
- Foster Grandparent Program—new initiatives
- Senior Companion Program—new initiatives

Funds will be available October 1, 1996 for a period of nine months. New projects may apply for RSVP in uncovered areas. Only existing RSVP, FGP, and SCP projects may apply for new initiatives. The deadline for submission of grants is on or before August 15, 1996 at 4:30 P.M. at the Board on Aging offices, 444 Lafayette Rd., St. Paul, Minnesota 55155. Grant applications, parameters for funding, and criteria may be obtained by written request or calling:

Minnesota Board on Aging, 612-296-2770
Attention: Ted Gredvig, Planning and Development Consultant

Department of Health

Family Health

Grant Funds Available for Home Visiting Projects to Prevent Child Abuse and Neglect

Eligible Applicants:	Community Health Boards (CHB's)
(Home Visiting Projects which are currently funded by MDH are not eligible to apply for these funds.)	
Amount of Available Funds:	\$250,000
Duration of Grants:	10/1/96 - 12/31/97 15 Month Project 01/1/97 - 12/31/97 12 Month Project
Application Materials Available:	06/10/96
Application Deadline:	07/25/96
Award Decision:	09/03/96
Beginning Contract Date:	10/01/96 15 Month Project 01/01/97 12 Month Project

Description of Grants:

The Minnesota Department of Health (MDH) Home Visiting Program is seeking proposals from community health boards (CHBs) for projects which **enhance** and **expand** the agency's current public health nursing home visiting activities. Projects must be designed to prevent child abuse and neglect by promoting positive parenting, resiliency in children, and a healthy beginning for children. Approximately ten (10) grants will be awarded to assist local public health agencies in strengthening/building on their current constellation of services/service elements for families, and further developing these services into a coordinated child abuse/neglect prevention program. Agencies which currently meet many of the statutory requirements for the home visiting program are strongly encouraged to apply for this funding. Two or more counties in a local area may wish to work together to plan and develop applications, in order to reduce competition and duplication of effort. Projects will be funded for either 12 or 15 months; awards will be capped at \$20,000 for 12 month projects and \$25,000 for 15 month projects. Agencies may choose a project start date of either October 1, 1996 or January 1, 1997.

Criteria for selection of grantees will include:

- the agency's **current capacity** to meet the statutory requirements of the home visiting program;
- the agency's budgetary needs to reach **full compliance** with the statutory requirements by the end of the grant period; and
- the number of families for which the agency expects to provide home visiting services during the grant period (projects must be ready to enroll families by the end of the first quarter of funding).

The **statutory** requirements of the Home Visiting Program include the following:

- contact families at the birth of a child to provide information and offer home visiting services;
- conduct a screening process to determine if families need additional support or are at risk for child abuse and neglect;
- use a common risk assessment tool (AAPI);
- offer public health nurse and family aide home visiting services to at-risk families, from the first trimester of pregnancy until age 6;
- coordinate with other local home visiting programs;
- distribute educational and public information programs and materials to hospitals, clinics, and other community providers; and
- evaluate services to families, using the MDH Evaluation Plan; and
- provide at least 40 hours of training for public health nurses, family aides, and other home visitors.

Contact Person: Barbara Palmer
Division of Family Health
Minnesota Department of Health
717 Delaware Street Southeast, P.O. Box 9441
Minneapolis, MN 55440-9441
Telephone: (612) 623-5339 FAX: (612) 623-5775

Professional, Technical & Consulting Contracts

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

In accordance with *Minnesota Rules Part 1230.1910*, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612)296-2600 or [TDD (612)297-5353 and ask for 296-2600].

Department of Administration

Division of Materials Management

Advertisement for Bids for Final Cover Construction at Korf Brothers Sanitary Landfill in Pine County

Requisition Number: Account ID 370 R32 GM30 G21

Sealed Proposals for Final Cover Construction at Korf Brothers Sanitary Landfill in Pine County, Minnesota will be received by the Division of Materials Management, State of Minnesota, Room 112, State Administration Building, St. Paul, Minnesota, 55155, until 3:00 pm on July 1, 1996 and will then be opened and publicly read aloud.

