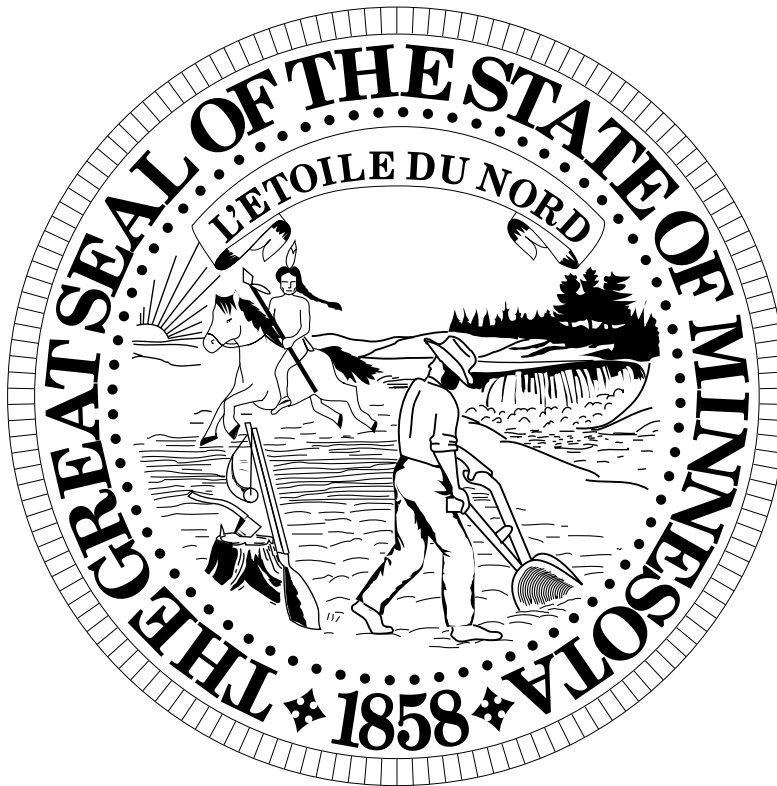


State of Minnesota

State Register

Rules and Official Notices Edition



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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

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

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
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Kent Allin, Asst. Commissioner (651) 297-4261

Mike Hatch, Attorney General (651) 297-4272

Judi Dutcher, State Auditor (651) 297-3670

Communications Media Division:

Mary Mikes, Director (651) 297-3979

Jan Preglo, Acting Manager (651) 296-8233

Mary Kiffmeyer, Secretary of State (651) 296-2079

Carol Johnson, State Treasurer (651) 296-7091

Robin PanLener, Editor (651) 297-7963

Jane Schmidley, Assistant Editor (651) 296-4273

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#16	Monday 16 October	Noon Wednesday 4 October	Noon Tuesday 10 October
#17	Monday 23 October	Noon Wednesday 11 October	Noon Tuesday 17 October
#18	Monday 30 October	Noon Wednesday 18 October	Noon Tuesday 24 October
#19	Monday 6 November	Noon Wednesday 25 October	Noon Tuesday 31 October

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

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Minnesota Rules: Amendments and Additions

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

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

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

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Rule Amendments

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

Rules to be Adopted After a Hearing

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

Rules to be Adopted Without a Hearing

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

Emergency Medical Services Regulatory Board

Proposed Permanent Rules Relating to Ambulance Services

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Repeal of Rules Governing Compliance With Approved Local Ordinances, *Minnesota Rules*, part 4690.3800

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

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Frank Merriman, Minnesota Health Licensing Boards, 2829 University Ave. SE, Suite 445, **telephone:** (612) 617-2121, **fax:** (612) 617-2125, and **email:** Frank.Merriman@state.mn.us. **TTY** users may call the Board at (800) 627-3529.

Subject of Rules and Statutory Authority. The Board is proposing to repeal rules governing compliance with approved local ordinances, *Minnesota Rules*, part 4690.3800. The statutory authority to adopt the rules is *Minnesota Statutes*, section 144E.16, subdivision 5. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, November 15, 2000, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, November 15, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

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

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

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

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

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

Dated: 28 September 2000

Mary Hedges
Executive Director

REPEALER. *Minnesota Rules*, part 4690.3800, is repealed.

Department of Human Services

Proposed Permanent Rules Relating to Electroconvulsive Therapy

DUAL NOTICE: NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE RECEIVED

Proposed Amendment to Rules Governing Use of Electroconvulsive Therapy and Referrals for Psychosurgery for Persons Residing in State Facilities, *Minnesota Rules*, Parts 9515.0200 to 9515.0800

Introduction. The Department of Human Services intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on Wednesday, November 15, 2000, a public hearing will be held in room 116B, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, starting at 9:30 a.m. on Tuesday, November 28, 2000. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after November 15, 2000 and before November 28, 2000.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Robert Klukas at Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155, **telephone:** (651) 296-2794, **fax:** (651) 297-3173. **TTY** users may call the Department of Human Services at (651) 296-7385.

Subject of Rules and Statutory Authority. The proposed rule amendments update a rule which requires the department to follow standards and procedures for use of treatments which are considered "more intrusive" than other treatments and protects the rights of patients in state facilities who may receive those treatments. The statutory authority for the original promulgation of parts 9515.0200 to 9515.0800 was derived from *Price v. Sheppard*, 307 Minn. 250, 239 N.W. 2d 905 (1976) and *Minnesota Statutes*, section 246.01.

Minnesota Statutes, Chapter 245 grants general rulemaking authority to protect patients who use mental health services. *Minnesota Statutes*, section 245.484, requires in part that “The commissioner shall adopt permanent rules as necessary to carry out sections 245.461 to 245.4888.” Keeping patients safe and protecting patients’ rights are among the purposes of *Minnesota Statutes*, sections 245.461 to 245.4888. *Minnesota Statutes*, section 245.474, requires DHS to make regional treatment center inpatient services available to adults with mental illness. *Minnesota Statutes*, section 245.467, subdivision 1, clause (8), requires that mental health services, such as the services provided in regional treatment centers, are provided under conditions which protect the rights of patients. Protecting the rights of patients receiving mental health services, including patients in a regional treatment center, is a purpose noted in *Minnesota Statutes*, section 245.467, subdivision 1, clause (8). Also, *Minnesota Statutes*, section 245.802, subdivision 2a, clause (6) requires the commissioner of DHS to change rules relating to the residential care of patients as necessary. Statutory authority to adopt rules governing treatment provided to persons with mental retardation residing in state hospitals is contained in *Minnesota Statutes*, section 252.28, subdivision 2. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on Wednesday, November 15, 2000, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 15, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above. For **TTY** contact Minnesota Relay Service at (800) 627-3529.

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

Cancellation of Hearing. The hearing scheduled for November 28, 2000, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 296-2794 after November 15, 2000 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Richard C. Luis is assigned to conduct the hearing. Judge Richard C. Luis can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone:** (612) 349-2542, and **fax:** 612-349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>

Proposed Rules

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

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

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

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

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

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

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

Michael O'Keefe
Commissioner, Department of Human Services

9515.0200 PURPOSE AND APPLICABILITY.

~~Parts 9515.0200 to 9515.0800 govern the administration of the treatment methods specified in part 9515.0300 to committed patients residing at state hospitals.~~ 9515.0700 establish standards that must be met in determining whether to use electroconvulsive therapy with a patient residing in a state facility and in obtaining consent to proceed with the treatment if its use is indicated.

Parts 9515.0200 to 9515.0700 also define psychosurgery and clarify that it is rarely used, is considered a treatment of last resort, and is not performed at state facilities. If psychosurgery is indicated for a patient residing in a state facility, part 9515.0450 establishes standards that facility staff must follow in referring the patient to a medical facility where the procedure can be performed.

9515.0310 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9515.0200 to 9515.0700 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 3. **Designated agency.** "Designated agency" means an agency selected by the county board to provide the social services required under the Minnesota Commitment and Treatment Act, *Minnesota Statutes*, chapter 253B.

Subp. 4. **Electroconvulsive therapy.** "Electroconvulsive therapy" means a medical treatment in which central nervous system seizures are induced by an electrical stimulus while the patient is under general anesthesia.

Subp. 5. **Medical director of the facility.** "Medical director of the facility" means the person at a facility who holds that title. In facilities where the staff does not include a person with that title, "medical director of the facility" means the Department of Human Services medical director or the medical director's designee.

Subp. 6. Psychosurgery. “Psychosurgery” means a surgical intervention to sever nerve fibers connecting one part of the brain with another to remove or destroy brain tissue with the intent of modifying or altering severe disturbances of behavior, thought content, or mood.

Subp. 7. State facility. “State facility” means any facility owned or operated by the state of Minnesota and under the programmatic direction or fiscal control of the commissioner.

9515.0450 CONDITIONS GOVERNING REFERRALS FOR PSYCHOSURGERY.

If psychosurgery appears to be indicated for a patient residing in a state facility, the patient must be referred to a neurosurgical center and the referral must be approved by the facility medical director and the Department of Human Services medical director. Psychosurgery shall be considered a procedure of last resort. A referral may be made only when all other somatic treatments have failed with a patient whose obsessive compulsive disorder, seizure disorder, or pain syndrome is chronic and intractable and who is severely disabled and at extreme risk for debilitating self-injury or death. The neurosurgical center to which the patient is referred is responsible for taking the steps necessary to obtain consent and to meet any other legal requirements necessary to perform the procedure.

9515.0500 PROCEDURES CONDITIONS GOVERNING USE OF ELECTROCONVULSIVE THERAPY.

~~None of the treatment methods listed in part 9515.0400~~ Electroconvulsive therapy shall not be administered to a patient committed to adult patients residing in a state hospital facility unless the medical director of the state hospital, on the basis of facility, after consultation with the patient’s treating physician, has determined in accordance with the provisions of ~~part 9515.0600 that the treatment method electroconvulsive therapy is medically indicated for the committed patient; and, unless one of the authorizations or consents described in item A or B applies. In the case of patients under age 18, including emancipated minors, electroconvulsive therapy shall not be administered without the judicial authorization required in part 9515.0700, subpart 1.~~ according to part 9515.0600

~~A. The court order committing the patient to the state hospital authorizes administration of the proposed treatment method; or patient is incapacitated and unable to consent to the treatment but authorization or consent exists because:~~

(1) there is a court order authorizing electroconvulsive therapy;

(2) a court-appointed guardian or conservator authorized by a court to consent to the treatment on the patient’s behalf has given informed consent to a request from the state facility under this part; or

(3) the patient has a valid advance directive that permits the treatment.

~~B. In the case of committed adult patients, written consent is obtained on a form which specifies the nature, purpose, risks and effects of the proposed treatment and advises the patient of the right to consult with any other persons regarding this decision and to withdraw consent at any time. The signed consent shall be accessible to the patient and must include a certification by the medical director of the state hospital or the patient’s treating physician that the patient has read and understands the terms of the document and that the patient is competent to give an informed consent to the proposed treatment; or~~

~~C. In the case of a committed person who has mental retardation or a related condition, written consent is obtained from the closest responsible relative on a form which specifies the nature, purpose, risks, and effects of the proposed treatment and advises the relative of the right to consult with any other persons regarding the decision and to withdraw consent at any time. The signed consent shall be accessible to the person’s responsible relative and must include a certification by the medical director of the state hospital or the resident’s treating physician that the relative has read and understands the terms of the document. If the person also is under guardianship or conservatorship of the commissioner, Department of Human Services, *Minnesota Statutes*, section 252A.11 the commissioner must give the above consent as provided in subdivision 1, paragraph (a) or (g) in addition to the relative’s consent. A certification shall be made by the medical director of the state hospital or the resident’s treating physician that the person has received an explanation of the proposed treatment to the extent of the person’s understanding; or~~

~~D. Judicial authorization for the administration of the proposed treatment is granted by a court of competent jurisdiction pursuant to the provisions of part 9515.0700; or~~

~~E. In the case of committed minors, including minors with mental retardation or related conditions, treatments regulated by this rule may not be administered without prior judicial authorization pursuant to part 9515.0700.~~

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

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B. The patient has the capacity to give informed consent and does give written, informed consent for the treatment. A patient has capacity to give informed consent when the following conditions are met:

(1) the patient demonstrates an awareness of the nature of the patient's condition, including the need for treatment and the possible consequences of refusing treatment;

(2) the patient demonstrates an understanding of the proposed treatment and the risks, benefits, and alternatives to such treatment; and

(3) the patient communicates a clear choice regarding the treatment and the choice is a reasoned one, not based on delusion. Disagreement with the physician's recommendation is not evidence of incapacity.

9515.0600 FACTORS TO BE CONSIDERED IN DETERMINING MEDICAL INDICATIONS.

In assessing whether any of the treatment methods listed in part 9515.0400 are electroconvulsive therapy is medically indicated for a committed patient, the medical director and of the state facility where the patient resides or the patient's physician shall consider the following factors in relation to such patient:

A. the predicted extent and duration of changes in the therapeutic effects on mental activity and behavior patterns effected by the treatment that the electroconvulsive therapy is expected to produce;

B. the risks of adverse side effects compared with potential benefits to the patient;

C. the experimental nature of the treatment likelihood that the treatment will produce the desired effects;

D. its acceptance by the medical community of this state and whether less intrusive methods would secure the same benefits whether alternative treatments are available that produce less risk;

E. the extent of intrusion into the patient's body and the pain connected with the treatment medical community's standard for use of electroconvulsive therapy; and

F. the patient's ability capacity to competently determine whether the treatment is desirable.

9515.0700 HEARINGS.

Subpart 1. **Judicial authorization required.** In cases where the provisions of part 9515.0500, item D apply, none of the treatment methods specified in part 9515.0400 shall be administered absent judicial authorization. The state hospital medical director or a designee shall petition the probate or the county court of the county financially responsible for the patient as specified by Minnesota Statutes, section 256D.18, subdivision 2. Where necessary and appropriate, this court may arrange to have the matter heard in the county of the patient's presence. If a court order is required to authorize electroconvulsive therapy, the state facility's medical director or the director's designee shall petition the district court in the county of commitment for an order authorizing the treatment. If the patient has a court-appointed guardian or conservator, the medical director shall ask the guardian or conservator to seek authority to consent to electroconvulsive therapy in the district court in which the guardianship or conservatorship was established. When necessary and appropriate for the patient's welfare, the petition may be filed in the county where the patient is present.

