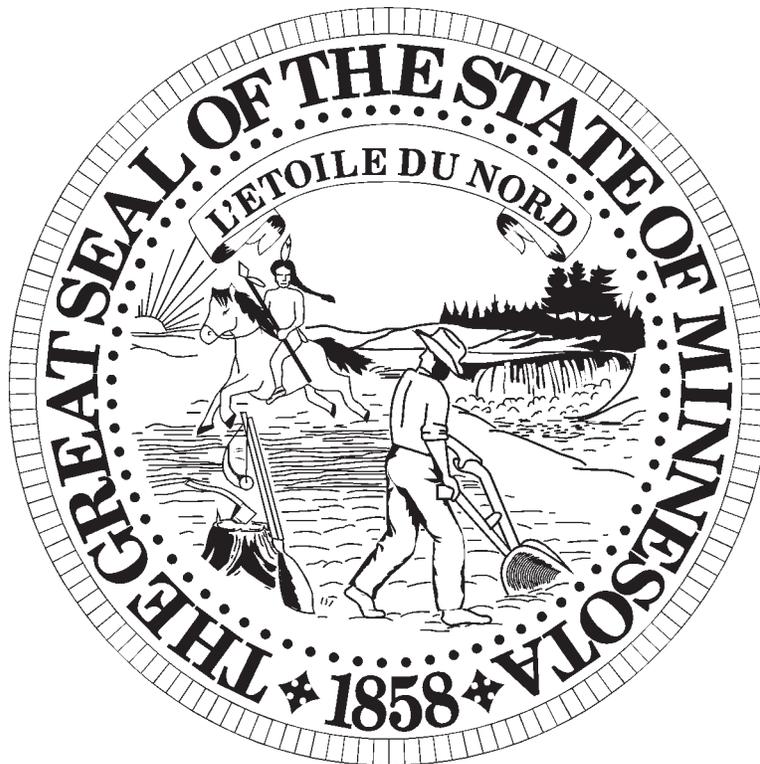


State of Minnesota

# State Register



**Rules, Executive Orders, Appointments, Commissioners' Orders, Revenue Notices,  
Official Notices, Grants, Contracts, and Non-State Bids, Contracts & Grants edition**

Published every Monday (Tuesday when Monday is a holiday)

**Monday 2 October 2006  
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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:

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- 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
- non-state public bids, contracts and grants
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Vol. 31 Issue Number	PUBLISH DATE ( <b>BOLDFACE</b> shows altered publish date)	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Both Adopted and Proposed RULES
# 14	Monday 2 October	Noon Tuesday 26 September	Noon Wednesday 20 September
# 15	Monday 9 October	Noon Tuesday 3 October	Noon Wednesday 27 September
# 16	Monday 16 October	Noon Tuesday 10 October	Noon Wednesday 4 October
# 17	Monday 23 October	Noon Tuesday 17 October	Noon Wednesday 11 October

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# Minnesota Rules: Amendments and Additions

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

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

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

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

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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**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.

## Department of Administration

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### 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 Definitions, License Categories, Pharmacy Satellites, Patient Access to Pharmacists, Closing a Pharmacy, Required Reference Books and Equipment, Applications for Licensure, Reciprocal Licensure, Drug Manufacturer or Wholesaler Licensure, Pharmaceutical Waste, Vending Machines, Return of Drugs and Devices, Electronic Prescriptions, Compounding and Dispensing, Transfer of Prescriptions Between Pharmacies, Prepackaging and Labeling, Pharmacy Compounding Practices, Beyond-use Dates, Prescription Labeling, Labeling of Out-patient Intravenous Admixture Drugs, Electronic Data Processing, Schedule III and V Controlled Substances, Registration of Controlled Substance Researchers, Prescription Order Communication, Hospital Pharmacist-in-charge, Patient Care, Pharmaceutical Service Policies, Policy and Procedures Manuals, Physical Requirements, Service and Filing of Papers, Variances, Registration of Medical Gas Retailers, and Continuing Pharmaceutical Education., *Minnesota Rules*, 6800.0100 et seq. and Proposed Repeal of Rules Governing Prescription Numbers, *Minnesota Rules* 6800.2810, and Controlled Substance Samples, *Minnesota Rules* 6800.4500.**

**Introduction.** The Board of Pharmacy intends to adopt rules without a public hearing following the procedures set forth in the rules

# Proposed Rules

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of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Wednesday, November 1, 2006, a public hearing will be held in the University Room, University Park Plaza, 2829 University Avenue SE, Minneapolis, Minnesota 55414-3251, starting at 9:00AM on Tuesday, November 14, 2006. 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 1, 2006 and before November 14, 2006.

**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: Cody Wiberg at Minnesota Board of Pharmacy, 2829 University Avenue SE #530, Minneapolis, MN 55414-3251, (651)201-2825 (telephone), (651) 201-2837 (fax), and [cody.wiberg@state.mn.us](mailto:cody.wiberg@state.mn.us). TTY users may call the Board of Pharmacy at (800) 627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules to be amended are about Definitions, License Categories, Pharmacy Satellites, Patient Access to Pharmacists, Closing a Pharmacy, Required Reference Books and Equipment, Applications for Licensure, Reciprocal Licensure, Drug Manufacturer or Wholesaler Licensure, Pharmaceutical Waste, Vending Machines, Return of Drugs and Devices, Electronic Prescriptions, Compounding and Dispensing, Transfer of Prescriptions Between Pharmacies, Prepackaging and Labeling, Pharmacy Compounding Practices, Beyond-use Dates, Prescription Labeling, Labeling of Out-patient Intravenous Admixture Drugs, Electronic Data Processing, Schedule III and V Controlled Substances, Registration of Controlled Substance Researchers, Prescription Order Communication, Hospital Pharmacist-in-charge, Patient Care, Pharmaceutical Service Policies, Policy and Procedures Manuals, Physical Requirements, Service and Filing of Papers, Variances, Registration of Medical Gas Retailers, and Continuing Pharmaceutical Education., *Minnesota Rules*, 6800.0100 et seq. The proposed rules to be repealed are about Prescription Numbers, *Minnesota Rules* 6800.2810, and Controlled Substance Samples, *Minnesota Rules* 6800.4500. The statutory authority to adopt the rules is *Minnesota Statutes*, section 151.06 and 152.02. 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 1, 2006 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 Wednesday, November 1, 2006. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

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

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

**Cancellation of Hearing.** The hearing scheduled for November 14, 2006, 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) 201-2825 after November 1, 2006 to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Kathleen D. Sheehy is assigned to conduct the hearing. Judge Sheehy can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone:** (612) 341-7602, 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

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# Proposed Rules

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

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

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

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

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

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

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

Dated: September 19, 2006

Cody Wiberg  
Executive Director

## 6800.0100 DEFINITIONS.

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

**Subp. 1b. Beyond-use date.** "Beyond-use date" means the date after which a drug should not be used.

**Subp. 1c. Central service pharmacy.** "Central service pharmacy" means a pharmacy located in Minnesota that may provide dispensing functions, drug utilization review (DUR), packaging, labeling, or delivery of a prescription product to another pharmacy in the state for the purpose of filling a prescription.

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

**Subp. 2a. Community satellite.** "Community satellite" means a site affiliated with a licensed community pharmacy, which is dependent on the licensed community pharmacy for administrative control, staffing, and drug procurement. A community satellite must be under the direction of a licensed pharmacist and comply with the requirements of part 6800.0800, subpart 3.

**Subp. 2b. Expiration date.** "Expiration date" means the date placed on the container or label of a drug product designating the time during which the product is expected to remain within the approved shelf life specifications if stored under defined conditions, and after which it may not be used.

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

**Subp. 3a. Hospital satellite.** "Hospital satellite" means a site in a licensed hospital, which is not physically connected with the centrally licensed pharmacy, but is within the same facility or building and is dependent on the centrally licensed pharmacy for administrative control, staffing, and drug procurement. A hospital satellite must be under the direction of a licensed pharmacist, comply with the requirements of part 6800.0800, subpart 3, and provide pharmacy services to hospital patients only.

**Subp. 4. Long-term care pharmacy.** "Long-term care pharmacy" means an established place, whether or not in conjunction with a hospital pharmacy or a community/retail pharmacy, in which prescriptions, drugs, medicines, chemicals, or poisons are prepared, compounded, dispensed, vended, distributed, or sold on a regular and recurring basis to or for the use of residents of a licensed nursing

# Proposed Rules

home, boarding care home, assisted living facility, or supervised living facility and from which related pharmaceutical care services are delivered.

[For text of subs 5 to 12, see M.R.]

Subp. 13. [See repealer.]

## 6800.0350 LICENSE CATEGORIES.

A pharmacy must be licensed in one or more of the following categories:

- A. community/retail;
- B. hospital;
- C. parenteral-enteral/home health care;
- D. long-term care; ~~and~~
- E. nuclear; ~~and~~
- F. central service.

Licensing of a pharmacy in more than one category shall not result in an increase in the license fee.

No pharmacy may engage in providing products or services in categories for which it is not licensed. A pharmacy must designate its category or categories on license renewal or application for an initial license.

## 6800.0800 LOCATION, DIMENSION, OR SECURITY CHANGES.

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

Subp. 3. **Establishment of satellite pharmacy.** No licensed pharmacy in Minnesota shall establish a community or hospital satellite pharmacy until it has submitted documents ~~and~~, plans, ~~and~~ operational policies ~~and~~ procedures for the proposed satellite to the Board of Pharmacy. The documents and plans must be submitted at least 60 days before the proposed establishment of the satellite. The board must, within 60 days after receipt of the proposal, notify the licensee that the proposed satellite either complies or does not comply with ~~parts 6800.0100, subpart 13, and part 6800.0700~~. Failure of the board to respond in writing within 60 days shall be considered to be approval of the proposed satellite.

## 6800.0910 PATIENT ACCESS TO PHARMACIST.

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

Subp. 2. **Description of procedure.** When dispensing a prescription for a patient, a pharmacist must ~~offer to~~ consult with the patient or the patient's agent or caregiver and inquire about the patient's understanding of the use of the medication according to this part. ~~The pharmacist's designee may make the offer of counseling on the pharmacist's behalf, but the pharmacist must personally initiate and conduct the counseling if the offer is accepted.~~

A. Upon receipt of a new prescription or a new prescription drug order, following a review of the patient's record, ~~and upon acceptance of an offer to consult~~, a pharmacist shall personally initiate discussion of matters which in the professional judgment of the pharmacist will enhance or optimize drug therapy with each patient or the agent or caregiver of the patient. The discussion shall be in person, whenever ~~practicable applicable~~, may be supplemented with written material, and shall include appropriate elements of patient counseling. These elements include the following:

- ~~A.~~ (1) the name and description of the drug;
- ~~B.~~ (2) the dosage form, dose, route of administration, and duration of drug therapy;
- ~~C.~~ (3) intended use of the drug and expected action;
- ~~D.~~ (4) special directions and precautions for preparation, administration, and use by the patient;
- ~~E.~~ (5) common severe side effects, adverse effects, or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
- ~~F.~~ (6) techniques for selfmonitoring of drug therapy;
- ~~G.~~ (7) proper storage;
- ~~H.~~ (8) prescription refill information;
- ~~I.~~ (9) action to be taken in the event of a missed dose; and
- ~~J.~~ (10) pharmacist comments relevant to the patient's drug therapy, including any other information peculiar to the specific patient or drug.

If a prescription drug has been previously dispensed to a patient, the pharmacist or the pharmacist's designee shall attempt to determine if the patient has experienced any unexpected or unusual reactions or changes in health, whether the patient has experienced the expected outcome, whether the patient is using the medication as prescribed, and whether the patient has been using any over-the-counter or prescription drugs not in the patient's record since the last visit to the pharmacy. If the pharmacist's review of the patient's record or discussions with the patient reveal any of the conditions listed in part 6800.3110, subpart 4, the pharmacist or the pharmacist's designee

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must offer counseling by the pharmacist to the patient or the patient's agent or caregiver regarding those conditions or problems.

B. The pharmacist must counsel the patient on a refilled prescription if deemed necessary according to the pharmacist's professional judgment. The consultation must be in person whenever practicable applicable.

If a prescription drug has been previously dispensed to a patient and the patient's record shows no change in the dose, dosage form, strength, or directions for use, and if none of the conditions listed in part 6800.3110, subpart 4, are present, the pharmacist or the pharmacist's designee must offer counseling by the pharmacist to the patient or caregiver.

A pharmacist may vary or omit the patient information if, in the pharmacist's professional judgment, the variation or omission serves the best interest of the patient because of the particular individual circumstances involved. If there is any material variation from the minimal information required by this subpart in the information provided or, if consultation is not provided, that fact and the circumstances involved shall be noted on the prescription, in the patient's records, or in a specially developed log.

Personal communication by the pharmacist is not required for inpatients of a hospital or other institution, such as a licensed nursing home, where other licensed health care professionals are authorized to administer the drugs, or where a patient or patient's agent or caregiver has expressed a desire not to receive the consultation. When a new prescription or a refilled prescription for which counseling is required is being mailed or delivered to the patient by common carrier or delivery services, the consultation must still be provided but may be accomplished by providing written information to the patient regarding the medication being dispensed and the availability of the pharmacist to answer questions, and through the provision of a toll-free phone number for long distance calls.

Nothing in this part shall prohibit pharmacists from charging for these services.

### 6800.1010 CLOSING A PHARMACY.

Subpart 1. **Before closing.** At least 14 days before a licensed pharmacy closes and ceases operation it shall:

~~A. notify the board of the intended closing; and,~~

~~B. notify the Drug Enforcement Administration, 110 South 4th Street #402, Minneapolis, Minnesota 55401, (612) 348-1700, in person or by registered or certified mail with the return receipt requested, of the following information:~~

~~(1) name, address, registration number, and authorized business activity of the licensee discontinuing the business;~~

~~(2) name, address, registration number, and authorized business activity of the person acquiring the business, if any;~~

~~(3) whether the business activities will be continued at the same location or moved to another location, and if moved, the address of the new location; and~~

~~(4) the date on which the transfer of controlled substances will occur.~~

Subp. 2. **At time of closing.** Effective with the closing date, the pharmacist-in-charge shall:

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

~~E. return the pharmacy's Drug Enforcement Administration Certificate and any unused narcotic order forms to the Drug Enforcement Administration, 110 South 4th Street #402, Minneapolis, Minnesota 55401;~~

~~F. inform the succeeding business occupying the premises and the landlord, if any, that it is unlawful to use the words "drugs," "drug store," or "pharmacy," or similar words in connection with the place of business unless it is a licensed pharmacy; and~~

~~G. E. take a controlled substances inventory as described in subitems (1) to (4). The inventory shall serve as the final inventory of the closing pharmacy and the initial inventory of the pharmacy receiving the controlled substances, and a copy of the inventory shall be included in the records of both. It is not necessary to file a copy of the inventory with the Drug Enforcement Administration unless requested by the regional administrator.~~

~~(1) If controlled substance drugs are to be destroyed, the pharmacist-in-charge must contact the local Drug Enforcement Administration for instructions.~~

~~(2) If controlled substance drugs, Schedule III-V, are being transferred, they shall be transferred on duplicate invoices, with each pharmacy keeping a copy.~~

~~(3) If Schedule II narcotics are being transferred, the transferee must submit a new Drug Enforcement Administration 222 Form to the transferor for the Schedule II substances only.~~

~~(4) If the Drug Enforcement Administration responds to the previous notice in subpart 1, item B, and does not approve of the transfer, instructions must be given to the pharmacy that is closing to dispose of the drugs according to the written instructions provided by the regional director.~~

### 6800.1050 REQUIRED REFERENCE BOOKS AND MINIMUM EQUIPMENT FOR PHARMACIES.

Subpart 1. **Reference books.** Except as indicated, the references in this subpart may be in electronic or hard copy form. In addition to the most recent editions of the laws relating to the practice of pharmacy ~~and, the rules of the Board of Pharmacy, and the current copy of the Drug Enforcement Agency regulations, Code of Federal Regulations, title 21, parts 1300 to 1316,~~ each pharmacy in Minnesota must have on file at least one current reference, ~~either hard copy or electronically accessible,~~ from each of the categories in items A to C. At least one dosage and toxicology reference must be in hard copy form that is appropriate to the majority of the patient base of the pharmacy. An

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equivalent reference approved by the board in writing may be used in an appropriate category.

A. Examples of pharmacotherapy references are:

- (1) *Pharmacology in Medicine*;
- (2) *Pharmacological Basis of Therapeutics*;
- (3) *Applied Therapeutics*; and
- (4) *Pharmacotherapy: A Pathophysiologic Approach*;
- (5) *United States Pharmacopeia - Dispensing Information*; and
- (6) *Conn's Current Therapy*.

B. Examples of dosage and toxicology references are:

- (1) ~~*Hazards of Medications*~~;
- (2) ~~*American Hospital Formulary Service*~~;
- (3) (2) *Facts and Comparisons*; and
- (4) ~~*Pediatric Dosage Handbook*~~;
- (5) ~~*Evaluation of Drug Interactions*~~; and
- (6) ~~*American Medical Association Drug Evaluations*~~  
(3) *Drug Information Handbook*.

C. Examples of general references are:

- (1) *Handbook of Nonprescription Drugs*;
- (2) ~~*Handbook on Injectable Drugs*~~;
- (3) ~~*Physician's Desk Reference*~~;
- (4) (3) *Remington's Pharmaceutical Sciences*;
- (5) (4) *United States Pharmacopeia - National Formulary*; and
- (5) *United States Pharmacopeia - Pharmacists' Pharmacopeia*;
- (6) ~~*Orange Book*~~; and
- (6) (7) *Merck Manual*.

In addition to items A to C, long-term care pharmacies must have on file the most recent edition of Minnesota Department of Health rules pertaining to medication handling in long-term care facilities and a current general reference on geriatric pharmacotherapy. In addition to items A to C, specialty pharmacies serving a unique population must have a current general reference appropriate to the patient base served.

Subp. 2. **Equipment.** Each pharmacy must have the following minimum equipment, clean and in good working order:

A. ~~one prescription balance, as specified in rules of the Department of Commerce, Weights and Measures Division Class A as defined in *United States Pharmacopeia - National Formulary*, with one set of accurate metric weights from 50 mg to 100 g, or an electronic balance of equal or greater accuracy;~~

B. ~~one set of accurate metric weights from 50 mg to 100 g;~~

C. ~~measuring devices capable of accurately measuring volumes from 1 ml to at least 500 ml;~~

D. ~~C. mortars, pestles, spatulas, funnels, stirring rods, and heating apparatus as necessary to meet the needs of that pharmacy;~~

D. ~~other equipment as necessary to comply with the requirements of *United States Pharmacopeia*, chapter 795;~~

E. ~~a refrigerator with a thermometer used only for drug storage or a separate compartment used only for drug storage within a general use refrigerator, manual, electromechanical, or electronic temperature recording equipment, devices, or logs shall be used to document proper storage of prescription drugs every business day;~~

F. ~~a sink with hot and cold running water; and~~

G. ~~a toilet with a hand-washing lavatory and disposable towels in a location which that is reasonably accessible.~~

Subp. 3. **Equipment for parenteral-enteral/home health care and hospital pharmacies Required resources.** In addition to the requirements of subparts 1 and 2, a pharmacy licensed as a parenteral-enteral or hospital pharmacy and involved in an intravenous therapy program ~~must have the following minimum equipment, clean and in good working order~~ pharmacies preparing compounded sterile products are required to have:

A. ~~appropriate environmental control devices capable of maintaining an atmospheric environment with less than 100 particles 0.5 microns in diameter per cubic foot of air in the workspace where critical objects are exposed and critical activities performed and during normal activity. Examples of appropriate devices include laminar or vertical airflow hoods and zonal laminar flow of HEPA filtered air~~ minimum equipment to comply with the *United States Pharmacopeia*, chapter 797, appropriate to risk-level requirements;

B. ~~sterile disposable equipment for compounding the parenteral or enteral product such as administration sets, filters, needles, and syringes;~~

C. ~~disposable items for personnel such as gloves, masks, hats, and gowns;~~

D. ~~cleaning equipment;~~

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- ~~E. appropriate disposal containers for used needles, syringes, and, if applicable, cytotoxic waste from preparation of chemotherapy agents, and infectious wastes from patients' homes consistent with Occupational Safety and Health Administration standards; and~~
- ~~F. two B. current intravenous reference materials or books for sterile products or intravenous incompatibilities such as "Handbook on Injectable Drugs" (ASHP), "Cutter's Guide to Parenteral Admixtures" or "Procedures for Handling Cytotoxic Drugs" (ASHP); and~~
- C. a current copy of *United States Pharmacopeia*, chapter 797.

## 6800.1250 APPLICATIONS FOR LICENSURE.

Subpart 1. **Submitting.** An applicant for licensure by examination shall submit a completed application for examination including affidavits of internship, a copy of applicant's birth record, and a recent photograph. An applicant shall show evidence of graduation with a bachelor of science degree or doctor of pharmacy degree, as the first professional undergraduate degree in pharmacy, from a college of pharmacy or a department of pharmacy of a university approved by the board. The college or department of pharmacy must meet at least the minimum standards set by the American Council on Pharmaceutical Education in the current edition of its accreditation manual or, for Canadian graduates, must meet at least the minimum standards set by the Canadian Council for Accreditation of Pharmacy Programs and must conduct its instruction in English. The evidence shall be shown by submitting an official final transcript showing the date on which a degree was conferred. ~~The above-listed documents in this subpart together with a check for \$125 payable to the Minnesota Board of Pharmacy must be received by the board at least 45 days prior to the examination prior to approval being granted to sit for the examinations.~~ Applicants participating in the North American Pharmacy Licensing Exam (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE) must complete a separate application for these exams and submit ~~such~~ the applications to the board. A certified check or money order for these exams made payable to the National Association of Boards of Pharmacy (NABP) must be submitted to NABP after the applications for examination have been approved by the board. An applicant who is a graduate of a school or college of pharmacy located outside the United States or Canada, which has not been recognized and approved by the board, but who is otherwise qualified to apply for a license to practice pharmacy in this state, is considered to have satisfied the requirements of graduation if the applicant verifies to the board the applicant's academic record and the applicant's graduation. Before taking the licensing examination, a foreign graduate applicant shall pass the Foreign Pharmacy Graduate Equivalency Examination, which is recognized and approved by the board, given by the Foreign Pharmacy Graduate Examination Commission and demonstrate proficiency in the English language by passing the Test of English as a Foreign Language, which is recognized and approved by the board, given by the Educational Testing Service as a prerequisite to taking the licensure examination. The board shall consider an application for licensure by examination or a NAPLEX or MPJE registration to be invalid 18 months after the date that the board determines an application or registration form is complete. An applicant whose application or registration form is invalid, and who wishes to continue licensure procedures, shall submit a new application or registration form and fee.