A Pre-bid meeting will be held for this project. The time, date and location are identified in the Instructions to Bidders. Proposal Forms, Contract Documents, Plans and Specifications as prepared by the State of Minnesota, Division of State Building Construction are on file in the Division of Materials Management, Room 112 Administration Building, St. Paul, Minnesota and the following Builders Exchanges: St. Paul and Minneapolis, F.W. Dodge and Construction Market Data and National Association of Minority Contractors of Minnesota.

Subsurface Investigation Data is on file for inspection at the office of the Division of Materials Management and at all offices listed for inspecting Bidding Documents. Copies are available at no cost and may be obtained when requesting Bidding Documents.

Copies of Proposal Forms, Plans and Specifications for use by Contractors in submitting a bid may be obtained from Rust Environment & Infrastructure without deposit, at the address listed below.

Each bid which totals over \$15,000.00 must be accompanied by a certified check made payable to the State of Minnesota, or a surety bond of a surety company duly authorized to do business in the State of Minnesota, in an amount equal to five percent (5%) of the bid.

This landfill final cover is composed of a sandy buffer layer, an LLDPE geomembrane liner, a sand drainage layer and a vegetative layer covering roughly 16 acres. The project involves consolidation of waste from areas adjacent to the proposed final cover, a passive gas venting system and some ancillary grading and access road construction.

Project Number 43607.140

Rust Environment & Infrastructure
3033 Campus Drive, Suite 175
Minneapolis, MN 55441
Telephone: (612) 551-1001
Fax: (612) 551-2499

Professional, Technical & Consulting Contracts

Department of Administration

Notice of Request for Proposals for Assessment and Implementation of Corrections to the State of Minnesota's Information Technology Infrastructure Relating to the Year 2000 Impact

The State of Minnesota is requesting proposals for the assessment and implementation of corrections to the State information technology infrastructure relating to the year 2000 impact. Proposals will be due July 8, 1996, 3:00 P.M. room 112 State Administration Building, St. Paul, MN 55155 Attn: Donald H. Olson, CPPB, Acquisition Management Specialist.

Proposals will be available June 10, 1996. Fax your request for a copy to 612-297-3996. A proposers conference will be held on June 20, 1996, 9:30 to 11:00 A.M. 5th floor Centennial Building, St. Paul MN 55155.

Vendors are reminded that a Department of Human Rights Certification will be necessary prior to the submissions of proposals. Contact the Department of Human Rights at 612-296-5663 to verify your firm is certified or to begin the certification process. Failure to have the certification prior to the opening will result in rejection of the response if your firm has more than 20 full time employees.

Successful contractor will be responsible for an in-depth assessment of existing information resources for each state agency in addition to the cost to fix those systems. An INTENT TO PROPOSE form shall be submitted to the above address prior to June 25, 1996. Those vendors will receive copies of any future addendums to the Request for Proposal.

Minnesota Department of Children, Families and Learning

Notice of Request for Proposals for Single Parents, Displaced Homemakers, Single Pregnant Women, and Sex Equity

The Minnesota Department of Children, Families and Learning is seeking proposals in the areas of Single Parents, Displaced Homemakers, and Single Pregnant Women; and Sex Equity through the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. The RFP is designed to meet the unique needs of the described special populations and to provide vocational education information and activities whereby students grades 10-12 enter occupations not traditionally associated with their gender.

Eligible applicants are local education agencies with State Board of Education approved school district numbers.

NOTE: In the Single Parent, Displaced Homemaker, and Single Pregnant Women categories, community based organizations are eligible to apply, but must submit through a local education agency with a State Board of Education approved school district number. Application procedures and forms may be obtained by writing to:

Audrey Grote
Minnesota Department of Children, Families and Learning
872 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101-2273
612/296-1084

To be considered for approval all completed applications must be received by Audrey Grote at the above address on or before 4:00 p.m. on Wednesday, July 31, 1996.

Department of Corrections

Request for Proposal: Professional/Technical Physician Services

The Minnesota Department of Corrections, Health Care Unit, is requesting proposals for professional/technical physician services at the Minnesota correctional facilities. Services to include physical examinations, primary and follow-up services, secondary and tertiary referrals, health maintenance and health education. Physician will also be required to participate in scheduled meetings as directed by the Medical Director or Health Care Administrator. The physician will work with the DOC as it automates the medical system which includes medical records, telemedicine and automated pharmacy deliveries.

