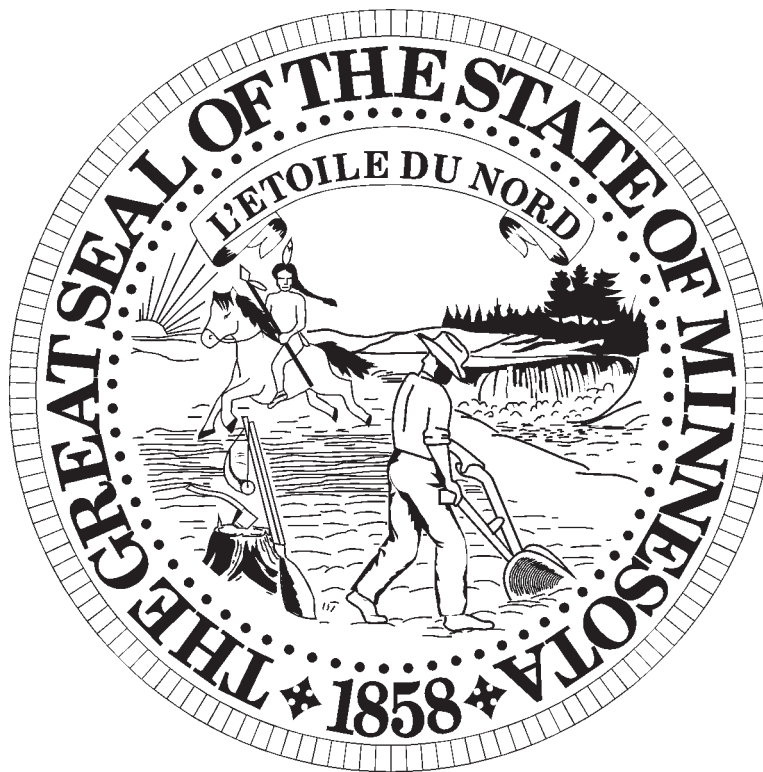


State of Minnesota

State Register



Rules and Official Notices Edition

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State Register

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

- proposed, adopted, exempt, expedited emergency and withdrawn rules
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- 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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# 12	Monday 19 September	Noon Tuesday 13 September	Noon Wednesday 7 September
# 13	Monday 26 September	Noon Tuesday 20 September	Noon Wednesday 14 September
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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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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*.

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

Minnesota Board of Animal Health

Proposed Permanent Rules Relating to Scrapie Eradication

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Rules Governing Scrapie Eradication in Sheep and Goats, (*Minnesota Rules* 1705.2700-1705.2750)

Including Associated Proposed Rules for Importation of Sheep and Goats (*Minnesota Rules* 1700.1810-1700.1860), Proposed Amendments to the Rules Governing the Exhibition of Sheep or Goats (*Minnesota Rules* 1715.0110), Proposed Amendments to Rules Governing the Public Exhibition of Livestock and Poultry in Minnesota (*Minnesota Rules* 1715.0160), and the Proposed Repeal of *Minnesota Rules*, parts 1700.1800; 1700.1900; 1700.4600; 1700.4700; and 1715.0115

Introduction. The Minnesota Board of Animal Health intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until October 12, 2005.

Agency Contact Person. Comment 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: Kris Petrini at the Minnesota Board of Animal Health, 90 W Plato Blvd, St. Paul, MN 55107, (651) 296-2942 ext 31, fax: (651) 296-7417, kris.petrini@bah.state.mn.us. TTY users may call the Board at (800) 627-3529.

Subject of Rules and Statutory Authority. The proposed rules are about Scrapie Eradication in Sheep and Goats. The rules and amendments are proposed in order to assure that Minnesota is consistent with the national scrapie eradication program and to facilitate the eradication of scrapie within Minnesota. The statutory authority to adopt the rules is *Minnesota Statutes*, section 35.03. A copy of the proposed rules is published in the *State Register*. A free copy of the rules is available upon request from the agency contact person listed above. The rules would require the official identification of sheep and goats upon movement from one location to another, including

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importation, exhibition, sale, and other intrastate and interstate movement. Sheep and goats that are less than 18 months of age, that have never been bred and that are in slaughter channels may be exempted from the identification requirement under certain circumstances when moved to an approved market or to a slaughtering establishment. The rule would also require that persons who handle sheep and goats, including producers, dealers, markets, and sale personnel, and persons who apply official identification maintain certain records for a period of five years. Importation rules for sheep and goats would impose limitations on the importation of sheep and goats that have had exposure to scrapie and would require official identification for sheep and goats being imported into Minnesota which is consistent with the intrastate movement requirements. The exhibition rules for sheep and goats would be amended to require official identification for all sheep and goats for exhibition and would prohibit (with certain exceptions) the exhibition of sheep and goats which are within 30 days of giving birth.

Comments. You have until 4:30 p.m. on October 12, 2005 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 October 12, 2005. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

Alternative Format/Accommodation. Upon request, this Notice of Intent to Adopt Rules Without a Public Hearing 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, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

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.

The Commissioner of the Minnesota Department of Agriculture was Notified of this Proposed Rule Change.

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

Adoption 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: August 30, 2005

Dr. William Hartmann
Executive Director, Minnesota Board of Animal Health

1700.1810 DEFINITIONS.

Subpart 1. Scope. The definitions in this part apply to parts 1700.1810 to 1700.1860.

Subp. 2. Commingled. "Commingled" means animals are grouped together so that they have physical contact with each other, including contact through a fence or sharing the same section in a transportation unit where there is physical contact.

Subp. 3. Flock. "Flock" means sheep, goats, or both maintained on a single premises, or sheep, goats, or both maintained under common

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ownership or supervision on two or more premises with animal interchange between the premises.

Subp. 4. **Official identification.** “Official identification” means identification approved by the board and the United States Department of Agriculture, Animal and Plant Health Inspection Services for use in the scrapie eradication program as outlined in *Code of Federal Regulations*, title 9, section 79.2, identification of sheep and goats in interstate commerce.

Subp. 5. **Premises.** “Premises” means a distinct tract of land with an animal production facility.

Subp. 6. **Restricted-movement feeder animal.** “Restricted-movement feeder animal” means a sheep or goat that is less than 18 months of age as evidenced by the eruption of the second incisor, is not pregnant, has never given birth or aborted, is not commingled with breeding animals from other flocks, and will be slaughtered at less than 18 months of age.

Subp. 7. **Slaughter channels.** An animal is in a “slaughter channel” if it is sold, transferred, or moved to:

- A. a slaughter facility;
- B. an individual for custom slaughter; or
- C. a terminal feedlot for later slaughter at less than 18 months of age.

Subp. 8. **Terminal feedlot.** “Terminal feedlot” means a facility that exists for the express purpose of improving an animal’s condition for slaughter and from which animals are moved only to slaughter.