Subp. 2. **Contents of petition.** The petition shall state the nature of the proposed treatment that consent is requested to administer electroconvulsive therapy, describe its purpose, recite the risks and effects of the procedure, and recite the findings of the medical director and/or treating physician as provided in parts 9515.0500 and 9515.0600.

The petition shall may request the appointment of a guardian ad litem to represent the patient and that this person be an attorney if legal counsel is not otherwise available to the patient patient's interests.

Subp. 3. **Copy of petition for agency.** A copy of the petition shall be supplied to the Human Services Department or other designated agency in the county of financial responsibility in advance of the hearing.

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

9525.2700 PURPOSE AND APPLICABILITY.

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

Subp. 3. **Exclusion.** Parts 9525.2700 to 9525.2810 do not apply to:

A. treatments defined in parts 9515.0200 to ~~9515.0800~~ 9515.0700 governing the administration of specified therapies to committed patients residing at regional centers; or

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

REPEALER. Minnesota Rules, parts 9515.0300; 9515.0400; and 9515.0800, are repealed.

Department of Natural Resources

Division of Fisheries

Proposed Permanent Game and Fish Rules Relating to Perch

DUAL NOTICE: NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE RECEIVED

Proposed Rule Governing Yellow Perch *Minnesota Rules*, Part 6262.0200

Introduction. The Department of Natural Resources intends to adopt a rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by 4:30 p.m. on November 15, 2000, a public hearing will be held on November 27, 2000, starting at 9:00 a.m., at Veterans Service Building - Room B, 20 West 12th St, St Paul, Minnesota; and reconvening on November 27, 2000, starting at 7:00 p.m. at the Minnesota Interagency Fire Center (MIFC) - Training Room, 402 - 11th Street S.E., Grand Rapids, Minnesota; and reconvening on November 28, 2000, starting at 6:00 p.m. at the Department of Natural Resources Regional Office - Cafeteria, 1601 Minnesota Drive, Brainerd Minnesota.

To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after November 15, 2000 and before November 27, 2000.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to the agency contact person. The agency contact person is: Linda Erickson-Eastwood at Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4012, **telephone:** (651) 296-0791. **TTY** users may call the Department of Natural Resources at (800) 657-3929.

Subject of Rules and Statutory Authority. The proposed rule would include the recent legislation (*Laws of Minnesota 2000*, Chapter 374), that reduces the statewide yellow perch limits to 20 daily and 50 in possession for inland waters of the state starting on December 1, 2000. The proposed rule would then further reduce the limit, starting on December 1, 2001, to 20 daily and 30 in possession. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 97A.045, subdivision 2, and 97C.401, subdivisions 1 and 2.

A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on November 15, 2000, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. (November 15, 2000 is 30 days from the date of publication of this notice in the *State Register*.) Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 15, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

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

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

Proposed Rules

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

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

Cancellation of Hearing. The hearing scheduled for November 27 and 28, 2000, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 295-0791 after November 15, 2000, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Allan W. Klein is assigned to conduct the hearing. Judge Klein can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone:** (612) 341-7609 and **fax:** (612) 349-2665.

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

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

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

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

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

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

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

Dated: 29 September 2000

Allen Garber
Commissioner of Natural Resources

6262.0200 FISHING REGULATIONS FOR INLAND WATERS.

Subpart 1. **General inland fishing regulations.** Fish may be taken in inland waters by angling during the time specified for each of the following species, however, certain waters of the state are subject to experimental regulations, special regulations, or are closed for the taking and possession of fish:

Species and Open Season	Daily and Possession Limits
[For text of items A to N, see M.R.]	
O. Perch.	<u>100 to November 30, 2000.</u> <u>20 daily, 50 in possession, December 1, 2000, to November 30, 2001.</u> <u>20 daily, 30 in possession, December 1, 2001, and thereafter.</u>
Continuous.	
P. Bullheads.	100
Continuous.	
Q. Sturgeon.	0
Closed.	
R. Carp, bowfin, redhorse, sheepshead, suckers, burbot, gar, whitefish, goldeyes, tullibees, buffalo, smelt.	No limits.
Continuous.	

When the closing date of a season falls on a Saturday, the season will extend to the following Sunday.

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

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Adopted Rules

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

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

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

Exempt Rules

An exempt rule adopted under *Minnesota Statutes* §§ 14.386 or 14.388 is effective upon its publication in the *State Register*.

Emergency Expedited Rules

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

Minnesota Pollution Control Agency

Adopted Permanent Rules Relating to Animal Feedlots and Storage, Transportation, and Utilization of Animal Manure

The rules proposed and published at *State Register*, Volume 24, Number 52, pages 848-884, December 20, 1999 (24 SR 848), are adopted with the following modifications:

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to items A to J.

F. An agency permit required for the construction or operation of an animal feedlot, ~~or manure storage area, or pasture,~~ or for the correction of a pollution hazard. However, parts 7001.0040, 7001.0050, 7001.0100, subparts 4 and 5, and 7001.0110 do not apply to animal feedlot interim and construction short-form permits issued under chapter 7020.

7002.0270 ANNUAL FEE.

All persons required to obtain a permit listed in part 7002.0310, subparts 1, 2, and 3, shall pay an annual fee for processing of the permit and enforcement of applicable statutes and rules as described in items A to F. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

F. A permittee or applicant for permits issued under chapter 7020 must pay fees as follows:

(2) SDS permits that regulate animal feedlots capable of holding 1,000 or more animal units or manure storage areas capable of holding the manure produced by 1,000 or more animal units, the same fees required under subitem (1) after July 2, 2001;

7002.0280 NOTIFICATION OF ERROR.

A person who thinks that an annual fee for a specific facility is in error shall provide written notice of the error to the director of ~~the~~ Minnesota Pollution Control Agency Fiscal Services, along with the assessed fee. If the director of the Minnesota Pollution Control Agency Fiscal Services finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7020.0200 SCOPE.

This chapter governs the storage, transportation, disposal, and utilization of animal manure and process wastewaters and the application for and issuance of permits for construction and operation of animal manure management and disposal or utilization systems for the protection of the environment. This chapter does not address wastes from fish. This chapter does not preempt the adoption or enforcement of zoning ordinances or plans by counties, townships, or cities ~~to address manure and process wastewaters from animal feedlots, manure storage areas, and pastures.~~

7020.0205 INCORPORATION BY REFERENCE.

For the purposes of parts 7001.0020 and 7020.0200 to 7020.2225, the documents in items A to ~~N~~ L are incorporated by reference. These documents are not subject to frequent change.

K. ~~United States Department of Agriculture, Natural Resource Conservation Service, Natural Range and Pasture Handbook, Chapter 5, Management of Grazing Lands, Part 2(i), September 1997. Annual Book of America Society for Testing Materials (ASTM), part 4, ASTM D 2922, Test Method for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth). 1996 Edition.~~ This publication is available through the Minitex interlibrary loan system.

M. ~~Minnesota Natural Resources Conservation Service, Conservation Practice Standard, Prescribed Grazing, Code No. 528A, July 1998.~~ This publication is available through the Minitex interlibrary loan system.

N. ~~Minnesota Natural Resources Conservation Service, Conservation Practice Standard, Heavy Use Area Protection, Code No. 561, Second Draft, November 1991.~~ This publication is available through the Minitex interlibrary loan system.

7020.0250 SUBMITTALS AND RECORDS.

Subp. 2. Record retention, access to records, and inspections.

B. A person storing, transporting, disposing, or utilizing animal manure or process wastewaters shall provide the commissioner, county feedlot pollution control officer, or agent of the commissioner access to the animal feedlot, the animal holding area, the manure storage area, ~~pasture~~, or other area areas where manure or process wastewaters are stored, in transport, or utilized, including allowing the collection of samples, and records to the extent provided under *Minnesota Statutes*, section 115.04, or other law, upon presentation of credentials.

7020.0300 DEFINITIONS.

Subpart 1. **Scope.** All terms employed in this chapter for which definitions are given in *Minnesota Statutes*, sections 115.01 and 116.06, have the ~~meaning~~ meanings given in those sections. For the purposes of this chapter, the terms specified in this part have the meanings ascribed to them.

Subp. 5. **Animal unit.** “Animal unit” means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for ~~any an~~ an animal feedlot, or a manure storage area, or pasture calculated by multiplying the number of animals of each type in items A to ~~¶ I~~ ¶ I by the respective multiplication factor and summing the resulting values for the total number of animal units. For purposes of ~~parts 7020.0200 to 7020.2225~~ this chapter, the following multiplication factors shall apply:

A. ~~one mature~~ dairy cattle:

- (1) ~~one mature cow~~ (whether milked or dry);
- ~~(1) (a)~~ (a) over 1,000 pounds, 1.4 animal unit; or
- ~~(2) (b)~~ (b) under 1,000 pounds, 1.0 animal unit;
- (2) one heifer, 0.7 animal unit; and
- (3) one calf, 0.2 animal unit;

B. ~~one slaughter steer, feeder cattle, or heifer, 1.0 animal unit;~~ beef cattle:

- (1) one slaughter steer or stock cow, 1.0 animal unit;
- (2) one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;
- (3) one cow and calf pair, 1.2 animal unit; and
- (4) one calf, 0.2 animal unit;

C. one head of swine:

- (1) over ~~55~~ 300 pounds, 0.4 animal unit; ~~or~~
- (2) ~~under 55 pounds, 0.05, animal unit~~ between 55 pounds and 300 pounds, 0.3 animal unit; and
- (3) under 55 pounds, 0.05 animal unit;

D. one horse, ~~2-0~~ 1.0 animal ~~units~~ unit;

F. chickens:

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(1) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or

(2) ~~except as required in subitem (1):~~

~~(a) one chicken over three pounds, 0.01 animal unit; or~~

~~(b) one chicken under three pounds, 0.003 animal unit; one chicken if the facility has a dry manure system:~~

~~(a) over five pounds, 0.005 animal unit; or~~

~~(b) under five pounds, 0.003 animal unit;~~

H. one duck, ~~0.2~~ 0.01 animal unit; and

I. for animals not listed in items A to H, the number of animal units ~~shall be defined as~~ is the average weight of the animal in pounds divided by 1,000 pounds; and

~~J. when a person accepts manure produced by animals not owned or managed by that person, the number of animal units for the manure must be calculated by summing the number of animal units calculated under subitems (1) and (2).~~

~~(1) When the total animal units, calculated according to items A to I, are known for all manure storage areas, animal feedlots, and pastures where the manure was produced, the animal units are the sum of the animal units that produced the manure.~~

~~(2) When the animal units and the animal type are not known for all manure storage areas, animal feedlots, and pastures where the manure was produced, animal units are calculated by dividing the quantity of manure handled annually in pounds by 4,000.~~

Subp. 5a. **Concentrated animal feeding operation or CAFO.** “Concentrated animal feeding operation” or “CAFO” means animal feedlots ~~and manure storage areas~~ meeting the definition of a CAFO in *Code of Federal Regulations*, title 40, section 122.23, and clarified under Minnesota Statutes, section 116.07, subdivision 7e.

Subp. 8. **Corrective or protective measure.** “Corrective or protective measure” means a practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot; or manure storage area; ~~or pasture~~ to a level in conformity with agency rules.

Subp. 9. **County feedlot pollution control officer.** “County feedlot pollution control officer” means an employee or officer of a delegated county who is knowledgeable in agriculture and who is designated by the county board to perform the duties under part 7020.1600.

Subp. 9c. **Discharge.** “Discharge” means the addition of a pollutant to waters of the state, including a release of animal manure, manure-contaminated runoff or process wastewater from an animal feedlot, a manure storage area, or pasture an animal manure land application site by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or any other means. Discharge includes both point source and nonpoint source discharges. ~~Seepage from a manure storage area that has been permitted or demonstrated to be properly designed, constructed, and operated is not a discharge.~~

Subp. 11a. **Expansion or expanded.** “Expansion” or “expanded” means construction or any activity that has resulted or may result in an increase in the number of animal units at that an animal feedlot is capable of holding or an increase in storage capacity of a manure storage area ~~that is not located at an animal feedlot.~~

Subp. 13b. **Manure-contaminated runoff.** “Manure-contaminated runoff” means a liquid that has come into contact with ~~animals or~~ animal manure and drains over land from any animal feedlot, manure storage area, ~~pasture~~, or animal manure land application site.

Subp. 14. **Manure storage area.** “Manure storage area” means an area where animal manure; or process wastewaters; ~~or process generated wastewaters~~ are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to part 7020.2000, subpart 3, are not manure storage areas.

Subp. 15. **New animal feedlot.** “New animal feedlot” means an animal feedlot or manure storage area:

B. that existed previously and has been unused for ~~three~~ five years or more.

Subp. 15a. **New technology.** “New technology” means an alternative construction or operating method to those provided in parts 7020.2000 to 7020.2225. New technology construction or operating methods must achieve equivalent environmental results to the requirements in parts 7020.2000 to 7020.2225.

Subp. 16. **National Pollutant Discharge Elimination System permit or NPDES permit.** “National Pollutant Discharge Elimination System permit” or “NPDES permit” means a permit issued by the agency for the purpose of regulating the discharge of pollutants from ~~CAFOs~~ point sources including concentrated animal feeding operations (CAFOs).

Subp. 17. **Owner.** “Owner” means all persons having possession, control, or title to an animal feedlot; or manure storage area, or pasture.

Subp. 18. **Pastures.** “Pastures” means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover of perennial grasses or forages is maintained during the growing season and except in the immediate vicinity of temporary supplemental feeding or watering devices are located outside special protection areas.