For an RFP or additional information, please call or write to:

Mr. Dana Baumgartner
Health Care Administrator
Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, Minnesota 55108-5219
Telephone: 612-642-0248

Proposals are due no later than 4:00 p.m. on Friday, July 5, 1996. No late proposals will be accepted.

Department of Economic Security

State Services for the Blind Branch

State Services for the Blind Requests Proposals for Staff Adjustment-to-Blindness Training

Purpose:

The purpose of this Request for Proposal is to solicit proposals from qualified vendors to provide Adjustment-to-Blindness training services under the blindfold to State Services for the Blind Staff.

This Request for Proposal is for training services for which the State cannot estimate its total need in advance. The State will request services under the resulting contracts on an as-needed basis as determined by State Services for the Blind. The State, therefore, cannot determine at this time how much money will actually be spent on these services. Because no services may be required from a contractor in a given period of time, the State is not committing to spending any funds in any given fiscal year.

Contracts for providing these services may be offered to multiple qualified proposers based on an evaluation of the responses received and the nature and amount of work the State currently foresees being available. Referral of trainees is expected to begin within thirty (30) days of contract execution.

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

Objectives:

The State is requesting an Adjustment-to-Blindness Training program so that State Services for the Blind staff gain and have reinforced the following:

- a. Basic knowledge of alternative techniques of blindness;
- b. Ability to practice the techniques personally;
- c. Belief in the effectiveness of the techniques;
- d. An understanding of the process of attitudinal and skill change which must take place in order for adjustment-to-blindness to succeed;
- f. Increased appreciation for blind persons as peers;
- g. Understanding of resources to obtain additional information;
- h. Appreciation of the value of services provided;
- i. Increased appreciation of the value of full-time adjustment to blindness training and an increased awareness of results realized by blind and visually impaired persons;

Procedure and estimated number of participants:

This training program is a core requirement for every member of the State Services for the Blind staff. It is designed to ensure all

Professional, Technical & Consulting Contracts

staff have the essential skills and knowledge of blindness necessary for adequate job performance. This program is scheduled for employees on an individualized basis with contract vendors of the service.

The program is to be a standardized program of Adjustment-to-Blindness training under the blindfold. The program is to consist of two parts: a six-week training session conducted under the blindfold at an approved vendor's facility and; one week training under the blindfold at a minimum of two additional approved vendor's facilities. All staff will participate in the six week session. The number of staff is approximately 130. Select professional and supervisory staff will also participate in the additional two week training session.

The first session will run for six consecutive weeks and consists of five eight hour days of training per week. This session will be a full-time work assignment for participating staff.

The second session, required of professional staff of the Career and Independent Living Services section (approximately 45 staff) and the Business Enterprises Program section (approximately 6 staff), and all supervisory and managerial staff of all sections (approximately 15 staff), will be completed as soon as possible following the six week training session.

The exact time and date of any specific session will be arranged by the State Services for the Blind supervisor from among the approved vendors. All new staff, regardless of classification, will be expected to begin this training within two weeks of employment at State Services for the Blind and before beginning work with clients.

Copy of Request for Proposal:

Prospective vendors interested in receiving a copy of the Request for Proposal may call or write:

Richard K. Strong, Adjustment to Blindness Training
State Services for the Blind
2200 University Ave. West, Suite 240
St. Paul, Minnesota 55114-1840
(612) 642-0509; TTY/TDD (612) 642-0506
Fax (612) 649-5927

Other State personnel are not allowed to discuss the Request for Proposal with vendors before the deadline for submission of proposals.

Submission of Responses:

Each prospective vendor must submit 5 copies of its proposal to the project manager not later than 4:30 p.m. C.D.T. **Friday June 28, 1996**, as indicated by the date and time marked on each response package by the State Services for the Blind receptionist. All proposals must be sent to and received by:

Mike Young, Adjustment to Blindness Training
State Services for the Blind
2200 University Ave. West, Suite 240
St. Paul, Minnesota 55114-1840
(612) 642-0511; TTY/TDD (612) 642-0506

Late responses will not be accepted. Responses received after the closing deadline of 4:30 p.m. C.D.T. on **Friday June 28, 1996**, will be returned unopened to the vendor.