1700.1820 REQUIREMENT FOR OFFICIAL IDENTIFICATION.

Goats or sheep imported into Minnesota must be identified with official identification complying with *Code of Federal Regulations*, title 9, section 79.2, except as provided in items A to D:

- A. goats or sheep less than 18 months of age that are going directly to slaughter at a slaughtering establishment having federal inspection;
- B. restricted-movement feeder animals that are moved to a state-federal approved livestock market that has an official veterinarian and restricts the sale of sheep and goats without official identification to slaughter channels in a manner approved by the board;
- C. restricted-movement feeder animals that are moved under permit from the board to a terminal feedlot; and
- D. goats or sheep moved for grazing or similar management reasons if the goats or sheep are moved from a premises owned or leased by the owner of the goats or sheep to another premises owned or leased by the owner of the goats or sheep and the goats or sheep are not commingled with sheep or goats from other flocks.

1700.1830 REQUIREMENT FOR CERTIFICATE OF VETERINARY INSPECTION.

Goats or sheep imported into Minnesota must be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian, except as provided in items A and B:

- A. goats or sheep going directly to slaughter at a slaughtering establishment having federal inspection; and
- B. goats or sheep consigned to a state-federal approved market that has an official veterinarian.

1700.1840 CONTENTS OF CERTIFICATE OF VETERINARY INSPECTION.

Certificates of veterinary inspection must show:

- A. the individual official identification number of each animal, except as provided in subitems (1) and (2):
 - (1) restricted-movement feeder animals when moved under permit from the board to a terminal feedlot; and
 - (2) goats or sheep moved for grazing or similar management reasons as described in part 1700.1820, item D; and
- B. the permit number where required.

1700.1850 REQUIREMENT FOR IMPORT PERMIT.

A permit must be obtained prior to importation of the following:

- A. a restricted-movement feeder animal that is being moved to a terminal feedlot as described in part 1700.1820, item C;
- B. goats or sheep from a flock that is currently under quarantine; and
- C. goats or sheep from a flock that is currently designated as an exposed flock, as defined in *Code of Federal Regulations*, title 9, section 79.1.

1700.1860 PROHIBITED IMPORTS.

No goat or sheep that is currently designated as scrapie positive, suspect, or high-risk as defined in *Code of Federal Regulations*, title 9, section 79.1, or that is from a flock that is currently designated as a scrapie source, infected, or noncompliant flock as defined in *Code of Federal Regulations*, title 9, section 79.1, may be imported into Minnesota.

1705.2700 FEDERAL COMPLIANCE.

Code of Federal Regulations, title 9, sections 54 and 79, govern the scrapie control and eradication program in parts 1705.2700 to 1705.2750.

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1705.2710 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1705.2700 to 1705.2750.

Subp. 2. **Commingled.** “Commingled” means animals are grouped together so that they have physical contact with each other, including contact through a fence or sharing the same section in a transportation unit where there is physical contact.

Subp. 3. **Flock.** “Flock” means sheep, goats, or both maintained on a single premises, or sheep, goats, or both maintained under common ownership or supervision on two or more premises with animal interchange between the premises.

Subp. 4. **Official identification.** “Official identification” means identification approved by the board and the United States Department of Agriculture, Animal and Plant Health Inspection Services for use in the scrapie eradication program as outlined in *Code of Federal Regulations*, section 79.2, identification of sheep and goats in interstate commerce.

Subp. 5. **Premises.** “Premises” means a distinct tract of land with an animal production facility.

Subp. 6. **Restricted-movement feeder animal.** “Restricted-movement feeder animal” means a sheep or goat that is less than 18 months of age as evidenced by the eruption of the second incisor, is not pregnant, has never given birth, is not commingled with breeding animals from other flocks, and will be slaughtered at less than 18 months of age.

Subp. 7. **Restricted-movement certificate.** “Restricted-movement certificate” is a board-approved form used to accompany restricted-movement feeder animals that do not have official identification when moved from one premises to another premises and which restricts the animals to slaughter channels.

Subp. 8. **Slaughter channels.** An animal is in a “slaughter channel” if it is sold, transferred, or moved to:

- A. a slaughter facility;
- B. an individual for custom slaughter; or
- C. a terminal feedlot for later slaughter at less than 18 months of age.

Subp. 9. **Terminal feedlot.** “Terminal feedlot” means a facility that exists for the express purpose of improving an animal’s condition for slaughter and from which animals are moved only to slaughter.

1705.2720 DISEASE REPORTING.

A person who knows or reasonably suspects that an animal is infected with scrapie must report that knowledge or suspicion to the board immediately.

1705.2730 REGISTRATION.

Persons who buy or sell sheep or goats in Minnesota must register their flocks with the board.

1705.2740 IDENTIFICATION.

Subpart 1. **Sheep and goats requiring official identification.** All sheep and goats must be identified with official identification upon movement from the flock to another location and before being commingled with sheep and goats from other flocks, except restricted-movement feeder animals as described in subpart 2.

Subp. 2. **Sheep and goats not requiring official identification.** A restricted-movement feeder animal that has not been designated as scrapie positive, suspect, high-risk, or exposed as defined in *Code of Federal Regulations*, title 9, section 79.1, may be moved without official identification to:

- A. a state-approved livestock market that has an official veterinarian and restricts the sale of unidentified animals to slaughter channels in a manner approved by the board;
- B. a slaughtering establishment, either directly or through market channels; or
- C. a terminal feedlot, either directly or through market channels, when accompanied by a restricted movement certificate.

Subp. 3. **Removal of unidentified sheep and goats from slaughter channels.** No sheep or goat that has been sold, moved, or transferred into slaughter channels, including a sheep or goat in a terminal feedlot, may be removed from slaughter channels. No sheep or goat may be removed from slaughtering establishments or yards immediately contiguous to slaughtering establishments without first obtaining a permit from the board under part 1720.1080.

Subp. 4. **Removal of official identification.** No person may tamper with or remove any official identification without prior permission from the board.

1705.2750 REQUIRED RECORDS.

Subpart 1. **Persons who apply official identification.**

- A. A person who applies official identification that has been assigned directly to the producer must maintain the following records:
 - (1) date the identification was applied;
 - (2) number of sheep and goats identified;

- (3) identification numbers applied; and
- (4) name and address of the flock of birth, if different from the current flock.

B. Market, auction, sale, or extension personnel or accredited veterinarians who apply official identification that is not assigned to the producer must maintain the following records:

- (1) date the identification was applied;
- (2) number of sheep and goats identified;
- (3) serial tag numbers applied; and
- (4) name and address of the flock where the animal currently or most recently resided.

Subp. 2. Persons who purchase, acquire, sell, or dispose of sheep and goats.

A. A person who purchases or acquires a sheep or goat must maintain normal business records that include the following:

- (1) date of purchase or acquisition;
- (2) name and address of the person from whom the animals were purchased or acquired;
- (3) species, breed, and class of animal;
- (4) number of animals purchased or acquired; and
- (5) certificate of veterinary inspection, when required.

B. A person who sells or disposes of a sheep or goat must maintain normal business records that include the following:

- (1) date of sale or disposition;
- (2) name and address of the buyer or person who acquired the animals;
- (3) species, breed, and class of animal;
- (4) number of animals sold or disposed of;
- (5) certificate of veterinary inspection, when required; and
- (6) the official identification number of any sheep or goat sold for breeding purposes.