Subp. 19. **Permit.** “Permit” means a document issued by the agency or county animal feedlot pollution control officer which may contain requirements, conditions, or schedules for achieving compliance with the discharge standards; and requirements for management of animal manure construction, or operation of animal holding areas, or manure storage areas, and pastures. Permits issued under this chapter are NPDES, state disposal system, interim, and construction short-form permits.

Subp. 19a. **Pollution hazard.** “Pollution hazard” means an animal feedlot; or manure storage area, or pasture that:

~~Subp. 19b. **Process-generated wastewaters.** “Process-generated wastewaters” means water directly or indirectly used in the operation of an animal feedlot or manure storage area for any of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other feedlot facilities; direct contact swimming, washing, or spray cooling of animals; and dust control.~~

~~Subp. 19c. Subp. 19b. **Process wastewaters.** “Process wastewaters” means process-generated wastewater and waters and/or precipitation, including rain or snow, which comes into contact with manure, litter, bedding, or other raw material or intermediate or final material or product used in or resulting from the production of animals, poultry, or direct products, such as milk or eggs.~~

Subp. 24. **State disposal system permit or SDS permit.** “State disposal system permit” or “SDS permit” means a state permit ~~for a disposal system~~ that may be processed in accordance with parts 7001.0040; 7001.0050; 7001.0100, subparts 4 and 5; and 7001.0110.

Subp. 25. **Unpermitted or noncertified liquid manure storage area.** “Unpermitted or noncertified liquid manure storage area” means a liquid manure storage area that is in operation and:

B. the owner has not complied with the preoperational requirements of part 7020.2100 ~~and~~ or permit requirements, if applicable.

7020.0350 REGISTRATION REQUIREMENTS FOR ANIMAL FEEDLOTS; AND MANURE STORAGE AREAS, AND PASTURES.

Subpart 1. **Registration data.** After ~~October 1, 2001~~ January 1, 2002, the agency and all delegated counties shall maintain registration data for animal feedlots; and manure storage areas, and pastures. The registration data must include the information required in a Level II feedlot inventory as described in the Feedlot Inventory Guidebook and must contain the following:

D. permit or certificate number for owners ~~that~~ who have been issued an agency or delegated county feedlot permit or certificate of compliance;

I. shortest distance from an animal holding area or manure storage area to a well; and

J. the name of the person that completed the registration form; and

~~K. additional information needed to evaluate high priority environmental issues related to animal feedlots, manure storage areas, and pastures.~~

Subp. 2. **Owners required to register.**

A. Owners of the following facilities are required to register with the commissioner or delegated county, except as provided in item B:

~~A.~~ (1) an animal feedlot capable of holding 50 or more animal units, or a manure storage area, or pasture with capable of holding the manure produced by 50 or more animal units; and

~~B.~~ (2) an animal feedlot capable of holding ten or more and fewer than 50 animal units, or a manure storage area capable of holding the manure produced by, or pasture with ten or more and fewer than 50 animal units, that is located within shoreland.

B. An owner of a livestock facility located on county fairgrounds is not required to register, in accordance with Laws 2000, chapter 435, section 10, paragraph (c), clause (6).

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>

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Subp. 3. **Initial registration schedule and requirements.** Owners required to register under subpart 2 shall comply with at least one of the following by ~~October 1, 2001~~ January 1, 2002:

Subp. 4. **Registration requirements after ~~October 1, 2001~~ January 1, 2002.** Owners of animal feedlots, and manure storage areas, ~~and pastures who are~~ required to register under subpart 2 shall comply with items A and B, as applicable.

A. Owners of facilities not in operation prior to ~~October 1, 2001~~ January 1, 2002, shall register with the commissioner or delegated county prior to or upon commencement of operation. Owners shall comply with at least one of the following:

B. Owners shall update their registrations prior to the registration update deadlines which shall be established by adding four-year increments to the initial registration deadline of ~~October 1, 2001~~ January 1, 2002. Owners shall register at least once during each of the four-year registration update intervals by meeting one of the following:

Subp. 5. **~~Penalties for failure to register~~ Notification.** ~~Owners of animal feedlots, manure storage areas, and pastures who do not register in accordance with subparts 1 to 4 are subject to a penalty.~~ The agency or delegated county shall:

A. notify owners at least 90 days prior to the scheduled registration update deadlines about reregistration; and

B. send a receipt of registration to owners within 30 days of receipt of the registration by the agency or the delegated county.

7020.0405 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** Four types of permits are issued under this chapter and chapter 7001: interim permits, construction short-form permits, SDS permits, and NPDES permits. The owner shall apply for a permit as follows:

A. an NPDES permit for the construction and operation of an animal feedlot ~~or manure storage area~~ that meets the criteria for CAFO;

B. unless required to apply for a permit under item A, an SDS permit under the following conditions:

(3) the owner is proposing ~~an alternative construction or operating method that achieves equivalent environmental results to those requirements in parts 7020.2000 to 7020.2225 to construct or operate a new technology.~~ An SDS permit is required for alternative new technology operational methods while these operational methods are employed; or

C. unless required to obtain a permit under items A and B, an interim permit for:

(1) facilities identified as a pollution hazard; or

(2) an animal feedlot or a manure storage area with a capacity of 300 or more animal units prior to applying manure or process wastewater;

(a) on land where the soil phosphorus test levels exceed the levels in part 7020.2225, subpart 3, item C;

(b) on land in special protection areas with slopes exceeding six percent; or

(c) in a drinking water supply management area where the aquifer is designated vulnerable under chapter 4720; or

Subp. 3. **No permit required.** The owner of an animal feedlot or manure storage area is not required to apply for a permit for:

~~B. a pasture that has not been identified as a pollution hazard and complies with the applicable requirements of parts 7020.2000 to 7020.2225; or~~

~~C. a short-term stockpile or compost site if the owner is not an owner of an animal feedlot or manure storage area other than a short-term stockpile or composting site;~~

C. a livestock facility located on county fairgrounds; or

D. a change in an existing facility that consists solely of a change in ownership of the building, grounds, or feedlot.

7020.0505 PERMIT APPLICATIONS AND PROCESSING PROCEDURES.

Subp. 2. **Permit application submittal schedule.** An owner of an animal feedlot, ~~or a manure storage area, or pasture~~ required to apply for a permit under part 7020.0405, subpart 1, shall apply in accordance with the following schedule:

A. the following facilities that are in existence on or before the effective date of this part must submit a permit application by June 1, ~~2000~~ 2001:

(2) an animal feedlot ~~or~~ capable of holding 1,000 animal units or more or a manure storage area capable of holding the manure produced by 1,000 animal units or more for which the owner has demonstrated that the facility does not meet the CAFO criteria;

C. an animal feedlot, ~~or a manure storage area, or pasture~~, that is new or expands after the effective date of this part and required to apply for an SDS or NPDES permit, shall submit a permit application at least 180 days prior to the planned date of commencement of construction or expansion;

D. an animal feedlot, or a manure storage area, or pasture that is new or expanding after the effective date of this part, and is required to apply for a construction short-form permit, shall submit a permit application at least 90 days prior to the planned date of commencement of construction or expansion; and

Subp. 4. Content of permit application.

A. An application for a permit must contain the following:

(10) if applying for an SDS or NPDES permit or interim permit under part 7020.0405, subpart 1, item C, subitem (2), a manure management plan that meets the requirements under part 7020.2225, subpart 4;

(12) ~~additional questions needed to evaluate high priority environmental issues related to the facility; and~~

~~(13) if applying for an NPDES permit, a supplemental federal application form.~~

B. In addition to the requirements of item A, a permit application for an animal feedlot ~~or capable of holding 1,000 animal units or more or a manure storage area for capable of holding the manure produced by 1,000 animal units or more, or the manure produced by 1,000 animal units or more,~~ must contain:

(1) an air emission plan that includes:

(c) a complaint response protocol describing the procedures the owner will use to respond to complaints

iii. a list of anticipated odor control strategies for addressing each of the significant odor sources; and

(2) ~~a pollution prevention plan for eliminating or reducing toxic pollutants, hazardous substances, and hazardous wastes at animal feedlot or manure storage area operations; and~~

~~(3) an emergency response plan that includes a description of the procedures that will:~~

D. In addition to the requirements of items A to C, an owner proposing to construct or expand an animal feedlot ~~or with the capacity of 500 animal units or more or a manure storage area with the capacity of to hold the manure produced by 500 animal units or more~~ shall also certify and document, on forms provided by the commissioner, that the notification requirements under part 7020.2000, subpart 4, have been met.

E. The owner of an animal feedlot or a manure storage area shall submit additional information relating to the facility design, construction, or operation as requested by the commissioner or county feedlot pollution control officer to evaluate compliance with applicable federal and state rules.

7020.0535 CONSTRUCTION SHORT-FORM AND INTERIM PERMITS.

Subpart 1. **Applicability.** This part applies to owners ~~that~~ who apply for construction short-form and interim permits required under part 7020.0405.

Subp. 2. **Permit applications submitted prior to effective date of this part.** If an owner has submitted a complete permit application for construction of an animal feedlot or a manure storage area prior to the effective date of this part and is eligible for a construction short-form permit, the owner may request to have the original application voided, returned, or, upon receipt of a construction short-form permit application by the commissioner or county feedlot pollution control officer, to have the original application submittals incorporated into the construction short-form permit application. Complete construction short-form permit applications submitted under this subpart must be considered received by the commissioner or county feedlot pollution control officer on the date the original completed permit application for an agency permit was received.

Subp. 4. **No circumvention.** An owner ~~that~~ who obtains a construction short-form or interim permit is subject to enforcement action for construction or operation without a permit if the commissioner or county feedlot pollution control officer later determines that the animal feedlot or a manure storage area does not qualify for the construction short-form or interim permit that was issued and that the owner is required to apply for and obtain an SDS or NPDES permit.

7020.1600 AUTHORITIES AND REQUIREMENTS FOR DELEGATED COUNTIES.

Subp. 2. **County feedlot pollution control officer requirements.** A delegated county animal feedlot program shall require the county feedlot pollution control officer to:

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- A. administer animal feedlots; and manure storage areas; and pasture registration programs according to part 7020.0350;
- B. locate and register all animal feedlots; and manure storage areas; and pastures that remain unregistered by the date required under part 7020.0350;
- E. inspect all animal feedlots; and manure storage areas; and pastures in accordance with the approved delegation agreement;
- I. maintain a record of all notifications received from livestock production facility operators claiming the hydrogen sulfide ambient air quality standard exemption, including the days the exemption was claimed and the cumulative days used, as provided in Minnesota Statutes, section 116.0713, paragraphs (b) and (c);
- J. submit an annual report to the commissioner by April 1 of each year, in a format requested by the commissioner, that includes the following:
 - (3) permitting summary information from the previous year, including information regarding permits for facilities with fewer than 1,000 animal units that are CAFOs under Code of Federal Regulations, title 40, part 122, appendix B(b);
 - (6) summary of the progress toward achieving the goals identified in the approved delegation agreement and, if applicable, proposed adjustments to the goals or plans to meet the goals in the approved delegation agreement; and
- K. complete the required county feedlot pollution control officer training necessary to perform the duties described under this part assigned to the county feedlot pollution control officer; and
- L. forward to the commissioner all permit applications, inspection reports, and all other applicable documents for the facilities identified in subpart 4, item B.

Subp. 3. **Resolutions and delegation agreements.** To assume responsibility for administering the delegated county feedlot program under this part, a Minnesota county board shall complete the requirements in items A to D. Counties that have received delegation authorization from the commissioner prior to the effective date of this subpart may administer the delegated county feedlot program provided that the requirements of item B are completed by June 1, 2001. Delegation agreements must be reviewed and revised by the commissioner and the county annually to determine if the requirements of item B are being fulfilled and to establish new goals.

B. Submit to the commissioner, for review and approval, a delegation agreement that contains:

- (1) inspection goals for facilities with capable of holding fewer than 300 animal units or the manure produced by fewer than 300 animal units;
- (2) inspections conducted at facilities with capable of holding 300 to 999 animal units or the manure produced by 300 to 999 animal units for the facilities meeting the conditions under subitem (1), units (a) and (b);
- (5) scheduled compliance goals, coordinated with county local water plans, for bringing feedlot operations into compliance with the applicable standards under parts 7020.2000 to 7020.2225, including the compliance dates of part 7020.2003, subparts 5, item B, and 6, item A, considering the following:
 - (a) type and extent of the pollution hazard at feedlot operations;
 - (b) availability of private and public financial resources for cost-share grants and low-interest loans; and
 - (c) availability of private and public technical and administrative assistance;
- (6) complaint response and resolution goals;
- (6) (7) owner assistance goals; and
- (7) (8) staffing levels available to achieve the stated goals.

Subp. 4. **Permit application processing procedures.** The processing of permit applications by a delegated county shall be conducted according to the procedures in items A to D.

B. The county feedlot pollution control officer shall forward to the commissioner for issuance all permit applications and all other applicable documents, comments, and recommendations for the following:

- (3) all facilities with capable of holding 500 or more animal units or the manure produced by 500 or more animal units that are proposing liquid manure storage areas within 1,000 feet of an open or filled sinkhole, a known cave, a resurgent spring, a disappearing stream, a karst window, or a blind valley;

Subp. 5. **6. Withdrawal by county from review process.** A delegated county no longer wishing to have delegation authority shall submit a resolution to the commissioner stating its reasons for withdrawal and the effective date of withdrawal.

Subp. ~~6~~ 7. **Revocation of county review authority.** If the agency finds that a county program is not meeting the requirements of this chapter, the agency may, after giving the county written notice and an opportunity to respond, revoke its approval of the county's delegation.

7020.2000 OVERVIEW.

Subpart 1. In general. An owner of ~~pastures, an animal feedlot, and feedlot or a manure storage area~~ area, and ~~a~~ any person storing, transporting, disposing, or utilizing animal manure, or process wastewaters, ~~or process-generated wastewaters~~, shall comply with parts 7020.2000 to 7020.2225.