Mandatory informational meeting:

An informational meeting for prospective bidders will be held on **Wednesday, June 12, 1996**, at 1:00 p.m. in Conference rooms A and B, State Services for the Blind, 2200 University Avenue W. #240, St. Paul, Minnesota. For reservations, please call the State Services for the Blind receptionist at (612) 642-0500 by 4:30 p.m. on, **June 10, 1996**.

The objective of the vendor meeting will be to clarify any questions vendors or the State may have regarding proposed services and costs. This meeting is mandatory for vendors. Proposals from vendors who do not attend this meeting will be rejected.

Vendors should submit questions in writing to the project manager, Richard K. Strong, at the address above, no later than **Tuesday, June 10, 1996**.

Contract term:

The period of performance of the contract will be approximately two years. The contract term will terminate June 30, 1998, but the contract will contain three options to renew for additional one-year periods. Options to renew will be exercised upon mutual agreement by the vendor and the State. The State expects to exercise its renewal options or execute new contracts approximately six (6) months before the end of the contract term.

Minnesota Legislature

Minnesota House of Representatives Public Information Office
Minnesota Senate Publications Office

Public Notice of Request for Bid for Printing New Laws 1996

NOTICE IS HEREBY GIVEN that the Minnesota House of Representatives Public Information Office and the Minnesota Senate Publications Office are seeking bids from qualified printers to provide printing services for New Laws 1996.

The size of the publication will be 8-1/2" x 11" and will contain approximately 152 pages plus cover. Electronic files will be provided on 3.5" Macintosh magneto-optical disk for film output on a Linotronic or similar high resolution imagesetter.

Turn-around time is critical because this document loses value with age. All work must be done in-house — unless specifically approved by us.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to Room 175, State Office Building, no later than **Monday, June 24, 1996, at 2 p.m.** Bid submittals will be opened publicly on that date and time.

A copy of the Request for Bid packet can be obtained by calling: Paul Battaglia, 175 State Office Building, St. Paul, Minnesota, 55155-1298, (612) 296-8904.

Other department personnel are NOT allowed to discuss the Request for Bid with anyone, including responders, before the proposal submission deadline.

Dated: 30 May 1996

Minnesota State Lottery

Notice of Request for Proposals for Delivery and Maintenance of Instant Ticket Vending Machines

The Minnesota State Lottery is seeking proposals for the delivery and maintenance of instant ticket vending machines (ITVMs). To obtain a copy of the Request for Proposal interested vendors should call or write: Tom Barrett, Minnesota State Lottery, 2645 Long Lake Road, Roseville, MN 55113 (612) 635-8108 or fax (612) 297-7497.

Department of Transportation

Request for Proposal for Mn/DOT Employee Ear Examinations, Audiometric Testing, and Written Evaluation of Test Data

This proposal is being requested by the Department of Transportation to provide for designated Mn/DOT employees, ear examinations, audiometric testing, and written evaluations of test data in accordance with applicable O.S.H.A. regulations. This request for proposal does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

A. Scope of Project:

To provide for all Mn/DOT employees who are or have been exposed to noisy environments (over 85 DBA's) an annual hearing test performed in a soundproof booth that meets OSHA requirements.

B. Goals and Objectives:

Selected vendor will visit all Mn/DOT districts and perform ear examinations and audiometric testing on all designated employees. Upon completion of testing will submit to the state an evaluation of tests and a written explanation of test data on each employee tested.

C. Project Tasks:

- a. Contact responsible person in each district to set up date and times for employees testing.
- b. Check ear canals for obstruction prior to audiometric testing.

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- c. Perform audiometric testing on all employees which have been designated by the responsible person at each district.
- d. Provide to the state an evaluation of the test results for each employee tested.
- e. Provide to the state written explanations of the test data.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

D. Department Contacts:

Prospective responders who have any questions regarding this request for proposal may call or write:

Barbara J. Gibson, Acting Supervisor, Budget & Finance Unit
395 John Ireland Blvd., M.S. #700
St. Paul, MN 55155
(612) 296-6079

Please note that other department personnel are not allowed to discuss the project with responders before the submittal of proposed deadlines.