Subp. 1a. **Authorization to practice.** An applicant who obtains a passing score on the examination is authorized to practice pharmacy only after paying an original licensure fee of ~~\$95~~ \$105 to the board.

[For text of subs 2 and 3, see M.R.]

## 6800.1300 RECIPROCIITY.

Subpart 1. **Applications.** An application for reciprocal licensure (licensure as a pharmacist on the basis of licensure as a pharmacist in another state) together with a fee of \$205 shall be filed with the director of the board at least 30 days before the date the application is to be considered by the board. ~~The board will consider applications for reciprocity in at least January and June of each calendar year.~~

[For text of subs 2 and 3, see M.R.]

Subp. 4. **Practical NAPLEX examination.** The board may compel applicants who have not engaged in practice as a licensed pharmacist for the two years immediately preceding the time of filing of their application for reciprocity to take ~~a practical~~ the NAPLEX examination.

[For text of subs 5 and 6, see M.R.]

## 6800.1400 DRUG MANUFACTURER OR WHOLESALE LICENSE.

Subpart 1. **Licensing; fees.** Every person engaged in manufacturing, wholesale distribution, or selling of drugs, medicines, chemicals, or poisons for medicinal purposes other than to the consuming public or patient, except as allowed under part 6800.9921, shall annually be licensed by the board. Upon the filing of an application, and upon payment of a fee of \$180 for manufacturing or wholesale distribution of prescription drugs only, not including medical gases; \$180 for manufacturing or wholesale distribution of prescription and nonprescription drugs, not including medical gases; \$155 for manufacturing or wholesale distribution of nonprescription drugs or veterinary drugs only; \$130 for manufacturing or wholesale distribution of prescription medical gases only; and \$105 for licensed pharmacies engaged in wholesale distribution, the board may issue or renew a license in such form as it may prescribe to the manufacturer or wholesale distributor. The license shall be exposed in a conspicuous place in the manufacturer's or wholesaler's place of business for which it is issued, shall expire at midnight on June 1 of each year, and shall be renewed annually upon the filing of an application therefor, on or before May 1 of

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each year together with the applicable fee. Renewal applications received after June 1 shall be subject to a late filing fee of one-half of the renewal fee in addition to the amount of the renewal fee.

[For text of subs 2 and 3, see M.R.]

## **6800.1500 CONTINUING PHARMACEUTICAL PHARMACY EDUCATION.**

Subpart 1. **Definitions.** Definitions:

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

B. “Approved provider” means any association, corporation, educational institution, organization, group, or person who has been recognized by the Board of Pharmacy, in accordance with subpart 3, as having met its criteria indicative of the ability to provide quality continuing education programs or who has been recognized by the board as being approved by the American Accreditation Council on Pharmaceutical Education for Pharmacy Education (ACPE) for the provision of quality continuing education programs.

C. “Continuing ~~pharmaceutical~~ pharmacy education” is a planned learning experience beyond a formal undergraduate degree program designed to promote the continual development of professional knowledge, professional skills, and professional attitudes on the part of the practitioners and shall include but is not limited to professional postgraduate education in any of the following subjects:

- (1) properties and actions of drugs and drug dosage forms;
- (2) etiology, characteristics, and therapeutics of the disease state;
- (3) pharmacy practice; or
- (4) legal, psychological, and socioeconomic aspects of health care delivery.

Subp. 2. **Minimum hours required; reporting.** Beginning March 4, 1975, no annual license renewal shall be issued to a pharmacist under *Minnesota Statutes*, section 151.13, until the pharmacist has submitted to the board satisfactory evidence that the pharmacist has completed at least 30 hours of approved continuing education during the previous two-year period. Thereafter, a pharmacist shall submit the evidence every two years. Pharmacists exempted from the payment of all renewal fees and from the filing of any application for renewal under *Minnesota Statutes*, section 326.56, subdivision 2, shall also be exempted from the requirements of this subpart for a concurrent period of time. Beginning with the 1981-1983 reporting period, participation in continuing education shall be reported on October 1 of each even-numbered year. The board may grant a pharmacist, on application, an extension of time not to exceed one year to comply with the requirements of this subpart. The extension shall not relieve the pharmacist from complying with the continuing education requirements for any other two-year period. The requested extension requires a payment of \$100 and will require the pharmacist to show documentation of the completed 30 credits. Each pharmacist is responsible for maintaining a complete record of the pharmacist’s continuing education participation during each continuing education reporting cycle.

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

Subp. 4. **Revocation or suspension of approval.** The board may deny, refuse to renew, revoke, or suspend authorization, recognition, or approval previously furnished to programs or providers if the program or provider fails to conform to its application approved by the board, fails to furnish program content as publicized, or if the program or provider violates any provision of *Minnesota Statutes*, section 214.12, or this ~~rule~~ chapter.

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

Subp. 9. **Program promotion.** No reference shall be made by a program provider in publicizing a program that it is an “approved program provider” unless the provider is so approved by the board or the American Accreditation Council on Pharmaceutical Education for Pharmacy Education (ACPE). No other reference indicating endorsement by the board may be made except as follows: “This program is approved by the Minnesota Board of Pharmacy for \_\_\_\_ hours of continuing education credit.”

## **6800.2350 PHARMACEUTICAL WASTE.**

Hazardous pharmaceutical waste disposal shall comply with chapter 7045 as enforced by the Pollution Control Agency (MPCA) and other authorized state agencies.

## **6800.2600 VENDING MACHINES.**

It is unlawful to distribute, dispense, or vend any legend drug by automatic or vending machine without first providing the board with written notification of the location of the automated medication management system, the name and address of the pharmacy responsible for control of the system, written policies and procedures that govern the operation and patient safety of the system, and the name of the pharmacist-in-charge of the pharmacy. Nothing in this part prohibits a licensed hospital receiving pharmaceutical services from a licensed pharmacy on the premises from utilizing such a device in an emergency, after regular pharmacy hours, when the hospital’s pharmacist has complete control over the monitoring of drug therapy, packaging, labeling, filling, record keeping, and security of the drugs involved and of the device, and when the device is utilized in compliance with all other state and federal laws and regulations regarding the distribution of legend drugs. In addition, nothing in this part prevents a licensed hospital, receiving pharmaceutical service from a licensed pharmacy on the premises, from using an automated medication management system as its primary drug distribution system if the system requires that

drug orders are reviewed and released by a pharmacist before hospital nursing staff are allowed access to the drug.

Use of automated medication management systems at sites remote from the location of the pharmacy responsible for the system must be approved by the board before installation and implementation. Requests for approval must be submitted in writing and must include a copy of the policies and procedures which will govern the operation of the system. The board shall grant approval if it determines that:

- A. the approval will not adversely affect, directly or indirectly, the health, safety, or well-being of the public;
  - B. the measures to be taken in the use of the automated system are equivalent or superior to those of a more traditional unit dose or other dispensing system; and
  - C. the system requires that drug orders are reviewed and released by a pharmacist before facility staff are allowed access to the drug.
- The board shall deny approval if it determines that item A, B, or C has not been met.

## **6800.2700 RETURN OF DRUGS AND DEVICES.**

Subpart 1. **Reuse.** Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue, or resale any drugs, prescribed medications, chemicals, poisons, or medical devices; except that in a hospital with a licensed pharmacy, drugs, devices, or other items dispensed for hospital inpatient use only, which have not left the span of control of the pharmacy, may be returned to the pharmacy for ~~disposition by a pharmacist~~ reuse or disposal in accordance with good professional practice.

Subp. 2. **Drugs from nursing homes.** Drugs from nursing homes may be returned to the dispensing pharmacy and redispensed if:

A. the consultant pharmacist can assure proper storage conditions for the drugs in the facility as specified in the *United States Pharmacopeia*, (United States Pharmacopeial Convention, Inc., Rockville, Maryland) and the drugs are stored within the facility in a secure area;

B. the facility has 24-hour, on-site licensed nursing coverage seven days a week;

C. the drugs are returned to the same pharmacy, which dispensed the drugs;

~~C. D.~~ the integrity of such packaging remains intact (no reconstituted drugs, drugs requiring refrigeration, or controlled substances may be so returned); and

~~D. E.~~ the drugs are received by the pharmacy in the original manufacturer's packaging or pharmacist packager's unit-dose, unit-of-use, or strip packaging with each tablet or capsule individually wrapped and labeled, or in blister cards, which indicate the drug name and strength, the packager's name, and the manufacturer's or packager's lot or batch number. Drugs packaged by a pharmacy may be returned only if the pharmacy can demonstrate to the board that its packaging material and procedures will provide a package that will meet or exceed the criteria for class B packaging established by the United States Pharmacopeia, (United States Pharmacopeial Convention, Inc., Rockville, Maryland), and that procedures have been developed and implemented to prevent the commingling of dosage units of different lot numbers or beyond-use dates; and

F. the pharmacy ensures that patients who may receive returned drugs, are notified that the pharmacy accepts and redispenses drugs returned from approved facilities.

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

## **6800.3000 ACCEPTANCE OF ORDER AND DISTRIBUTION OF MEDICATION; FAX TRANSMISSION OF PRESCRIPTIONS.**

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

Subp. 3. **Electronic prescriptions.** Any electronic prescription transmitted from the prescriber to the pharmacy must comply with Minnesota Statutes, chapter 325L, and conform to the rules of the federal Drug Enforcement Administration. An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient's choice. This requirement shall not apply to orders for the medications to be administered in an acute care hospital.

## **6800.3100 COMPOUNDING AND DISPENSING.**

Subpart 1. **Duties.** The practice of compounding and dispensing a prescription includes, but is not limited to, the following acts, which shall be performed only by a pharmacist, practitioner, or pharmacist-intern under the immediate and personal supervision of a pharmacist:

- A. determination of brands and suppliers;
- B. receipt of verbal prescriptions which must include documentation of the individual communicating the order and the pharmacist or pharmacist intern receiving the order;
- C. verifying the prescription order;
- D. selecting the drug to be used in filling the prescription;
- E. extemporaneous compounding on an individual basis;
- F. certifying the completed prescription;
- G. assuring that, when required by law or by the best professional practice, permission to refill is obtained from authorized prescribers or their agents, and then noting on the reverse side of the prescription or in the electronically maintained record of the prescription the

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following data: date refilled; name of practitioner personally authorizing the refill, if different from original prescriber and the name of the practitioner's agent transmitting or communicating the refill authorization, if applicable; quantity of drug dispensed, if different from the original prescription; and initials of the pharmacist refilling the prescription;

H. supervising clerical personnel in limited nonprofessional duties such as looking up prescription refills, filing prescriptions, record keeping, nonprofessional aspects of presenting completed medications to patients, and completing the transaction; and

I. supervising ~~supportive personnel~~ pharmacy technicians utilized in the performance of certain pharmacy tasks not requiring professional judgment in accordance with part 6800.3850.

[For text of subs 2 and 3, see M.R.]

Subp. 3a. **Accountability.** The prescription filling process must provide documentation to identify the names, initials, or identification codes of each pharmacist, pharmacist intern, or pharmacy technician who performed any portion of the prescription filling process.

Subp. 3b. **Notice required.** A pharmacy utilizing services from a central service pharmacy must notify its patients that the pharmacy outsources prescription filling to another pharmacy.

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

## 6800.3120 TRANSFER OF PRESCRIPTIONS BETWEEN PHARMACIES.

[For text of subs 1 to 10, see M.R.]

Subp. 11. **Shared information.** Prescription information shared between two pharmacies which are accessing the same real-time, online database, according to the operation of a board-approved central service operation shall not be considered a prescription copy and is not subject to the requirements of this part.

## 6800.3200 PREPACKAGING AND LABELING.

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

Subp. 2. **Labeling.** Each prepackaged container shall bear a label containing the following information:

- A. name of drug;
- B. strength;
- C. name of the manufacturer or distributor of the finished dosage form of the drug;
- D. ~~except a beyond-use date as provided in part 6800.3350, subpart 1, an expiration date of not more than one-fourth of the period of time from the prepackaging date to the manufacturer's expiration date, up to a maximum of six months; or any earlier date which, in the pharmacist's professional judgment, is preferable; and~~
- E. internal control number or date; and
- F. after July 1, 2008, a physical description, including any identification code that may appear on tablets and capsules.

## 6800.3300 BULK COMPOUNDING STANDARDS.

Subpart 1. ~~**Master formula record Standards for nonsterile compounding.** A pharmacy may compound drugs in bulk quantities for its own use. The drugs shall be compounded by or under the direct supervision of a pharmacist. For each drug product compounded in bulk quantities, a master formula record shall be prepared containing the following information: name of the product; specimen or copy of label; list of ingredients and quantities; description of container used; and compounding instructions, procedures, and specifications. All licensed Minnesota pharmacies that compound nonsterile drug preparations must follow *United States Pharmacopeia*, chapter 795, standards.~~

Subp. 2. ~~**Production record Standards for sterile compounding.** For each batch of drug product compounded, a production record shall be prepared and kept containing the following information: Any licensed Minnesota pharmacy compounding a sterile product must follow the *United States Pharmacopeia*, chapter 797, standards.~~

- ~~A. a copy of the information on the master formula record;~~
- ~~B. records of each step in the compounding process including: dates; identification of ingredients, including lot numbers; quantities of ingredients used; initials of person preparing each process; and initials of pharmacist supervising each process;~~
- ~~C. a batch number; and~~
- ~~D. total yield.~~

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

## 6800.3350 EXPIRATION BEYOND-USE DATES.

Subpart 1. ~~**Pharmaceuticals prepackaged into prescription vials.** An expiration~~ A beyond-use date of not more than one year from the prepackaging date or the time remaining to the manufacturer's expiration date, whichever is less, shall be placed on every container of

drugs prepackaged into prescription vials by the pharmacist.

Subp. 2. [See repealer.]

Subp. 3. **Unit-of-use and blister card packages.** ~~An expiration~~ A beyond-use date of not more than one year from the packaging date or the time remaining to the manufacturer's expiration date, whichever is less, shall be placed on all unit-of-use and blister card packaging whether prepared by the pharmacist at the time of dispensing or prepared earlier in anticipation of the dispensing.

Subp. 4. **Prescription vials.** Prescription drugs dispensed in ~~traditional~~ prescription vials and labeled with ~~an expiration~~ a beyond-use date shall bear ~~an expiration~~ a beyond-use date of not more than one year from the dispensing date or the time remaining to the manufacturer's expiration date, whichever is less.

Nothing in this part supersedes the pharmacist's professional judgment.

## **6800.3400 PRESCRIPTION LABELING.**

Subpart 1. **Requirements applicable to all drugs.** All drugs dispensed to or for a patient, other than an inpatient of a hospital shall be labeled with the following information:

A. name, address, and telephone number of pharmacy, central service pharmacies shall use the name, address, and telephone number of the pharmacy distributing the medication to the patient;

B. patient's name;

C. prescription number;

D. name of prescribing practitioner;

E. directions for use;

F. name of manufacturer or distributor of the finished dosage form of the drug;

G. auxiliary labels as needed;

H. date of original issue or renewal; ~~and~~

I. generic or trade name of drug and strength, except when specified by prescriber to the contrary. In the case of combining premanufactured drug products, the names of the products, or a category of use name shall suffice. In the case of compounding basic pharmaceutical ingredients, the common pharmaceutical name, if such exists, the names and strengths of the principle active ingredients or a category of use label shall suffice;:

J. prescriptions filled as part of a central service operation shall bear a unique identifier to indicate that the prescription was filled at a central service pharmacy; and

K. after July 1, 2008, any dispensed prescription medication shall be labeled with its physical description, including any identification code that may appear on tablets and capsules.

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

Subp. 3. **Customized patient medication packages.** In lieu of dispensing two or more prescribed drug products in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, or the prescriber, provide a customized patient medication package as defined in the *United States Pharmacopeia* (USP), chapter 661, standards.

Subp. 4. **Veterinary prescription drug label.** A veterinary prescription drug label must include:

A. the name and address of the prescribing veterinarian;

B. the name of the client;

C. identification of the species for which the drug is prescribed or ordered;

D. the name, strength, and quantity of the drug, except when specified by the prescriber to the contrary. In the case of combining premanufactured drug products, the names of the products, or category of use may suffice;

E. the name of the manufacturer or distributor of the finished dosage form of the drug;

F. the date of issue;

G. directions for use;

H. withdrawal time, excluding non-food-producing animals;

I. cautionary statements if appropriate for the drug; and

J. when the veterinary drug is in the manufacturer's original package and the information that is required on the label includes the drug or drugs, strength of the drug or drugs, directions for use, withdrawal time for food-producing animals, and cautionary statements, a label will be required on each individual bottle or package.

## **6800.3450 LABELING OF OUTPATIENT INTRAVENOUS ADMIXTURE DRUGS.**

Subpart 1. **Requirements applicable to intravenous admixture drugs.** Intravenous admixture drugs dispensed to or for a patient, other than a hospitalized patient, shall be labeled according to the requirements of part 6800.3400, subpart 1, items A to J, and in addition shall contain the following:

A. date of compounding;

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- B. ~~expiration beyond-use date and time of product;~~
- C. ~~storage requirements if other than room temperature;~~
- D. ~~infusion or administration rate;~~
- E. ~~sequential number of unit, if appropriate administration times and frequency;~~ and
- F. ~~initials of the dispensing pharmacist personally placed on the label; and~~
- G. other accessory cautionary information which in the professional judgment of the pharmacist is necessary or desirable for proper use by and safety of the patient.

[For text of subps 2 and 3, see M.R.]

## 6800.3950 ELECTRONIC DATA PROCESSING; COMPUTER USAGE.

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

Subp. 1a. **Entering orders.** When electronic data processing equipment is employed by any pharmacy, input of drug information may be performed by a physician prescriber or a pharmacist. If orders are entered by other personnel, the pharmacist or the prescriber, must certify the accuracy of the information entered and verify the prescription order prior to the dispensing of the medication. The identity of the person entering the order must be retained in the computer record.

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

Subp. 3. **Original prescription retained.** In all cases where electronic data processing equipment is used the original prescription must be retained on file according to law to assure access to the information contained thereon in the event of a computer breakdown. Original prescriptions or any other patient specific records stored outside the licensed pharmacy area must be stored in a secure area accessible only to registered or licensed pharmacy staff, or others delegated by the pharmacist-in-charge and trained on the policies and procedures relating to protected health information.

Subp. 4. **Prescription refills** New prescriptions.

A. On the first refill of any prescription whose data is stored electronically, the pharmacist must retrieve the hard copy original of the prescription, compare the data to the data in the computer, and date and initial the back of the hard copy. On subsequent refills, the original hard copy need not be consulted. A pharmacy must develop and implement a written quality assurance plan that includes the pharmacist comparing the original written prescription or an image of the original written prescription, to the information entered into the computer, and documenting the completion and accuracy of this comparison with the date and initials of the pharmacist completing the task. This process must not occur prior to two hours after the prescription has been initially certified, unless it is completed by a second individual pharmacist as soon as possible after the initial certification has occurred. The process must be completed within 72 hours.

B. As an alternative to the requirements of item A, a pharmacy may elect instead to develop and implement a written quality assurance plan that will provide safeguards against errors being made and perpetuated due to inaccurate prescription data being entered into the pharmacy's computer. This written quality assurance plan shall be made available to board surveyors on request. As an alternative to the requirements of item A, hospitals providing inpatient pharmacy services may elect instead to develop a plan to provide safeguards against errors being made and perpetuated due to inaccurate prescription data being entered into the pharmacy's computer. This written quality assurance plan shall be made available to the board surveyors upon request.

[For text of subps 5 and 6, see M.R.]

## 6800.4230 SCHEDULE III CONTROLLED SUBSTANCES.

The following items are listed in Schedule III:

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

C. **Depressants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

Statutory Name	Some examples of common names, trade names, or names of products which contain a controlled substance.
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- (1) Any compound, mixture, or preparation containing:
  - (a) Amobarbital;
  - (b) Secobarbital;
  - (c) Pentobarbital, or any salt thereof and one or more

other active medicinal ingredients which are not listed in any schedule

(2) Any suppository dosage form containing:

- (a) Amobarbital;
- (b) Secobarbital;
- (c) Pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically excepted or listed in other schedules

Butabarbital,  
Vinbarbital,  
Delvinal, Talbutal,  
Lotusate,  
Pentothal, Brevital

(4) Chlorhexadol

(5) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act.

(6) Ketamine, its salts, isomers, salts of isomers

(7) Lysergic acid

(8) Lysergic acid amide

(9) Methyprylon

Noludar

(10) Sulfondiethylmethane

(11) Sulfonethylmethane

(12) Sulfonmethane

(13) Tiletamine and zolazepam and any salt thereof

(14) Embutramide

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

H. Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

## 6800.4250 SCHEDULE V CONTROLLED SUBSTANCES.

The following items are listed in Schedule V:

A. Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this part.

~~B. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:~~

~~(1) Buprenorphine:~~

~~E. B. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:~~

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## Statutory Names

Some examples of common names, trade names, or names of products which contain a controlled substance.

(1) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(3) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

Lomotil

(4) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

Parapectolin,  
Donnagel P.G.

(5) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

**D. C. Stimulants.** Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

**D. Depressants.** Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pregabalin.

## 6800.4400 REGISTRATION OF CONTROLLED SUBSTANCE RESEARCHERS.

Subpart 1. **Application; fee; permit.** A person who engages in research, teaching, or educational projects involving the use, study, or testing of controlled substances shall annually, on or before June 1 of each year, apply for registration by the board. On the filing of an application, including documentation of an approved protocol, payment of a fee of \$25, and authentication of the application by the board, the board shall issue a permit.