Subp. 2. **Animal manure and wastewaters not used as domestic fertilizer.** Animal manure, or process wastewaters, ~~or process-generated wastewaters~~ not used as domestic fertilizer must be treated or disposed of in accordance with applicable rules. An owner not using manure or process wastewaters as domestic fertilizer shall apply for a permit according to part 7020.0405, subpart 1, item A or B.

Subp. 3. **Manure packs and mounding.** Manure accumulations created by manure packs or mounding must be ~~removed annually and applied on land managed such that a pollution hazard is not created or maintained. Land application must be~~ in accordance with part 7020.2225.

Subp. 4. **Newspaper Notification of proposed construction or expansion.** An owner of an animal feedlot or manure storage area proposing to construct or expand an animal feedlot capable of holding 500 or more animal units, or a manure storage area capable of holding the manure produced by 500 or more animal units, shall ~~publish no later than ten business days after the application is submitted to the agency or delegated county, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot by:~~

~~A. publishing in a newspaper of general circulation within the affected area a notification not later than ten business days after the permit application is submitted to the agency or delegated county. The notification must contain~~ containing the following information:

- ~~A.~~ (1) the names of the owners or the legal name of the facility;
- ~~B.~~ (2) the location of the facility by county, township, section, and quarter section;
- ~~C.~~ (3) ~~the types of animals and the~~ species of livestock and total animal units;
- (4) types of confinement buildings, lots, and areas at the animal feedlot; and
- ~~D. the total number of each type of animal the facility will be capable of holding after construction;~~
- ~~E.~~ (5) the types of manure storage areas; and
- ~~F. for manure storage areas, the total quantity of manure that each area can hold.~~

B. sending a written notice to them containing the information in item A, subitems (1) to (5), delivered by first class mail or in person; or

C. providing equal or greater notification required as part of obtaining a county conditional use permit.

Subp. 5. **Government notifications of proposed construction or expansion.** An owner proposing to construct or expand an animal feedlot or manure storage area shall notify the government authorities listed in items A and B. Notification must be on a form provided by the commissioner and include the information in subpart 4, ~~items~~ item A to F, subitems (1) to (5).

A. The commissioner, or in a delegated county the county feedlot pollution control officer, at least 30 days prior to commencement of construction of a new animal feedlot or manure storage area or an expansion of an existing animal feedlot capable of holding fewer than 300 animal units or a manure storage area ~~with~~ capable of holding the manure produced by fewer than 300 animal units after construction. Notification under this item is complete if the owner is proposing construction or modification of a liquid manure storage area and has submitted plans and specifications in accordance with part 7020.2100, subpart 4.

B. All local zoning authorities, including county, town, and city zoning authorities, of the proposed construction or expansion at least 30 days prior to commencement of construction of a new feedlot or manure storage area or an expansion of an existing animal feedlot or manure storage area.

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Adopted Rules

7020.2002 ~~HYDROGEN SULFIDE~~ AMBIENT AIR QUALITY STANDARD APPLICABILITY.

The owner of an animal feedlot is exempt from the state ~~hydrogen sulfide standard in part 7009.0080~~ ambient air quality standards during ~~agitation and pump out of a liquid manure storage area for a maximum of 17 days annually if the requirements in items A to C are met. This part expires on July 1, 2005~~ the removal of manure from barns or manure storage facilities pursuant to the limitations in *Minnesota Statutes*, section 116.0713, paragraphs (b) and (c). Nothing in this part limits the emergency powers authority of the Minnesota Pollution Control Agency in *Minnesota Statutes*, section 116.11.

~~A. The owner operator of a livestock production facility that claims exemption from the state ambient air quality standards shall notify the commissioner or county feedlot pollution control officer prior to agitation and pumping events. Notification must include the anticipated start date and the anticipated number of days of the agitation and pumping event.~~

~~B. The owner shall inject or incorporate the manure within 24 hours of land application.~~

~~C. The owner shall implement best management practices for control of odor during agitation and pumping as defined by the University of Minnesota and as published by the agency in the State Register:~~

~~A. the names of the owners or the legal name of the facility;~~

~~B. the location of the facility by county, township, section, and quarter section;~~

~~C. the facility's permit number, if applicable; and~~

~~D. the anticipated start date and the anticipated number of days of removal of manure from barns or manure storage facilities.~~

7020.2003 WATER QUALITY DISCHARGE STANDARDS.

Subpart 1. ~~Animal feedlots, and manure storage areas, and pastures.~~ Animal manure, manure-contaminated runoff, or process wastewater, ~~or process-generated wastewater~~ from any animal feedlot, including CAFOs, ~~or manure storage area or pasture area is prohibited from~~ flowing into a sinkhole, fractured bedrock, well, surface tile intake, mine, or quarry ~~is prohibited~~.

Subp. 2. **CAFOs and facilities with 1,000 animal units or more.** An owner of an animal feedlot ~~or manure storage area~~ that is a CAFO or is capable of holding 1,000 animal units or more, or a manure storage area capable of holding the manure produced by 1,000 animal units or more, shall comply with the effluent limitation requirements of *Code of Federal Regulations*, title 40, part 412.

Subp. 3. **Other facilities.** An owner of an animal feedlot or a manure storage area shall comply with the effluent limitations in part 7050.0215 unless the animal feedlot or the manure storage area is subject to the effluent limitation requirements in subpart 2 or if the owner of the animal feedlot is subject to and meets all of the requirements in subpart 4.

Subp. 4. **Eligible open lot feedlots ~~with~~ capable of holding fewer than 300 animal units.** Owners of animal feedlots ~~having~~ capable of holding fewer than 300 animal units and having open lots meeting the eligibility requirements in items A to D shall comply with subparts 5 and 6. If the facility expands to a capacity of 300 or more animal units, the facility is not eligible under this subpart. This subpart applies only to open lots that existed on the effective date of this part; discharges from other parts of the animal feedlot, including manure storage areas, must comply with the effluent limitations in part 7050.0215 and other applicable federal and state requirements.

B. The animal feedlot has manure-contaminated runoff from one or more open lots that discharge to waters of the state and:

Subp. 5. **Interim corrective measures for eligible open lots.** An owner meeting the eligibility requirements of subpart 4 shall:

B. comply with the following by October 1, ~~2003~~ 2005:

(b) vegetated buffer areas or filter strips that have 100 feet or more of nonchannelized flow through perennial grasses or forages for all runoff from the open lots; ~~and or~~

Subp. 6. **Final corrective measures for eligible open lots.** An owner meeting the requirements of subpart 4 shall:

A. except as required in item B, comply with part 7050.0215 for all eligible open lots by October 1, ~~2009~~ 2010; and

7020.2005 LOCATION RESTRICTIONS AND EXPANSION LIMITATIONS.

Subpart 1. **Location restrictions.** Except as provided in items A and B, a new animal feedlot or a manure storage area must not be constructed within shoreland, a floodplain, 300 feet of a sinkhole, 100 feet of a private well, or 1,000 feet of a community water supply well or other wells serving a public school as defined under *Minnesota Statutes*, section 120A.05, a private school excluding home school sites, or a licensed child care center that are in a geologic setting where the well is vulnerable according to part 4720.5550, subpart 2, ~~item D, subitem (2).~~

A. ~~A new animal feedlot or manure storage area may be constructed in the Red River of the North floodplain if it is a minimum of 1,000 feet from the ordinary high water mark.~~

~~B.~~ An animal feedlot or a manure storage area located in shoreland meeting part 7020.0300, subpart 15, item B:

B. A new animal feedlot or manure storage area may be constructed within 1,000 feet of a community water supply well or other well serving a public school as defined under *Minnesota Statutes*, section 120A.05, a private school excluding home school sites, or a licensed child care center if the following three conditions are met:

(1) the Minnesota Department of Health has approved a drinking water supply management area for the well under part 4720.5360;

(2) the animal feedlot or manure storage area is not within the drinking water supply management area; and

(3) the animal feedlot or manure storage area is not within 200 feet of the well.

Subp. 2. **Shoreland expansion limitations.** An existing animal feedlot or manure storage area located in shoreland may not expand to a capacity of 1,000 animal units or more or the manure produced by 1,000 animal units or more. An existing animal feedlot or a manure storage area expanding in shoreland shall not locate any portion of the expanded animal feedlot or the manure storage area closer to the ordinary high water mark than any existing portion of the animal feedlot or the manure storage area.

Subp. 3. **Floodplain expansion limitations.** An existing animal feedlot or a manure storage area located in a floodplain may not expand ~~except if it is in the Red River of the North floodplain and is a minimum of 1,000 feet from the ordinary high water mark.~~

7020.2015 LIVESTOCK ACCESS TO WATERS RESTRICTION.

Subpart 1. **CAFOs and facilities ~~with~~ capable of holding 1,000 or more animal units.** Animals of a CAFO or of a facility ~~with~~ capable of holding 1,000 or more animal units must not be allowed to enter waters of the state.

~~Subp. 3. **Pastures.** Except as required in subpart 1, by October 1, 2001, animals on pastures must be restricted from access to a lake classified by the Minnesota Department of Natural Resources as a natural environment lake, recreational development lake, or a general development lake, as defined in part 6120.3000, by:~~

~~A. prohibiting entry to the lake; or~~

~~B. allowing controlled access to the lake in accordance with a plan conforming to: the controlled access options in part 2(i) of the Management of Grazing Lands in United States Department of Agriculture, Natural Resources Conservation Service (NRCS), Natural Range and Pasture Handbook Chapter 5; Minnesota NRCS Conservation Practice Standard, Prescribed Grazing, Code No. 528A, or Heavy Use Area Protection, Code No. 561. The plan must be maintained by the owner and made available to the commissioner or county feedlot pollution control officer upon request.~~

7020.2025 ANIMAL FEEDLOT OR MANURE STORAGE AREA CLOSURE.

The owner of an animal feedlot or a manure storage area is responsible for closure and shall:

C. within 60 days after final closure, submit a certified letter to the commissioner or county feedlot pollution control officer stating that the animal feedlot or the manure storage area has been closed according to the requirements in this part. The letter must identify the location of the animal feedlot or the manure storage area by county, township, section, and quarter section.

7020.2100 LIQUID MANURE STORAGE AREAS.

Subpart 1. **General.** This part describes site restrictions and requirements for design, construction, maintenance, and operation of liquid manure storage areas. An owner shall submit a permit application, as applicable, under part 7020.0405, subparts 1 and 2. Except as required in subpart 2, all liquid manure storage areas must be designed, constructed, and operated in accordance with subparts 3 to 7. An owner of a liquid manure storage area that has been unused for a period of three years or more shall, prior to using the structure for storing manure or process wastewaters, have a design engineer evaluate and prepare a report on the condition of the liner and include this report with a permit application submitted according to part 7020.0405.

Subp. 2. **Site restrictions.** Except as provided in item C, the construction or expansion of a liquid manure storage area is prohibited in the areas identified under part 7020.2005 and items A and B.

B. In areas which are susceptible to soil collapse or sinkhole formation, the minimum separation distance to bedrock and the manure storage area liner design standards under subpart 3, item B, and prohibitions must be in accordance with subitems (1) to (3).

(1) Animal feedlots capable of holding fewer than 300 animal units or manure storage areas ~~with~~ capable of holding manure produced by fewer than 300 animal units that contribute to liquid manure storage areas at the facility must comply with the following:

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Adopted Rules

(2) Animal feedlots capable of holding 300 or more and fewer than 1,000 animal units and manure storage areas ~~with~~ capable of holding the manure produced by 300 or more and fewer than 1,000 animal units that contribute to liquid manure storage areas at the facility shall comply with the following:

(c) where the separation distance to bedrock is five feet or more and less than ten feet, the manure storage area must be:

ii. concrete-lined with a secondary liner consisting of a synthetic liner, HDPE liner, or one foot or greater cohesive soil liner; ~~and or~~

(3) Animal feedlots capable of holding 1,000 or more animal units or manure storage areas ~~with~~ capable of holding the manure produced by 1,000 or more animal units that contribute to liquid manure storage areas at the facility shall comply with the following:

(c) where the separation distance to bedrock is ten feet or more and less than 15 feet, the manure storage area must be:

ii. concrete-lined with a secondary liner consisting of a synthetic liner, HDPE liner, or one foot or greater cohesive soil liner; ~~and or~~

C. Where construction or modification is required to correct a pollution hazard at an existing animal feedlot ~~or manure storage area having~~ capable of holding fewer than 300 animal units, construction or modification is not prohibited. Construction or modification under this item must not result in an expansion of the animal feedlot capacity to hold more than 300 animal units or the manure storage area ~~to capacity to hold the manure produced by 300 animal units~~ or greater.

Subp. 3. Design standards.

A. A new or modified liquid manure storage area at an animal feedlot capable of holding 1,000 animal units or more or the manure storage area ~~with~~ capable of holding the manure produced by 1,000 animal units or more must be designed to provide a minimum of nine months of storage capacity.

B. Liquid manure storage area liners must comply with the following:

(2) concrete-lined manure storage areas must be designed and constructed with: water stops or joint sealant materials at all construction joints; sealing of all cracks which may extend through the concrete liner with appropriate sealing materials; and a floor having a concrete thickness of not less than five inches; ~~and. The floors must have:~~

(a) steel reinforcing based on subgrade drag theory in American Concrete Institute, Slabs on Grade, ACI-360; ~~and or~~

(b) fiber reinforcing, for which the design engineer must specify the type of fibers and the dosage rate in subpart 4, item F;

(3) composite-lined or aboveground manure storage areas must be designed and constructed to achieve a maximum theoretical seepage rate of not more than 1/560 inch per day throughout the design life of the manure storage area; ~~and~~

(4) aboveground manure storage areas located in areas not subject to the site restrictions under subpart 2, may be designed and constructed according to seepage standards under subitem (1) or (2), as applicable.