E. All proposals must be sent to and received by:

Barbara J. Gibson, Acting Supervisor, Budget & Finance Unit
395 John Ireland Blvd., M.S. #700
St. Paul, MN 55155

Not later than 4:00 P.M. June 24, 1996.

Late proposals will not be accepted. Submit 3 copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

F. Project Costs:

The department has estimated that the cost of this project should not exceed \$15,000.00 per fiscal year.

G. Project Completion Date:

OSHA requires annual hearing exams, all effected employees must be tested by the end of each fiscal year. Fiscal years end June 30.

H. Proposal Contents:

The following will be considered minimum contents of the proposal:

1. A restatement of the objectives, goals, and tasks to show or demonstrate the responders' view of the nature of the project.
2. Identify and describe the deliverables to be provided by the responder.
3. Outline the responder's background and experience with particular emphasis on local, state, and federal government work. Identify personnel to conduct the project and detail their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the state Project Director/Manager.
4. Responder will prepare a detailed cost and work plan which will identify the major tasks to be accomplished and be used as a scheduling and managing tool, as well as the basis for invoicing.
5. Identify the level of Mn/DOT's participation in the project as well as any other services to be provided by the department.

I. Evaluation Criteria:

All proposals received by the deadline will be evaluated by representatives of the Department of Transportation. In some instances, an interview may be part of the evaluation process. Factors upon which proposals will be judged, but are not limited to, the following:

1. Expressed understanding of project objectives.
2. Project work plan.
3. Project cost detail.
4. Qualifications of both company and personnel. Experience of project personnel will be given greater weight than that of the firm.

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It is anticipated that evaluation and selection will be completed by June 26, 1996.

J. Worker's Compensation:

The successful responder will be required to submit acceptable evidence of compliance with worker's compensation insurance coverage requirements prior to execution of the contract.

Department of Transportation

Operations / Maintenance Division

Notice of Availability of Contract for Professional Services for Development of Information Tools

The Department of Transportation is requesting proposals for development of information tools that relate efficiency and effectiveness of resources deployed to highway maintenance activities against the outcomes expected by those who use highways to add value to their business or personal activities.

The agency has estimated that the cost of this project need not approach but shall not exceed \$75,000.00.

It is anticipated that the contract period will begin August 15, 1996 and continue through September 15, 1997.

For further information, or to obtain a copy of the completed Request for Proposal, contact Marvin G. Bates, Office of Maintenance, 395 John Ireland Blvd., MS #700, St. Paul, Minnesota 55155, 612/282-6982.

Proposals must be received at the above address no later than 12:01 PM on July 15, 1996.

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

Non-State Public Bids, Contracts & Grants

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

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

City of St. Paul

Notice of Request for Proposals for Software Development

The City of Saint Paul, through its Police Department, is seeking proposals from qualified applicants to develop front-end software for their SINGLE INCIDENT TRACKING SYSTEM. The successful proposer will be required to provide object-oriented software design and development, consulting and training.

The RFP (Request for Proposals) is available by contacting the City of Saint Paul/Ramsey County joint Purchasing Office, 280 City Hall/Courthouse, 15 W. Kellogg Blvd., Saint Paul, MN 55102; Ph. (612) 266-8909, Dale Stevens.

City of Wadena

Wadena City Sanitary Landfill

Advertisement for Bids for Final Cover and Passive Gas System Construction

Sealed Bids for the final cover and passive gas system construction at the Wadena City Sanitary Landfill, located in Wadena, Minnesota, addressed to the Minnesota Pollution Control Agency, hereinafter called the OWNER, will be received by the Division of Materials Management, State of Minnesota, Room 112, State Administrative Building, St. Paul, Minnesota, 55155, until 3:00 p.m. on Friday, June 28, 1996. The Bids will then be opened and publicly read aloud. Any Bid received after the time and date specified herein will not be considered.

The CONTRACTOR and subcontractors will have to comply with requirements of OSHA 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response Standard.