Subp. 3. Record retention and availability. All business records relating to sheep and goat movement including those described in subparts 1 and 2 must be maintained for at least five years after the person has sold or otherwise disposed of the sheep or goat and be available for inspection and copying at any reasonable time by any authorized agent of the board.

1715.0110 EXHIBITION OF SHEEP OR GOATS.

~~Sheep must be examined by the official veterinarian on the day they are admitted to the exhibition.~~

Subpart 1. Official identification. Official identification as defined in part 1705.2710, subpart 4, is required for all goats or sheep to be exhibited.

Subp. 2. Exhibition of sheep or goats that are within 30 days of giving birth. No sheep or goat that is within 30 days of giving birth, either before or after birthing, or that has a vaginal discharge may be exhibited, except with prior approval from the board and if the following conditions are met:

- A. the sheep or goat is housed separately from sheep and goats from other flocks so that direct contact does not occur;
- B. the sheep or goat is maintained in a separate area for the duration of the exhibition and does not move to any other area within the exhibition where sheep and goats from other flocks are housed or exhibited at any time;
- C. the area housing the sheep or goat can be properly cleaned and disinfected;
- D. when a sheep or goat gives birth, the placenta, placental fluids, and soiled bedding are removed immediately and disposed of in a manner that prevents it from coming in contact with other animals at the exhibition; and
- E. once the sheep or goat leaves the exhibition, the area is thoroughly cleaned and disinfected in a manner approved by the board.

1715.0160 CATTLE, GOATS, SWINE, POULTRY, AND SHEEP.

All cattle, goats, swine, poultry, and sheep must meet all requirements in parts 1715.0005 to 1715.0162 for livestock and poultry originating in Minnesota and must also meet the board's importation requirements of parts 1700.0100 to 1700.1500, ~~1700.1800 to 1700.1900~~ 1700.1810 to 1700.1860, 1700.2600 to 1700.3010, and 1700.3110 to 1700.3800, ~~1700.4600, and 1700.4700~~. Certificates of veterinary inspection and required tests, except pseudorabies tests for swine which must be made within 30 days, must be accepted if issued and conducted within 90 days prior to the opening date of the exhibition.

REPEALER. Minnesota Rules, parts 1700.1800; 1700.1900; 1700.4600; 1700.4700; and 1715.0115, are repealed.

Proposed Rules

Department of Health

Proposed Permanent Rules Repealing Obsolete Rule Language

NOTICE OF INTENT TO REPEAL OBSOLETE RULES

Proposed Repeal of Rules Identified in the Department of Health's 2004 Obsolete Rules Report, including Rules Governing: Health Maintenance Organizations, *Minnesota Rules*, Chapter 4685; Parts 4685.0801, subpart 2, third paragraph; 4685.0935, subpart 2; 4685.2400; 4685.3300, subparts 6 and 7; 4685.3300, subpart 11; Indian Health Grants to Community Health Boards, *Minnesota Rules*, Chapter 4736, Part 4736.0100; Medical Education Assistance Programs, *Minnesota Rules*, Chapter 4763; *Minnesota Rules*, Alcohol And Drug Counselor Licensing, Chapter 4747, Parts 4747.0200, 4747.1100, subpart 2, items A, B, C, D, E and F, the word "six" is obsolete in each of these items; 4747.1100, subpart 5, subitem (3); the word "accredited" is obsolete.

A. Introduction. The Minnesota Department of Health (MDH) intends to repeal obsolete rules following the procedures set forth in the Minnesota Administrative Procedure Act, *Minnesota Statutes*, section 14.3895.

B. MDH Contact Person. Comments or questions on the repeal and written requests that MDH proceed to a public hearing on the repeal under *Minnesota Statutes*, sections 14.131 to 14.20, or proceed to repeal the rule without a public hearing under *Minnesota Statutes*, sections 14.22 to 14.28, must be submitted to: Dave Orren, at the Minnesota Department of Health, Golden Rule Building, 85 East 7th Place, Suite 280, P.O. Box 64882, St. Paul, Minnesota, 55164-0882; **Phone:** 651-282-6310; **Fax:** 651-651-215-8831; **email:** david.orren@health.state.mn.us. **TTY** users may call MDH at TTY 651-215-8980.

C. Subject of Rules and Statutory Authority. The proposed repeal governs the following obsolete rules, which were identified in MDH's 2004 Annual Obsolete Rules Report under *Minnesota Statutes*, section 14.05, subdivision 5:

1. Certain parts, subparts, and text of Chapter 4685 – Health Maintenance Organizations.
 - Part 4685.0801, subpart 2, third paragraph, is included for repeal. This paragraph applies to copays approved prior to the effective date of this rule. All contracts must be modified when there are certain legislative changes and, since this provision was effective in FY1992, there could be no remaining old copayment provisions.
 - Part 4685.0935, subpart 2, applies to the renewal of group contracts for health care benefits that were issued before October 9, 1989. This subpart is obsolete because all such contracts have been renewed and is, therefore, included for repeal.
 - Part 4685.2400 pertains to determining the maximum number of enrollees in an HMO as this relates to enrollment at any point in time. It is obsolete because it is not used and is, therefore, included for repeal.
 - Part 4685.3300, subparts 6 and 7, set deadlines for reviewing and amending filings. These subparts are included for repeal because they have been superseded by Minnesota Statutes, section 62D.08, subdivision 1, and section 62D.04, subdivision 2.
 - Part 4685.3300, subpart 11, requires that notice of participating entity changes be submitted on forms prescribed by the commissioner. This subpart is unnecessary as we have never issued forms for this purpose and is, therefore, included for repeal.
 - The rulemaking authority for these rules is in Minnesota Statutes, sections 62D.05, 62D.08, 62D.182, and 62D.20.

2. Part 4736.0100 – Indian Health Grants to Community Health Boards. This rule deals with procedures to be followed by Community Health Boards which, until the 2003 legislative provisions, were the only entities eligible to apply for Indian Health Grants. The eligibility is now open to a wider group of entities, including, but not exclusive to, Community Health Boards, which now compete on the same basis as other groups and use the same procedures as those groups. Consequently, the procedures specific to them when they were the only eligible entities are obsolete and this rule is, therefore, included for repeal. The rulemaking authority for these rules is in Minnesota Statutes, section 145A.12.

3. Chapter 4763 – Medical Education Assistance Programs. These rules are obsolete because they have been superseded by statute. Accordingly, these rules are included for repeal. The rulemaking authority for these rules is in Minnesota Statutes, section 136A.16, subdivision 2. This statute gives the rulemaking authority to the Minnesota Higher Education Services Office. Minnesota Laws 1995, chapter 212, article 3, section 57, transferred the responsibilities of the Higher Education Coordinating Board or its successor to the Minnesota Department of Health. The Higher Education Services Office is the successor to the Higher Education Coordinating Board. Per Minnesota Statutes, section 15.039, subdivision 3, rulemaking authority is also transferred when other responsibilities are transferred.