Subp. 4. **Design plans and specifications.** The owner shall prepare and submit to the commissioner or county feedlot pollution control officer design plans and specifications meeting the requirements of items A to N with a permit application or at least 90 days prior to the commencement of construction. Design plans and specifications, except plans and specifications for concrete-lined manure storage areas having a capacity of 20,000 gallons or less, must be prepared and signed by a design engineer.

(2) Soil profile information in subitem (5) that must be obtained and recorded at a minimum of two locations within the boundaries of the proposed manure storage area for the first one-half acre of surface area. A minimum of one additional location is required for each additional one acre of surface area for the manure storage area ~~surface area~~. Sufficient soil records must be obtained to represent the range of soil conditions throughout the proposed manure storage area site.

(3) Except as required in subitem (4), the information in subitem (5) must be recorded to a depth of at least five feet below the bottom of the proposed liquid manure storage area; and to a depth that allows verification of separation to bedrock requirements in accordance with subpart 2, item B. Each borehole completed under this item must be sealed throughout the entire depth by a method that will ensure that the borehole does not become a preferential flow path for vertical groundwater transport.

(6) The soil profile information must be obtained by a method that can identify abrupt changes in soil texture and sand lenses ~~of one half inch or greater~~ throughout the soil profile.

(9) Where a perimeter drainage tile system is required to control the elevation of the water table or saturated soils in accordance with item J, the design plans and specifications for the drain tile system must include provisions to:

(b) locate the drainage tile a horizontal distance of at least ~~two feet~~ one foot outside the footing of a concrete-lined manure storage area;

B. The following information if the proposed manure storage area is located in a Minnesota Department of Health approved drinking water supply management area as delineated according to chapter 4720:

(4) a copy of all parts of the drinking water supply management area ~~or source water protection~~ plan which pertain to animal feedlots, manure storage areas, and land application of manure.

K. A quality assurance and quality control plan ~~which~~ that includes specifications for inspections and ASTM testing methods and frequencies.

L. Specifications for liner material protection from damage during construction or subsequent facility operation resulting from the following:

(4) hot ~~and cold~~ weather construction;

N. A plan for operation, periodic inspection, and maintenance of the manure storage area including schedules and descriptions of:

(1) routine inspections, maintenance, and recordkeeping to be completed to identify and document damage to the liner from the factors listed in item L;

(2) methods to be used to repair areas of damaged liner;

(3) methods used to monitor the liquid level in the basin to evaluate proper operation and adequate available storage capacity; and

(4) routine inspections of perimeter tile line outlets and inspection manholes to ensure proper operations of the system.

Subp. 6. **Inspections of liquid manure storage areas.** An owner constructing a liquid manure storage area, except for a concrete-lined manure storage area with a capacity of 20,000 gallons or less, shall have inspections completed during the construction process which comply with items A to D.

A. The inspector must be one or more of the following:

(1) a professional engineer licensed in the state of Minnesota or a person working under the professional engineer's direct supervision;

B. During construction of each manure storage area under this subpart, the inspector shall record on a form provided by the commissioner, observations related to conformance to the design plans and specifications and construction standards of the following:

(3) for all concrete-lined manure storage areas:

(b) concrete quality including air entrainment, temperature, and strength, ~~and water-cement ratio;~~

7020.2110 UNPERMITTED OR NONCERTIFIED LIQUID MANURE STORAGE AREAS.

Subpart 1. **Schedule for facilities ~~with~~ capable of holding 1,000 animal units or more or construction after June 3, 1991.** An owner ~~that~~ who has a facility capable of holding 1,000 or more animal units; and who uses an unpermitted or noncertified liquid manure storage area, or that ~~who~~ uses an unpermitted or noncertified liquid manure storage area for which construction commenced after June 3, 1991, shall, by October 1, 2001:

B. complete closure of the manure storage area according to part 7020.2025 and notify the commissioner or county feedlot pollution control officer at least three days prior to the date when the manure storage area will be closed. Notification must be completed by letter, telephone, or facsimile and include:

(4) the dates when closure will take place; ~~or~~

C. except as provided in item D, submit a copy of the original design plans and specifications for the manure storage area that were prepared by a design engineer prior to the actual time of construction and a construction certification report signed by a design engineer that certifies that the liquid manure storage area was designed and constructed according to applicable rules and regulations and standard engineering principles and practices at the time of construction;

D. if the original plans and specifications for a Natural Resources Conservation Service (NRCS) or Soil Conservation Service (SCS) designed liquid manure storage area are no longer available, the owner must submit a certification by the manager of the

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NRCS office which was responsible for the design and oversight of the project, that the project was constructed according to the NRCS or SCS design plans and specifications and construction oversight; or

E. conduct and submit the results of a water balance test that demonstrate the manure storage area is properly sealed to achieve a seepage rate of 1/56 inch per day or less.

Subp. 2. **Schedule for facilities with capacity to hold fewer than 1,000 animal units.** Except as required in subpart 1 or as provided in subpart 3, an owner ~~that~~ who uses an unpermitted or noncertified liquid manure storage area ~~and has with the capacity to hold fewer than 1,000 animal units or the manure produced by fewer than 1,000 animal units~~ shall, by October 1, ~~2003~~ 2005:

B. ~~the owner shall~~ have a design engineer or professional soil scientist licensed in the state of Minnesota conduct a soils investigation and submit a soils investigation report to the commissioner or county feedlot pollution control officer that complies with the following:

Subp. 3. **Schedule for open lot feedlots with fewer than 300 animal units.** Owners meeting the eligibility requirements under part 7020.2003, subpart 4, that must complete closure or reconstruction of the manure storage area according to subpart 1, item A or B, shall comply with items A and B.

A. By October 1, ~~2003~~ 2005, the owner shall notify the commissioner or county feedlot pollution control officer that the manure storage area will be closed or reconstructed by October 1, ~~2009~~ 2010. Notification must be completed by letter, telephone, or facsimile and also include:

B. By October 1, ~~2009~~ 2010, the owner shall complete closure or reconstruction.

7020.2125 MANURE STOCKPILING SITES.

Subpart 1. **General.** This part describes requirements for permitting, design, construction, location, operation, and maintenance of short-term and permanent stockpiling sites. Stockpiling sites must comply with part 7020.2005 and items A to D.

B. Manure must not be placed on a stockpiling site unless a three-to-one horizontal-to-vertical ratio can be maintained or the manure has, at least, a 15 percent solids content.

Subp. 2. **Additional requirements for short-term stockpiling.** By October 1, 2001, all short-term stockpile sites must:

A. have the manure removed from the site ~~within 180 calendar days of the date from when the stockpile is initially established and land applied in accordance with part 7020.2225, unless weather and soil conditions prohibit land application of the manure and the owner complies with the following:~~

~~(1) the owner shall land apply the manure in accordance with part 7020.2225 within one year of the date when the stockpile was initially established; and~~

~~(2) prior to the end of the 180 day period identified in this item, the owner shall submit to the commissioner or county feedlot pollution control officer, on a form provided by the commissioner, a short-term stockpile extension notification which identifies:~~

~~(a) the weather and soil conditions that prevented the removal and land application of the manure within the 180 day period; and~~

~~(b) the location of each short-term stockpile that will remain after the 180-day period;~~

B. ~~except for a site located within the confines of an animal feedlot containing less than 100 animal units of hooved animals, not be used during the calendar year preceding or following the calendar year in which the site is used. have a vegetative cover must be established on the site for at least one full growing season prior to reuse; as a short-term stockpiling site except for the following:~~

(1) sites located within the confines of a hoofed-animal open lot at a facility having the capacity to hold fewer than 100 animal units; and

(2) sites where manure is stockpiled for fewer than ten consecutive days and no more than six times per calendar year;

C. not be located within:

(3) 100 feet of any private water supply or ~~abandoned~~ unused and unsealed well and 200 feet from any private well with less than 50 feet of watertight casing and that is not cased through a confining layer at least ten feet thick; and

(4) 100 feet from field drain tile that ~~are~~ is three feet or less from the soil surface;

7020.2225 LAND APPLICATION OF MANURE.

Subpart 1. **In general.**

A. Manure and process wastewater must not be applied to land in a manner that will:

(1) result in a ~~manure~~ discharge to waters of the state during the application process ~~of applying manure~~, except that manure and process wastewater application is allowed onto seasonally saturated soils that are seeded to annual farm crops or crop rotations of perennial grasses or legumes; or

B. Manure and process wastewater application into road ditches is prohibited.

C. All manure and process wastewater applications to land must meet the requirements of this part except where specifically exempted.

D. When ownership of manure or process wastewater is transferred from an animal feedlot with capacity of 300 or more animal units or a manure storage area capable of holding the manure produced by 300 or more animal units for application to land not owned or leased by the owner of ~~an~~ the animal feedlot or the manure storage area ~~with 100 or more animal units~~, any person receiving the manure or the process wastewater shall:

(1) comply with the manure management plan completed by the owner of the animal feedlot where the manure or process wastewater was produced; and

(2) complete the manure management plan requirements in subpart 4, item D, except for provisions that were completed by the owner of the animal feedlot where the manure or process wastewater was produced.

Subp. 2. **Manure nutrient testing requirements.** Manure from all manure storage areas ~~and stockpile sites~~ storing manure produced from more than 100 animal units must be tested by the owner of the animal feedlot for nitrogen and phosphorus content ~~according to~~ in accordance with items A to E, ~~except that item A is not required for manure storage areas storing manure produced by fewer than 300 animal units.~~

A. For manure storage areas storing manure from 300 or more animal units, the manure must initially be tested once per year for at least three years.

B. Manure must be ~~tested during subsequent years~~ retested following changes in conditions affecting manure nutrient content including unusual climatic conditions, or changes in manure storage and handling, livestock types, or livestock feed.

C. Ongoing ~~manure nutrient~~ testing must continue at least once every four years unless more frequent testing is required under item B or in a permit.

E. ~~Manure~~ Sampling must be conducted so that a representative sample is obtained in accordance with University of Minnesota Extension Service recommendations.

Subp. 3. **Nutrient application rate standards.** Items A and B apply to all manure and process wastewater application sites. Item C applies only to animal feedlots with a capacity of 300 or more animal units and manure storage areas capable of holding the manure produced by 300 or more animal units.

A. Manure and process wastewater application rates must be limited as described in subitems (1) to (3) so that the estimated plant available nitrogen from all nitrogen sources does not exceed expected crop nitrogen needs for nonlegume crops and expected nitrogen removal for legumes.

(1) Expected crop nitrogen needs, crop nitrogen removal rates, and estimated plant available nitrogen from manure and legumes must be based on the most recent published recommendations of the University of Minnesota Extension Service ~~published recommendations~~ or of another land grant college in a contiguous state.

(2) Estimated plant available nitrogen from organic nitrogen sources, including manure, may deviate up to 20 percent from University of Minnesota Extension Service, or of another land grant college in a contiguous state, estimates where site nutrient management history, soil conditions, or cool weather warrant additional nitrogen application. When crop nitrogen deficiencies are visible or measured, remedial nitrogen applications above the 20 percent deviation can be made.

(3) Nitrogen sources include commercial fertilizer nitrogen, soil organic matter, irrigation water, legumes grown during previous years, biosolids, process wastewater, and manure applied for the current year and previous years.

B. ~~Manure~~ Nutrient application to rate standards for land in special protection areas must ~~also comply with~~ meet the requirements in subpart 6, item B, subitem (2), if applicable.

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Adopted Rules

C. For land receiving manure or process wastewater from animal feedlots capable of holding 300 or more animal units or manure storage areas capable of holding the manure produced by 300 or more animal units, soil samples from the upper six inches must be collected at a minimum frequency of once every four years and analyzed for phosphorus using the Bray P1 or Olsen test. If soil phosphorus levels exceed the levels in subitems (1) and (2), then the owner must complete a manure management plan in accordance with subpart 4, item D, and submit it with a permit application to the agency or delegated county for review in accordance with subpart 4, item B, subitem (1).

(1) Fields in special protection areas or within 300 feet of open tile intakes that have an average soil phosphorus test level exceeding 75 ppm using the Bray P1 test or 60 ppm using the Olsen test.

(2) Fields outside the special protection areas and more than 300 feet from open tile intakes that have an average soil phosphorus test level exceeding 150 ppm using the Bray P1 test or 120 ppm using the Olsen test.

Subp. 4. **Manure management plan requirements.** Item A indicates who must prepare a manure management plan and when the plan must be prepared. Item B lists when manure management plans must be submitted to the agency or delegated county for review. Item C describes when the manure management plan must be reviewed and revised. Item D lists the required elements of a manure management plan. Item E describes exceptions to manure management plans when manure ownership is transferred.