Included in the work will be the following major elements:

- Excavation of municipal and demolition waste from Pit No. 1 and haul to Pit No. 2;
- Excavation and regrading of municipal and demolition waste in Pit No. 2;
- Installation of approximately 17 acres of final cover soils such as buffer soils, sand layers, general soil, and topsoil;
- Installation of approximately 17 acres of 40 mil LLDPE geomembrane;
- Installation of 18 gas vent wells and associated piping;
- Construction of surface water and erosion control features; and
- Turf establishment.

The Bidding Documents, Drawings and Specifications, as prepared by Foth & Van Dyke, may be examined at the Division of Materials Management, Room 112 Administration Building, St. Paul, Minnesota and the following Builders Exchanges: St. Paul and Minneapolis, F. W. Dodge, Construction Market Data, and National Association of Minority Contractors of Minnesota.

Prequalification of Bidders will not be required. However, Proof of Responsibility forms will be issued with the Bid Documents. The Proof of Responsibility forms must be completed and submitted with the Bid. No bids will be accepted from any Bidder who has not submitted Proof of Responsibility. The Owner reserves the right to reject the bid of any Bidder who has been determined to be unqualified.

Non-State Public Bids, Contracts & Grants

Single copies of the Contract Documents for use by the CONTRACTORS in submitting a bid may be obtained by written request and a \$50.00 refundable deposit. Requests for documents to be shipped should be accompanied by two separate checks, one for the deposit and one non-refundable for \$5.00 to cover the cost of shipping (cash will not be accepted). Make checks payable to Foth & Van Dyke and send to the following address:

FOTH & VAN DYKE
10340 Viking Drive, Suite 100, Eden Prairie, Minnesota 55344
Attn: Kathleen Marshall, P.E.
Telephone: (612) 942-0396; Fax: (612) 942-0865

Each bid which totals over \$15,000.00 must be accompanied by a certified check made payable to the State of Minnesota, or a surety bond of a surety company duly authorized to do business in the State of Minnesota, in an amount equal to five percent (5%) of the bid.

The OWNER reserves the right to reject any or all bids not conforming to the intent and purpose of the Contract Documents, and to postpone the award of the Contract for a period of time which shall not extend beyond 45 days from the proposal opening date unless otherwise specified in the INSTRUCTIONS TO BIDDERS.

A pre-bid meeting will be held at the City of Wadena Administrative Center located at 222 2nd Street S.E. in Wadena, Minnesota, on Monday, June 17, 1996 at 11:00 a.m. to address questions. A site visit to the Landfill will follow the meeting. Questions will no longer be answered after the close of business on Friday, June 21, 1996.

Document refunds will be made to plan and specification holders who return documents in good condition within 15 calendar days of the bid opening date. Plan holders returning documents in person must do so within normal working hours and by the close of business on the 15th calendar day. Documents returned by a shipping carrier must be postmarked by midnight on the 15th calendar day.

Metropolitan Council

Public Notice of Informational Meeting to Describe the Schedule and Procurement Process for Blue Lake/Seneca Solids Handling — MCES Project Number 910200

NOTICE IS HEREBY GIVEN that the Metropolitan Council Environmental Services (MCES) will conduct an informational meeting to brief all potential bidders and proposers on the Blue Lake/Seneca Solids Handling Project on Wednesday, June 19, 1996 at Mears Park Centre, Room 1A, at 1:00 p.m. Central Standard Time. At this meeting, MCES will describe the revised procurement process and schedule, discuss the basis for the Request for Proposals and Bids (RFP/B) and answer questions regarding the RFP/B to be issued.

The procurement process and schedule have been revised to allow potential bidders and proposers to offer design/build/operate and/or design/build/own/operate alternatives to MCES. These revisions will provide bidders and proposers the option of bidding or proposing to design/build/operate or design/build/own/operate solids stabilization facilities for the Blue Lake WWTP and/or Seneca WWTP solids production. In addition, a procurement process for thickening and dewatering facilities for the Blue Lake WWTP will be conducted in parallel with the solids stabilization facilities procurement process. This parallel procurement process for thickening and dewatering facilities will provide bidders and proposers the option of offering to design/build/operate or design/build/own/operate thickening and dewatering facilities.