D. Copy of Repeal. A copy of the proposed repeal is published in the *State Register* and attached to this notice as mailed. A free copy of the proposed repeal is available upon request from Dave Orren, the MDH contact person listed above in paragraph B.

E. Comments, Deadline. You have until 4:30 p.m. on November 14, 2005, to submit written comment in support of or in opposition to the proposed repeal or any part or subpart of the repeal. Your comment must be in writing and received by Dave Orren, the MDH contact person listed above in paragraph B, by 4:30 p.m. on Monday, November 14, 2005. Your comment should identify the portion of the proposed repeal and the reason for the comment. If the proposed repeal affects you in any way, you are encouraged to comment. Any comments that you would like to make on the legality of the proposed repeal must also be made during the comment period.

Proposed Rules

F. Request for Regular Rulemaking Process. If you want MDH to use the regular rulemaking process to repeal the rules, you must submit a written request. If 25 or more people submit a written request, MDH will have to use the regular rulemaking process in order to repeal the rules. For repealing rules after a public hearing, the regular rulemaking process is set out in sections 14.131 to 14.20. For repealing rules without a public hearing, the regular rulemaking process is set out in sections 14.22 to 14.28. The regular rulemaking process includes preparation of a statement of need and reasonableness. Your written request to use the regular rulemaking process must include your name and address and must be received by Dave Orren, the MDH contact person listed above in paragraph B, by 4:30 p.m. on November 14, 2005, or it will not be counted by MDH for determining whether the regular rulemaking process is necessary. Please include your phone number with your request. Also, please identify which parts or subparts of the proposed repeal that you feel should go through the regular rulemaking process and the reason for the request.

G. Severability. If MDH receives 25 or more requests to use the regular rulemaking process for some, but not all, of the rule parts or subparts listed in this repeal, this is how MDH will proceed:

- For those rule parts or subparts that do not have 25 or more requests, MDH will continue to use the expedited process of *Minnesota Statutes*, section 14.3895, to repeal the rules.
- For those rule parts or subparts that have 25 or more requests, MDH will withdraw the rule parts or subparts from this expedited rule repeal process. MDH will also decide whether to repeal the rule parts or subparts using the regular rulemaking process, to seek legislative action repealing the rule parts or subparts, or to not repeal the rule parts or subparts.

H. 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 Dave Orren, the MDH contact person listed above in paragraph B.

I. Adoption and Review of Rules. If the regular rulemaking process is not required, MDH may repeal the rules after the end of the comment period. The repealed 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 repeal is submitted to the office. If you want to be so notified, or want to receive a copy of the repealer, or want to register with MDH to receive notice of future rule proceedings, submit your request to Dave Orren, the MDH contact person listed above in paragraph B.

Dated: August 30, 2005

Dianne M. Mandernach, Commissioner
Minnesota Department of Health

4685.0801 COPAYMENTS.

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

Subp. 2. **Flat fee copayments.** The health maintenance organization may establish predetermined flat fee copayments for categories of similar services or goods. Flat fee copayments based on categories of similar services or goods must be calculated independently for Medicare plans, individual plans, and group plans. For example, calculations may be made by combining data from all individual plans but data from individual plans may not be combined with data from group plans. The flat fee copayment cannot exceed 25 percent of the median provider's charges for similar services or goods received by enrollees. For example, if the median charge for all prescription drugs received by enrollees is \$20, the health maintenance organization may determine a flat fee copayment of up to \$5 for any prescription drug that is purchased by an enrollee.

A health maintenance organization may request a copayment which exceeds the 25 percent limitation for prescription drug benefits for Medicare related products. The request must be made in writing to the Department of Health and must include sufficient documentation to demonstrate to the department that the requested copayment is reasonable under the general provisions described in this part.

Any copayment for prescription drugs approved by the Department of Health prior to the publication of this part in the *State Register* for an administrative hearing, even though it exceeds the 25 percent maximum copayment provisions of this part, shall remain approved until the health maintenance organization submits the copayment for reapproval for any reason. At that time, the copayment must conform to all of the requirements of this part. Any prescription drug copayment submitted for approval after the date of publication and prior to the effective date of this part may be approved but must be resubmitted for approval within 30 days after the effective date.

The categories of similar services or goods must be determined according to subpart 3. The median provider's charges for a category of similar services or goods must be determined according to subpart 4.

[For text of subs 3 to 8, see M.R.]

REPEALER. *Minnesota Rules*, parts 4685.0935, subpart 2; 4685.2400; 4685.3300, subparts 6, 7, and 11; 4736.0100; 4763.0310; 4763.0320; and 4763.0330, are repealed.

Withdrawn Rules

An agency may choose to withdraw rules it has proposed, thus cancelling any time-sensitive schedule for public comment, hearing, or further movement toward the rules' adoption. These rules will be listed as withdrawn by their individual rules numbers in the *State Register's* index to rulemaking activity, **Minnesota Rules: Amendments and Additions**. An agency that so chooses to withdraw proposed rules, may reintroduce those same rules at a later date.

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

Minnesota State Lottery

NOTICE OF WITHDRAWAL OF RULE

Proposed Amendment to Rules Governing Lottery Retailers and Prize Payments, *Minnesota Rules*, 7856.4010, subpart 6 and 16; 7856.6010, subpart 2; 7856.7010; 7856.7040; 7857.4000; 7857.4010, subpart 2; 7857.4040; 7857.5000; Repealing *Minnesota Rules*, 7856.3030 and 7857.4041, subpart 2

The Minnesota State Lottery proposed amendments to rules governing Lottery Retailers and Prize Payments as published in the State Register on August 1, 2005 (30 S.R. 87). Pursuant to *Minnesota Statutes*, section 14.05, subdivision 3, the Minnesota State Lottery hereby provides notice that it intends to withdraw the amendment to *Minnesota Rule* 7856.4010, subpart 16.

Date: September 1, 2005

Clint Harris

Director, Minnesota State Lottery

Executive Orders

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

Office of the Governor

Emergency Executive Order # 05-09: Providing for Emergency Relief from Regulations to Motor Carriers and Drivers Operating in Minnesota

I, TIM PAWLENTY, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and *Minnesota Statutes*, section 221.0269, do hereby issue this Emergency Executive Order:

WHEREAS, Hurricane Katrina has temporarily disrupted gas and oil production and delivery, and created significant disruptions to the national transportation system that may result in reallocation of existing fuel stocks in Minnesota in order to meet the needs of other States; and

WHEREAS, this transportation crisis has caused the United States Department of Transportation to issue a Declaration of Regional Emergency for transportation of gasoline, diesel fuel, and jet fuel,

NOW, THEREFORE, I hereby declare that:

1. A state of emergency exists in Minnesota that requires relief from regulations incorporated in *Minnesota Statutes*, section 221.0314, subdivision 9, pertaining to hours of service for carriers and drivers of commercial motor vehicles, while transporting gasoline, diesel fuel, ethanol, biodiesel and jet fuels to customers.