A. An owner or operator of an animal feedlot ~~with 100 or more animal units~~ shall prepare and retain on file a manure management plan that complies with item D according to the following schedule:

(1) upon application for an NPDES, SDS, ~~interim~~, or construction short-form permit for a facility capable of holding 100 or more animal units;

(2) an owner ~~with~~ of an animal feedlot capable of holding 300 or more animal units that is not required to obtain an NPDES, SDS, ~~interim~~, or construction short-form permit shall prepare or update a manure management plan by October 1, 2002; prior to January 1, 2005, when a manure management plan does not meet the requirements of this part or reflect current operations and the manure is applied by someone other than a commercial animal waste technician or a certified private manure applicator; and

(3) ~~an owner with 100 or more and fewer than 300 animal units shall prepare a manure management plan by October 1, 2005; and~~

(4) ~~the owner of a new or expanded animal feedlot or manure storage area that has 300 animal units or more after October 1, 2002, or that has 100 animal units or more after October 1, 2005, shall prepare a manure management plan within one year of exceeding the applicable animal unit threshold once a manure management plan is required for a facility, a plan that meets the requirements under this subpart must be retained on file at the animal feedlot or manure storage area.~~

B. A manure management plan that complies with the requirements of item D must be ~~on file at the animal feedlot or manure storage area and~~ submitted to the commissioner or delegated county ~~in accordance with the schedule in item A~~ when any one of the following conditions applies:

(1) when an owner submits a permit application to the commissioner for an NPDES ~~or~~ SDS permit, or an interim permit under part 7020.0405, subpart 1, item C, subitem (2); or

(2) ~~when manure is to be applied to fields in special protection areas or within 300 feet of open tile intakes and that:~~

(a) ~~have average soil phosphorus test levels exceeding 75 ppm using the Bray P1 test or 60 ppm using the Olsen test; or~~

(b) ~~have slopes that exceed six percent;~~

(3) ~~when manure is to be applied to fields outside of special protection areas that have average soil phosphorus test levels exceeding 150 ppm using the Bray P1 test or 120 ppm using the Olsen test, then the manure management plan must be submitted prior to the dates in item A, subitems (2) and (3); and~~

(4) ~~the manure management plan is requested by the commissioner or county feedlot pollution control officer.~~

D. Except as provided in item E, the manure management plan must contain:

(1) a description of the manure storage/handling system and the expected annual amount of manure and ~~manure~~ nutrients which will need to be land applied;

(3) acreage available for manure and process wastewater application including maps or aerial photos showing field locations and ~~acreage available for applying manure~~ areas within the fields that are suitable for manure or process wastewater application;

(4) a description of ~~manure~~ nutrient testing methods and frequency and the expected nutrient content of the manure to be applied;

(6) total ~~manure~~ nitrogen and phosphorus ~~rates~~ amounts from manure and nonmanure sources to be applied per acre on each field and for each crop in the rotation when applied in accordance with the planned manure or process wastewater application rates established under subitem (5);

(7) expected first and second year plant available nutrients from the manure and process wastewater;

(9) a description of protective measures ~~as described in this subitem~~ to minimize the risk of surface water and groundwater contamination when applying manure or process wastewater in a floodplain, special protection area, soils with less than three feet above limestone bedrock, drinking water supply management areas where the aquifer is designated vulnerable under chapter 4720, and land within 300 feet of all surface tile intakes, sinkholes without constructed diversions, and uncultivated wetlands. Protective measures include, but are not limited to, soil and water conservation measures, timing of application, methods of application, manure application rates, and frequency of application;

(10) for application onto frozen or snow-covered soil, the following information about the fields ~~which~~ that may receive the manure or process wastewater;

(11) ~~Bray P1 or Olsen soil phosphorus test results from soil samples taken in the upper six inches of soil for all fields receiving manure. The soil phosphorus test results must have been taken within four years from the time of preparing or updating the manure management plan;~~

~~(12) a description of how phosphorus from manure is to be managed to minimize phosphorus transport to surface waters resulting from soil phosphorus build-up to levels stated in item A, subitems (2) and (3), or which are otherwise more specifically defined by the University of Minnesota Extension Service as levels that will likely lead to surface water or groundwater quality degradation for different types of soils, soil management, and locations, and as published by the agency in the State Register described in subpart 3, item C;~~

~~(13) (12) plans for soil nitrate testing in accordance with University of Minnesota Extension Service recommendations; and~~

~~(14) (13) type of cover crop to be planted when manure is to be applied in June, July, or August to fields that have been harvested and would otherwise not have active growing crops for the remainder of the growing season.~~

E. When ownership of manure from an animal feedlot capable of holding 300 or more animal units or a manure storage area capable of holding the manure produced by 300 or more animal units is to be transferred for application to fields not owned or leased by the owner of the animal feedlot or manure storage area, the owner of the animal feedlot where the manure was produced need not include the requirements in item D, subitems (3), (5) to (7), and (10), and (11) in the owner's manure management plan. Any person receiving the manure shall comply with subpart 1, item C.

Subp. 5. **Recordkeeping.** Item A establishes the length of time that records must be kept. Items B and C indicate the information needed in records depending on the size and location of the facility.

A. Any person applying or receiving manure or process wastewater from a facility ~~with~~ capable of holding 100 or more animal units shall maintain records of the amount of manure or process wastewater application on file, ~~which include all nutrient additions for the cropland where the manure is applied;~~

(1) for the most recent six years for manure or process wastewater application within special protection areas; and

B. ~~Cropland management~~ For an animal feedlot capable of holding 300 or more animal units or a manure storage area capable of holding the manure produced by 300 or more animal units, or where manure or process wastewater is applied from an animal feedlot capable of holding 100 or more animal units or a manure storage area capable of holding the manure produced by 100 or more animal units in a drinking water supply management area where the aquifer is designated vulnerable under chapter 4720, records kept in accordance with item A must contain the following information:

C. For an animal feedlot or a manure storage area with a capacity of 100 or more animal units and fewer than 300 animal units, where manure or process wastewater will not be applied in a drinking water supply management area in which the aquifer is designated vulnerable under chapter 4720, records kept in accordance with item A must contain the following:

(1) information necessary to credit the nitrogen available for crop growth that is supplied by manure and process wastewater applications; and

(2) manure and process wastewater test results for nitrogen and phosphorus content, if required in subpart 2.

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D. Where manure or process wastewater from animal feedlots or manure storage areas with a capacity of 300 or more animal units is transferred for application to fields not owned or leased by the owner of the animal feedlot which produced the manure, the owner of the animal feedlot or the manure storage area from which produced the manure is produced, must meet the following requirements:

(1) the manure and process wastewater records for the most recent three years must be kept on file and must contain the following information:

- (a) the volume or tonnage of manure or process wastewater delivered;
- (b) the nutrient content of the manure or process wastewater delivered;
- (c) the name and address of any commercial hauler or applicator who received the manure or process wastewater; and
- (d) the location where the manure or process wastewater was applied and rate of application; and

(2) commercial applicators spreading manure or process wastewater onto land not owned or leased by the owner of the animal feedlot or the manure storage area from which produced the manure or process wastewater is produced shall keep records, in accordance with subitem (1). A copy of these records must be submitted to the owner of the animal feedlot or the manure storage area from which produced the manure or process wastewater is produced no later than 60 days following land application.

Subp. 6. Manure and process wastewater application requirements in special protection areas.

A. Manure or process wastewater must not be applied to frozen or snow-covered soils in special protection areas.

B. Manure or process wastewater applied to unfrozen soils in special protection areas must comply with subitem (1) ~~or~~, (2), or (3).

(2) The following practices must be complied with:

(a) ~~manure must not be applied~~ no application within 25 feet of the protected water, protected wetland, intermittent stream, or drainage ditch in the special protection area;

(b) ~~manure must be injected~~ inject or incorporated incorporate within 24 hours and prior to rainfall; and

(c) ~~manure must be applied~~ apply at a rate and/or frequency which will not allow soil phosphorus levels to increase over any six-year period with the following exception: soil phosphorus may be increased to 21 ppm (Bray P1) or 16 ppm (Olsen) when soil testing indicates soil phosphorus test concentrations are less than these values.

(3) Other agency-approved practices must be implemented that have been demonstrated through research by a land grant college to provide an equal degree of water quality protection as the measures in subitems (1) and (2).

C. Manure and process wastewater application by a traveling gun, center pivot, or other irrigation equipment that allows liquid application of manure to travel more than 50 feet in the air is prohibited in special protection areas.

Subp. 7. Manure and process wastewater application for land within 300 feet of open tile intakes. Manure and process wastewater applied within 300 feet of open tile intakes, and where manure-contaminated runoff may flow into the open tile intake, must be injected or incorporated within 24 hours of application according to the schedule in items A and B unless other agency-approved water quality protection management practices are implemented in this 300-foot zone in accordance with item C.

A. All liquid manure and process wastewater applied within 300 feet of open tile intakes must be injected or incorporated within 24 hours of application from the date this part becomes effective.

B. All ~~types of~~ manure and process wastewater applied within 300 feet of open tile intakes must be injected or incorporated within 24 hours of application by when applied after October 1, 2004 2005.

C. Other agency-approved practices must be implemented that have been demonstrated through research by a land grant college to provide an equal degree of water quality protection as injection or incorporation within 24 hours.

Subp. 8. Manure and process wastewater application near sinkholes, mines, quarries, and wells.

A. Manure and process wastewater must not be applied to land within 50 feet of an active or inactive water supply well, sinkhole, mine, or quarry.

B. Manure and process wastewater must be incorporated within 24 hours of surface application when applied to land that slopes towards a sinkhole and is less than 300 feet from the sinkhole except that no setback incorporation is necessary where diversions prevent manure-contaminated runoff from entering the sinkhole.

Official Notices

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

Department of Agriculture

Agronomy & Plant Protection Services Division

Notice to Cancel the Minnesota Agricultural Response Compensation Board Meeting

The scheduled Agricultural Chemical Response Compensation Board (ACRRA Board) meeting October 18, 2000 has been canceled. The next two scheduled meetings will be November 15, 2000 and December 20, 2000. These meetings will be held at the Minnesota Department of Agriculture, 90 West Plato Boulevard, Saint Paul, Minnesota, first floor Conference Room at **9:30 a.m.**

Please call the ACRRA Program, (651) 297-3490 or (651) 296-3349, should you require additional information.

Department of Agriculture

Agronomy and Plant Protection Services Division

ACRRA Board Meeting Schedule for YEAR 2001

Listed below is the ACRRA Board meeting schedule for the upcoming 2001 calendar year. The ACRRA Board will meet at 9:30 a.m. in Conference Room 1, Minnesota Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul, Minnesota.

Pursuant to Minnesota Statutes 18E.05 Subd. 3. "The board must receive a completed application at least 30 days* before a board meeting in order for a request for reimbursement or payment to be considered at that meeting." To help ensure your application is "complete", submit 30 days prior to deadline (60 days prior to ACRRA Board review). ACRRA Board meetings are held the third Wednesday of each month. (subject to change).

ACRRA Board Meeting Schedule

YEAR 2001

Submit Application for Staff Review	Deadline* 30 Days Prior to Board Meeting	Application Reviewed by ACRRA Board
November 17, 2000	December 18, 2000	January 17, 2001
December 21, 2000	January 22, 2001	February 21
January 22, 2001	February 21	March 21
February 19	March 19	April 18
March 16	April 16	May 16
April 20	May 21	June 20
May 18	June 18	July 18
June 15	July 16	August 15
July 19	August 20	September 19
August 17	September 17	October 17
September 21	October 22	November 21
October 19	November 19	December 19
November 16	December 17	January 16, 2002

Minnesota Department of Children, Families and Learning

Office of Community Services

Child Care Assistance Program

REQUEST FOR COMMENTS on Planned Amendment to Rules Governing the Child Care Assistance Program, *Minnesota Rules*, chapter 3400

Subject of Rules. The Minnesota Department of Children, Families and Learning requests comments on its planned amendment to rules governing the child care assistance program. The child care assistance program helps to make quality child care affordable for low income families who are working, looking for employment, or attending training. The Department is considering rule amendments that incorporate changes made to the statutes governing the child care assistance program and the Minnesota Family Investment Program; that simplify administration of the child care assistance program; and that improve and streamline the process of obtaining assistance to pay for child care. The specific subject areas that the Department will review include the application process; eligibility requirements; family copayment fees; family rights and responsibilities; payment policies; provider eligibility requirements and responsibilities; rate determination; administrative duties; termination requirements and notices; adverse actions; program integrity; recovering and recouping overpayments; intentional program violations; administrative disqualification proceedings; and the right to a fair hearing.

The Department originally published a request for comments on this planned amendment to the child care assistance program rules on December 26, 1997. The Department appointed an advisory committee with members from a wide range of constituencies including parents, providers, employers, child care resource and referral agencies, advocacy groups, tribes, counties, state departments, and legislators. The committee members represented rural and metropolitan areas. The advisory committee met eight times during 1998. Several smaller workgroups also met frequently during 1998 to discuss and make recommendations on specific issues. These issues included student participation in the basic sliding fee program, payments, children with special needs, program integrity, registration of legal nonlicensed providers, provider rates, and transition year child care. The Department pursued several legislative changes recommended by the advisory committee and workgroups and is now pursuing adoption of the planned rule amendments.

Persons Affected. The amendment to the rules would likely affect parents who are eligible for assistance under the child care assistance fund and their children; parents who are applying for or participating in the child care assistance program and their children; child care providers; child care resource and referral agencies; employers who hire and employ parents eligible for or using the child care assistance program; county governments; county employees who administer child care assistance, MFIP, and employment services programs; state employees who administer child care assistance, MFIP, and employment services programs; the Department of Children, Families and Learning; the Department of Human Services; and the Department of Economic Security.

Statutory Authority. *Minnesota Statutes*, section 119B.02, subdivision 1, gives the commissioner of children, families and learning the authority to adopt rules governing the child care assistance program and specifies that the rules must set a sliding fee schedule, must prorate lump sums received by parents over a 12-month period, must authorize counties to set absent day policies, and may implement and coordinate federal program requirements. *Minnesota Statutes*, section 119B.02, subdivision 3, requires the commissioner to adopt rules that establish minimum administrative standards for the provision of child care services by county boards of commissioners. *Minnesota Statutes*, section 119B.04, subdivision 2, provides that the commissioner may adopt rules to administer the child care development fund. *Minnesota Statutes*, section 119B.06, subdivision 2, gives the commissioner the authority to adopt rules to administer the child care development block grant program. *Minnesota Statutes*, section 119B.12, subdivision 2, provides that parent fees must be established in rule. Finally, *1999 Minnesota Laws*, chapter 205, article I, section 63, directs the commissioner to amend the parent fee schedule in *Minnesota Rules*, chapter 3400, to reflect the provisions in that section.

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 December 15, 2000. As discussed above, the Department already has appointed an advisory committee to comment on the planned rules. The Department plans to reconvene this advisory committee for one meeting in October, 2000.