Bidders and proposers will have the option of bidding and/or proposing on any or all of the following project components:

1. Thickening and dewatering facilities for the Blue Lake WWTP; to be located on the Blue Lake WWTP site.
2. Solids stabilization facilities for all raw, dewatered solids produced at:
 - a. The Blue Lake WWTP; to be located on the Blue Lake WWTP.
 - b. The Blue Lake WWTP; to be located off the Blue Lake WWTP site.
 - c. The Seneca WWTP; to be located off the Seneca WWTP site.
 - d. The Blue Lake and Seneca WWTPs; to be located off the Blue Lake and Seneca WWTP sites.

No solids from the Blue Lake WWTP may be processed at the Seneca WWTP site and no solids from the Seneca WWTP may be processed at the Blue Lake WWTP site.

Non-State Public Bids, Contracts & Grants

The tentative schedule for the solids stabilization and thickening and dewatering facilities procurement process is shown below:

1. Issue RFP/B August 1996.
2. Receive Proposals/Bids October 1996.
3. Evaluate Proposals/Bids and Select November 1996.
4. Metropolitan Council Authorization December 1996.
5. Contract(s) Awarded January 1997.

Metropolitan Council

Notice of Request for Proposals to Operate Transit Services in the Minneapolis/St. Paul Metropolitan Area

The Metropolitan Council Office of Transportation and Transit Development is seeking proposals for the operation of transit services in the Minneapolis and St. Paul Metropolitan Area. To obtain the RFP, you must request it by phone, in writing or by fax.

The RFP is separated into two packages (Package A for West Metro, Package B for East Metro), each operating a combination of 40-foot bus express service and small bus local circulation service. The service will use existing or new regional fleet buses. *Interested providers may bid on one or both packages.* Joint proposals are allowed for one or both of these service packages. The RFP can be obtained by calling, writing or faxing:

Mark Fuhrmann
Manager of Evaluation/Implementation
Metropolitan Council
230 East 5th Street, St. Paul, MN 55101
612/229-2722, 612/291-0904 (TTY); Fax: 612/229-2739

A pre-proposal conference will be held in the Metropolitan Council Chambers at 10 a.m., Thursday, June 13, 1996. Attendance is not mandatory but highly recommended. Final proposals are to be delivered to the Metropolitan Council offices by 5 p.m. (CDT), Friday, June 28, 1996.

University of Minnesota

Notice of Change of Date by University of Minnesota for Public Meeting

In the May 28, 1996 edition of the *State Register*, the University of Minnesota announced it had issued a Request for Proposal for External Audit Services for a term of up to five years, from July 1, 1996 to June 30, 2001. The University announced it would hold a public meeting for prospective bidders to discuss its Request for Proposal on June 13, 1996. The date for this meeting has now been changed to June 19, 1996. The meeting will begin at 8:30 a.m. and end no later than 11:30 a.m. It will be held in Room 140 at 1300 South Second Street, Minneapolis, Minnesota. Proposals to the University must be submitted by July 8, 1996. For more information write Robert A Super, Acting Controller at University of Minnesota, Suite 650, 1300 South Second Street, Minneapolis, MN 55454, or phone (612) 624-4367.

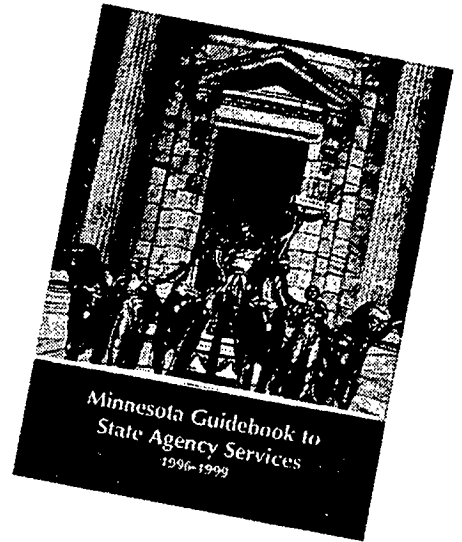
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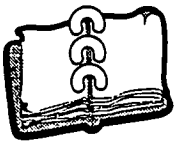
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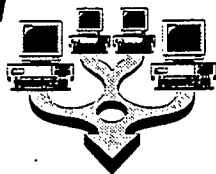
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