2. Nothing herein shall be construed to relieve motor carriers and drivers from regulations pertaining to qualifications of drivers, driving of commercial motor vehicles, commercial drivers' licenses, drug and alcohol testing and use or financial responsibility.

3. No motor carrier operating under the terms of this emergency order shall require or allow a fatigued or ill driver to operate a motor vehicle. A driver who informs a carrier that he or she needs immediate rest shall be given at least eight consecutive hours off duty

Executive Orders

before the driver is required return to service.

4. Upon the expiration date of this emergency order, or when a driver has been relieved of all duty and responsibility to provide direct assistance to the emergency effort, a driver that has had at least 34 consecutive hours off-duty shall be permitted to start his or her on-duty status hours of service record at zero.

This order shall be effective immediately and shall remain in effect until 12:00 p.m. CDT September 15, 2005, unless superseded or extended under *Minnesota Statutes*, section 221.0269, subdivision 2.

IN TESTIMONY WHEREOF, I have set my hand this 2nd day of September, 2005.

Signed: **TIM PAWLENTY**
Governor

Filed According to Law:

Signed: **MARY KIFFMEYER**
Secretary of State

Office of the Governor

Emergency Executive Order # 05-10: Providing for a Declaration of Emergency

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

WHEREAS, Hurricane Katrina has impacted national resources and federal agencies have requested the State of Minnesota to provide for the care and shelter for hurricane evacuees from affected areas; and

WHEREAS, the resources of local, county and state governments must be fully utilized to insure immediate response to support the care, sheltering and housing of displaced persons as a result of Hurricane Katrina.

WHEREAS, these conditions may require special actions of government and the people of the state in the near and long term related to the care and support of persons evacuated.

NOW, THEREFORE, I declare a state of emergency to exist in state of Minnesota as of September 2, 2005, and do further direct the agencies of the state, in cooperation with appropriate federal agencies, to provide such aid as necessary under existing state and federal statutory authority.

Pursuant to *Minnesota Statutes* 2004, Section 4.035, Subdivision 2, this emergency executive order shall be effective immediately and will continue in effect until it is rescinded or expires in accordance with Minnesota law.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 5th day of September, 2005.

Signed: **TIM PAWLENTY**
Governor

Filed according to law:

Signed: **MARY KIFFMEYER**
Secretary of State

Executive Orders

Office of the Governor

Emergency Executive Order # 05-11: Providing for Assistance to the State of Minnesota

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

WHEREAS, Hurricane Katrina has impacted jurisdictions in the southern United States, and

WHEREAS, the Federal Emergency Management Agency ("FEMA") has requested assistance from the State of Minnesota in sheltering and housing displaced persons of Hurricane Katrina, and

WHEREAS, as a result, there is a need to provide basic life, safety and support to individuals and families displaced by the hurricane; and

NOW, THEREFORE, I hereby order that:

1. State agencies are authorized to provide assistance in support of the relocation of individuals and families displaced by the hurricane as coordinated through the State Emergency Operations Center.

2. The Division of Homeland Security and Emergency Management shall continue to implement the State's Emergency Operations Plan.

3. Alan Bataglia, Director of the Division of Homeland Security and Emergency Management, is appointed as the Governor's Authorized Representative (GAR) for coordination of the emergency operations in Minnesota.

4. The Director of the Division of Homeland Security and Emergency Management acting as the GAR is authorized to request assistance from and coordinate with the federal government to enhance the emergency support activity in Minnesota.

5. The Adjutant General of Minnesota shall order to state active duty on or about September 2, 2005, in the service of the State, such personnel and equipment of the military forces of the State as required, and for such period of time as necessary to support the relocation and housing of individuals and families arriving in Minnesota.

6. The Adjutant General is authorized to purchase, lease or contract goods or services necessary to accomplish the mission.

7. The costs of subsistence, transportation, fuel, pay and allowances of said individuals shall be defrayed from the general fund of the State, as provided for in *Minnesota Statutes* 2004, Sections 192.49; 192.52, 192.54 and 192.55.

Pursuant to *Minnesota Statutes* 1998, Section 4.035, subd. 2, this Order is effective immediately and shall remain in effect until such date as elements of the military forces of the State are no longer required or as otherwise provided by Minnesota law.

IN TESTIMONY WHEREOF, I have set my hand this 4th day of September, 2005.

Signed: **TIM PAWLENTY**
Governor

Filed According to Law:

Signed: **MARY KIFFMEYER**
Secretary of State

Errata

Corrections to agency errors in rules or in following the rulemaking processes, as well as incomplete notices, mislabeled rules, incorrect notices and citations will appear in this section. Whenever an error is corrected in this section, it's corresponding rule number(s) will also appear in the *State Register's* index to rulemaking activity, **Minnesota Rules: Amendments and Additions**.

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

Minnesota Department of Agriculture Agricultural Marketing Services Division Notice that Minnesota Has at Least 8 Million Gallons of Biodiesel Production Capacity

Pursuant to *Minnesota Statutes* § 239.77 the Commissioner of Agriculture hereby certifies that at least 8 million gallons of annual biodiesel production capacity exists in the state of Minnesota. The Soy Mor biodiesel plant, in Glenville, MN certified production over 16 million gallons of biodiesel on August 23, 2005.

Minnesota Statutes § 239.77 states in part, ".....Except as otherwise provided in this section, all diesel fuel sold or offered for sale in Minnesota for use in internal combustion engines must contain at least 2.0 percent biodiesel fuel oil by volume." Statute also indicates that any time after June 30, 2005 the mandate will take effect when "thirty or more days have passed since the commissioner of agriculture publishes notice in the State Register that annual capacity in Minnesota for the production of biodiesel fuel oil exceeds 8,000,000 gallons." Therefore, pursuant to statute and based on the timing of this notice the state-wide 2% biodiesel mandate will take effect in Minnesota on September 29, 2005.

This 2% requirement does not apply to motors located at an electric generating plant regulated by the Nuclear Regulatory Commission, railroad locomotives, and off-road taconite and copper mining equipment and machinery.

Questions about this posting may be directed to Ralph Groschen at (651) 297-2223.

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 Human Services

List of Minnesota Family Investment Program Transitional Standards for Household Units

Listed below are the Minnesota Family Investment Program (MFIP) Transitional Standards for household unit sizes 1 to 10. The MFIP transitional standard consists of the food portion and the cash portion of the grant added together. The information is effective 10-1-05.

Number of Eligible People in MFIP Unit	Transitional Standard	Cash Portion	Food Portion
1	\$ 382	\$ 250	\$ 132
2	\$ 679	\$ 437	\$ 242
3	\$ 884	\$ 532	\$ 352
4	\$ 1,046	\$ 621	\$ 425
5	\$ 1,193	\$ 697	\$ 496
6	\$ 1,365	\$ 773	\$ 592
7	\$ 1,488	\$ 850	\$ 638
8	\$ 1,641	\$ 916	\$ 725
9	\$ 1,791	\$ 980	\$ 811
10	\$ 1,936	\$ 1,035	\$ 901

Department of Natural Resources

Notice of Conveyance to Establish Boundary Lines Relating to Certain State Landholdings

NOTICE IS HEREBY GIVEN that pursuant to *Minnesota Statutes*, section 84.0273, the State of Minnesota proposes to convey by an agreement and conveyance document and quit claim deed such rights, titles and interests in state lands located in Section 33, Township 57 North, Range 23 West, Itasca County, to Randy S. and Elizabeth M. Johnson, husband and wife, who in return proposes to convey by the same agreement and quit claim deed such right titles and interests in its adjacent lands as are necessary for the purpose of establishing boundaries.