Subp. 3. **Registrant requirements.** Each registrant must have policies and procedures that address effective controls to protect against theft and diversion of all stocked controlled substances, restricting access, drug wastage, and returns. Adequate records must be maintained to show purchase, receipt, use, transfer, and disposal of controlled substances. An inventory must be done annually to document control of each stocked controlled substance.

## 6800.6200 PRESCRIPTION ORDER COMMUNICATION.

Subpart 1. **Transmitting Verbal or telephone orders.** Notwithstanding any other provisions of parts 6800.0100 to 6800.9700, except that part 6800.3000, subpart 2, shall continue to apply, a licensed pharmacist, registered nurse, or licensed practical nurse who is employed by a licensed nursing home, boarding care home, or supervised living facility; and who is authorized by the facility's administrator and is acting on the behalf of the prescriber, may transmit communicate to the pharmacy provider a prescription order lawfully ordered by a practitioner authorized to prescribe drugs or devices pursuant to Minnesota Statutes, section 151.37. Whenever possible, these prescription orders shall be transmitted via facsimile or secure electronic format, to the pharmacy in an order format which produces a direct copy of the prescription order as documented in the patient's chart, which the prescriber will sign at a later date. The pharmacy

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provider shall record on the prescription the name of the person who transmits the order in addition to the other required information. This subpart does not apply to orders for Schedule II controlled substances as defined by part 6800.4220.

Subp. 2. **Written orders.** ~~Orders in subpart 1 may be in writing or, except for Schedule II controlled substances, an oral order reduced to writing by the pharmacist, and may include authorization for multiple refills consistent with good practice and legal limitations. A facsimile copy of the prescriber's medication order may be accepted and filed as a prescription by the pharmacy in accordance with part 6800.3000, subpart 2. A copy of a written order, signed by the prescriber, whether a chart order or a prescription, may be delivered to the pharmacy by an individual authorized by the facility.~~

Subp. 3. **Schedule II orders.** Except as provided in part 6800.3000, subpart 2, Schedule II controlled substances shall be dispensed only upon receipt of an original written order signed by the prescribing individual practitioner or upon an oral order reduced to writing given in emergency situations as allowed by these criteria:

- A. immediate administration of the controlled substance is necessary for the proper treatment of the intended ultimate user;
- B. no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under schedule II of *Minnesota Statutes*, section chapter 152 and parts 6800.4200 to 6800.4250; and
- C. it is not reasonably possible for the prescribing practitioner to provide a written prescription order to be presented to the person dispensing the substance, prior to dispensing.

## 6800.7400 HOSPITAL PHARMACIST IN CHARGE.

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

Subp. 5. **Span of control.** The pharmacist's span of supervision shall extend to all areas of the hospital where drugs are stored. No less than every ~~two months~~ month inspections of these areas shall be conducted and substantiated by records so as to verify at least proper drug storage, documentation of distribution and administration of controlled substances, absence of outdated drugs, and the integrity of the required emergency drug supply.

## 6800.7510 PATIENT CARE.

Pharmaceutical service policies shall cover at least the following:

- A. the providing of drug information to patients and health professionals;
- B. the limiting of drug administration;
- C. ~~the immediate reporting of drug-related~~ an ongoing proactive program to identify risks to patient safety and reducing errors;
- D. the immediate reporting of adverse drug reactions;
- E. the self-administration of drugs by patients;
- F. the use of drugs brought into the hospital by or with the patient. If the drugs are not to be used while the patient is hospitalized, they shall be packaged, sealed, stored, and returned to the patient at the time of discharge;
- G. the use of investigational drugs; ~~and~~
- H. the preparation, use, and disposal of chemotherapy drugs;;
- I. the preparation of compounded sterile products; and
- J. the preparation of compounded nonsterile products.

## 6800.7520 ADMINISTRATION PHARMACEUTICAL SERVICE POLICIES.

Subpart 1. **Dispensing drugs.** Pharmaceutical service policies shall cover at least the following measures related to the control, accessibility, dispensing, and administration of drugs:

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

K. Assuring that orders for drugs are transmitted to the pharmacy by the prescriber or by an order format which produces a direct copy ~~or an electronically reproduced facsimile~~ of the order as it is documented in the patient chart.

L. Providing for a system of accountability for inpatient dispensing meeting the intent of the certification requirement of part 6800.3100.

M. Establish a pharmacist monitoring system that reconciles a nurse prepared medication administration record (MAR) to the pharmacy profile.

N. Requiring authorization for a standing order to be noted on the patient's medical record. Standing orders shall specify the circumstances under which the drug is to be administered, the drug, dosage, route, frequency of administration, and duration.

~~N. O.~~ Assuring that when drug therapy is not renewed on an established regular basis the therapy is limited either by the prescriber's specific indication or by automatic stop orders.

~~O. P.~~ Assuring that precautionary measures, including quality control documentation, for the safe admixture of parenteral products are developed in writing. Admixture preparation shall be limited to pharmacists, pharmacist-interns, supportive personnel under the supervision of a pharmacist, licensed practitioners, and licensed nurses. Furthermore, admixtures shall be labeled as in part 6800.7900,

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subpart 4, and must be prepared in a laminar or vertical flow hood whenever possible. Chemotherapy admixtures shall be prepared in a vertical flow hood whenever possible.

~~P. Q.~~ Assuring that investigational drug use is in accordance with state and federal law: basic information concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse effects, interactions, and symptoms of toxicity of such drugs shall be available in the pharmacy (investigational drugs shall be distributed only from the pharmacy).

~~Q. R.~~ Assuring that the practice of drug reconstitution is performed only by pharmacists, licensed practitioners, licensed nurses, or hospital-authorized personnel under the supervision of licensed pharmacists, licensed practitioners, or licensed nurses.

~~R. S.~~ Developing, implementing, and maintaining a system of controlled substance and narcotic control in accordance with subitems (1) to (7).

(1) Controlled substances must be accounted for by either:

(a) a "proof-of-use" sign-out sheet where each dose given is accounted for by the nurse administering the drug. No controlled substance may be kept on floor stock unless it is accompanied by the sign-out sheet and each dose is documented by the nurse at the time the drug is procured from the nursing station stock. The proof-of-use sheets must include at least the date and time, the patient's name, the dose administered, and the licensed nurse's signature; or

(b) the dispensing of the drug to a specific patient after the pharmacy receives an individual drug order.

(2) Wasted doses must be documented and witnessed by the signature of two individuals who are nurses or pharmacists.

(3) There must be a system for reconciling the proof-of-use sheets in the pharmacy to assure accountability of all sheets sent to the various nursing stations.

(4) Controlled substances must be stored under lock on the nursing stations.

(5) Access to the main supply of Schedule II controlled substances in the pharmacy must be restricted to a limited number of persons in the pharmacy. The main supply of Schedule II controlled substances in the pharmacy must be kept locked when not being used.

(6) Single unit-of-use dosage forms should be used when possible.

(7) A perpetual inventory of Class II controlled substances must be accurately maintained.

~~S. T.~~ Developing policies for the issuance of medications to patients who are going on leave from the facility. These policies may allow the preparation, by facility personnel responsible for overseeing medication administration, of a supply of medications, not to exceed a 72-hour supply, in paper envelopes or other more suitable containers for use by a patient temporarily leaving the facility at times when the facility's pharmacy is closed or cannot supply the needed medication in a timely manner. A container may hold only one medication. A label on the container shall include the date, the patient's name, the facility, the name of the medication, its strength, dose, and time of administration, and the initials of the person preparing the medication and label.

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

## 6800.8001 POLICY AND PROCEDURES MANUAL.

To obtain a pharmacy license as a parenteral-enteral home health care pharmacy, a policy and procedures manual ~~relating to sterile products~~ shall be available for inspection at the pharmacy. The manual shall be reviewed and revised on an annual basis. The manual shall include the policy and procedures for:

A. compliance with the official compendium *United States Pharmacopeia*, chapter 797;

B. clinical services;

~~B. C.~~ cytotoxics handling, storage, and disposal;

~~C. D.~~ disposal of unused supplies and medications;

~~D. E.~~ drug destruction and returns;

E. F. drug dispensing;

F. G. drug labeling and relabeling;

G. H. drug storage;

H. I. duties and qualifications for professional and nonprofessional staff;

I. J. equipment;

J. K. handling of infectious ~~wastes~~ waste, pharmaceutical waste, and hazardous waste;

~~K. L.~~ infusion devices and drug delivery systems;

L. M. investigational drugs;

~~M. N.~~ obtaining a protocol on investigational drugs from the principal investigator;

~~N. O.~~ public safety;

~~O. P.~~ quality assurance procedures, including:

(1) recall procedures;

(2) storage and dating;

(3) educational procedures for professional staff, nonprofessional staff, and patients;

(4) sterile procedures including a log of the temperature of the refrigerator, routine maintenance, and report of hood certification; and

- (5) sterility testing of the product;
- P: Q. record keeping;
- ~~Q:~~ R. reference materials;
- ~~R:~~ S. sanitation;
- ~~S:~~ T. security;
- ~~T:~~ U. sterile product preparation procedures; and
- ~~U:~~ V. transportation.

## **6800.8002 PHYSICAL REQUIREMENTS.**

Subpart 1. **Space.** ~~The pharmacy licensed under parts 6800.8000 to 6800.8008 shall have a designated area with entry restricted to designated personnel for preparing compounded, sterile parenteral products. The area shall be structurally isolated from other areas, with restricted entry or access, and must be designed to avoid unnecessary traffic and air flow disturbances from activity within the controlled facility. The area shall be used only for the preparation of parenteral or enteral specialty products. It shall be of sufficient size to accommodate a laminar air flow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security shall meet *United States Pharmacopeia*, chapter 797, compendium requirements.~~

Subp. 2. **Equipment.** ~~The licensed pharmacy preparing sterile parenteral products shall have equipment as required by part 6800.1050 shall meet *United States Pharmacopeia*, chapter 797, compendium requirements.~~

Subp. 3. [See repealer.]

## **6800.9700 SERVICE AND FILING OF PAPERS.**

Unless otherwise provided by law, all orders, notices, and other papers may be served by the director of the board by first class, certified, or registered mail addressed to the party at the last known post office address, or to the attorney of record. Papers required to be filed with the board may be mailed to the following address: ~~2700 University Avenue West #107, St. Paul, Minnesota 551141079~~ 2829 University Avenue SE, No. 530, Minneapolis, MN 55414.

## **6800.9900 VARIANCES.**

Subpart 1. **Right to request variance.** ~~A person subject to the rules of the Board of Pharmacy~~ The pharmacist-in-charge of a pharmacy requesting a variance, or in the case of manufacturers, wholesalers, or gas distributors, a person responsible for the operation, may request that the board grant a variance from any rule of the Board of Pharmacy.

[For text of subs 2 to 6, see M.R.]

## **6800.9921 REGISTRATION.**

Subpart 1. **Annual registration required.** Every person or establishment selling or distributing legend medical gases in Minnesota at retail that is not currently licensed as a pharmacy, pharmacist, medical gas manufacturer, medical gas wholesaler, or practitioner as defined in *Minnesota Statutes*, section 151.01, shall annually apply for registration by the board. Employees of an establishment need not register if the establishment is registered or has applied for registration.

[For text of subs 2 to 4, see M.R.]

**REPEALER.** *Minnesota Rules*, parts 6800.0100, subpart 13; 6800.2810; 6800.3300, subparts 3, 4, and 5; 6800.3350, subpart 2; 6800.4500; and 6800.8002, subpart 3, are repealed.

# 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.

**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.

## Department of Health

### Adopted Permanent Rules Relating to Certification of Environmental Laboratories

The rules proposed and published at *State Register*, Volume 30, Number 26, pages 670-672, December 27, 2005 (30 SR 670), are adopted with the following modifications:

#### 4740.2010 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4740.2050 to 4740.2120 have the meanings given them in this part and in the National Environmental Laboratory Accreditation Conference (NELAC) Standards, chapters 1 to 6, effective July 1, 2004, to June 30, 2005, or a more current revision, provided the revision is in effect, upon the date it becomes effective. The standards are incorporated by reference, are not subject to frequent change, and are available on the Internet at <http://www.epa.gov/nertesdl/and-sci/nelac/index.html#nelac> or by contacting the National Technical Information Service in the United States Department of Commerce.

Subp. 7. **Calibration.** "Calibration" means ~~the analyses of standards for a series of different specified concentrations of an analyte of interest used to define the linearity and dynamic range of the response of the instrument to an analyte~~ testing an instrument's response by analyzing a series of analyte standards of differing concentrations, which are plotted on a graph that defines the instrument's linearity and dynamic range.

Subp. 27. **Laboratory control sample or LCS.** "Laboratory control sample" or "LCS" means ~~an uncontaminated a sample of a controlled matrix with known quantities of analytes: known to be free of the analyte of interest, to which the laboratory control sample is analyzed exactly like a sample to determine whether the measurement system is performing as expected~~ has added a known and verified concentration of analyte and that the laboratory has taken through all preparation and analytical steps in the method.

Subp. 34. **Method.** "Method" means ~~a procedure or technique for performing an activity. Method includes procedures for sample preparation and sample analysis~~ the published scientific technique recognized by the commissioner for performing a specific measurement. Methods include instructions for sample preparation and sample analysis.

Subp. 45. **Quality control data.** "Quality control data" means data generated to assess the accuracy and precision of test data. Quality control data includes data on calibration standards, proficiency testing samples, ~~blind standards~~; known standards, duplicate samples, blanks, spiked samples, and limits for quality control spiked samples, reference standards, duplicates, and detection levels.

#### 4740.2050 APPLICATION FOR CERTIFICATION.

##### Subpart 1. **Base certification requirements.**

F. Applications for renewal of certification must be received no later than 90 days before the expiration of certification. The application must meet the criteria of this subpart. If a laboratory fails to submit a renewal application within 90 days before the expiration of certification, the commissioner ~~may~~ must notify the regulatory authorities that receive data that the laboratory did not apply to renew its certification. The laboratory must not report results as certified after its certification expires.

##### Subp. 6. **Laboratory inspection.**

C. When the commissioner determines after inspection that a certified laboratory does not comply with applicable provisions of parts 4740.2010 to 4740.2120, the commissioner shall notify the laboratory of the deficiencies in writing.

E. A laboratory may not reapply for certification after suspension or revocation until it has corrected all deficiencies. After all deficiencies are corrected, the laboratory may apply for certification according to subpart 1. With ~~the~~ its new application, the laboratory must submit written documentation of the steps taken to correct the deficiencies ~~with its new application~~.

##### Subp. 9. **Suspension.**

A. When the commissioner determines that there are grounds for suspension, the commissioner ~~shall~~ must notify the laboratory in writing. A laboratory's certification may be suspended in total or in part for a period not to exceed 180 days and not to extend beyond the expiration date of the current certification. If a laboratory takes corrective action before the end of the suspension period, certification for the suspended fields of testing or for the base certification and fields of testing ~~may~~ must be restored if the corrective actions satisfactorily address the deficiencies cited in the notice of suspension, except when contrary to an applicable reciprocity agreement. The laboratory shall retain certification for the fields of testing for which it continues to meet the requirements of parts 4740.2010 to 4740.2120.

## Subp. 10. **Revocation.**

A. ~~A laboratory's certification may be revoked in total or in part through written notification by~~ When the commissioner determines that there are grounds for partial or total revocation of a laboratory certification, the commissioner must notify the laboratory in writing. The laboratory shall retain certification for the fields of testing for which it continues to meet the requirements of parts 4740.2010 to 4740.2120.

## Subp. 13. **Request for variance.**

B. The commissioner shall review information submitted with the variance request. If the laboratory proposes alternatives equivalent or superior to those requirements in the rule, shows that strict enforcement of the rule would cause undue hardship, and shows that the variance will not adversely affect the reliability of the data produced by the laboratory, the commissioner shall grant the variance provided the variance does not conflict with statutory provisions. The commissioner shall grant or deny the variance within 60 days after receipt of the request, giving the laboratory written justification for the decision. The commissioner ~~may~~ must specify an expiration date for the ~~variance~~ variances the commissioner issues.

## Subp. 14. **Voluntary withdrawal of certification.**

A. ~~If a laboratory may choose~~ chooses to withdraw its application for certification or its current certification in total or in part ~~before the expiration date by notifying,~~ the laboratory must notify the commissioner in writing and specifying the effective date of withdrawal.

## **4740.2060 METHODS REQUIRED FOR CERTIFICATION.**

Subpart 1. **Scope.** Laboratories must observe appropriate methodologies for conducting analyses. Methods contain specific instructions on sample collection and preservation procedures. The federal and state methods under subparts 2 to 5 are incorporated by reference, are not subject to frequent change, and are available on the Internet at <http://www.gpo.gov> or through the Minitex interlibrary loan system.

### Subp. 3. **Safe drinking water program.**

B. ~~No~~ In the absence of an applicable federal regulation alternative methods may be used for state-specific testing if the state agency administering the permit, program, or rule grants written approval citing the laboratory's name and the title, revision date, and revision number of the procedure receiving approval.

C. The laboratory must submit a copy of the approval for alternative methods to the commissioner along with an application, as required under part 4740.2050, subpart 1, and fees as required under part 4740.2050, subpart 16, item C.

D. If certification for an alternative method is requested, the laboratory must apply for a variance from this subpart according to part 4740.2050, subpart 13.

## **4740.2065 STANDARD OPERATING PROCEDURES.**

Subp. 7. **Copy to commissioner.** A laboratory must submit a copy of its laboratory standard operating procedures manual to the commissioner at the time of application and within 30 days after the effective date of the revision. All changes to the standard operating procedures must be documented. The changes must be incorporated into the manual at least annually. All updated standard operating procedures must include the signature of the managing agent upon revision. The revised procedure manual must be forwarded to the commissioner in its entirety no later than 30 days after its effective date of revision. ~~The laboratory standard operating procedures manual is subject to approval by the commissioner.~~

## **4740.2070 PROFICIENCY TESTING REQUIREMENTS.**

### Subp. 10. **Availability of PT samples.**

A. The commissioner ~~may~~ must determine that a PT sample for a particular field of testing is not available if:

B. If the commissioner determines that no approved provider has PT samples for a field of testing, the commissioner ~~may~~ must request written documentation from the laboratory of quality control data meeting the minimum requirements under parts 4740.2010 to 4740.2120 to evaluate the capability of the laboratory to perform testing.

## **4740.2075 APPROVAL OF PROVIDERS OF PT SAMPLES.**

Subp. 2. **Criteria for approval.** The commissioner ~~may~~ must approve a PT provider if the PT provider:

Subp. 3. **Obtaining or maintaining approval status.** ~~Proficiency testing providers that fail to establish or maintain a quality system meeting the requirements of this part are subject to loss of approval by determination of the commissioner. Providers may lose approval to supply PT samples for particular fields of testing based upon review of proficiency testing sample data or may lose approval as a PT provider for all fields of testing if the PT provider fails to meet~~ In order to obtain and maintain the commissioner's approval to supply PT samples for particular fields of testing, providers must establish and maintain a quality system meeting the requirements of this part.

## **4740.2087 SAMPLE HANDLING, RECEIPT, AND ACCEPTANCE.**

Subp. 2. **Sample receipt protocols.** The following items must be verified and the results documented:

D. a laboratory must maintain chronological records, either paper-based or electronic, such as a log book or database, to document  
(Cite 31 SR 447)

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receipt of all samples, including the number and types of containers received for each field of testing. The records must include:

- (4) the signature ~~or~~, initials, or equivalent electronic identification of the person making the entries;

## 4740.2091 REQUIREMENTS FOR CALIBRATION OF SUPPORT EQUIPMENT.

### Subp. 3. Frequency of calibration.

F. Dial thermometers must be checked on a quarterly basis. All measurements must be recorded. When the thermometer is used for microbiological methods, all thermometers must be calibrated on an annual basis against ~~an~~ a NIST thermometer. When the thermometer is used for nonmicrobiological methods, the thermometer is valid for the time period specified on the vendor's certificate. If a time period is not specified, the thermometer must be calibrated on an annual basis against an NIST thermometer.

## 4740.2093 REQUIREMENTS FOR INSTRUMENT CALIBRATION.

### Subp. 3. Initial calibration.

A. Sufficient records must be retained to permit reconstruction of the instrument calibration, such as calibration date, approved method, instrument, analysis date, each analyte name, ~~analyst's initials or signature~~ the manual or electronic identification of the analyst performing the test, concentration and response, calibration curve or response factor, or unique equation or coefficient used to reduce instrument responses to concentration.

## 4740.2099 DOCUMENTATION OF LABORATORY PERSONNEL TRAINING.

C. The laboratory's managing agents and owners must ensure that all laboratory staff have demonstrated capability in the activities for which they are responsible. Such demonstration must be documented. For new laboratory personnel, the demonstration of capability must be performed prior to their analysis of any sample for that field of testing. Failure to maintain records that demonstrate the capability of an analyst may result in suspension of certification for that field of testing laboratory staff as required in this part is grounds for suspension of certification under part 4740.2050, subpart 9. In the absence of method requirements, an analyst must analyze four reagent blanks spiked at the concentration of the calibration check standard. The recoveries must meet the criteria in the laboratory's quality assurance manual.

## 4740.2100 QUALITY CONTROL CRITERIA FOR CHEMISTRY EXCEPT RADIOCHEMISTRY.

### Subp. 3. Laboratory control sample.

C. All analyte concentrations must be within the calibration range of the instrument calibration. The components to be spiked must be as specified by the permit, program, or rule requirement. In the absence of permit, program, ~~or~~ rule, or method requirements, the laboratory must spike as follows:

### Subp. 4. Matrix spike and matrix spike duplicates.

C. The results from matrix spikes and matrix spike duplicates must be expressed as percent recovery, relative percent difference, absolute difference, or other measure. Results of matrix spikes and matrix spike duplicates must be compared to the acceptance criteria as published in the approved method. When there are no established criteria, the laboratory must determine its own criteria and document the ~~method procedure~~ used to establish the limits or utilize client-specified assessment criteria within a permit, program, or rule requirement.