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

Agency Contact Person. Written or oral policy comments, policy questions, requests to receive a draft of the rules, and requests for more information on these planned rules should be directed to Karen Pitts; Department of Children, Families and Learning; 1500 Highway 36 West; **telephone:** (651) 582-8428; **fax:** (651) 582-8496; **email:** Karen.Pitts@state.mn.us. Requests for information about the rulemaking process should be directed to: Kristin Asche; Rule Coordinator; Department of Children, Families and Learning; 1500 Highway 36 West; **telephone:** (651) 582-8248; **fax:** (651) 582-8725; **email:** Kristin.Asche@state.mn.us. For TTY, contact the Minnesota Relay Service at (651) 297-5353 or (800) 627-3529.

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

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

Dated: 9 October 2000

/s/ Barbara Yates
For Christine Jax, Commissioner
Department of Children, Families and Learning

Minnesota Comprehensive Health Association

Notice of Meeting of the Enrollee Appeal Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Enrollee Appeal Committee will be held at 9:00 a.m., on Thursday, October 19, 2000, at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

This meeting may be closed to the public, if so requested by the appellant, pursuant to *Minnesota Statutes*, 62E.10, subd. 4.

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

Department of Human Services

Family and Children's Services Division

Notice of Publication of State Title XX Intended Use Report and Title XX Activities Report

Family and Children's Services Division of the Minnesota Department of Human Services has submitted a Title XX Intended Use Report for the period of October 1, 2000 through September 30, 2001, and a Title XX Activities Report for the period of October 1, 1998 through September 30, 1999 to the United States Department of Health and Human Services, Office of Community Assistance. These reports are intended to meet federal requirements for funds provided under Title XX of the Social Security Act.

The plans are available for public review and comment. A copy can be obtained by contacting:

Minnesota Department of Human Services
Family and Children's Services Division
Title XX Intended Use Report 2001 and/or Title XX Activities Report 1999
444 Lafayette Road North
St. Paul, MN 55155-3830

Department of Labor and Industry

Labor Standards Unit

Notice of Correction to Highway/Heavy Prevailing Wage Rates

A correction has been made to the Highway/Heavy Wage Rates certified 10/25/99, for **Labor Code 101, Laborer, Common (Gen Labor Wrk)** in Region 10.

Official Notices

A Copy of the corrected certification may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306 or by calling (612) 296-6452. Charges for the cost of copying and mailing are \$.65 per page. Make check or money order payable to the State of Minnesota.

Gretchen Maglich
Commissioner

Bureau of Mediation Services

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

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

This Roster is used to provide names of arbitrators to employers and labor organizations to hear and decide grievance and interest disputes. Referrals from the roster will be made to employers and unions in both the public and private sectors in Minnesota. Members of the Roster must be willing and able to arbitrate both grievance and interest cases.

Roster members must maintain a principal place of residence in Minnesota or one of its contiguous state. The maintenance of a mailbox or mail delivery point is not sufficient to satisfy this requirement.

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

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

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

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

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

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

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

Carol S. Clifford
Bureau of Mediation Services
1380 Energy Lane, Suite Two
St. Paul, Minnesota 55108
(651) 649-5423

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

Applications will be accepted until November 6, 2000.

Dated: 10 October 2000

Lance Teachworth
Commissioner

Metropolitan Council

Adoption of the Transportation Policy Plan for the Twin Cities Metropolitan Area

The Metropolitan Council will hold a public hearing to accept comments on the proposed adoption of the 2000 Transportation Policy Plan for the Twin Cities Metropolitan Area. The Metropolitan Council is required by federal and state law to prepare a surface transportation plan for the seven-county metropolitan area. The Council prepared and adopted such a plan along with the Regional Blueprint, the development plan for the region in 1996. That plan was readopted by the Council in June 2000. The Transportation Plan includes sections on transit, highways, freight, pedestrian and bicycle movement.

The Federal Transportation Equity Act for the 21st Century requires the Council to prepare a plan in conformance with federal transportation and air quality requirements every three years. The Plan must follow federal guidance. The Plan addresses guidance as now drafted.

The Plan incorporates the 2020 transit Master Plan adopted in early 2000. The planning horizon has been extended to 2025. Significant new material on the relationship between Transportation and Smart Growth, Bicycle and Pedestrian systems, and Freight have been included.

The Transportation Committee of the Metropolitan Council will hold the public hearing at the Metropolitan Council offices, Mears Park Centre, 230 E. Fifth St., St. Paul on Monday, November 20, 2000 at 5:00 p.m. in the Council Chambers.

Upon request the Council will provide reasonable accommodations to persons with disabilities. Free copies of the 2000 Transportation Policy Plan are available from the Council's Regional Data Center at (651) 602-1140 or (651) 291-0904 (TTY). Copies are also available for review at major public libraries in the Twin Cities area. Other background materials describing the Council's transportation planning and programming efforts are also available.

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

- Send written comments to Carl Ohrn, Planning Analyst, Metropolitan Council, Mears Park Centre Bldg., 230 East Fifth St., St. Paul, MN 55101
- **Fax** comments to (651) 602-1739
- Record comments on Council's Public Comment Line at (651) 602-1500
- **Email** comments to: data.center@metc.state.mn.us

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Minnesota Department of Agriculture

Agriculture Finance Division

Notice of Authority to Make Agro-Forestry Grants

The Minnesota Department of Agriculture announces its authority to make grants to one or more cooperative associations organized under *Minnesota Statutes*, chapter 308A. Purpose of the grants is to facilitate the production and marketing of short rotation woody crops as provided for in *Laws of Minnesota for 2000*, Article 3, Section 5.

Grant applications may be received throughout the fiscal year and awarded if funds are available. Publication of this notice does not obligate the Minnesota Department of Agriculture to award grant funds. The grant award may not exceed \$200,000. The grant must be matched by \$1 of nonstate money for each dollar.

Other information may be obtained by contacting:

Wayne Marzolf
Agriculture Finance Division
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107
(651) 296-1748

Department of Human Services

Health Care Purchasing and Service Delivery Division

Notice of Request for Proposals from Qualified Proposers for Minnesota Health Care Programs recipients in Brown, Dodge, Freeborn, Goodhue, Kanabec, Mower, Sibley, Steele, Wabasha and Waseca Counties

The Minnesota Department of Human Services (DHS) is seeking proposals for new and innovative health care service delivery models to serve persons in Brown, Dodge, Freeborn, Goodhue, Kanabec, Mower, Sibley, Steele, Wabasha and Waseca Counties who are covered by Medical Assistance (MA), General Assistance Medical Care (GAMC) or MinnesotaCare. Proposed models must demonstrate the ability to integrate health care services, with community, public health and social services and to provide a case management system that will encompass this package of health and community services. Covered populations include all persons enrolled in MinnesotaCare, all persons eligible for the GAMC program, and persons eligible for the MA program who are in the eligibility groups of Temporary Assistance to Needy Families (TANF), TANF-related, and aged. Enrollment of eligible persons is scheduled to begin March 1, 2001. The estimated number of eligible enrollees is:

MA/GAMC:	11,900
MinnesotaCare:	<u>5,900</u>
Total:	17,800

Entities qualified to respond to this Request for Proposals (RFP) must be able to provide all MA/GAMC/MinnesotaCare covered services for all counties in the identified geographic region, and must be able to accept financial risk. Capitation rates have been set by DHS in consultation with an independent actuary. Contracts will be awarded based on: (1) network capacity and geographic accessibility of service delivery sites; (2) ability to comply with service delivery standards appropriate to the demographic characteristics of the population to be enrolled; (3) ability to integrate health care services with other community services (4) financial and risk capability; and (5) ability to meet quality assurance, complaint, appeal and reporting requirements. The Department may choose to select a single contractor to serve this rural group of counties. The Commissioner reserves the right to reject any proposal.

All contracts issued under this RFP will be subject to the approval of the U.S. Department of Health and Human Services, Health Care Financing Administration (HCFA). Interested parties may receive a copy of the RFP by contacting:

Thomas Fields, Development Manager
Purchasing and Service Delivery Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota, 55155-3854
Telephone: (651) 297-7303
Fax: (651) 297-3230
Email: tom.fields@state.mn.us

Prospective respondents with questions regarding this RFP may call, write or email Thomas Fields at the above address. Mr. Fields is the only person at the Department of Human Services who is authorized to answer questions regarding this document. **A Proposers' Conference for prospective respondents has been scheduled as follows:**

1:30 p.m. October 24, 2000
Minnesota Department of Human Services
444 Lafayette Road, Room 3-A
St. Paul

All written questions submitted to Thomas Fields at the above address prior to 8:00 a.m., October 23 will be addressed at the conference.

All responses to this RFP are due at the Department of Human Services, Purchasing and Service Delivery Division, ATTN.: Thomas Fields, 444 Lafayette Road, St. Paul, MN 55155 - 3854, by 4:30 p.m., November 13, 2000.

Contracts, RFIs, RFPs, and RFQs for Professional, Technical & Consulting Services

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

Department of Administration State Designer Selection Board

To Minnesota Registered Design Professionals: Request for Proposals for Minnesota State University Moorhead (Project 00-24) New Science Building Addition and Renovation

The State Designer Selection Board has been requested to select consultants for a project. Design firms who wish to be considered for this project must deliver proposals on or before 12 p.m. (Noon), Monday, October 30, 2000, to:

Lisa Blue, Executive Secretary
State Designer Selection Board
Department of Administration
c/o Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, Minnesota 55155-3000
(651) 297-5526

Professional, Technical & Consulting Contracts

PROPOSALS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

Questions concerning the Board's procedures herein described, or the schedule in Item 8.h, should be referred to the Executive Secretary at (651) 297-5526. Questions relating to the project must be referred to the project contact(s) in Item 8.i.

NOTE TO RESPONDERS: *Changes May Have Been Made in the Content and Format Requirement. Proposals that Do Not Conform to the Following Content, Order and Format Requirements as Outlined in Items 1 through 5 below May Be Disqualified.*

1. **The front cover of the proposal should be clearly labeled** with the project number and project title as shown at the top of this request for proposal, together with the designer's firm name, address, telephone number, fax number and the name of the contact person. The back cover should remain blank.
2. **All data should be on 8-1/2" x 11" sheets**, soft bound. No more than 20 printed faces should be included (see the following for clarification):
 - a. All letters directed to the Board should be bound into the proposal and all pages will be counted as printed face(s). It is not necessary to do a cover letter to the Executive Secretary.
 - b. Blank dividers (with printed tab headings only) will not be counted as faces.
 - c. Front and back covers of proposals will not be counted as faces.
 - d. None of the statutory or mandatory information, except as requested in Item 3 below, should appear on the dividers or covers.
 - e. All pages should be numbered.

Proposals that deviate from the above may be disqualified.

3. BRIEF PROPOSAL SUMMARY:

All proposals shall begin with a summary which includes only the following items:

- a. Name of firm and its legal status;
- b. Names of persons in leadership roles for project management, design and production of architecture; design of civil, structural, mechanical and electrical engineering, landscape architecture, land surveying, fire protection and geoscience for each and every discipline called for in Section 8.b. The name of each person so mentioned must also include their Minnesota registration number. Fire protection engineering requires a licensed fire protection engineer, identified by their number OR the engineering registration number accompanied in Section 4.b by a listing of past projects demonstrating competency in this field.

Consultants and assistants to the persons in leadership roles, as identified above, need not provide a Minnesota registration number. These individuals should be listed separately from those above.
- c. A statement indicating that the consultants listed have been contacted and have agreed to be a part of the design team;
- d. A commitment to enter into the work promptly, if selected, by engaging the consultants and assigning the persons named in Item 3.b above, along with adequate staff to meet the requirements of work;
- e. At least one copy of the proposal must contain an original signature by an authorized member of the firm submitting the proposal, in ink, on the bottom of the first page of the proposal.
- f. A list of all State and University of Minnesota current and past projects and studies awarded to the prime firm(s) responding to this request for proposal during the four years immediately preceding the date of this request for proposal.

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

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

Professional, Technical & Consulting Contracts

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

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

4. ADDITIONAL MANDATORY PROPOSAL CONTENTS:

- A section containing graphic material (e.g., photos, plans, drawings, etc.) as evidence of the firm's qualifications for the work. The graphic material shall be identified. It shall be work in which the personnel listed in Item 3.b above have had significant participation and their roles shall be clearly described. It shall be noted if the personnel were, at the time of the work, employed by other than their present firms.
- Expanded resumes showing qualification of individuals, listed in Item 3.b above, administering or producing the major elements of the work, including consultants. Identify roles which such persons played in projects which are relevant to the project at hand.
- A discussion of the firm's understanding of and approach to the project.
- A listing of relevant past projects.

5. Eleven copies of the proposal should be submitted.

6. Design firms wishing to have their proposals returned after the Board's review shall follow one of the following procedures:

- Enclose a *self-addressed, stamped* postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two weeks to pick up their proposals, after which time the proposals will be discarded; or
- Enclose a *self-addressed, stamped* mailing envelope with the proposals. When the Board has completed its selection, proposals will be returned using this envelope.

7. BOARD SELECTION CRITERIA:

In making its selection of designers the Board shall consider the criteria listed below:

Credit for the following criteria will equal not less than sixty percent.

- Qualifications and technical competence in the required field of design;
- Ability to deal with aesthetic factors;
- Project understanding and approach.

Credit for the following criteria will equal up to forty percent.

- Capacity to accomplish the work and services within the required constraints;
- Availability of appropriate personnel;
- Geographic relationship of the designer's base to the project site; and
- Awards previously made to a designer by the state. This is in the interest of equitable distribution of commissions.

The criteria do not necessarily have the same weight, nor are their relative weights necessarily constant from one project to another. The Board may issue statements regarding criteria as they relate to individual projects.

Evaluations of the proposals shall be made independently by the Board members.