The reason for this conveyance is that the location of the line between Government Lot 4 and Government Lot 5 is unknown between the Government Meander Line of 1870 and the water's edge of Sucker Lake.

The parties wish to establish a correct description of the common boundary line between their properties that is acceptable to both properties.

Additional information about this conveyance or a copy of the proposed conveyance can be obtained by contacting:

Minnesota Department of Natural Resources
Division of Lands and Minerals
1601 Minnesota Drive
Brainerd, Minnesota 56401
John Walker, Project Surveyor
Telephone: (218) 828-2445
E-mail: john.walker@dnr.state.mn.us

Minnesota Pollution Control Agency**Regional Division****Notice of Availability of Draft Revised Regional Total Maximum Daily Load
Evaluation of Fecal Coliform Impairments in the Lower Mississippi River
Basin in Minnesota and Request for Comment**

The Minnesota Pollution Control Agency (MPCA) requests comments on the draft Revised Regional Total Maximum Daily Load (TMDL) Evaluation of Fecal Coliform Impairments in the Lower Mississippi River Basin in Minnesota. Thirty-nine stream reaches in the Lower Mississippi and Cedar River basins are impaired for swimming. Fecal coliform levels in the identified reaches violate Minnesota water quality standards. Comments on the draft report must be received by the MPCA contact person listed below by 4:30 p.m. on Wednesday, October 12, 2005. The draft TMDL report is available on the MPCA Web site at:

<http://www.pca.state.mn.us/water/tmdl/index.html#drafttmdl>

or by calling (507) 281-7765. The MPCA will review all submitted comments to determine possible revisions to the draft TMDL report. The MPCA will then submit the report to the U.S. Environmental Protection Agency (EPA) for approval.

In 2002, the MPCA submitted a report titled, *Regional Total Maximum Daily Load Study of Fecal Coliform Bacteria Impairments in the Lower Mississippi River Basin in Minnesota*, to the EPA. The EPA approved the report later that year. The Minnesota Center for Environmental Advocacy (MCEA) subsequently challenged the approval. In a June 2005 ruling on MCEA's legal challenge, the United States District Court for Minnesota remanded the TMDL report to the EPA for revisions. The required revisions involve adjustments to the application of water quality standards to specific stream reaches, development of a margin of safety, and inclusion of straight pipe septic systems in the wasteload allocation. The complete ruling is available on the MPCA Web site at:

<http://www.pca.state.mn.us/water/tmdl/index.html#finaltmdl>

Prior to the court ruling, MPCA had begun revisions in two other areas of the report. First, 19 reaches have been added to the impaired water list since the original TMDL was submitted for approval. As such, the revised TMDL includes 39 reaches as opposed to the 20 contained in the original report. In addition, based on new EPA guidance, municipal storm sewer systems and confined animal feeding operations are now included in the wasteload allocation for permitted sources, rather than the load allocation for nonpermitted sources.

Despite the legal challenge, MPCA developed an implementation plan shortly after approval of the original TMDL report. Since 2002, efforts to reduce fecal coliform bacteria levels have been underway throughout the basin. Upon approval of the revised TMDL report, a public process for reviewing and updating the existing implementation plan will begin.

Agency Contact Person. Written comments submitted via U.S. Mail, fax or E-mail by 4:30 p.m. Wednesday, October 12, 2005, to the contact person below become part of the public record. A return U.S. Mail address is required to receive a response and to become a member of the interested parties list for this project. Direct comments, petitions, questions, requests to receive a draft of the TMDL report and requests for more information to:

Lee Ganske
Minnesota Pollution Control Agency
18 Wood Lake Drive SE
Rochester, MN 55904
Phone: (507) 281-7765 (direct)
MN Toll Free: 1 (800) 657-3864
Fax: (507) 280-5513
E-mail: lee.ganske@pca.state.mn.us
TTY users may call the MPCA teletypewriter at (651) 282-5332 or 1 (800) 657-3864.

Preliminary Determination on the Draft TMDL Report: The MPCA Commissioner has made a preliminary determination to submit this TMDL report to the EPA for final approval. A draft TMDL report and fact sheet are available for review at the MPCA office at the address listed below and the MPCA Web site at:

<http://www.pca.state.mn.us/water/tmdl/index.html#drafttmdl>

Suggested changes will be considered before the TMDL report is sent to the EPA for approval.

Written Comments: You may submit written comments on the conditions of the draft TMDL report or on the Commissioner's preliminary determination. Written comments must include:

1. A statement of your interest in the draft TMDL report;

Official Notices

2. A statement of the action you wish the MPCA to take, including specific references to sections of the draft TMDL that you believe should be changed; and
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position.

Petition for Public Informational Meeting: You also may request that the MPCA Commissioner hold a public informational meeting. A public informational meeting is an informal meeting that the MPCA may hold to solicit public comment and statements on matters before the MPCA, and to help clarify and resolve issues. A petition requesting a public informational meeting must include the following information:

1. A statement identifying the matter of concern;
2. The information required under items 1 through 3 of "Written Comments," above;
3. A statement of the reasons the MPCA should hold a public informational meeting; and
4. The issues that you would like the MPCA to address at the public informational meeting.

Petition for Contested Case Hearing: You also may submit a petition for a contested case hearing. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with *Minnesota Rules* 7000.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that: (1) there is a material issue of fact in dispute concerning the application or draft TMDL report; (2) the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and (3) there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the draft TMDL report. A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision.

A petition for a contested case hearing must include the following information:

1. A statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in *Minnesota Rules* 7000.1900, as discussed above; and
2. A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

In addition and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing;
2. A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and
3. An estimate of time required for you to present the matter at a contested case hearing.

MPCA Decision: You may submit a petition to the Commissioner requesting that the MPCA Citizens' Board consider the TMDL report approval. To be considered timely, the petition must be received by the MPCA by 4:30 p.m. on the date the public comment period ends, identified on page 1 of this notice. Under the provisions of Minn. Stat. § 116.02, subd 6(4), the decision whether to submit the TMDL report and, if so, under what terms will be presented to the Board for decision if: (1) the Commissioner grants the petition requesting the matter be presented to the Board; (2) one or more Board members request to hear the matter before the time the Commissioner makes a final decision on the TMDL report; or (3) a timely request for a contested case hearing is pending. You may participate in the activities of the MPCA Board as provided in Minn. R. 7000.0650.