### Subp. 6. Internal standards.

D. Results of internal standards must be compared to the acceptance criteria as published in the approved method. When there are no established criteria, the laboratory must determine its own criteria and document the ~~method procedure~~ used to establish the limits or utilize client-specified assessment criteria within a permit, program, or rule requirement.

### Subp. 9. Selectivity.

E. A laboratory must document acceptance criteria for mass spectral tuning. ~~The criteria are subject to the approval of the commissioner~~ laboratory must ensure that the tuning criteria meets the specifications in the approved method or as established by the client, whichever is more stringent.

## 4740.2120 QUALITY CONTROL CRITERIA FOR RADIOCHEMISTRY.

### Subp. 10. Background radiation measurement.

B. Background radiation measurement values ~~are~~ must be subtracted from the total measured activity in the determination of the sample activity.

# Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* §§ 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* Sections 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only. The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

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

## Department of Revenue Adopted Exempt Permanent Rules Relating to Sales Tax Update

### GENERAL PROVISIONS

#### 8130.0110 SCOPE AND INTERPRETATION.

Subpart 1. **Interpretation of terms** Application of chapter. ~~Minnesota Statutes, chapter 297A,~~ hereinafter referred to as the Sales and Use Tax Law, imposes a tax on gross receipts from sales at retail made after July 31, 1967, by any person. Terms not specifically defined in the Sales and Use Tax Law or this chapter will be given the meanings ascribed to them in accordance with legal, accounting, business, or common usage. Unless otherwise specifically noted, this chapter is limited to interpreting the sales and use tax laws in Minnesota Statutes, chapter 297A, and laws related to the administration of the sales and use tax laws.

Subp. 2. **Sales.** Certain transactions defined in ~~the Sales and Use Tax Law and~~ this chapter constitute sales. All sales of tangible personal property are deemed to be retail sales ~~or sales at retail~~ unless made to purchasers who intend to resell the property to others in the regular normal course of business as defined in Minnesota Statutes, section 297A.61, subdivision 21. The tax required to be collected by sellers on behalf of the commissioner is based upon the gross receipts from sales not specifically exempt. "Gross receipts" ~~means the total amount received for all sales at retail as measured by the sales price as defined in this chapter~~ are defined in part 8130.1800.

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

#### 8130.0200 SALE BY TRANSFER OF TITLE.

Subpart 1. **Delivery requirements.** ~~Minnesota Statutes, section 297A.01~~ 297A.61, subdivision 3, paragraph (a) (b), clause (1), provides that a transfer of title constitutes a sale. Title to goods passes from the seller to the buyer in any manner and on any condition explicitly agreed upon by the parties. However, no title to goods can pass under a contract for sale prior to identifying such goods as the exact goods to be delivered under the contract. Unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes performance with reference to the physical delivery of the goods. Although the seller retains the legal title to the goods, title passes if the purchaser has the right to the use, possession, and enjoyment of such goods. The following rules ~~are applicable~~ apply.

A. ~~Where~~ When the contract requires or authorizes the seller to send the goods to the buyer, but does not require the seller to deliver them at destination, title passes to the buyer at time and place of shipment.

B. ~~Where~~ When the contract requires delivery at destination, title passes upon tender there.

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

D. Unless otherwise explicitly agreed, ~~where~~ when delivery is to be made without moving the goods, and the seller is to deliver a document of title, title passes at the time when and where such document was delivered.

E. Unless otherwise explicitly agreed, ~~where~~ when delivery is to be made without moving the goods, and the goods, at the time of contracting, are already identified, and no documents are to be delivered, title passes at the time and place of contracting.

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

Subp. 4. **Mixed transaction.** A transaction involving performance of a nontaxable repair service, and incident thereto, a transfer of

# Exempt Rules

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tangible personal property to the purchaser is not considered a sale for sales and use tax purposes if:

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

## 8130.0400 LEASES.

Subpart 1. **General rule; examples.** Any item which is taxable if sold is also taxable if leased. If an item is contracted for lease in Minnesota and physical possession of the item by the lessee occurs in Minnesota, a taxable transaction has occurred even if the lessee removes the property from the state for personal use. However, leased property shipped or transported outside Minnesota by the lessee, which will be used in a trade or business outside Minnesota by the lessee without any intermediate use in Minnesota, and which will not be returned to Minnesota except in the course of interstate commerce, is exempt from tax if the lease is not subject to tax in the jurisdiction to which the leased property is transported for use or is used in the other jurisdiction as part of a maintenance contract.

All payments made pursuant to leases of tangible personal property, including mobile equipment such as motor vehicles, trailers, and contractor's equipment, constitute sales made in Minnesota if such property is either garaged or principally used, including use thereof in interstate commerce for delivery or other temporary purpose outstate, by the lessee at or from a Minnesota situs of the lessee.

Example 1. Motor Freight Line, a Minnesota company, leases ten tractor-trailers from a leasing company. The contract is signed at the Minnesota office of Motor Freight Line, and all payments under the lease are made from this office. Motor Freight Line uses seven of the tractor-trailers to haul freight in interstate commerce to and from its Minnesota freight depot. The remaining three tractor-trailers are used to haul freight in interstate commerce to and from Motor Freight Line's depot in Illinois. From time to time, the three tractor-trailers enter Minnesota in the course of the normal interstate commerce activities of Motor Freight Line. The lease price attributable to the seven tractor-trailers used to haul freight to and from the Minnesota freight depot constitutes a Minnesota sale. The lease price of the remaining three tractor-trailers does not constitute a Minnesota sale.

Example 2. Amalgamated Contractors, a Minnesota company, leases a heavy-duty crane for a construction job in Iowa on a monthly basis. The payments are made by Amalgamated to the lessor in Iowa. Subsequently, Amalgamated secures a construction contract in Minnesota and transfers the crane to the Minnesota site ~~on June 15, 1968~~. Lease payments due while the crane is located in Minnesota are subject to Minnesota use tax although such payments continue to be made in Iowa.

Example 3. Peter Smith, a resident of Fargo, North Dakota, leases a chain saw from XYZ Rental-All, an equipment leasing firm, with an office only in Moorhead, Minnesota. Mr. Smith intends to use the saw at the residence in Fargo, and takes possession of the saw from the rental firm in Minnesota. A Minnesota sales tax is due and payable on this transaction.

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

Subp. 3. [See repealer.]

Subp. 4. **Services of operator furnished with rentals of equipment.** For services of an operator furnished with the rental of equipment:

A. Certain types of equipment are only available with the services of an operator. For example, the hiring of a taxicab involves the concurrent hiring of a taxicab driver. The same is true with respect to bus companies and commercial airlines. The primary or chief activity of the taxicab company, or the bus line, or the airline, is furnishing transportation services. For all practical purposes, one cannot hire a taxicab or a bus or a commercial airline without accepting the services of a licensed operator. Consequently, the gross receipts from such transactions are not considered sales under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph ~~(a)~~ (b), clause (2).

B. There are enterprises which lease equipment either with or without operators. For example, a lessor of transport trucks will furnish a driver if the lessee so requests, or a lessor of heavy equipment will furnish an operator for a crane or caterpillar.

C. When a driver or operator is furnished along with the equipment, the lessor, by the lessor's employee or agent, retains control of the equipment. Accordingly, the lessor is considered to be furnishing a nontaxable service rather than leasing the equipment, and the transaction is not considered to be a sale under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph ~~(a)~~ (b), clause (2).

When a lessor utilizes equipment in furnishing such nontaxable services, no exemption for the purpose of resale is allowed on purchases of such equipment.

~~D. C.~~ On occasion, an employee may use his or her own pickup truck to transport tools on behalf of the employer from one site to another. If the employee is not engaged in the business of leasing the truck, the transportation of the tools is, in effect, a service performed by the employee at the request of the employer. Any reimbursement to the employee is deemed to be nontaxable.

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

Subp. 6. **Maintenance contract.** ~~Where~~ When under the terms of a contract a lessor of tangible personal property other than motor vehicles agrees to provide full maintenance of such property and the periodic payment is a single sum covering both rental of the property and the maintenance service, ~~a portion of such sum may be deemed a charge for maintenance labor and deducted in determining the amount of the payment subject to tax. The deduction shall be at the lessor's cost for such labor based on actual experience~~ the entire payment is subject to tax.

Subp. 7. **Leases to electing motor carrier.** ~~Effective July 1, 1971,~~ Motor carriers may elect under provisions of *Minnesota Statutes*, section ~~297A.21~~ 297A.90, to pay directly to the commissioner of revenue the tax due on the leasing of certain mobile transportation equipment and accessories used in interstate commerce. Lessors of such property need not collect the tax from the electing carriers who

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## Exempt Rules

have been issued a motor carrier direct pay certificate. See part 8130.3500 for rules relating to the motor carrier direct pay certificate authorization and describing the property for which the payment of tax by the lessee may be deferred.

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

Subp. 10. **Time of incidence of tax.** For the time of incidence of the tax:

A. A lease of tangible personal property is ~~a series of transactions in time units defined by the agreement of the parties defined in Minnesota Statutes, section 297A.61, subdivision 14a.~~ For leases entered into after June 30, 1997, gross receipts generated ~~therefrom from the lease~~ are taxable at the rate in effect at the time the obligation to pay becomes fixed under the agreement, and not at the time the make a lease payment ~~must be or is in fact made~~ becomes due. The initial obligation to pay becomes fixed upon the transfer of possession of the tangible personal property unless the agreement specifically sets forth another time. Subsequent obligations to pay become fixed either by the terms of the agreement, trade practices of the lessor, or practice in a course of dealing.

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

C. ~~Some obligations to pay arise by the execution of an agreement while other obligations arise by reason of the voluntary activities of the parties during the term of the agreement. For example, the lease of an automobile for a fixed period of months may give rise to an unconditional obligation to pay a minimum monthly amount and an additional obligation to pay for all miles driven in excess of a specified amount. In such cases the incidence of taxation on the minimum monthly amount would be determined at the time of transfer of possession while the incidence of taxation on the amount for excess mileage would be determined when the excess mileage was driven.~~

### 8130.0500 LICENSE TO USE.

Subpart 1. **General rule.** ~~Where~~ When a privilege to possess, use, and enjoy tangible personal property is granted by the owner for a determinate time and on a fixed rental fee basis, or on some other basis that includes a fixed rental fee, and the owner surrenders possession and control under the terms of the agreement to the other party, such arrangement represents a lease. However, where the arrangement contemplates that the owner, for a consideration, will permit the other party to use the property, without the owner divesting physical possession thereof, ~~such~~ the arrangement is included in the definition of the term a “license to use” and thus represents ~~is~~ a sale under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (a) (b), clause (2).

Example. A lumber dealer sells lumber of only standard dimensions because the majority of customers are building contractors and generally only require lumber in standard sizes. Whenever large lumber orders of nonstandard dimensions are received, the dealer will either cut the lumber and make an additional charge, or allow the contractor to use the sawing equipment on the dealer’s premises for \$15 per hour. The charges made by the dealer, for the use of sawing equipment by the contractor, represent the granting of “a license to use” and are taxable.

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

### 8130.0600 CONSIDERATION.

Subpart 1. **Consideration in money.** As used in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (a) (b), “consideration in money” refers to the amount of money whether in the form of currency, coins, negotiable instruments, or scrip which the parties agree shall be paid by the purchaser.

Example 1. “M,” manufacturer, purchases a machine for use in production. ~~The manufacturer~~ “M” pays \$5,000 in cash and gives a \$20,000, 90-day promissory note drawn to the order of “V,” vendor. The note bears interest at six percent. The consideration in money is \$25,000. The \$20,000 note is still deemed to be “consideration in money” even though “V,” holds it until maturity, as “V” may convert the note, plus accrued interest, into cash by negotiation. The accrued interest that may be paid to “V,” either at the time of negotiation or at the time of maturity, does not constitute “consideration in money” for sales tax purposes in respect of the sale of the machine. Example 2. Same facts as in example 1, except that “V” discounts the \$20,000 promissory note at a bank for \$19,500. The consideration paid by “M” is \$25,000.

Transactions described in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (a) (b), are sales or purchases where effected by exchange or barter. The terms “exchange” and “barter” are used synonymously. (See part 8130.1500 for ~~allowable exclusions from sales price exemption for property taken in trade.~~)

[For text of subps 2 and 3, see M.R.]

### 8130.0700 PRODUCING, FABRICATING, PRINTING, OR PROCESSING OF PROPERTY FURNISHED BY CONSUMER.

Subpart 1. **General.** A sales tax is assessed on the retail sale of tangible personal property. See *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (a) (b).

In addition, a sales tax is assessed on the production, fabrication, printing, or processing of tangible personal property for retail consumers who furnish directly or indirectly the materials used in the production, fabrication, printing, or processing. See *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (b) (c).

Producing, fabricating, printing, and processing include any operation which results in the creation or production of tangible personal property, or which is a step in a process or in a series of operations resulting in the creation or production of tangible personal property,

# Exempt Rules

except sales for resale.

Subp. 2. **Repairs.** Application of labor to tangible personal property, other than clothing, so that such property may continue to be used in the same form and for the purpose for which acquired represents repairs and does not constitute producing, fabricating, printing, or processing of property. ~~Where~~ The repair and alteration of clothing, however, is taxable under Minnesota Statutes, section 297A.61, subdivision 3, paragraph (g), clause (6)(i). If the expenditure is made for the purpose of modifying, altering, or assembling it in some other manner, the application of labor ~~thereto~~ to tangible personal property represents a sale under the provisions of *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph ~~(b)~~ (c).

Subp. 3. **Tax applications.**

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

B. Example 2. A customer furnishes material which is thereafter produced into a slipcover for sofa. The charge for producing the slipcover is a sale in accordance with *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph ~~(b)~~ (c), since it results in the ~~modification~~ fabrication of tangible personal property. If the customer had purchased material from the upholsterer, the entire cost to the customer would be a sale.

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

Subp. 4. **Custom made goods.** The total ~~proceeds of gross receipts from the~~ sale of custom made products are taxable, without deduction for labor costs, provided that the manufactured item remains personal property after installation. Labor charges to install manufactured items which become part of real property are not taxable.

## 8130.0900 ENTERTAINMENT.

Subpart 1. **Admissions and use of amusement devices in general.** Under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph ~~(d)~~ (g), clause (1), the ~~granting~~ privilege of admission to places of amusement, recreational areas, or athletic events, and the ~~privilege of use~~ making available of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities constitute sales, ~~where such if the~~ places of amusement, athletic events, or amusement devices are located within Minnesota.

Subp. 2. **Examples; admissions.** Example 1. "A" purchases four tickets ~~at the University of Minnesota athletic ticket office for a professional football game to be played at Madison, Wisconsin, between the University of Minnesota and the University of in Wisconsin.~~ The sale of the tickets to A does not constitute a sale under *Minnesota Statutes*, section ~~297A.01~~, subdivision 3, paragraph (d) because the event is not occurring in Minnesota.

Example 2. "A" purchases four tickets from the University of Iowa athletic ticket office for a football game to be played at Minneapolis, Minnesota, between the University of Minnesota and the University of Iowa. As the granting of the privilege of admission is at a place in Minnesota, the sale of the tickets to A constitutes a sale under *Minnesota Statutes*, section ~~297A.01~~, subdivision 3, paragraph (d).

Admission charges to any places of amusement or athletic events within Minnesota, therefore, constitute a sale unless the charges are exempt under Minnesota Statutes, section 297A.70, subdivision 10, 11, 13, or 14. The following partial list is illustrative:

- A. ~~admissions to all athletic events, including those staged by educational institutions;~~
- B. ~~admissions to musical concerts;~~
- C. ~~admissions to dances;~~
- D. ~~admissions to motion picture theaters or theaters presenting stage shows and plays;~~
- E. ~~admissions to golf courses and tennis courts;~~
- F. ~~admissions to skating rinks and swimming pools;~~
- G. ~~admissions to state, county, or other fairs;~~
- H. ~~admissions to carnival rides and hay and sleigh rides;~~
- I. ~~admission to bingo games and privilege of use of bingo cards; and~~
- J. ~~admissions to a museum.~~

Subp. 3. **Use of athletic equipment or amusement devices.** Consideration paid for the use of athletic or amusement devices or games constitutes a sale. "Amusement devices ~~are defined as~~ means property used in whole or in part to obtain amusement, entertainment, or diversion." The following partial list is illustrative:

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

Subp. 4. **Entry fees.** Entry fees are payments required as a condition to participation in a competitive event. That portion of an entry fee assignable to admissions or the use of athletic or amusement devices is a sale under *Minnesota Statutes*, section ~~297A.01~~, subdivision 3, paragraph (d) and taxable. If the entry fee to a competitive event requiring admissions or the use of athletic or amusement devices does not separately state that portion of the fee assignable to them, the entire fee is taxable.

Subp. 5. **Club dues.** The granting of memberships in a club, association, or other organization that makes available sports and athletic facilities for use of its members is taxable if it meets the requirements of Minnesota Statutes, section 297A.61, subdivision 3, paragraph (g), clause (4). Membership dues to other kinds of clubs such as country clubs, tennis clubs, and curling clubs are not taxable. This includes

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# Exempt Rules

various forms of membership dues whether social and/or activity membership dues. However, payments to associations or organizations which only entitle the payee to attend concerts or events sponsored or held by the association each year are taxable as the granting of admissions to a place of amusement.

[For text of subs 6 and 7, see M.R.]

Subp. 8. [See repealer.]

## 8130.1000 LODGING.

Subpart 1. **General rule.** Under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (e) ~~(g), clause (2)~~, furnishing for a consideration of lodging and related services by a hotel, rooming house, ~~tourist court resort, campground,~~ motel, or trailer camp and the granting of any similar license to use real property other than the renting or leasing thereof ~~of it~~ for a period of 30 days or more constitute a sale. ~~See part 8130.0800, subpart 6, for rules exempting lodging furnished in connection with educational programs and children's camps.~~

Subp. 2. **Criteria.** The following criteria ~~will be applicable~~ apply in determining whether a license to use real property for lodging purposes constitutes a sale under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (e) ~~(g), clause (2)~~:

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

B. A lease of or a license to use real property ~~where if~~ if the consideration ~~therefor for the lease or license~~ is paid or payable at periods of less than 30 days' duration, or ~~where if~~ if the parties are not bound by an enforceable written contract to give prior notice of 30 days or more of intention to terminate, constitutes a sale.

C. A person engaged in the furnishing of taxable lodging facilities, in determining the amount of consideration received subject to the tax, shall ~~exclude therefrom~~ include separately stated charges for ~~telephone telecommunication~~ service, ~~but shall include as taxable consideration,~~ and amounts received for the use of a television set or other items of tangible personal property.

Example 1. "G," guest, registers at hotel without entering into an enforceable written agreement whereby ~~the guest G~~ G will occupy a room for a period in excess of 30 days. ~~The guest occupies the room assigned G stays at the hotel~~ for five full weeks. Thereafter, ~~the guest G~~ G settles the account and vacates the room. Although occupancy was in excess of the statutory period of 30 days, the transaction constitutes a sale in accordance with ~~the above item B~~.

Example 2. Hotel, in addition to furnishing sleeping accommodations and related service to transients, leases rooms or suites to ten persons on a monthly basis. "G," guest, occupies a small suite, and pays in advance on the first day of each month. The leasing of a suite to G does not constitute a sale, as a hotel also may be a lodging house, and G, who is a tenant at will, is required to give notice of termination of at least 30 days.

Example 3. "T," tenant, rents an apartment from ~~L~~ Landlord without a lease. T pays rent weekly. Each of the parties is required to give notice of one week of intention to terminate. Consequently, this arrangement constitutes a sale, as the leasing of the premises to T is for a period of less than 30 days.

Example 4. Motel charges guest ~~\$12~~ \$50 per day for a room. "G," guest, makes three local telephone calls. Motel bills ~~Guest G~~ G for ~~\$12~~ \$50 plus a separately stated charge of ~~45 cents~~ \$1.50 for telephone calls, and ~~\$1~~ \$5 for use of a ~~television set~~ video games. The taxable consideration paid by ~~Guest G~~ G is ~~\$13~~ \$56.50 represented by the ~~\$12~~ \$50 charge for the room ~~and \$1,~~ \$5 charge for the ~~television set~~ video games, and \$1.50 for telephone calls.

Example 5. If "X" company leases a specific room in a hotel or motel on a yearly basis for occasional use by employees or guests, the charge is exempt. ~~If under the lease, even if~~ if a particular room is not reserved for the exclusive use of X company, ~~the charge made therefor~~ is taxable.

## 8130.1100 UTILITIES AND RESIDENTIAL HEATING FUELS.

Subpart 1. **Applicable General law.** Under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (f) ~~(e)~~, the furnishing for a consideration of electricity, gas, water ~~that is not for residential use~~, or steam for use or consumption within Minnesota are taxable sales.

~~Minnesota Statutes, section 297A.25, subdivision 23, exempts sales of residential heating fuels from the sales and use tax in the manner shown in items A to C:~~

- A. ~~all fuel oil, coal, wood, steam, hot water, propane gas, and LP gas sold to residential customers for residential use;~~
- B. ~~natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat for the heating season; and~~
- C. ~~electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat for the heating season.~~

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

Subp. 3. **Exemptions.** The following are exempt from sales and use tax:

- A. Fuels, electricity, gas, steam, or water that is used or consumed in agricultural or industrial production of personal property intended

# Exempt Rules

to be sold ultimately at retail. See part 8130.5500 and *Minnesota Statutes*, ~~section 297A.25~~ sections 297A.68, subdivision 9 2, and 297A.69, subdivision 2.

B. Fuel, electricity, gas, and steam stored, used, or consumed in the production of a taxable service intended to be sold ultimately at retail. See *Minnesota Statutes*, section 297A.68, subdivision 3.

~~B. C.~~ For the billing months of the heating season, natural gas or electricity sold for residential use to customers who are metered and billed as residential users and who use natural gas or electricity for their primary source of residential heat. When gas or electricity is exempt as a heating fuel, all other gas or electricity used through the same meter ~~shall is~~ also be exempt for the sixmonth heating season. Each qualifying customer must receive six months of service exempt from taxation. See *Minnesota Statutes*, section 297A.67, subdivision 15. See subpart 7 for tax treatment of residential customers on utility budget plans.