8. PROJECT 00-24

Minnesota State University Moorhead
1104 Seventh Avenue South
Moorhead, MN 56563

a. PROJECT DESCRIPTION:

This project consists of both a new science building addition (71,000 GSF) and the complete renovation of existing Hagen Hall (91,000 GSF). The new science building addition will consist of teaching laboratories; student/faculty

Professional, Technical & Consulting Contracts

research laboratories and laboratory support space for biology, chemistry, physics and technology. It is anticipated that the new construction will tie into and be architecturally compatible with Hagen Hall and Weld Hall.

The current science building, Hagen Hall (91,000 NASF), will be renovated for classrooms, offices and other “dry lab” teaching in the sciences. The scope of this renovation includes: reconfiguration of interior partitions; replace building HVAC system; replace ceilings, including all lighting fixtures and floor finishes; upgrade mechanical systems, including plumbing, piping, pumps and restroom fixtures. The project will involve the construction of new classrooms, designed for flexibility, wired/cabled for current and future data needs, fitted with task appropriate lighting acoustics and finishes. The existing Hagen Hall is three stories in height, brick veneer with concrete beam and column frame. The building was constructed in 1960. The building consists of window wall construction on the east and west elevations, and exterior entrance systems on the north and south elevations.

The new science building addition will be connected to the renovated Hagen Hall. This new building and renovation project shall correct three major deficiencies of the present Hagen Hall:

- Inadequate fresh air exchanges
- Other safety and health issues such as a noncompliant fire alarm system, noncompliant fire doors and frames and an entry ramp that does not meet ADA code requirements
- Outdated for modern science pedagogy and research

A predesign report has been done and will be available at the informational meeting.

b. REQUIRED CONSULTANT SERVICES:

The selected design team shall provide all architectural and engineering services necessary to deliver Schematic Design (SD), Design Development (DD), Construction Documents (CD) and provide construction administration to conform with MnSCU Design standards and Minnesota State University Moorhead program requirements.

All documents for SD, DD, and CD shall be prepared using CADD technology in an electronic data exchange file format acceptable to MnSCU.

The design team will provide all architectural services, including interior design, cost estimating and project scheduling. Engineering services shall include civil, structural, mechanical, fire protection, electrical, voice/data communication and audiovisual.

NOTE: Hagen Hall needs a new roof. A roof consultant designated by MnSCU will be assigned to and become part of the consultant’s design team. The consultant’s fee shall include the fee and reimbursables of the roof design consultant

c. SERVICES PROVIDED BY OTHERS:

- Site surveys and geotechnical investigations and recommendation
- Asbestos abatement

d. SPECIAL CONSIDERATIONS:

Evaluate existing heating, air conditioning and electrical systems to determine capabilities and capacities to fully service the proposed new building. The design team shall also assist in the preparation of project information to support the appropriation submitted to the MnSCU Board and the 2002 Minnesota Legislature for construction funding.

e. PROJECT BUDGET/FEES:

Estimated project cost is \$25,000,000. This includes construction, fees, reimbursables, furniture fixtures, equipment contingencies and inflation factor. The state has funded \$1,600,000 for the project design. The construction appropriation funds are anticipated in 2002. At this time, the project is funded only through construction documents.

f. PROJECT SCHEDULE:

Design Phase: Begin January 1, 2001, complete by March 15, 2002.

Construction Phase: Advertise for bids July 1, 2002, complete construction May 2004.

The following preliminary design durations are suggested:

Schematic Design:	3 months 20 days
Design Development:	3 months 20 days
Construction Documents:	5 months 15 days
Reviews:	<u>1 month 20 days</u>
	14 months 15 days

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g. PROJECT INFORMATIONAL MEETING(S)/SITE VISIT(S):

An informational meeting is scheduled for October 25 at 1 p.m. in Hagen Hall, Room 105 at Minnesota State University Moorhead, 8th Avenue & 17th Street South, Moorhead, MN. All firms interested in this meeting should contact David Crockett at (218) 236-2070 or Todd Stugelmayer at (218) 236-2069.

h. STATE DESIGNER SELECTION BOARD SCHEDULE:

<i>Project Information Meeting and/or Site Visit:</i>	October 25, 2000
<i>Project Proposals Due:</i>	October 30, 2000, by 12 p.m. (Noon)
<i>Project Shortlist:</i>	November 7, 2000
<i>Project Interviews and Award:</i>	November 21, 2000

i. PROJECT CONTACT(S):

Questions concerning the project should be referred to:
David Crockett and/or Todd Stugelmayer
Minnesota State University Moorhead
1104 Seventh Avenue South, P.O. Box 409
Moorhead, MN 56563
Phone: (218) 236-2070 or (218) 236-2069

9. CONTRACT REQUIREMENTS:

- a. The amended Minnesota Human Rights Act (*Minnesota Statute 363.073*) divides the contract compliance program into two categories. Both categories apply to any contracts for goods or services in excess of \$100,000. The first category applies to businesses who have more than 40 full-time employees within Minnesota on a single working day during the previous 12 months. The businesses in this category must have submitted an affirmative action plan to the Commissioner of the Department of Human Rights prior to the date and time set for the solicitation opening and must have received a Certificate of Compliance prior to the execution of the contract or agreement. The second category applies to businesses who have more than 40 full-time employees on a single working day in the previous 12 months in the State in which they have their primary place of business. The business in this category must either have an unexpired Certificate of Compliance previously issued by the Department of Human Rights, or certify to the contracting State agency that they are in compliance with federal affirmative action requirements before execution of the contract. This Certificate is valid for two (2) years. For further information, contact the Department of Human Rights, 190 East Fifth Street, Suite 700, St. Paul, MN 55101, (651) 296-5663 or (800) 657-3704.

The Department of Administration is under no obligation to delay award or execution of this contract until a vendor has completed the human rights certification process. It is solely the responsibility of the vendor to apply for, and obtain, a human rights certificate prior to contract award.

- b. Costs incurred in responding to this RFP shall be borne by the responder. In accordance with existing statutes, the Board shall retain one copy of each proposal submitted. Responses to this RFP become public information under the Freedom of Information Act after the final selection has been made.
- c. *Laws of Minnesota 1997*, require the successful responder to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution of the contract.
- d. *Laws of Minnesota 1997*, Chapter 202, Article 1, Section 12, Subdivision 2, require that during the biennium ending June 30, 1999, for an executive agency contract that is subject to *Minnesota Statutes*, Section 363.073 (over \$100,000 and subject to Human Rights Certification requirements), before the agency enters into the contract, should to the extent practical and to the extent consistent with the business needs of the State, ensure that the company to receive the contract attempts to recruit Minnesota welfare recipients to fill vacancies in entry level positions if the company has entry level employees in Minnesota.
- e. This RFP 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.

Professional, Technical & Consulting Contracts

Minnesota State Colleges and Universities (MnSCU)

St. Cloud Technical College

Request for Proposal (RFP) for Harig 618 Surface Grinders or Equivalent

Introduction:

St. Cloud Technical College is soliciting bids for (2) Harig 618 Surface Grinders or Equivalent Beginning October 23, 2000.

Request for Proposals are available from:

St. Cloud Technical College
Melinda Begin
1540 Northway Drive
St. Cloud, MN 56303
(320) 654-5512

Proposals Due Date:

Vendor proposals are due no later than 2:00 p.m., November 6, 2000.

Minnesota Historical Society

Request for Bids for Data Center Relocation – St. Paul, Minnesota

The Minnesota Historical Society is seeking bids from qualified firms to provide all labor, materials, equipment and supplies to complete the Data Center Relocation, located at the Minnesota History Center, 345 Kellogg Boulevard West, Saint Paul, Minnesota. The work consists of two parts: furnishing a complete uninterruptible power system to provide continuous, regulated AC power to critical loads under normal and abnormal conditions, including the loss of the utility AC power. The UPS shall be completely solid-state except for maintenance bypass breaker which may be mechanical. The UPS shall be installed by others in accordance with the manufacturer's recommendations. The second portion shall include complete design, certified drawings, systems equipment, materials, etc. as required and as outlined in the design drawings and specifications. All work will be in accordance with the Drawings, Technical Specifications, Instructions to Bidders, Supplemental Conditions, General Conditions, the Contract and the Request for Bids.

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

A **MANDATORY** pre-bid meeting will be held on Wednesday, October 18, 2000 at 10:00 a.m. Local time. The meeting will be held at the Minnesota History Center, which is located at 345 Kellogg Boulevard West, Saint Paul, Minnesota.

All bids must be received by Chris M. Bonnell, Contracting Officer for the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102 or an authorized agent no later than 2:00 p.m., Local Time, Wednesday, November 8, 2000. A bid opening will be conducted at that time. Bids must be submitted in a sealed envelope with the project name clearly written on the envelope. A Bid Bond must be included in the amount of 5% of the total base bid if the total base bid is over \$50,000. Late bids will not be considered.

Authorized agents for receipt of bids are the following: Mary Green-Toussaint, Contracting and Procurement Technician or any Work Service Center staff member in the Finance and Administration Division on the 4th floor of the History Center. Bids may not be delivered to the information desk, to the guard or to any location or individual other than as specified above.

Complete specifications and details concerning submission requirements are included in the Request for Bids.

Minnesota Historical Society

Notice of Request for Bids for Printing Services – *Minnesota Geographic Names*

The Minnesota Historical Society (Society) is seeking bids from qualified firms and individuals for Printing Services for a 736-page, 2-column reference book (3,000 + additional 500's + 500 extra jackets to ship with the job) of graphics and text.

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

Bids must be received no later than 2:00 P. M., Local Time, Monday, November 13, 2000. No late bids will be accepted.

Minnesota Pollution Control Agency

North District, Duluth Office

Community and Area Wide Programs

Notice of Request for Proposals to Provide Tools and Education to Duluth Township for Greater Understanding of Watershed and Land Use

The Minnesota Pollution Control Agency (MPCA) requests proposals to provide tools and education to Duluth Township for a greater understanding of their local watersheds, land use impacts on water quality, identification of community vision, and an increased ability to implement protective measures in line with that defined vision when developing, updating, and implementing land use plans.

Tasks to be accomplished by contractor are:

- Thorough review and assessment of all applicable development rules
- Presentation of current and potential build-out scenarios
- Facilitation of local round table planning group
- Recommendations for changes in codes and ordinances
- Assistance with community visioning and goal setting
- Presentation of educational programs to citizens, decision-makers, and other stakeholders focusing on land use impacts on water quality, smart growth practices, and environmental economics
- Presentations to community utilizing geographic information systems (GIS) technology
- Progress reports to contract manager and community staff

The MPCA has estimated that this contract should not exceed \$30,000. This proposal does not obligate the MPCA to spend the estimated dollar amount.

Call or write for the full RFP which will be sent free of charge to interested vendors. Inquiries about the RFP should be addressed to:

Patty Bacigalupo
525 South Lake Avenue
Suite 400
Duluth, MN 55802
Phone: (218) 529-6217

Other MPCA personnel are NOT allowed to discuss the RFP with anyone, including responders, before the proposal submission deadline.

Deadline for delivery of proposals is November 7, 2000, 4:00 p.m.

Professional, Technical & Consulting Contracts

Office of the Secretary of State

Request for Information about Large Scale Disk Storage

The Minnesota Office of Secretary of State (OSS) will implement several new automated systems requiring large capacity of magnetic storage that must be shared by multiple Windows NT/2000 servers. OSS is seeking information about the capabilities of large scale (greater than 1 terabyte) disk storage. Vendors of large scale disk will be asked to present information that describes scalability, flexibility, configuration, management, fault tolerance, disaster recovery, and other elements of their product offering. From the information received in this process OSS will develop a Request for Proposal to acquire required disk.

For a copy of the request for information, to schedule a presentation or if you have questions, contact Jim Lawliss at (651) 297-4827 or jim.lawliss@state.mn.us

Department of Transportation

Program Support Group

Office of Technical Support

Notice of Availability of Contract for I-94 Final Design in Brooklyn Center

The Minnesota Department of Transportation (Mn/DOT) is soliciting the proposals for the Final Design for the reconstruction of the portion of I-94 located between Humboldt Avenue and Zane Avenue in the City of Brooklyn Center, Minnesota.

Work is proposed to start January 1, 2001.

Request for Proposals will be available by mail from this office through October 27, 2000. **A written request (direct mail or FAX) is required to receive the Request for Proposal.** After October 27, 2000, the Request for Proposal must be picked up in person.

The Request for Proposal can be obtained from the Mn/DOT Agreement Administrator:

Alex Chernyaev, P.E.
Consultant Services Unit - 7th Floor North
Minnesota Department of Transportation
395 John Ireland Boulevard, MailStop 680
St. Paul, MN 55155
Fax: (651) 282-5127

Proposals in response to the Request for Proposals in this advertisement must be received at the above address no later than 2:00 P.M. CDT on November 8, 2000. **Late proposals will not be considered.** No time extensions will be granted.

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 will be borne by the responder.

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Council

Notice of Request for Proposals (RFP) for Design Engineering Services Elm Creek Interceptor – Medina Leg

MCES Project Number 900420

MCES Contract Number 00P0143

The Metropolitan Council is requesting engineering service proposals for design and preparation of contract drawings and specifications and construction phase services for the Elm Creek Interceptor – Medina Leg. The project includes approximately 4 miles of 27-inch diameter gravity sewer located in the cities of Maple Grove, Plymouth, and Medina. The work will also include preparation of a draft Environmental Assessment Worksheet, aerial mapping, and a geotechnical investigation of the pipeline corridor. The project schedule is shown below:

<i>Receive Letters of Interest</i>	October 17, 2000
<i>Issue Request for Proposals</i>	October 20, 2000
<i>Receive Proposals</i>	November 10, 2000
<i>Metropolitan Council Authorization</i>	December 6, 2000
<i>Notice To Proceed</i>	December 15, 2000
<i>Complete Design</i>	June 2001
<i>Begin Construction</i>	September 2001
<i>Complete Construction</i>	October 2002

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

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

Inquiries regarding technical aspects of the project should be directed to Wayne Rikala at (651) 602-1127

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

University of Minnesota

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

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

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



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