The written comments, requests, and petitions submitted on or before the last day of the public comment period will be considered in the final decision on this TMDL report. If the MPCA does not receive written comments, requests, or petitions during the public comment period, MPCA staff as authorized by the Board, will make the final decision on the draft TMDL report.

Minnesota State Retirement System (MSRS) Board of Directors, Regular Meeting

The Board of Directors of the Minnesota State Retirement System (MSRS) is scheduled to meet on Thursday, September 15, 2005, at 9:00 a.m. in the Retirement Systems of Minnesota Building, 60 Empire Drive, Suite 117m Saint Paul, Minnesota.

Department of Transportation**State Aid for Local Transportation Division****Petition of the City of Champlin and Crow Wing County for a Variance from State Aid Procedural and Administrative Requirements**

NOTICE IS HEREBY GIVEN that the City of Champlin City Council has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules*, part 8820.2800, subpart 2, Local State Aid Route Standards, Financing, for a variance from rules pertaining to State Aid operations as they apply to improvement project S.A.P. 193-107-005 in the City of Champlin, Minnesota.

The request is for a variance from *Minnesota Rules*, part 8820.2800, subpart 2, adopted pursuant to *Minnesota Statutes*, chapters 161 and 162, and insofar as the rules apply to the proposed improvement project S.A.P. 193-107-005, to permit the approval of project plans after bids are opened in lieu of approval by the State Aid Engineer prior to the opening of contract bids.

NOTICE IS HEREBY GIVEN that the Crow Wing County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules*, part 8820.2800, subpart 2, Local State Aid Route Standards, Financing, for a variance from rules pertaining to State Aid operations as they apply to improvement project S.A.P. 018-612-007 in Crow Wing County, Minnesota.

The request is for a variance from *Minnesota Rules*, part 8820.2800, subpart 2, adopted pursuant to *Minnesota Statutes*, chapters 161 and 162, and insofar as the rules apply to the proposed improvement project S.A.P. 018-612-007, to permit the approval of project plans after bids are opened in lieu of approval by the State Aid Engineer prior to the opening of contract bids.

If a written objection is received within 7 days of published date of this notice in the State Register, the variance can be granted only after a contested case hearing has been held on the request.

Dated: September 6, 2005

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

Department of Transportation**State Aid for Local Transportation Division****Notice of Appointment and Meeting of a State Aid Variance Committee**

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Thursday, September 22, 2005 at 9:00 a.m. at the Mn/DOT Arden Hills Training Center, located at 1900 West County Road I, in Shoreview, Minnesota, 55126.

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

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

The agenda will be limited to the following:

1. **Petition of the City of Egan** for a variance from *Minnesota Rules* 8820.2800, Subpart 2, as they apply to the improvement project S.A.P. 195-121-001, in the City of Egan, Minnesota, so as to permit the approval of project plans after bids are opened in lieu of approval by the State Aid Engineer prior to the opening of contract bids.
2. **Petition of St. Louis County** for a variance from *Minnesota Rules* 8820.9920 note (e), as they apply to the proposed construction of the CSAH 25, S.P 69-624-019, in St. Louis County, Minnesota, so as to allow the two horizontal curves at stations 1+40.64 and 3+17.45 to be constructed at design speed of 20 mph in lieu of rule 8820.9920 note (e) requirement.
3. **Petition of the City of St. Paul** for a variance from *Minnesota Rules* 8820, 1400, subpart 3, as they apply to the city wide projects in the City of St. Paul, Minnesota, so as to allow the maintenance percentage not to exceed 45% over the next three year period in lieu of to allow a municipality to expend up to 35% of its annual State Aid allocation for maintenance upon written request

9:20 a.m.	City of Egan
9:40 a.m.	St. Louis County
10:00 a.m.	City of St. Paul

Dated: September 6, 2005

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

State Grants & Loans

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

Minnesota Department of Corrections

Grants and Subsidies Unit

Request for Proposals for Global Positioning Systems (GPS) Monitoring of High-Risk Sex Offenders on Non-Intensive Supervised Release (Non-ISR) Community Supervision

NOTICE IS HEREBY GIVEN that proposals are being solicited to select a vendor(s) to provide GPS monitoring services for non-ISR, high-risk sex offenders who are on supervised release, conditional release, parole, or probation. The contract award will not exceed \$338,000 for the twenty (20)-month period from November 1, 2005, through June 30, 2007.

The deadline for submission of completed proposals is October 14, 2005, at 12:00 noon central time.

To request a copy of a complete request for proposals, contact:

Lynda Davis
Minnesota Department of Corrections
Community Services Division
Grants and Subsidies Unit
1450 Energy Park Drive, Suite 200
St. Paul, Minnesota 55108-5219
Telephone: (651) 643-2533,
TTY: (651) 643-3589
E-mail: ldavis@co.doc.state.mn.us

The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Public Safety

Office of Justice Programs

Request for Proposals – Community Crime Prevention Grants

Purpose: The Minnesota Office of Justice Programs, Department of Public Safety, is requesting proposals to fund community-based programs designed to enhance the community's sense of personal security and to assist the community in its crime control prevention efforts. Project design should be based on current research on best practices or innovative ideas based on current research on promising practices.

Total available funding: Approximately \$2.2 million is available for two-year grants ranging in size from \$50,000 - \$300,000.

Legislative Authority: *Minnesota Statute 299A.296.*

Application deadline: Proposals must be submitted electronically via the Web Enhanced Grants Operations system by 11:59 p.m. Friday, October 14, 2005.

For more information and a complete Request for Proposal go to:

www.dps.state.mn.us/OJP

or

Tricia Hummel
Telephone: (651) 284-3323
E-mail: tricia.hummel@state.mn.us

State Contracts

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

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

Department of Human Services

Notice of Intent to Hire a Consumer Advisory Coordinator

The Department of Human Services wishes to hire a consumer advisory group coordinator to help support and facilitate the work of a consumer advisory group. The consumer advisory group is needed to provide input into products and policies to be developed under two grants received in the Aging and Adult Services division. The advisory group will provide input to the Real Choice 2003 Grant project staff on the design of a quality assurance and improvement system strategy that creates the tools to make quality assurance and improvement an integral part of the home and community based services system. Particular attention will be paid to quality strategies for consumer directed services options. In addition, the advisory group will provide input to the Robert Wood Johnson Foundation (RWJF) Cash & Counseling Grant project staff on implementing consumer directed service options under the Medicaid waivers and Older Americans Act Title III programs. The RWJF grant will help expand the enrollment of older adults and disabled adults and their family caregivers on consumer directed personal care and respite service options. The advisory group will meet three to six times per year over a period of two years. The maximum amount to be awarded under this contract for a coordinator is \$15,000. Proposals are due by 4:00 pm Central Time on October 5, 2005.

To request the full solicitation, please contact:

Jolene Kohn, Strategic Planner/Program Director of Real Choice Grant
Department of Human Services
Aging and Adult Services
444 Lafayette Rd
St. Paul, MN 55155-3843
Or:
Jolene.kohn@state.mn.us
(651) 297-3805

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

Minnesota House of Representatives

Public Notice of Request for Bid for Binding of Permanent Journals and Indexes 2005-2006

NOTICE IS HEREBY GIVEN that the Minnesota House of Representatives is seeking bids from qualified bookbinders to bind the permanent journals and indexes for 2005 and 2006.