~~E. D.~~ On a year-round basis, all fuel oil, coal, wood, steam, hot water, propane gas, and LP gas sold to residential customers for residential use. See *Minnesota Statutes*, section 297A.67, subdivision 15. See subpart 7.

E. Water services for residential use are exempt regardless of how the services are billed. See *Minnesota Statutes*, section 297A.67, subdivision 16.

Subp. 4. **Charges included in sales price.** All charges associated with furnishing utilities or making utility service available, except fees for the safe drinking water testing program mandated by federal law and taxes legally imposed directly on the consumer that are separately stated on the bill given to the purchaser, are considered part of the sales price and are subject to tax. If the utility service being provided is exempt from tax, the additional charges are also exempt. If the utility service being provided is partially exempt from tax, the additional charges will be exempt to the same extent the utility service is exempt. The following are examples of taxable charges that are included in the base on which the sales tax is charged. These charges are taxable even if minimal or no services are consumed:

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

Subp. 5. **Credits determined before and after the sale.** Credits or dividends, such as capital contribution credits, interruptible service credits, and patronage dividends, are not included in the amount subject to sales tax if the credit and the amount of the credit are determined prior to the sale. These credits are included in the amount subject to sales tax if the credit or the amount of the credit is determined by events that happen after the sale has occurred. The examples in items A to C illustrate these situations.

A. An electric company and a manufacturer enter into an interruptible service agreement. Under this agreement, the manufacturer agrees to shut down certain machinery during peak electricity demand periods. In exchange, the electric company gives the customer a credit on each bill. This credit is a constant dollar amount and is based on the amount of kilowatts the manufacturer would conserve by shutting down the agreed upon machinery. The credit is given regardless of whether the manufacturer was required to shut down machinery during the period. Here, the credit is contracted for before the sale and ~~should~~ must be subtracted from the sales price before sales tax is calculated.

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

Subp. 6. **Commercial and residential use.**

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

C. Examples of a residence that is also used as a commercial property:

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

(4) "B" owns a resort and uses LP gas to heat "B's" residence and five rental units from the same tank. At the end of the season, the rental units are closed down and only "B's" residence consumes LP gas. The rental units that are not operational during the winter ~~should~~ must be included when determining if the customer is a residential user, but the seasonal use of the rental units is considered in determining if the commercial use equals or exceeds 50 percent. See subitem (2).

[For text of subitems (5) and (6), see M.R.]

D. ~~Where~~ When a building houses both residential quarters and commercial operations, a utility's ~~good faith reliance upon its customer's acceptance of a fully completed exemption certificate claiming of~~ the residential heating fuel exemption will relieve the utility from liability for the tax if it is later determined that the exemption was improperly claimed. The utility must exercise reasonable care and judgment before allowing the customer to use the exemption for the utility to be relieved of liability under this item.

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

## 8130.1200 SALES OF BUILDING MATERIAL, SUPPLIES, OR EQUIPMENT.

Subpart 1. **General rule.** Under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 4, paragraph (d), sales of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders constitute retail sales and are thus taxable.

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

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

Subp. 3. **Construction contracts with exempt entities.** For construction contracts with exempt entities:

A. The exemption from the tax on the sale of tangible personal property to the United States ~~or to the state of Minnesota, and to other public agencies,~~ as well as to corporations and other institutions exempt under *Minnesota Statutes*, ~~section 297A.25~~ sections 297A.67 to 297A.71, does not extend to building materials, supplies, and equipment purchased by a contractor under an agreement to erect a building

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or to alter, repair, or improve real estate for such exempt entity unless the sale is specifically exempted under section 297A.71. However, purchases of such building materials, supplies, and equipment by exempt entities are exempt from the sales and use tax.

Example. A ~~village school district~~ enters into a contract with a contractor for ~~storm sewer school~~ construction. The contractor purchases materials for this job from various suppliers. The construction is clearly an alteration or improvement to real property with material purchased by the contractor for use in constructing the ~~storm sewer school~~. These transactions constitute retail sales at retail and are subject to the sales tax. ~~The contractual relationship between the contractor and the village does not affect the validity of the sales tax imposed upon the contractor. Had the village undertaken such construction with its own employees school district purchased the materials directly,~~ the purchase of the materials by the ~~village school district~~ would ~~not~~ have been subject to tax exempt.

B. ~~Where~~ If an exempt entity has entered into a fixed price construction contract which covers the complete structure including the materials, and the exempt entity furnishes some or all of the materials to the contractor for a credit against the contract price, a taxable sale occurs when the exempt entity transfers the materials to the contractor.

Example. A school district enters into a contract with a contractor for the construction of a school building. The contractor not only specified the price at which the contractor agreed to deliver the completed school, but made known to the school district the portion of the total cost of construction allocated to building materials and supplies. In addition, the contractor furnished the school district with the names of the several suppliers and the descriptions and price of each item or items furnished by each of such suppliers. Thereafter, the school district purchased the specified items at the price furnished by the contractor and made payments from its own funds to the suppliers. The material and supplies so purchased were thereafter delivered to the contractor and, in return, the school district received credit against the contract price for the payments made by it.

Although the initial purchase of the material and supplies by the school district is ~~not taxable exempt~~, the transfer to the contractor is a transfer of title or possession and taxable as such for the following reason: the contractor has agreed to deliver a completed structure which necessarily includes the materials; during construction of the building the materials will be in the possession of the contractor, who bears the risk of any loss of such materials during construction; and a portion of the contract price is correspondingly reduced by the cost of the materials paid to the supplier by the school district.

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

Subp. 4. **Contractorretailer.** A “contractorretailer” is a person using building materials, supplies, and equipment in the performance of construction contracts, and in addition, is engaged in making ~~sales at retail~~ sales of building materials, supplies, and equipment.

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

D. Persons primarily engaged in the making of retail sales of building materials, supplies, and equipment used in construction, alteration, repair, or improvement of real property, and who are also engaged as contractors in building, altering, repairing, or improving real property, shall report and pay their sales or use tax liability in accordance with the following.

[For text of subitems (1) and (2), see M.R.]

(3) If the person’s business activities during the prior calendar year reflect that more than 50 percent of such purchases were sold at retail, he or she may use a fully completed resale exemption certificate for the purchase of all such items. ~~The resale exemption certificate shall contain the purchaser’s name, address, sales and use tax account number, and description of material to be purchased. In addition, the certificate must be signed and contain the following:~~

~~“I HEREBY CERTIFY: That I am a contractor-retailer engaged in the making of retail sales and also the construction, alteration, repair or improvement of real property and that I am reporting and paying my sales and use tax liability directly to the Commissioner of Revenue.”~~

~~A vendor receiving a resale exemption certificate with the above notation thereon is relieved from the responsibility of collecting the tax, and the burden will be upon the purchaser to demonstrate that he or she comes within the provisions of this part.~~

E. The accounting records of a contractor-retailer must clearly reflect the use made of items purchased for both the preceding and current calendar year. These records ~~should~~ must be in such form that the commissioner may determine readily that the proper sales and use tax liability is being reported and paid.

Example 1. In March ~~1972~~, a contractor-retailer purchased ten bathtubs at \$150 each and 20 bathroom sinks at \$40 each. As primarily a contractor, the contractorretailer paid the sales tax due ~~thereon~~. During this same month, the contractor-retailer sold at retail two bathtubs at \$200 each and five bathroom sinks at \$55 each. The contractor-retailer reports gross receipts from retail sales ~~at retail~~ of \$675. The sales tax due and owing from the contractor-retailer is ~~\$27~~ \$43.88 (~~four~~ 6.5 percent of \$675). Since the contractor-retailer is entitled to offset the tax paid on the property sold at retail, the following calculation is made ~~on form ST-1 (for the sales and use tax return) filed reported~~ for the month of March ~~1972~~:

Line 1 Gross sales	\$675.00
Line 2 Deductions (see line 19)*	\$500.00
Line 3 Net sales	\$175.00
Line 4 Purchases subject to use tax	\$ 0

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Line 5 Total taxable amount	\$175.00
Line 6 Total tax due	\$ -7.00
	\$ <u>11.38</u>

\*Line 2 is Deductions are calculated as follows:

Cost of goods sold:

2 bathtubs at \$150.00 each	\$300.00
5 bathroom sinks at \$40.00 each	\$200.00
	<hr/>
Total cost of goods sold	\$500.00

~~A supplementary schedule reflecting the above calculations should be submitted with the return.~~

Example 2. A contractor-retailer purchased ten bathtubs at \$150 each and 20 bathroom sinks at \$40 each. Being primarily a retailer, the contractor-retailer paid no tax at time of purchase, but gave the supplier an exemption certificate. Thereafter, in March 1972, the contractor-retailer sold at retail two bathtubs at \$200 each and five bathroom sinks at \$55 each. In addition, the contractor-retailer utilized three bathtubs and six bathroom sinks in contracting activities. The contractor-retailer makes the following calculation on form ST-1 (for the sales and use tax return) filed reported for the month of March 1972 (for purposes of this example, it is assumed that in March 1972 no other sales were made at retail and no other material, etc., were used in contracting activities):

Line 1 Gross sales	\$ 675.00
Line 2 Deductions	\$ 0
	<hr/>
Line 3 Net sales	\$ 675.00
Line 4 Purchases subject to use tax*	\$ 690.00
	<hr/>
Line 5 Total taxable amount	\$1,365.00
Line 6 Total tax due	\$ 54.60
	\$ <u>88.73</u>

\*Line 4 The amount subject to use tax is calculated as follows:

3 bathtubs purchased at \$150 each	\$ 450.00
6 bathroom sinks purchased at \$40 each	\$ 240.00
	<hr/>
Total	\$ 690.00

~~A supplementary schedule reflecting the above calculations should be submitted with the return.~~

## 8130.1500 REDUCTION IN SALES PRICE EXEMPTION FOR PROPERTY TAKEN IN TRADE.

Excluded from the sales price is Any amount allowed as a credit against the sales price for tangible personal property taken in trade for resale is exempt under *Minnesota Statutes*, section 297A.67, subdivision 26. The payoff of the old contract does not affect the amount allowed on the trade-in; even if this indebtedness is included in the new contract. The property so accepted will qualify qualifies for the exclusion from the sales price provided both the following conditions are met:

A. such exemption if the property is taxable under the Sales and Use Tax Law or the Sales Tax on Motor Vehicle Excise Tax Vehicles Law; and

B. such property is of a type normally sold in the regular course of such retailer's business.

Example 1. A dealer sells a new boat with a list price of \$3,000 to a customer. The dealer accepts the customer's used boat in trade and gives the customer a credit of \$1,000 therefor. ~~As the conditions above are met,~~ The credit qualifies for the exclusion exemption. Consequently, the sales price is \$2,000.

Example 2. A farm implement dealer sells a combine to a farmer with a list price of \$4,000 and accepts in trade a used cornpicker for which a credit of \$300 is given. ~~As the conditions above are met,~~ the credit qualifies for the exclusion. Consequently, the sales price is \$3,700.

Example 3. An implement and livestock dealer sells a new tractor with a list price of \$2,000 and accepts in trade three steers for which a credit of \$750 is given. Although the second condition above is met, the first condition is not as steers sold by a livestock dealer are not taxable property. Consequently, the sales price of the tractor is \$2,000.

Example 4. A jeweler sells a diamond ring to a customer for \$2,000 and accepts in trade a new lady's fur coat for which a credit of \$2,000 is given. Although the first condition is met, the second condition is not met as the jeweler does not engage in the sale of fur coats in the

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regular course of business. Consequently, the sales price of the diamond ring is \$2,000.

Example 5-2. A mobile home dealer sells a customer a new mobile home with a list price of \$12,000. The customer trades in an old mobile home which has an existing loan of \$2,000 on it. The dealer agrees to include the payoff amount of the old contract in the new contract. The dealer allows \$5,000 for the trade-in of the customer's mobile home. The following represents the amount of financing the customer arranges for and the sales price is \$7,000:

List price	\$12,000
Less: Tradein	5,000
	\$ 7,000
Sales price	\$ 7,000
Add: Payoff of old contract	2,000
	\$ 9,000
New contract	\$ 9,000

The tax is computed on the sales price of \$7,000.

## 8130.1800 GROSS RECEIPTS DEFINED; METHOD OF REPORTING.

Subpart 1. **Gross receipts.** The sales tax is imposed upon the gross receipts from retail sales ~~at retail~~. "Gross receipts" are ~~herein~~ defined in *Minnesota Statutes*, section 297A.61, subdivision 8, as the total amount received, in money or ~~otherwise by barter or exchange~~, for all ~~retail sales at retail~~ (see *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 4) as measured by the sales price. (See *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 8 7.)

The person filing the return may report gross receipts either:

- A. on the cash basis as the consideration is received; or
- B. on the accrual basis as sales are made.

An election ~~will be~~ is deemed to have been made to report gross receipts under the method of accounting on the basis of which the person filing the return regularly computes income for tax purposes, unless he or she can demonstrate to the commissioner that a method of accounting for gross receipts subject to the sales tax (which differs from the method of accounting employed for other purposes) will not prevent or make difficult an orderly and systematic audit of the records by the commissioner. An application shall be made to the commissioner for permission to change the method of reporting.

Subp. 2. **Cash basis.** ~~Where~~ If sales are made at retail on a strictly cash basis, the ~~vendor~~ retailer shall report gross receipts on the basis of cash or other consideration received, minus the exclusions and deductions from the total consideration allowed under *Minnesota Statutes*, sections ~~297A.01~~ 297A.61, subdivision 8 7, and ~~297A.25~~ 297A.67 to 297A.71.

Subp. 3. **Accrual basis.** A person who reports income on the accrual basis is required to report gross receipts as the sales are made, minus the exclusions and deductions from the total consideration allowed under *Minnesota Statutes*, sections ~~297A.01~~ 297A.61, subdivision 8 7, and ~~297A.25~~ 297A.67 to 297A.71, regardless of when cash from such sales is received.

Example 1. A supermarket's gross sales for May ~~1968~~, are \$200,000, of which \$175,000 are represented by exempt products. In addition, cash refunds of \$1,000 for exempt products returned were made. The computation for the supermarket, which is on a cash basis, is as follows:

Gross receipts	\$200,000
Less: refunds for property returned	1,000
	\$199,000
Gross receipts adjusted	\$199,000
Sales of exempt property	\$175,000
Less: refunds for exempt property returned	1,000
	\$174,000
Taxable gross receipts	\$ 25,000

Example 2. A department store has cash sales of \$500,000 and charge sales of \$750,000 for the month of October ~~1968~~. The department store reports on the accrual basis. Consequently, the department store reports as gross sales \$1,250,000 on the sales and use tax return it files for this month.

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## 8130.1900 RETAILER AND SELLER.

Subpart 1. **Defined.** A “retailer” is ~~and a “seller” means~~ any person engaged in making sales ~~at retail, leases, or rentals of personal property or services.~~ See *Minnesota Statutes*, section 297A.61, subdivision 9. A “sale at retail” or a “retail sale” as defined in *Minnesota Statutes*, section 297A.01, subdivision 4, means a sale for any purpose other than resale in the regular course of business. Under *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, a sale includes any one of a number of transactions not ordinarily considered to be retail activities. Consequently, the person making such a sale is deemed to be a retailer ~~and a “seller”~~ in accordance with *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision ~~10~~ 9, and this part.

Subp. 2. **Examples.** For illustrative purposes, a partial listing of retailers ~~and sellers~~ follows:

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

D. a person who sells or installs a truck body on a new chassis for a consumer;

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

G. a person who ~~furnishes; prepares, or serves food; meals, or drinks to~~ for a customer for a consideration (see *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (e) ~~(d)~~, ~~for exceptions clause (1), and subdivision 31.~~ See *Minnesota Statutes*, section 297A.67, subdivisions 4, 5, and 6, for exemptions);

[For text of items H and I, see M.R.]

J. a person who operates a hotel, rooming house, ~~tourist court,~~ resort, campground, motel or trailer camp, or who leases real property for lodging purposes for a period of less than 30 days (see *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (e) ~~(g)~~, clause (2));

K. a person who furnishes, for a consideration, electricity, gas, water, steam, or ~~local exchange telephone service, or intrastate toll telephone service~~ telecommunications services (see *Minnesota Statutes*, section 297A.61, subdivision 3, paragraphs (e) and (i));

L. a person who sells or furnishes any type of tangible personal property or service constituting a sale other than a sale for resale as defined in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 4; and

M. a person who machines castings, threads pipes, or processes lumber for customers who have furnished the material.

## 8130.2300 IMPOSITION OF SALES TAX.

The measure of the tax imposed upon the seller is four percent of the gross receipts of such person from sales made at retail after October 31, 1971, except that in the case of sales made at retail through coin-operated vending machines, the tax imposed upon the seller shall be three percent of the gross receipts from sales of taxable items. ~~Vending machines are any coinoperated devices dispensing food, drinks, or tangible personal property or providing amusement.~~

~~With respect to sales made after October 31, 1971, The actual-tax-collected method may not be used by the seller to reduce liability to an amount less than that computed on the basis of gross receipts, as set forth in this part.~~ See *Minnesota Statutes*, section 297A.62.

## 8130.2500 APPLICATION FOR PERMIT TO MAKE RETAIL SALES.

Subpart 1. **Duty to obtain a permit.** The following persons making taxable sales within Minnesota, or sales outside the state for use, storage, distribution, or consumption in Minnesota must obtain a sales tax permit and collect the sales or use tax from the purchaser at the time of sale:

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

C. a retailer making retail sales from outside this state to a destination within this state if the retailer engages in the regular or systematic soliciting of sales from potential customers in this state ~~and meets the requirements of Minnesota Statutes, section 297A.66.~~

Subp. 1a. Tax identification number constitutes permit. Under *Minnesota Statutes*, section 297A.84, a person that has a valid Minnesota tax identification number for taxes imposed under Minnesota Statutes, chapter 297A, is considered to have a permit.

Subp. 2. **Nontaxable retail activities.** ~~Where~~ If a person engages in retail activities which are exclusively nontaxable exempt, it is not necessary to apply for or secure a permit.

~~If a charitable, religious, or educational nonprofit organization makes or plans to make fund-raising sales which are not exclusively nontaxable exempt under Minnesota Statutes, section 297A.256~~ 297A.70, subdivision 13, 14, or 15, or any other part of *Minnesota Statutes*, chapter 297A, that organization must obtain a sales tax permit and collect the sales tax.

Subp. 3. **Multiple locations.** ~~Where~~ If a person who is required to secure a permit has more than one place of business and the activities conducted at each place are subject to tax ~~under the Sales and Use Tax Law~~, and the person elects to file a separate return for each place of business, a separate application must be filed for each business location. A permit ~~will be issued which~~ may be used only at the address indicated on the permit places designated. ~~A separate permit will be assigned to each place of business.~~ Members of a group of corporations related by stock ownership, ~~where~~ if the members are engaged in making retail sales ~~at retail~~, must make individual applications.

Subp. 4. **Consolidated return.** If a person elects to file a consolidated return, a list containing the business name and address of each separate place of business must be submitted to the commissioner when applying for a permit. An application containing such a list

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constitutes an application for each listed business name and address. ~~A permit will be issued for each listed location. Each permit so issued will bear~~ The same sales and use tax account number applies to each location, along with a location number. If, thereafter, the person elects to file a separate return for any of the listed places of business, a new account number must be secured for the business location for which the separate return is filed. ~~See part 8130.2600.~~

Subp. 5. **Vending machines.** ~~Where the~~ If a person required to secure a sales and use tax permit operates vending machines in more than one location, the person ~~will is not be~~ required to secure a separate permit for each location. Vending machines include, but are not limited to, coin-operated or bill-operated machines that dispense food, candy, drinks, items of tangible personal property, or provide amusement and diversion.

Vending machines do not include the coin-operated services described in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, ~~paragraphs (i) and (j) paragraph (g), clauses (3) and (6)(i).~~

Subp. 6. **Information required.** Application for a permit must contain the following information:

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

C. name and mailing address ~~to which sales tax forms are to be sent;~~

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

I. type of business; for example, retail trade, wholesale trade, manufacturing, motion picture theater, hotel, or bowling alley; ~~and~~

J. whether business is operated seasonally and, if so, usual opening and closing dates; ~~and~~

K. names and addresses of all the applicant's agents operating in Minnesota and location of each of the applicant's distribution and sales houses or offices or other places of business within this state.

Applications The application must be signed submitted by the owner, if a natural person, by a partner if the applicant is a partnership, or by an owner, partner, or officer if the applicant is a corporation or an association.

Subp. 7. **Change in ownership or name.** Where there is a change in ownership or name, the following rules are applicable:

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

D. A change in name of a business enterprise or a change in location, where there has been no change in ownership, means the permit holder must ~~request a corrected permit from~~ notify the department ~~which reflects~~ of the changed name or address. ~~The corrected permit will be issued upon request.~~

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

## 8130.3100 CONTENT AND FORM OF EXEMPTION CERTIFICATE.

Subp. 2. **Application to use exemption certificates.**

A. A taxpayer must submit an application to the commissioner in order to obtain an exemption ~~certificate~~ authorization to be used on the certificate of exemption for the following exemptions or situations:

- (1) waste processing equipment used at a resource recovery facility under *Minnesota Statutes*, section 297A.68, subdivision 24;
- (2) direct payment of sales or use tax under *Minnesota Statutes*, section 297A.89;
- (3) direct payment of tax by ~~common carriers~~ interstate for hire motor carriers under *Minnesota Statutes*, section 297A.90; and
- (4) purchases of tangible personal property or services by a charitable organization.

B. A taxpayer does not need to submit an application to the commissioner in order to obtain an exemption ~~certificate to be~~ authorization when the certificate of exemption is used for the following other exemptions:

- (1) ~~agricultural or industrial production;~~
- (2) ~~educational or religious organizations;~~
- (3) ~~advertising material pursuant to *Minnesota Statutes*, section 297A.25, subdivision 22;~~
- (4) ~~farm machinery repair or replacement parts, pursuant to *Minnesota Statutes*, section 297A.25, subdivision 29;~~
- (5) ~~materials used in publications pursuant to *Minnesota Statutes*, section 297A.25, subdivision 10;~~
- (6) ~~taconite production materials pursuant to *Minnesota Statutes*, section 297A.25, subdivision 15;~~
- (7) ~~airflight equipment pursuant to *Minnesota Statutes*, section 297A.25, subdivision 14;~~
- (8) ~~outstate transport or delivery pursuant to *Minnesota Statutes*, section 297A.25, subdivision 5;~~
- (9) ~~business use outside a city limit - local taxes;~~
- (10) ~~tangible personal property or services purchased for resale;~~
- (11) ~~veterans' groups pursuant to *Minnesota Statutes*, section 297A.25, subdivision 25;~~
- (12) ~~tipping fee sales tax exemption for commercial haulers of public and private mixed municipal solid waste;~~
- (13) ~~fuels and energy used in agricultural or industrial production pursuant to *Minnesota Statutes*, section 297A.25, subdivision 9;~~
- (14) ~~repair, replacement, and rebuilding parts and materials for ships or vessels used or to be used principally in interstate or foreign commerce; and~~
- (15) ~~lease of a motor vehicle for use as an ambulance by an ambulance service licensed under *Minnesota Statutes*, section 144E.10.~~

These C. Exemption certificates may be used for single purchases or for continuing future purchases. When used ~~in this latter manner~~

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for continuing future purchases, the certificate is referred to as a blanket exemption certificate. Whether a certificate is a single purchase or blanket certificate is determined by marking the appropriate blank provided on the form.

## 8130.3200 NONEXEMPT USE OF PURCHASE OBTAINED WITH EXEMPTION CERTIFICATE.

Subpart 1. **Nonexempt use, use tax imposed.** Under *Minnesota Statutes*, sections ~~297A.09~~ 297A.665 and ~~297A.10~~ 297A.72, the seller may accept an exemption certificate from the purchaser on items otherwise taxable under the Sales and Use Tax Law. Under *Minnesota Statutes*, section ~~297A.12~~ 297A.73, if the purchaser makes a nonexempt use of the property for which the purchaser had given an exemption certificate, that use is considered a retail sale by the purchaser when the item is first used by the purchaser. The sales price (see *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 8 7, regarding the calculation of sales price) must be reported as a purchase subject to use tax on the sales and use tax return.

If the purchaser does not have a sales tax permit is not registered for sales and use tax and is not required to file a sales and use tax return, the purchaser must file a consumer's use tax return.

Use of the property for demonstration or display while holding it for sale or lease in the regular course of business is not a taxable use by the purchaser.

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

## 8130.3300 FUNGIBLE GOODS FOR WHICH EXEMPTION CERTIFICATE GIVEN.

Subpart 1. **Defined.** For purposes of *Minnesota Statutes*, section 297A.74, fungible goods are movable goods which may be estimated and replaced according to weight, measure, and number. Such goods comprise those belonging to the same class that do not have to be dealt with in specie (retaining existence as a distinct individual of a particular class). Common examples of fungible goods are grain in silos or elevators, oil in tanks, coal in hoppers, and lumber in piles. See *Minnesota Statutes*, section ~~297A.13~~.

## 8130.3400 DIRECT PAY PERMIT AUTHORIZATION PROCEDURE.

[For text of subs 1 to 5, see M.R.]

Subp. 6. **Certain transactions not permitted.** A holder of a direct pay permit authorization may never use it in connection with the following transactions:

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

E. purchases of any of the taxable services listed in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraphs paragraph (g) to (4), clauses (3), (4), and (6), and paragraph (i).

Subp. 7. **Permit Authorization revocable and not transferable or assignable.** A direct pay permit authorization is not transferable nor may the use of a direct pay permit authorization be assigned to a third party. The commissioner may revoke a direct pay permit authorization at any time the permit holder fails to comply with the conditions under which the permit authorization was granted or for any other reason constituting misuse of the permit authorization. The direct pay permit authorization may also be revoked where when the commissioner determines that its continued use is contrary to the best interests of the state of Minnesota.

## 8130.3500 MOTOR CARRIERS IN INTERSTATE COMMERCE.

Subpart 1. **Direct payment and notice.** Under *Minnesota Statutes*, section ~~297A.211~~ 297A.90, persons described in subpart 2 engaged in interstate for-hire transportation of property or passengers by motor vehicle may elect to pay sales and use taxes directly to the commissioner of revenue on mobile transportation equipment and parts and accessories attached or to be attached to such the equipment. Electing carriers shall give notice of such the election to the commissioner of revenue and shall pay taxes due in accordance with provisions of this part. Required notice shall The notice must be in the form of a letter setting forth the electing carrier's name, address, sales and use tax account number, and accompanied by the carrier's certificate of public convenience and necessity or permit issued by, or registration with, the Interstate Commerce Commission United States Department of Transportation, the transportation regulation board, or other evidence such as the file number issued by the Minnesota Department of Transportation to verify that it is a carrier engaged in transporting tangible personal property or passengers in interstate commerce.

Subp. 2. **Persons included.** For periods prior to April 7, 1977, persons referred to in subpart 1 includes only common carriers of tangible personal property and does not include carriers which possess permits as contract carriers issued by the Interstate Commerce Commission. Subsequent to April 6, 1977, Persons referred to in subpart 1 include:

A. persons possessing a certificate or permit authorizing or having completed a registration process that authorizes for-hire transportation of property or passengers from the Interstate Commerce Commission United States Department of Transportation, the transportation regulation board, or the Minnesota Department of Transportation;

B. persons transporting commodities defined as exempt in for-hire transportation in interstate commerce; and

C. persons who, pursuant to contracts with persons described in items A or B, transport tangible personal property or passengers in interstate commerce; and

D. persons who in the course of their business are transporting solely their own goods in interstate commerce.

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Persons engaged solely in the transportation of passengers and their baggage do not come within the provisions of *Minnesota Statutes*, section 297A.211.

Subp. 3. **Motor carrier direct pay certificate authorization.** A motor carrier direct pay certificate ~~will be~~ authorization issued to qualified electing carriers by the commissioner of revenue ~~and will be~~ is effective as of the date shown on the certificate authorization.

Subp. 4. **Governing provisions.** Carriers ~~which that~~ elect to pay the Minnesota sales and use tax under the provisions of *Minnesota Statutes*, section ~~297A.211~~ 297A.90, ~~shall be~~ are governed by the following:

A. ~~They shall~~ The carrier must hold or must have applied for a Minnesota sales and use tax permit. Application for such a permit, ~~form MB-A, should accompany~~ must be made at the same time as the carrier's notice of election if none ~~had~~ has previously been applied for.

B. Sales and use taxes due on the purchases and leases of tangible personal property other than mobile transportation equipment and parts and accessories attached or to be attached ~~thereto~~ shall be paid directly to retailers authorized to collect the Minnesota tax at the same time and in the same manner as though no election had been made. Such property may not be purchased or leased exempt under a motor carrier direct pay certificate authorization.

C. Mobile transportation equipment intended for use both within and without Minnesota and parts and accessories attached or to be attached ~~thereto~~ may be purchased or leased tax free by presenting a copy of motor carrier direct pay certificate authorization to the seller.

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

D. ~~Sales and~~ Use taxes due in respect of mobile transportation equipment and parts and accessories attached or to be attached thereto shall be paid directly to the commissioner of revenue by way of a return filed on or before the 25th 20th day of the month following the purchase or rental of such property. ~~Such return shall be made on form ST-1, sales and use tax return. On line 4 of such~~ The return there shall be shown must show the sum of:

(1) the sales price of items purchased or leased other than mobile transportation equipment and parts and accessories attached or to be attached ~~thereto~~, which are subject to the use tax and upon which no sales or use tax has previously been paid; and

(2) an amount determined by multiplying the total cost of mobile transportation equipment and parts and accessories attached or to be attached ~~thereto~~ purchased or leased during the month by a fraction, the numerator of which is the road Minnesota mileage operated during the past calendar year within Minnesota as reported in the current pro rata application provided for in Minnesota Statutes, section 168.187, and the denominator of which is the total road mileage operated during the past calendar year reported on the current pro rata registration application. Mileage figures shall be based on records required to be maintained by the Interstate Commerce Commission. Persons qualifying for motor carrier direct pay certificate who are not subject to ICC regulations must, as a condition of qualification, maintain on a current basis the same type of mileage records that are required to be kept by persons subject to regulation by the ICC.

For purposes of the computation in subitem (2), the total cost of mobile transportation equipment and parts and accessories attached or to be attached ~~thereto~~ shall include the sales price of all such property purchased and the total payments for lease or rental (not including interchange between carriers) of such property for use in interstate commerce within or without Minnesota, irrespective of whether such property was physically present in Minnesota. ~~Total road mileage operated during the past calendar year shall mean mileage operated by all such property including property which did not operate in Minnesota.~~ For a new carrier without a prior year's mileage, an estimated ratio may be used subject to approval by the commissioner.

E. ~~Where~~ If sales or use tax has been paid to another state on an item which is includable in the Minnesota return, a credit is allowable for such tax (limited to the Minnesota sales and use tax rate) in the same ratio as the cost of the item is included in the Minnesota tax base.

F. Withdrawal of an election to come under the provisions of *Minnesota Statutes*, section ~~297A.211~~ 297A.90, ~~shall become~~ becomes effective only upon notice of such intent ~~and return of the motor carrier direct pay certificate~~ to the commissioner of revenue. If such election is withdrawn, subsequent reelection ~~shall be~~ is effective only upon approval of the commissioner of revenue.

~~Common~~ G. ~~If an interstate motor carriers which do~~ carrier does not elect to pay Minnesota sales and use tax under the provisions of *Minnesota Statutes*, section ~~297A.211~~, ~~shall be governed by the following:~~ 297A.90.

(1) Prior to January 1, 1972, carriers shall pay the sales and use tax directly to registered retailers on all purchases of mobile transportation equipment, parts, accessories, equipment, and supplies not exempt under the provisions of the Sales and Use Tax Law. If the retailer is not registered, the carrier shall pay the use tax directly to the commissioner of revenue.

(2) Subsequent to December 31, 1971, ~~then~~ mobile transportation equipment subject to the sales tax on motor vehicle excise tax vehicles under the provisions of *Minnesota Statutes*, chapter 297B, is not subject to the Minnesota sales and use tax; ~~under Minnesota Statutes, chapter 297A, and a motor vehicle excise sales tax on motor vehicles,~~ equal to the sales and use tax rate, is collected at the time such equipment is registered in Minnesota. On purchases of parts, accessories, equipment, and supplies; not exempt ~~under provisions of the Sales and Use Tax Law,~~ the carrier shall pay the sales and use tax directly to registered retailers. If the retailer is not registered, the carrier shall pay the use tax directly to the commissioner of revenue.

# Exempt Rules

## ADMINISTRATION OF THE USE TAX

### 8130.3800 IMPOSITION OF USE TAX.

The “use tax” is a compensating or complementary tax, reaching the use, storage, distribution, or consumption of certain items purchased for use in Minnesota.

The use tax shall be imposed in accordance with the applicable provisions of the Sales and Use Tax Law that are controlling with respect to the imposition of the sales tax.

### 8130.3900 LIABILITY FOR PAYMENT OF USE TAX.

Subpart 1. **General rule.** *Minnesota Statutes*, section ~~297A.15~~ 297A.63, imposes upon the purchaser of tangible personal property used, stored, distributed, or consumed in Minnesota, liability for the use tax until the tax has been paid to Minnesota. ~~However, where the purchaser can satisfy the commissioner that the tax has been collected from the purchaser by a retailer who is required under *Minnesota Statutes*, chapter 297A, to collect sales or use tax for Minnesota, or by a retailer authorized by the commissioner to collect the tax, the purchaser’s liability for payment of the tax due is extinguished.~~

Subp. 2. **Collection authorization.** ~~Where~~ If a seller who is not required to collect Minnesota sales ~~or use tax~~ indicates a willingness applies for a sales and use tax permit to collect a use tax on tangible personal property sold to persons located in Minnesota, authorization to do so may be granted to the seller provided the seller agrees:

A. to collect the use tax due from customers on storage, use, distribution, or consumption in Minnesota of taxable personal property in accordance with *Minnesota Statutes*, ~~section 297A.16~~ sections 297A.77 and 297A.89, subdivision 2;

B. to file a Minnesota sales and use tax return ~~for each month on or before the 20th day of the succeeding month (see *Minnesota Statutes*, section 289A.18),~~ and to remit the use tax collected to Minnesota. (See *Minnesota Statutes*, ~~section~~ sections 289A.18 and 289A.31); and

C. to maintain adequate records of all sales of taxable personal property made to persons within Minnesota.

### 8130.4000 COLLECTION OF TAX AT TIME OF SALE.

Subp. 3. **Outstate business.** An outstate business making deliveries to Minnesota customers in its own trucks ~~is responsible for the collection and remittance of~~ must collect and remit the use sales tax imposed on Minnesota buyers.

Subp. 4. **Manufacturer’s representative.** When a manufacturer’s representative takes the order and bills the purchaser and collects for the merchandise, the representative is then considered a ~~vendor for purposes of administering the Minnesota Sales and Use Tax Law,~~ retailer and is required to have a permit and collect the sales tax from the customer.

Subp. 5. [See repealer.]

### 8130.4300 PROPERTY BROUGHT INTO MINNESOTA.

Subpart 1. **General rule.** Except as provided in *Minnesota Statutes*, section ~~297A.25~~ 297A.67, subdivision ~~32~~ 22 (which exempts personal property from the tax where brought in by a nonresident just prior to becoming a resident), *Minnesota Statutes*, section ~~297A.23~~ 297A.665, paragraph (c), places the burden of proof on the purchaser of tangible personal property to prove that the items which were shipped or brought into Minnesota by such purchaser were not purchased from a retailer for storage, use, or consumption in Minnesota, and thus are not subject to Minnesota sales or use tax. Whether the property has been purchased for use in Minnesota usually will be determinable at or near the time of its purchase. Thus, a nonresident purchaser who can show that property had been purchased and previously used in another state for a reasonable period of time before being brought into Minnesota for use therein, usually will be deemed to have satisfied the requirements of *Minnesota Statutes*, section ~~297A.23~~ 297A.665, paragraph (c).

Subp. 2. [See repealer.]

### 8130.4400 CREDIT AGAINST USE TAX.

Subpart 1. **General rule.** Under *Minnesota Statutes*, section ~~297A.24~~ 297A.80, a credit is allowed against the use tax due under *Minnesota Statutes*, section ~~297A.14~~ 297A.63, from any person on any item purchased by the person ~~where~~ if the item has previously been subjected to a sales or use tax in another state or a subdivision of the other state. The credit is allowed to the extent of the rate legally imposed on the item in the other state. If the tax paid in the other state is subject to refund by the other state, it is not legally imposed for purposes of this credit. If the rate imposed by the other state or any subdivision of the other state is equal to or higher than the rate imposed under *Minnesota Statutes*, section ~~297A.14~~ 297A.63, then no tax is due. The credit is not allowed for taxes paid to a foreign country.

Calculation of use tax due is governed by *Minnesota Statutes*, section ~~297A.24~~ 297A.80. That section states that use tax provisions apply only at the rate measured by the difference between the rate fixed by *Minnesota Statutes*, section ~~297A.14~~ 297A.63, and the rate by which the previous tax was calculated in the other state. The maximum amount of tax which will be assessed by Minnesota according to *Minnesota Statutes*, section ~~297A.24~~ 297A.80, is the amount of tax calculated from the Minnesota rate. Use tax due to Minnesota is the

tax prescribed by the rate in *Minnesota Statutes*, section ~~297A.14~~ 297A.63, less the rate paid in the state of purchase. If the sales tax imposed in the state of purchase is equal to or greater than the amount of Minnesota use tax, no Minnesota use tax is due.

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

## 8130.5550 SPECIAL TOOLING.

Subpart 1. **General information.** Special tooling is ~~taxed at a separate rate under *Minnesota Statutes*, section 297A.02, subdivision 2~~ exempt. “Special tooling” is defined by ~~in *Minnesota Statutes*, section 297A.01~~ 297A.68, subdivision 17, as tools, dies, jigs, patterns, gauges, and other special tools 6. Special tooling is tooling that is made to specific requirements to produce a part or a series of related parts, which are known at the time the special tooling is manufactured for a single customer. The special tooling itself must be unique. ~~Regardless of whether tooling is fabricated for the purchaser or purchased for resale,~~ If the tooling is available from a catalog, other sales literature, or overthecounter, the tooling is standard and not special tooling.

Because special tooling does not need to produce a direct effect upon the product, nor does it need to have an ordinary useful life of less than 12 months, special tooling is usually different from accessory tools as defined in part 8130.5500, subpart 9, (separate detachable units). Certain special tooling may also be exempt from tax as separate detachable units or as accessory tools because the definitions are not exclusive. See subpart 3, item B.

Subp. 2. **Component parts.** Materials from which special tooling or component parts are produced by a seller of special tooling need not themselves be unique and useable only by the seller who produces special tooling. For example, metal used to produce special tooling need not be unique metal, only the special tooling produced from the metal needs to be unique. However, special tooling or components of special tooling must be unique, having value and use only for the buyer of special tooling.

Special tooling comprised of components qualifies for the separate rate exemption to the extent of the purchase price of the unique components. Unique components are those components which are manufactured for the special tooling and are not standard or reusable. Components of special tooling which can be reused, either in special tooling or general applications, do not qualify for the separate rate exemption.

### Subp. 3. **Nonqualifying items.**

A. Machine tools and machinery are usually frames and motors which, through tools and special tooling, perform an action on materials to produce a product. They are commonly purchased in a standard configuration and can be used to produce parts for more than one customer. Attachments to machine tools and machinery that are used with the machine tool or machinery generally are not produced in accordance with special requirements of the purchaser of special tooling and do not qualify for the special tooling tax rate exemption. They are not special tooling. Machine tools and machinery and their accessories can be used by any person other than the purchaser who wants to perform a function similar to the purchaser’s. This quality excludes them from the definition of special tooling. Examples of machine tools and machinery include:

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

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

## 8130.5600 PUBLICATIONS.

Subpart 1. [See repealer.]

Subp. 2. **Publication defined.** The word “publication” encompasses only written or printed matter, such as a newspaper, magazine, or other printed periodical regularly issued at average intervals not exceeding three months.

“Publication” includes any legal qualified newspaper as defined by *Minnesota Statutes*, ~~chapter 331~~ section 331A.02, together with any supplements or enclosures accompanying such newspaper or representing a part thereof. The term “newspaper” is limited to those publications commonly understood to be newspapers and which are ~~printed and~~ distributed periodically at daily, weekly, or other short intervals for the dissemination of news of a general character and of general interest. The term does not include hand bills, circulars, flyers, or the like, unless distributed as a part of a newspaper as defined. The term “publication” includes ~~so called~~ “shoppers guides” distributed by a publisher, where space in such publication generally is available to advertisers for the purpose of inducing readers to purchase goods or services from such advertisers.

House organs, trade, professional, and other types of magazines and journals regularly issued at average intervals not exceeding three months are included within the meaning of “publication.” “Comic books” are “publications” if published serially under the same title at least once quarterly; however, comic books complete in themselves and without continuity of title and subject matter are not publications.

The following are representative of items not included within the meaning of “publication”: books, including those issued at regular or stated intervals, e.g., books sold by a book-of-the-month or other club or organization; so called “one-shot” magazines that have no literary or subject matter connection or continuity between prior or subsequent issues; price lists; hand bills; catalogs; programs; score cards; maps; sheet music; yearbooks; directories; bulletins; political newsletters issued during a campaign only, and not of a continuing nature at regular intervals not exceeding three months; loose leaf or similar personal service publications such as tax information services, labor information services, credit or financial information services (however, special reports not distributed generally are deemed personal

# Exempt Rules

services), law cases and briefs; realtors' descriptive listings, financial and statistical reports, unless published as a supplement or enclosure with or part of a legal qualified newspaper.

Subp. 4. **Gross receipts from advertising.** The statute specifically provides that the gross receipts from the sale of any advertising material in a publication as defined in *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision 10, ~~shall are also be exempt.~~ It is further provided that such advertising ~~shall be deemed to be the rendition of a service and not tangible personal property is a nontaxable service.~~ Further, that persons or their agents engaged in the publication or sale of advertising material ~~shall be deemed to be engaged in the rendition of a service are providing a nontaxable service~~ with respect to the gross receipts realized from such news gathering or publishing activities including the sale of such advertising.

## 8130.6000 AIRFLIGHT EQUIPMENT.

Subpart 1. **General rule.** ~~The sales and use tax does not apply to~~ Sales of aircraft equipment to, and the storage, use, or other consumption of such property by airline companies which are subject to tax under *Minnesota Statutes*, sections 270.071 to 270.079 (hereinafter aircraft property tax), ~~are exempt.~~ ~~The definitions of aircraft equipment contained in Minnesota Statutes, sections 270.071, and 297A.25, subdivision 14, are similar but are not coincident.~~ This part identifies the aircraft equipment that is exempted from tax imposed by *Minnesota Statutes*, section ~~297A.02~~ 297A.62.

Subp. 2. **Definitions.** The definitions in this subpart apply to this part.

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

B. "Aircraft equipment" means airplanes, aircraft communications and navigational equipment, flight crew equipment, flight simulators, hydraulics equipment, and all parts that are affixed ~~thereto~~ and become component parts ~~thereof~~ including hydraulic fluid, parts necessary for the repair and maintenance of the listed equipment, and any other property subject to assessment under Minnesota aircraft property tax. Aircraft equipment does not include airplanes with a gross weight of less than 30,000 pounds that are used on intermittent or irregularly timed flights, lubricants, repair equipment and tools, ramp equipment, or other equipment such as broilers, dishes, food boxes, thermos jugs, blankets, and other equipment not subject to assessment under Minnesota aircraft property tax.

C. "Airline company" means a person who undertakes, directly or indirectly, to:

[For text of subitems (1) and (2), see M.R.]

(3) hold out to the public that it will undertake to transport property or persons as an air carrier, and enter into contracts wherein it binds itself to so transport property or persons.

Airline company does not include a person who furnishes casual transportation for hire by aircraft commonly owned and used for private aircraft purposes if the person furnishing the transportation does not hold itself out to be engaged regularly in air transportation for hire.