The material for binding consists of a minimum of 130 sets of journals each year with an average thickness of 2 inches to 3 inches for each book. They will be supplied by the House to the bookbinding contractor in boxes of four. Each box shall contain copies of the same volume.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to House Budget and Accounting, 45 State Office Building, St. Paul MN 55155 no later than **1 p.m. Monday, September 26, 2005**. Bid submittals will be opened publicly on that date and time.

A copy of the Request for Bid packet can be obtained by calling:

Albin A. Mathiowetz
211 State Capitol
St. Paul MN 55155
(612) 296-2314

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

State Contracts

Department of Public Safety

State Patrol Training Academy

Request for Proposals – Pre-Employment Psychological Evaluations of State Patrol Trooper Candidates

The Department of Public Safety (Department) is seeking proposals from qualified licensed psychology professionals to:

- Conduct pre-employment psychological examinations according to established psychology guidelines and 360 degree assessment of approximately 80 State Patrol Trooper candidates.

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

Lt. Jeffrey P. Gladfelter

State Patrol Training Academy

1900 West County Road I

Shoreview, MN 55126

Telephone: (651) 628-6972

Fax: (651) 628-6797

E-mail Address: *Jeff.Gladfelter@state.mn.us*

The estimated cost of this project is \$70,000 from January 17, 2006 through June 30, 2007. The Department will retain an option to extend the contract for an additional three one-year periods, not extending beyond June 30, 2010. Extension options may also be exercised by the state to extend contractor's services to include pre-employment psychological evaluations of Minnesota Department of Natural Resource enforcement positions. The value of the contract for subsequent years may be adjusted. Final date for submitting proposals is 2:00 PM Central Daylight Time on October 3, 2005.

Department of Transportation (MnDOT)

Engineering Services Division

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

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

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

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to see which highway related professional/technical services are available at this time. Following the advertisement of particular category of services, applications will be accepted on a continual basis.

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

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

Send completed application material to:

Robin Valento

Pre-Qualification Administrator

Minnesota Department of Transportation

Consultant Services

395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680

St. Paul, MN 55155

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

Department of Transportation (MnDOT)

Engineering Services Division

Notice Concerning Professional/Technical Contract Opportunities

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

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

Non-State Contracts & Grants

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

City of La Crescent

Notice of Request for Proposals to Operate Bus Transit System

BID PROPOSALS CLOSE OCTOBER 6, 2005 - 1:00 P.M. - LA CRESCENT, MINNESOTA

Sealed proposals for the project listed below will be received at the City of La Crescent City Hall, 315 Main Street, La Crescent, Minnesota 55947 until 1:00 P.M. on October 6, 2005, at which time they will be opened publicly and read. Proposals may be considered by the La Crescent City Council at their regular meeting on October 11, 2005. The Council reserves the right to review the proposals at a later date if necessary to allow for further consideration prior to taking action.

REQUEST FOR PROPOSALS TO OPERATE TRANSIT SYSTEM

NOTICE IS HEREBY GIVEN that sealed proposals will be received by the City of La Crescent, at the office of the City Administrator, La Crescent City Hall, 315 Main Street, La Crescent, Minnesota, until 1:00 P.M. local time, Thursday, October 6, 2005, for the operation of a public transit services titled "Apple Express" for the period from January 1, 2006 through December 31, 2008.

The City of La Crescent is a citywide subsidized with state and federal public transit dollars, which utilizes a small chassis bus to transport passengers.

The RFP documents and forms may be obtained, at no cost, at the office of Bill Waller, 315 Main Street, La Crescent, MN 55947. The contact person for all communication involving the RFP is:

Bill Waller, City Administrator
315 Main Street
La Crescent, MN 55947
(507) 895-2595

Other City personnel are not allowed to discuss the RFP with anyone, including potential responders, before the RFP submission deadline.

The La Crescent City Council reserves the right to waive minor irregularities and informalities therein, to reject any and all bid proposals, to award to other than the lowest bidder, and to award the agreement in the best interests of the City of La Crescent.

Approved August 22, 2005.

By Order of the La Crescent City Council.
Bill Waller, City Administrator

Non-State Contracts & Grants

University of Minnesota

Request for Proposals for a Biomass Fueled Pyrolysis/gasifier for the University of Minnesota, Morris Campus

I. PROJECT

Morris District Heating Expansion
Biomass-Fueled (Corn Stover) Pyrolysis/Gasifier System
University of Minnesota Project #754-03-1654

II. NOTICE OF REQUEST FOR PROPOSAL

The University of Minnesota is soliciting proposals for a biomass fueled pyrolysis/gasifier (Gasifier) for the University of Minnesota Morris Campus. The Gasifier is intended to be used as a research and demonstration platform and operate in conjunction with the campus district energy system. Its size and the types of biomass fuels to be gasified make this a unique project at the forefront of an emerging industry. Respondent will design and provide a steam generation gasification system that can reasonably be expected to operate in continuous service using biomass fuels having characteristics stated in the RFP. Respondent will also design and provide auxiliary systems including, but not limited to fuel intake, controls, and emission control. The Respondent also has the option of providing construction management services for the entire project, which will include a building addition to the existing heating plant, fuel unloading/delivery system, heat recovery steam generator, stack, and an absorption water chiller.

E-mail or call for the full RFP, which will be sent free of charge to interested vendors.

III. CONTACT FOR RFP INQUIRIES

Refer questions to:

PURCHASING SERVICES
Chip Foster
Facilities Management
400 Donhowe Building
319 15th Ave. SE
Minneapolis, MN 55455-1082
Phone: (612) 626-6080
Fax: (612) 624-5796
E-mail: fosterc@facm.umn.edu

IV. TENTATIVE SCHEDULE OF EVENTS

Be advised that these dates are subject to change, as University officials deem necessary.

RFP Document Issued	September 1, 2005
All Questions/Inquiries Deadline at 1 pm CDT	September 21, 2005
RFP Response Due at 2pm CDT	October 10, 2005
Tentative Evaluation and Selection of Short-listed Finalists	November 1, 2005
Tentative Interview/Presentations	November 14, 2005
Tentative Award Decision/Notification to Proposers	December 15, 2005
Building Addition Available for Installation of Gasifier	January 15, 2007
Substantial Completion	August 17, 2007

The University reserves the right, in its sole discretion, to reject any and all proposals, accept any proposal, waive informalities in proposals submitted, and waive minor discrepancies between a proposal and these proposal instructions, as it deems to be in its best interest. Any waiver of the University with respect to the requirements of these proposal instructions shall apply only to the particular instance for which it was made or given, and no such waiver shall constitute a permanent or future waiver of such requirements.

Non-State Contracts & Grants

University of Minnesota

Subscribe to Bid Information Service (BIS)

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

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

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Web Site: <http://www.commedia.state.mn.us>
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