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

Subp. 3. **Exemptions.** An airline company is exempt from sales and use tax when it purchases aircraft equipment if it is subject to Minnesota aircraft property tax on those purchases. The purchase of flight simulators is specifically exempted in *Minnesota Statutes*, section ~~297A.25~~ 297A.82, subdivision ~~14~~ 4, paragraph (d). If an airline company is exempt from aircraft property tax, its purchases of aircraft property are subject to sales and use tax ~~imposed by Minnesota Statutes, chapter 297A.~~

## 8130.6200 CHARITABLE, RELIGIOUS, AND EDUCATIONAL ORGANIZATIONS.

Subpart 1. **Applicable law.** *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision ~~16~~ 4, exempts from sales and use tax the gross receipts from the sale of tangible personal property to, and storage, use, or other consumption of such property by, any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes if the property purchased is to be used in the performance of charitable, religious, or educational functions.

No part of the net earnings may inure to the benefit of any private shareholders.

Sales of ~~telephone service, telecommunications services~~ under *Minnesota Statutes*, section ~~297A.61, subdivision 3, paragraph (i);~~ electricity, gas, water, or steam pursuant to *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (f); (e); and admission to places of amusement, recreational areas, or athletic events and the use of amusement devices and athletic or other facilities as provided for in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph (d) (g), clause (1), are included in this exemption.

This exemption does not apply to the following sales or purchases:

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

C. Lease or purchase of a motor vehicle, as defined in *Minnesota Statutes*, section 297B.01, subdivision 5, unless the lease or purchase meets the requirements for exemption under Minnesota Statutes, section 297A.70, subdivision 4, paragraph (c), or 297B.03, clause (11).

~~D. Meals and lodging. Although the furnishing of meals and lodgings are defined in Minnesota Statutes, section 297A.01, subdivision 3, paragraphs (c) and (e), as sales, they are not sales of tangible personal property and cannot be exempted under Minnesota Statutes, section 297A.25, subdivision 16, when purchased by a charitable, religious, or educational organization. See subpart 11.~~

~~E. Solid waste collection and disposal services pursuant to Minnesota Statutes, section 297A.01, subdivision 3, paragraph (j), clause (vii).~~

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For purposes of ~~brevity and convenience~~ this part, charitable, religious, or educational purposes ~~will be~~ are referred to as “exempt purposes,” and a nonprofit organization, society, association, foundation, or institution organized and operated exclusively for exempt purposes ~~will be~~ are referred to as an “exempt organization.”

**Subp. 1a. Construction materials purchased by an exempt organization.**

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

B. Materials that are purchased by an exempt organization for use in the performance of its exempt function are included in the exemption under *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision ~~4~~ 4. For example, construction materials purchased by an exempt organization for use in its program to weatherize homes for low-income persons may be purchased exempt by an exempt organization. ~~Likewise, construction materials may be purchased exempt by an exempt organization for the building, construction, or reconstruction of qualified low-income housing projects which meet the HUD low-income housing criteria as defined under United States Code, title 42, chapter 8, as amended through December 31, 1990. For purposes of this part, “qualified low-income housing” means a qualified low-income housing project as defined in United States Code, title 26, chapter 1, section 42.~~

C. ~~Unless the sale is specifically exempt under Minnesota Statutes, section 297A.71, the exemption from tax under Minnesota Statutes, section 297A.25~~ 297A.70, subdivision ~~4~~ 4, does not extend to building, construction, or reconstruction materials purchased by a contractor under an agreement to erect a building or to alter, repair, or improve real estate for an exempt organization, even if the work contracted for is for use in the performance of the exempt organization’s exempt function. See part 8130.1200.

[For text of subps 2 to 4, see M.R.]

**Subp. 5. Organization and operational tests.** ~~No~~ An organization ~~will be considered~~ is not exempt as a charitable, religious, or educational organization for sales and use tax purposes unless it is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code ~~of 1986, as amended through December 31, 1986~~ as defined in Minnesota Statutes, section 297A.61, subdivision 22. However, the determination of the Internal Revenue Service that an organization is a nonprofit and taxexempt organization under the Internal Revenue Code, section 501(c)(3), for purposes of income taxation is not controlling on the issue of whether the organization is an exempt organization for sales and use tax purposes. Likewise, determinations by the Minnesota Department of Revenue that an organization is an exempt organization for income tax purposes does not, by itself, entitle the organization to an exemption from payment of sales and use tax. In order to be an exempt organization, an organization must be organized and operated exclusively for exempt purposes. The following tests will be used in determining whether or not an organization qualifies as an exempt organization:

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

B. If an organization, by the terms of its articles, has purposes that are broader than the exempt purposes specified in *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision ~~4~~ 4, the fact that its actual operations have been exclusively in furtherance of exempt purposes is not sufficient to make it an exempt organization. Similarly, an organization that is organized exclusively for exempt purposes is not an exempt organization if a significant part of its operations are not in furtherance of its exempt purposes.

C. An organization is not an exempt organization if its attempts to influence legislation or intervene or participate in a political campaign (including the publishing or distributing of statements) cause it to lose its exemption from income tax under section 501(c)(3) of the Internal Revenue Code ~~of 1986, as amended through December 31, 1986~~ as defined in Minnesota Statutes, section 297A.61, subdivision 22.

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

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

**Subp. 7. Exemption certificates.** Items A to C apply to the application for and the furnishing of exemption certificates.

A. A religious or educational organization ~~may~~ must ~~complete and furnish properly completed certificates a certificate of exemption; forms ST-3, in when~~ making exempt purchases of tangible personal property. Charitable and youth athletic organizations must apply for and receive ~~a certificate of exempt status, form ST-17; an exempt status number~~ and furnish ~~copies of that certificate in number when~~ making exempt purchases of tangible personal property. ~~As a matter of convenience for themselves and their suppliers,~~ Religious and educational organizations may also apply for and receive ~~certificates of an exempt status number~~.

(1) Organizations that may furnish ~~either form ST-3 or form ST-17~~ a certificate without an exempt status number include churches, schools, and educational organizations such as scouts, 4-H Clubs, YMCAs, YWCAs, and PTAs.

(2) Organizations that must furnish ~~form ST-17~~ a certificate that includes an exempt status number include charitable organizations such as hospitals, nursing homes, day activity centers, United Way agencies, senior citizen groups, and youth athletic programs such as Little League and hockey.

B. ~~The~~ An application for certificate of exempt status, ~~form ST-16, is available upon request from the Taxpayer Information Division. The application~~ must be fully executed and submitted with the necessary supporting documents. No charitable organization making purchases shall be entitled to make those purchases exempt from the sales and use tax unless a certificate of exempt status has been issued by the commissioner of revenue.

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

**Subp. 8. Taxable sales to exempt organizations.** Certain sales and rentals to exempt organizations remain taxable. Exempt organizations still owe the sales tax when purchasing ~~meals, drinks, lodging, motor vehicles, or waste collection services,~~ or when renting  
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motor vehicles. See subpart 1. Sales to exempt organizations are taxable if the items purchased are not used in the performance of the charitable, religious, or educational functions of the exempt organization. The benefits of tax-exempt status are confined strictly to the legal entity that has qualified for such status. Thus, sales to individuals who are affiliated with an exempt organization are taxable even if the sales would be exempt if made directly to the exempt organization.

Items A to D are examples of taxable sales.

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

Subp. 9. **Sales by exempt organizations.** No organization is exempt from collecting the tax on taxable retail sales. If an exempt organization makes taxable retail sales, it must collect and remit tax on these sales unless the sales are exempt fund-raising sales ~~as provided for in that meet the requirements of Minnesota Statutes, section 297A.25, subdivision 2, clause (1), or 297A.256~~ 297A.70, subdivision 13 or 14, or the sales are otherwise exempt under *Minnesota Statutes*, chapters 297A and ~~349~~ 297E.

A. Examples of taxable sales:

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

- (4) ~~taxable meals (See subpart 11, item D.)~~ prepared food;
- (5) rental of personal property on a regular or recurring basis.

B. Examples of nontaxable sales:

[For text of subitems (1) to (5), see M.R.]

- (6) ~~nontaxable meals (See subpart 11, item D.);~~
- (7) ~~occasional sales (See Minnesota Statutes, section 297A.25~~ 297A.67, subdivision 12 23).

Subp. 10. **Volunteer fire departments.** Volunteer fire departments may qualify for ~~a Certificate of exempt status, form ST-17;~~ if they qualify as a charitable organization and are a separate organization from the city. To be considered separate from the city, they must have either their own constitution or articles of incorporation. If a volunteer fire department has been approved for ~~a Certificate of exempt status,~~ its purchases are exempt in the manner provided in items A and B.

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

Subp. 11. **Related information.**

A. Many senior citizen groups are exempt from the sales and use tax. See part 8130.6900 and *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision 16 4, paragraph (a), clause (2).

B. Sales of tangible personal property to veterans organizations or their auxiliaries are exempt provided the property is used for charitable, civic, educational, or nonprofit uses and the organization is exempt from federal taxation pursuant to section 501(c), clause 19, of the Internal Revenue Code; ~~as amended through December 31, 1992.~~ See *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision 25 5.

C. Sales of sacramental wine for sacramental purposes in religious ceremonies are exempt if the wine is purchased from a nonprofit religious organization or ~~from the holder of a sacramental wine license~~ person authorized to import sacramental wine without a license. See *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision 46 9.

~~D. Meals and lodging purchased or sold by an exempt organization are generally taxable. See part 8130.0800.~~

(1) ~~Sales of meals by exempt organizations are generally taxable. For example, taxable meals include meals sold by civic clubs, fraternal and social groups, scout troops, and similar community associations. Meals sold by churches are also taxable, including meals sold at the Minnesota State Fair, at county festivals, or at a retreat center. Some sales of meals may qualify for exemption as fund raising sales. See subitem (2) and Minnesota Statutes, section 297A.256.~~

(2) ~~Nontaxable meals are those sold: at qualified fund raising events sponsored by certain nonprofit organizations; at schools, colleges, and universities; by hospitals, sanitariums, nursing homes, and senior citizens' homes; and by and at children's camps licensed under Minnesota Statutes, sections 144.71 to 144.76. Meals or drinks served to individuals who are 60 years of age or over and their spouses, or to the handicapped and their spouses by exempt organizations under a program funded by the federal government under United States Code, title 42, sections 3001 to 3045, wherever delivered, prepared, or served are not taxable. See Minnesota Statutes, section 297A.01, subdivision 3, paragraph (c), clause (2).~~

(3) ~~Purchases of meals by an exempt organization are generally taxable. For example, restaurant meals purchased for meetings are taxable when sold to an exempt organization.~~

(4) ~~Charges for lodging sold to or purchased by exempt organizations are taxable unless furnished under an enforceable agreement for a continuous period of 30 days or more. See part 8130.1000. For example, the sale of lodging by a church to its members at a retreat center is taxable. Purchases of lodging by an exempt organization for conventions are also taxable. Lodging provided by children's camps licensed under Minnesota Statutes, sections 144.71 to 144.76, is not taxable. See part 8130.0800, subpart 6.~~

E. ~~The sale of memberships~~ D. Fees to camps or other recreation facilities for educational and social activities for young people primarily age 18 and under are exempt if they are owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992 as defined in Minnesota Statutes, section 297A.61, subdivision 22, and are used for (i) services primarily for children, adults accompanying children, or persons with disabilities, or (ii) educational or religious

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## Exempt Rules

activities. See *Minnesota Statutes*, section ~~297A.01~~ 297A.70, subdivision 3, ~~paragraph (f), clause (2)~~ 16. The sale of memberships to an association incorporated under *Minnesota Statutes*, section 315.44; (YMCAs; and YWCAs;), or an organization defined in section 315.51 (JCCs), are exempt. This includes ~~onetime~~ onetime initiation fees and periodic membership dues. All separate charges for the privilege of having access to and the use of the association's sports and athletic facilities are taxable. See *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision ~~37~~ 12.

F. ~~E.~~ While purchases of admissions provided for in *Minnesota Statutes*, section ~~297A.01~~ 297A.61, subdivision 3, paragraph ~~(d)~~ (g), ~~clause (1)~~, are ~~not taxable~~ exempt when purchased by exempt organizations, sales of admissions by exempt organizations are generally taxable. The following sales of admissions in subitems (1) ~~to (3)~~ and (2) are exempt.

(1) Tickets or admission to artistic performances sponsored by qualified taxexempt organizations are exempt. This exemption includes sales of tickets or admission by public schools, private schools, colleges, and universities for concerts, plays, and similar artistic events sponsored by the schools if the events are held at facilities owned by the schools and the performance and the organization meet the requirements of *Minnesota Statutes*, section 297A.70, subdivision 10. See also *Minnesota Statutes*, section 297A.25, subdivision 24 297A.96.

(2) Tickets or admission to regular season school games, events, and activities are exempt. See *Minnesota Statutes*, section ~~297A.25~~ 297A.70, subdivision ~~30~~ 11.

~~(3) Admission to the premises of or events sponsored by a nonprofit organization are exempt from imposition of local government sales tax. See part 8130.0900 and *Minnesota Statutes*, section 297A.141.~~

G. ~~F.~~ Receipts from bingo, raffles, and other gambling activities are subject to the tax imposed on lawful gambling. See *Minnesota Statutes*, section ~~349.212~~ 297E.02.

H. ~~G.~~ A nonprofit organization that is exempt from federal income taxation under subchapter F of the Internal Revenue Code is not considered to be a trade or business. Therefore, sales of items previously used in the operation of the exempt organization may still qualify for the isolated or occasional sale exemption. However, if an exempt organization operates a trade or business that has little or no relationship to its exempt purposes except to provide funds to carry out those purposes, these activities are considered to be a trade or business. In these instances, the sale of any equipment sold in connection with the trade or business operated by an exempt organization is taxable. See ~~part 8130.5800 and *Minnesota Statutes*, section 297A.25~~ 297A.68, subdivision ~~12~~ 25.

### 8130.6300 CASKETS, BURIAL VAULTS, URNS FOR CREMAINS, AND MEMORIALS.

Subpart 1. **Caskets, burial vaults, and urns for cremains exempt.** The gross receipts from sales of caskets, burial vaults, and urns for cremains, used for human burial, are ~~not subject to tax~~ exempt under *Minnesota Statutes*, section 297A.67, subdivision 10, whether made by a distributor to an undertaker or cemetery association, or by an undertaker or cemetery association to the general public. No exemption certificate need be offered by the purchaser.

Subp. 2. **Exemption not applicable to memorials.** Treatment:

A. Sales of tombstones, markers, or other memorials and the foundation upon which such tombstones, markers, and other memorials are placed, including the material used in setting the memorials in the cemetery, are considered sales of tangible personal property, and subject to the Sales and Use Tax Law. Memorial dealers are the retailers of such property. The tax applies to the entire amount charged, without deduction ~~therefrom~~ of for the production cost of cutting, shaping, polishing, or lettering the memorial. However, charges for inscriptions upon a stone subsequent to its erection, constitute receipts from personal services, which, if stated separately, are deductible from the total charge.

B. If the seller agrees to install the memorial in a cemetery, the charge for transporting the memorial to the cemetery and for the labor of setting the memorial in the cemetery are ~~not included in the sales price and are taxable if such charges are stated separately. If the transportation or installation labor charges are not separately stated, the tax is applicable to the entire sales price.~~

C. ~~Where~~ If a cemetery constructs the foundation upon which a memorial is to be placed, and collects the charges ~~therefor~~ from the memorial dealer, who then either collects that amount as a separate charge from a customer or includes it in the total charge for the memorial, the memorial dealer is the retailer of the foundation and must collect and remit the tax on the charges made therefor. The cemetery, under such circumstances, is merely acting for the memorial dealer.

D. ~~In the event that~~ If the cemetery collects the charges for foundations directly from customers of the memorial dealer, the cemetery is the retailer and must collect and remit the tax with respect to the charges made for the completed foundation.

E. Sales to memorial dealers and cemeteries of materials, including sand, gravel, cement, and supplies, which are used in the processing of tombstones, markers, or other memorials, and the erection of foundations on which finished tombstones, markers, or other memorials are placed, and which become component parts thereof, are exempt as sales used in industrial production. Sales to memorial dealers and cemeteries of tools, equipment, and supplies which do not become component parts of finished foundations, tombstones, markers, or other memorials are taxable. (See *Minnesota Statutes*, section 297A.25 297A.68, subdivision 9 2).

# Exempt Rules

## 8130.6400 DISABLED VETERANS; PURCHASES OF AUTOMOBILES AND OTHER CONVEYANCES.

Subpart 1. **General rule.** *Minnesota Statutes*, section ~~297A.25~~ 297A.67, subdivision ~~18~~ 11, provides exemption for the gross receipts from the sale of an automobile or other conveyance to a disabled veteran if the purchaser is assisted by a grant from the United States in accordance with *United States Code*, title 38, section ~~1901~~ 3902, as amended.

This exemption is effective for the purchase of vehicles and the purchase of any qualifying adaptive equipment purchased with federal assistance ~~after June 30, 1971~~. The exemption shall be applicable for a vehicle as well as adaptive equipment even though the grant was limited to assistance in purchasing only adaptive equipment for such vehicle.

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

Subp. 3. **Sales tax on motor vehicle excise tax vehicles.** Effective January 1, 1972, sales of automobiles or other conveyances (which are subject to Minnesota registration) are no longer subject to sales and use tax but are subject to the motor vehicle excise tax under the provisions of To be exempt from the sales tax on motor vehicles under Minnesota Statutes, chapter 297B; a disabled veteran purchasing such items a motor vehicle with adaptive equipment ~~after December 31, 1971~~; with funds provided by the Veterans Administration under the provisions of *United States Code*, title 38, section ~~1901~~ 3902, as amended; should attach to the motor vehicle purchaser's certificate upon registration either a copy of VA form 214502 or VA form 101394 with all sections of the form completed. The procedure for obtaining exemption for other conveyances that are not subject to the sales tax on motor vehicle excise tax vehicles and for adaptive equipment remains the same as in subpart 2.

## 8130.6600 DISABLED VETERANS; PURCHASE OF BUILDING MATERIALS.

Subpart 1. [See repealer.]

Subp. 2. **Procedure.** The exemption under *Minnesota Statutes*, section 297A.71, subdivision 11, is not allowed when the building materials are sold to the contractor, subcontractor, builder, or owner, but will be allowed to the recipient of the benefits provided in *United States Code*, title 38, sections ~~801 and 805, as amended~~ 2101 to 2105, upon the filing of a claim for refund, accompanied by the following documents to substantiate the validity of such claim:

A. ~~copies of the Analysis and Review of Application for PH Grant (VA form 264559), which is available from the regional VA office, and claimant's letter of approval, VA form FL-2638 (3072) of a PH or AH grant under United States Code, title 38, chapter 21, from the claimant's regional VA office;~~

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

C. copies of invoices or other evidence substantiating building material costs and payment of applicable sales taxes in the case of materials purchased by a contractor or a subcontractor.

~~The claim for refund shall be filed on form ST-11dv, which form is available upon request from the Department of Revenue.~~

~~A claim must be filed within three years from the date the building materials were purchased. A claim will not be entertained for materials purchased prior to July 1, 1971. Interest shall be payable from the date of filing such claim.~~

## 8130.6700 TEXTBOOKS.

Subpart 1. **In general.** *Minnesota Statutes*, section ~~297A.25~~ 297A.67, subdivision ~~24~~ 13, exempts the sale of textbooks which are prescribed for use in a course of study in a ~~public or private~~ school, college, university, ~~business or trade~~ and private career school to regularly enrolled students.

Subp. 2. **Definitions.** For the purposes of this part, the following words, terms, and phrases shall have the meanings ascribed to given them below in this subpart:

A. "Textbooks which are prescribed for use in a course of study" are defined as any book or other printed instructional material which is specifically required for a course of study. Encyclopedias, dictionaries, and school supplies such as paper, pencils, and folders are not included within this definition.

B. "Public school" is defined as one that furnishes courses of study, enrollment, and staff that meet standards of the Department of Children, Families, and Learning. "School" means:

(1) an elementary, middle, secondary, or vocational center school with building, equipment, courses of study, class schedules, enrollment, and staff meeting the standards of the commissioner of children, families, and learning; or

(2) a nonpublic school, church, or religious organization or home school in which a child is provided instruction in compliance with Minnesota Statutes, sections 120A.22 and 120A.24.

C. "Private school" is defined as one which under the standards of the Department of Children, Families, and Learning provides an education substantially equivalent to that furnished at a public school.

~~D. "Business and trade schools" are~~ C. "Private career school" is defined as ~~those schools~~ a school licensed pursuant to under Minnesota Statutes, section 141.25.

E. D. "College" is defined to include all professional schools, paramedical, and other paraprofessional schools and nursing schools.

F. E. “Regularly enrolled student” is defined as one enrolled in a course of study at a qualifying educational institution with tuition, if required, currently paid. This definition includes correspondence, extension, full-time, and part-time students.

Subp. 3. [See repealer.]

## 8130.7400 UNCOLLECTIBLE DEBT DEDUCTION.

Subpart 1. **General rule.** Ordinarily, a deduction for uncollectible debts is allowed only for a person who is reporting on the accrual method of accounting for sales and use tax purposes. However, if a cash basis taxpayer accepts an unsecured check in payment for a sale, reports the sale, and subsequently determines that the check is uncollectible, the taxpayer is entitled to an uncollectible debt deduction. In addition, a certified service provider may claim a bad debt allowance on behalf of the provider’s client. Uncollectible debts (commonly referred to as bad debts) will be recognized as a deduction for sales tax purposes only when given recognition by a direct charge-off for federal income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. Consequently, no anticipatory or statistical method of estimating future uncollectible debts will be allowed by the commissioner. See *Minnesota Statutes*, ~~section 297A.26, subdivision 2~~ sections 289A.50, subdivision 2b, and 297A.81.

[For text of subs 2 to 5, see M.R.]

## 8130.7900 RETURN FILING; FAILURE TO FILE.

Subpart 1. **Duty to file returns.** The following persons making taxable sales or taxable use of tangible personal property in Minnesota, or holding a sales and use tax permit, must file returns pursuant to *Minnesota Statutes*, chapter 289A:

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

C. any retailer who has voluntarily filed an application for a permit under *Minnesota Statutes*, section 297A.83, subdivision 1, paragraph (b), and has been granted one ~~under *Minnesota Statutes*, section 297A.21, subdivision 5;~~

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

E. a purchaser making use of items obtained with an exemption certificate for other than the exempt purpose (see *Minnesota Statutes*, ~~section 297A.12~~ 297A.73);

F. a person upon whom liability for use tax is imposed by *Minnesota Statutes*, section ~~297A.14~~ 297A.63; and

G. any person holding a direct pay permit authorization.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

## 8130.9250 ADVERTISING.

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

Subp. 4. **Taxable items.** The following are examples of items the sale of which is usually considered to be taxable within the meaning of this part because either: (1) the items fail to meet the definition of advertising, or (2) the means of expressing the advertising message is through tangible personal property that has a primary functional use independent of its advertising message:

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

D. annual reports, except as provided in *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision 10;

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

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

Subp. 11. **Advertising materials shipped out of state.** ~~There is an exemption in *Minnesota Statutes*, section 297A.25~~ 297A.68, subdivision ~~22~~ 11, for exempts materials designed to advertise and promote the sale of merchandise or services, which material is shipped out of Minnesota for use solely outside the state. This exemption may apply to the purchase of items in final form or to the purchase of an item that is incorporated into a product that ultimately leaves the state. Similarly, the exemption may apply to the purchase of taxable advertising or to the purchase of tangible personal property that is used in creating or producing nontaxable advertising.

This exemption is limited to materials used to advertise and promote the sale of merchandise or services. This exemption does not include any advertising which is done for other purposes such as public service messages not related to advertising or promoting sales of merchandise or services.

When an advertising agency or an advertiser purchases taxable advertising and the advertising agency, the ~~vendor~~ retailer, or the advertiser ships the taxable advertising out of state for use solely outside the state, the advertising agency or advertiser is not subject to sales or use tax with respect to such purchases because it is the purchaser of materials that are designed to advertise and promote the sale of merchandise or services, and the materials are being shipped outside the state for use solely out of state.

When an advertising agency or an advertiser purchases tangible personal property that is used in creating or producing nontaxable advertising, and the advertising agency, the ~~vendor~~ retailer, or the advertiser ships the advertising out of state for use solely outside the state, the advertising agency or advertiser is not subject to sales or use tax with respect to such purchases because it is the purchaser of materials that are designed to advertise and promote the sale of merchandise or services, and the materials are being shipped outside the

# Exempt Rules

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state for use solely outside the state. An example of this is when an advertising agency or advertiser purchases advertising brochures that will be shipped out of state. The agency or advertiser can purchase the brochures from the printer exempt from tax. The printer can purchase the paper and ink used to print the brochures exempt because they are being purchased for resale, whether or not the advertising agency or advertiser has an exemption for shipments out of state. The advertising agency or the advertiser is eligible for the exemption described in this subpart whether the item it purchases is in final form, such as a finished brochure or whether the item is incorporated into the product that ultimately leaves the state, such as cardboard that is purchased and becomes part of an advertising sign that is shipped out of state.

The rules described in this subpart also apply with respect to an advertising agency if the advertising agency, instead of itself shipping the advertising directly out of state, delivers the advertising to an advertiser within Minnesota for the purpose of subsequently shipping the materials out of state for use solely outside the state. Similarly, the purchase by the advertiser is not subject to sales or use tax with respect to its purchase of the advertising.

This exemption does not apply to purchases that are used to create or produce nontaxable advertising to the extent that these purchases do not get sent outside the state. An example of this is when an advertising agency purchases a photograph that it uses in preparing advertising brochures. The sale of the photograph to the advertising agency is taxable. The sale of the brochures to the advertising agency is exempt to the extent that those brochures will be sent out of state as described in this subpart. Another example is when an advertising agency purchases a master tape that it uses to make copies that will be shipped out of state. The copies or the materials used to make them may be purchased exempt but the purchase price of the master tape is taxable unless that tape is also shipped out of state as described in this subpart.

[For text of subs 12 and 13, see M.R.]

## 8130.9300 SALES BY GOVERNMENTAL UNITS; TAXABLE.

Subpart 1. **General rule.** ~~Although sales of tangible personal property to the United States and its agencies and instrumentalities or to a state and its agencies, instrumentalities, and political subdivisions are exempt from tax, this exemption does not extend to~~ Tangible personal property purchased from the United States, the state of Minnesota, and other governmental units is taxable.

Example. The Minnesota state prison makes retail sales of office furniture and other items manufactured there. Such sales are taxable unless exempt under other provisions of the Sales and Use Tax Law.

[For text of subs 2 to 4, see M.R.]

## 8130.9600 IRON MINING INDUSTRY EXEMPTIONS.

Subpart 1. **Scope.** The industrial production exemption provided in *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision ~~9~~, as amended effective January 1, 1974 2, is applicable to taconite mining and production operations and to the mining and producing of other ores as well. The exemption applies generally to electricity and all materials other than tools, machinery, and equipment which are used in the production process, and to separate detachable units meeting the criteria specified in part 8130.5500.

Subp. 2. **Production process.** In the case of mining, the production process shall be deemed to begin with the removal of overburden from the site of the ore deposit and to end when the last process prior to stockpiling is performed. If the product is not stockpiled prior to shipment, the production process shall be deemed to have ended when the last process prior to loading for shipment has been completed. Subpart 3 sets forth examples of items which are illustrative of the exemption allowable for separate detachable units.

In addition to the general industrial production exemption, *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision ~~15~~ 4, provides a specific exemption for items used in the production of taconite. See subpart 4.

To further clarify and illustrate the scope of the exemption, examples of items not considered to be exempt under subparts 1 and 2 are set forth in subpart 5.

Subp. 3. **Separate detachable units.** The exemption for separate detachable units used in producing a direct effect upon the product provided in *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision ~~9~~, became effective January 1, 1974 2. It is applicable to taconite mining and production operations and to the mining and producing of other ores as well. The following items are considered as having a direct effect upon the product and qualify for exemption where they are separate detachable units and their ordinary useful life is less than 12 months:

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

Subp. 4. **Taconite mining and production.** The exemption provided in *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision ~~15~~ 4, is applicable only to companies involved in the mining and production of taconite. It exempts grinding rods, grinding balls, and mill liners used in the reduction and processing of the taconite ore.

For purposes of this exemption, the term "mill" includes all of the facilities used to reduce and process the ore. It does not include shovels or mobile equipment.

Any item which is an integral part of the plant equipment as opposed to being a liner serving to protect the equipment is not included within this exemption. Examples of items exempt as liners are:

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

Subp. 5. **Nonexempt examples.** Examples of items of tangible personal property which do not come within the exemption provided under *Minnesota Statutes*, section ~~297A.25~~ 297A.68, subdivision ~~9 or 15~~ 2 or 4, are:

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

**REPEALER.** *Minnesota Rules*, parts 8130.0120; 8130.0300; 8130.0900, subpart 8; 8130.3600; 8130.4000, subpart 5; 8130.4200; 8130.4300, subpart 2; 8130.5600, subpart 1; 8130.5900; 8130.6500; 8130.6600, subpart 1; 8130.6700, subpart 3; 8130.6900; 8130.7300; 8130.7500, subparts 1, 2, and 4; 8130.7600; 8130.7700; 8130.7900, subparts 2 and 3; and 8130.8400, are repealed.

## Revenue Notices

The Department of Revenue began issuing Revenue Notices in July of 1991. Revenue Notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue Revenue Notices is found in *Minnesota Statutes*, Section 270C.07.

**KEY:** Underlining indicates additions to existing language. ~~Strikeouts~~ indicate deletions from existing language.

## Department of Revenue

### Modification of Revenue Notice # 93-21: Revenue Notice # 93-21: Sales and Use Tax – Automotive Repair, Paint, and Body Shops – Labor, Parts, and Supplies

#### Labor Charges

*Minnesota Statutes* § 297A.01, subd. ~~Minnesota Statutes~~, section 297A.61, subdivision 3, defines taxable “sale” which includes the transfer of tangible personal property and the furnishing of specific services but does not include repair labor.

Effective January 1, 2002, the definition of sales price in *Minnesota Statutes* § 297A.01, subd. 8 defines “sales price”: and provides for a deduction for installation labor if the consideration for such charges is separately stated *Minnesota Statutes*, section 297A.61, subdivision 7, was amended to include installation labor when part of a taxable sale. Installation charges are part of the sales price, even if they are separately stated.

Labor to install personal property that permanently modifies a vehicle is considered to be fabrication labor and is taxable. See Revenue Notice 06-XX-#91-20.

Repair ~~and installation~~ labor performed by service stations, body shops, garages, paint shops, and automotive dealers is not taxable if it is separately stated on the bill or invoice. Failure to separately state exempt labor and taxable parts would cause the entire amount to be taxable.

The recapping or retreading of a tire carcass supplied by a customer is a repair. If the materials and labor are separately stated, only the materials portion is taxable.

# Revenue Notices

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## Repair and Replacement Parts

The retail sale of repair or replacement parts and materials is subject to ~~the~~ sales tax. Automotive repairers may purchase these parts and materials exempt from sales tax for the purpose of resale since they are generally transferred to the customer during the course of the repair in a form or quantity capable of a fixed or definite value and generally itemized separately on the bill or invoice.

The following are examples of items that would generally be subject to sales tax when sold by the auto repairer:

Batteries, bulbs, chassis parts, engine parts, headlamps, oil and air filters, shock absorbers, spark plugs, tires, and windshields.

Some automotive repairs can be made when the value of the parts or materials is insignificant compared to the total charge for the labor or service. If the retail value (the repairer's normal retail selling price) of the parts or materials furnished in connection with the repair work is insignificant, the materials or parts are not taxable unless they are separately stated on the billing. If the parts or materials are not separately stated, the total labor or service charge is not taxable but the repairer must pay the supplier tax on the materials, or pay use tax on the cost of the materials or parts.

The following are examples of repair services where the repairer could elect to not charge sales tax on parts and materials:

Lube jobs, wheel packs, packing U joints, wheel balancing.

## Repair and Body Shop Supplies and Paint

When supplies are used or consumed in rendering repair services, the repairer cannot purchase the supplies exempt for resale. The supplies are subject to tax at the time of the purchase by the repairer. Generally, the supplies are not physically transferred to the customer and a retail sale has not occurred. Some supplies may become a component part of the repaired items but they are transferred in irregular quantities and not in a form or quantity capable of a fixed or definite price value, and therefore the repairer is deemed to be the consumer of the supplies.

For insurance purposes, body shops are reimbursed for supplies on a formula basis and the department takes the position that formula reimbursement does not constitute a sufficient itemization of the quantity and form of the supplies used to enable the supplies to be purchased exempt for resale. Body shops which separately itemize on their invoices the amounts for labor, parts and for shop supplies, should collect sales tax on the parts but not on the labor or shop supplies. A charge for shop supplies is considered an extension of the charge for repair labor and is not regarded as a sale of tangible personal property; consequently, no tax is due on the charge.

The following are examples of items generally included in the category of shop supplies:

Abrasives, battery water, body filler or putty, bondo®, bolts and nuts, brake fluid, buffing pads, chamois, cleaning compounds, degreasing compounds, floor dry, glaze, grease, grinding discs, ~~hydraulic~~ hydraulic jack oil, lubricants, masking tape, oxygen and acetylene, paint, polishes, primer, rags, razor blades, sand paper, sanding discs, scuff pads, sealer, solder, solvents, striping tape, tack cloth, thinner, waxes, and welding rods.

## Tools and Equipment

All purchases of tools and equipment for use by automotive repairers are subject to ~~the~~ sales tax. The repairer is ~~deemed~~ the consumer of these items since they are not transferred to the customer and therefore the repairer should pay tax to the vendor at the time of purchase. ~~Suppliers of these items may not accept exemption certificates in good faith from automotive repairers unless the repairers holds themselves out to the public as a retailer of such items.~~

The following are examples of items which are considered to be tools and equipment:

Air compressors and parts, buffers, floor jacks, frame straightening equipment, hand tools, paint brushes, paint sprayers, power tools, sanders, and welding equipment.

## Waste Disposal Fees

Amounts billed to customers relating to charges for disposing of hazardous waste (chemicals used in parts washers, battery fees, or special charges for disposing of tires) are not taxable to the customer when separately stated on the billing.

### ~~Implementation~~

This Revenue Notice is a clarification of the Department's position on the sales tax treatment of automotive repair, paint and body shops. Since there has been some confusion and misunderstanding concerning how sales tax applies to shop supplies and because of the policy change regarding the purchase of certain supplies, the Department of Revenue will begin to enforce this Revenue Notice on January 1, 1994. This Revenue Notice does not reflect a change in the Department's position as to how shop supplies should have been taxed prior to January 1, 1994, therefore no refunds will be issued for sales taxes collected and remitted on the sale of shop supplies prior to January 1, 1994. Automotive repair, paint and body shops will owe use tax on all shop supplies used after January 1, 1994, if sales tax was not paid to the vendor when the shop supplies were purchased.

/s/

Michael E. Boekhaus, Director  
Appeals, Legal Services and Criminal  
Investigation Division

Dated: October 4, 1993

Publication Date: October 2, 2006

JOHN H. MANSUN, Assistant Commissioner  
for Tax Policy and External Relations

## 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 Finance

### Budget Services Division

#### Notice of Rate for Provider Tax Research Credit

**NOTICE IS HEREBY GIVEN** that pursuant to *Minnesota Statutes* 295.53 Subdivision 4a(e), the research tax credit for companies subject to the gross earnings tax under *Minnesota Statutes* 295.52 shall be 2.5 percent of revenues for patient services used to fund expenditures for qualifying research conducted by an allowable research program in calendar year 2007.

For additional information, please call Lisa Mueller, Executive Budget Officer, at (651) 201-8036.

Peggy Ingison  
Commissioner

# Official Notices

## Department of Human Services

### Health Care Purchasing and Delivery Systems Division

#### Health Care Administration

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

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

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

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

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

Effective October 3, 2006 the Department will add the following outpatient prescribed drugs to the state MAC list:

<b>GCN</b>	<b>Generic Name</b>	<b>Strength</b>	<b>Price</b>
02371	SODIUM CL FOR INHALATION	0.9%	0.0242
04030	MAGNESIUM CHLORIDE	64MG	0.0599
04091	MAGNESIUM OXIDE	400MG	0.0416
04281	PEDIATRIC ELECTROLYTE		0.0023
04562	FERROUS GLUCONATE	300MG	0.0483
04580	IRON POLYSACCHARIDES COMPLEX	150MG	0.1350
04695	FERROUS SULFATE	325(65)MG	0.0070
04880	ZINC SULFATE	220MG	0.0217
05760	GLUTOSE	40%	0.1113
07451	PHOS-FLUR	2%	0.0103
22881	TRETINOIN	.10%	1.150
22880	TRETINOIN	.05%	1.950
22871	TRETINOIN	.03%	1.180
22870	TRETINOIN	.01%	1.000
07540	STANNOUS FLUORIDE	40%	0.0374
07855	SODIUM BICARBONATE	650MG	0.0026
07872	CALCIUM CARBONATE	500MG/5ML	0.0124
07894	CALCIUM CARBONATE	750MG	0.0183
08260	SIMETHICONE	40MG/0.6ML	0.0598
08281	SIMETHICONE	80MG	0.0226
08282	SIMETHICONE	125MG	0.0418
08550	LOPERAMIDE HCL	2MG	0.1663

08660	SENNOSIDES	8.8MG/5ML	0.0380
08762	BISACODYL	5MG	0.0001
08870	GLYCERIN	2.3G/2.3ML	0.2686
08970	POTASSIUM PHOS,M-BASIC-D-BASIC		0.3281
09020	MINERAL OIL		0.0045
09102	DOCUSATE SODIUM	250MG	0.0329
09105	COLACE	50MG	0.1233
09240	MAGNESIUM CITRATE		0.0009
09270	SIMETHICONE	125MG	0.0897
09470	PSYLLIUM		0.1428
09500	METHYLCELLULOSE		0.0093
09821	CALCIUM CITRATE	200MG	0.0298
10374	MULTIVITS W-IRON,HEMATINIC	27-0.4MG	0.0248
12933	P-EPHED HCL/BROMPHENIRAMIN	15-1MG/5ML	0.0178
13537	MULTIVITAMINS W-MINERALS/LUT		0.0270
14688	NICOTINE POLACRILEX	4MG	0.2734
14689	NICOTINE POLACRILEX	2MG	0.2734
16892	ACETAMINOPHEN	500MG	0.0079
16907	ACETAMINOPHEN	650MG	0.1954
16910	ACETAMINOPHEN	650MG	0.0550
16913	ACETAMINOPHEN	160MG/5ML	0.0082
16932	ACETAMINOPHEN	160MG/5ML	0.0100
16933	ACETAMINOPHEN	167MG/5ML	0.0113
16942	ACETAMINOPHEN	100MG/ML	0.0820
16964	ACETAMINOPHEN	325MG	0.0150
16965	ACETAMINOPHEN	500MG	0.0192
17831	BETA-CAROTENE(A) W-C & E/ZN/CU		0.0573
19719	PROPYLENE GLYCOL/PEG 400	0.3%-0.4%	0.2750
20472	PSEUDOEPHEDRINE HCL	30MG/5ML	0.0095
20481	PSEUDOEPHEDRINE HCL	30MG	0.0227
20482	PSEUDOEPHEDRINE HCL	60MG	0.0285
20941	AMMONIUM LACTATE	12%	0.0405
22930	BENZOYL PEROXIDE	10%	0.0655
22931	BENZOYL PEROXIDE	5%	0.1869
23043	AMMONIUM LACTATE	12%	0.0498
23400	LOPERAMIDE HCL	1MG/5ML	0.0235
24347	FE BISGLY/FE PS CMLX/C/CA-THR	150-50MG	0.4436
24893	COMPOUND VEHICLE SUSP SF NO.4		0.0139
26214	FA/MV,CA,FE,MIN/LYCOPENE/LUT	0.4-162-18	0.0214
26901	PSEUDOEPHEDRINE HCL	120MG	0.1920
26911	ACETAMINOPHEN	160MG/5ML	0.0180
28380	MICONAZOLE NITRATE	2%	0.0859
29950	LEVOCARNITINE	250MG	0.3166
30390	MICONAZOLE NITRATE	2%	0.0172
30400	MICONAZOLE NITRATE	2%	0.0564
30410	MICONAZOLE NITRATE	2%	0.0394
31812	BACITRACIN	500UNIT/G	0.0520
31880	SODIUM CHLORIDE	5%	1.7300
31923	SODIUM CHLORIDE	5%	0.4037
32591	LACTASE	3000Unit	0.0646
32596	LACTASE	9000UNIT	0.0936
33413	HYPROMELLOSE	30%	0.2647
33422	POLYVINYLALCOHOL	1.4%	0.0900
33560	CAPSAICIN	3%	0.0603

# Official Notices

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33561	CAPSAICIN	8%	0.0920
33689	PETROLATUM,WHITE		0.5429
34291	SODIUM CHLORIDE	65%	0.0012
34401	CARBAMIDE PEROXIDE	6.5%	0.0400
35743	IBUPROFEN	200MG	0.0240
35749	IBUPROFEN	100MG	0.0954
35930	IBUPROFEN	100MG/5ML	0.0125
37070	SIMPLE SYRUP		0.0167
37380	CARBOXYMETHYLCELLULOSE SODIUM	1%	0.2630
37384	CARBOXYMETHYLCELLULOSE SODIUM	50%	0.1340
44520	PERMETHRIN	1%	0.0583
45972	DIPHENHYDRAMINE HCL	50MG	0.0411
47132	NAPROXEN SODIUM	220MG	0.0399
48040	SODIUM CL FOR INHALATION	220MG	0.0141
52772	BETA-CAROTENE(A) W-C & E/MIN		0.0686
56960	PETROLAT,WHT/MIN OIL/SOD CHL		1.2018
57131	CALCIUM CARBONATE/VITAMIN D2	250MG-125	0.0039
57134	CALCIUM CARBONATE/VITAMIN D	600MG-125	0.0436
57136	CALCIUM CARBONATE/VITAMIN D2	500MG-125	0.0280
62498	TERBINAFINE HCL	1%	0.2548
62576	DIMETHICONE	1%	0.0357
63910	MAG HYDROX/AL HYDROX/SIMETH	200-200-20	0.0039
63915	MAG HYDROX/AL HYDROX/SIMETH	400-400-40	0.0054
66090	NAPH,MB-DB/K PH,MBDB		0.1940
66559	NA PHOS,M-B/NA PHOS,DI-BA		0.0038
66560	SODIUM PHOSPHATE/NA BIPHOS		0.0181
66600	PSYLLIUM SEED/DEXTROSE		0.0062
67700	PSYLLIUM SEED/SUCROSE		0.1428
79591	SALICYLIC ACID/SULFUR	2-2%	0.0215
85459	NEOMY SULF/BACITRA/POLYMYXIN B		0.0848
85909	LANOLIN/MIN OIL/PETROLAT WHT		1.1100
86003	NAPHAZOLINE HCL/PHENIR MAL	.025-0.3%	0.2625
90806	CALCIUM CITRATE/VITAMIN D3	315MG-200	0.0425
94322	ASCORBIC ACID	1000MG	0.0310
94325	ASCORBIC ACID	500MG	0.0011
94327	ASCORBIC ACID	500MG	0.0126
94363	ASCORBIC ACID	500MG/5ML	0.0151
94411	ERGOCALCIFEROL	8000 U/ML	0.6763
94501	VITAMIN E	50U/ML	1.0667
94530	VITAMIN E	1000IU	0.0700
94534	VITAMIN E	400IU	0.0320
94971	PYRIDOXINE HCL	100MG	0.0140
94976	PYRIDOXINE HCL	50MG	0.0031
95033	THIAMINE HCL	100MG	0.0048
95050	MULTIVITS W-FE,OTHER MIN		0.0114
95176	MULTIVITS W-FE,OTHER MIN		0.0378
95270	MULTIVITAMINS		0.0460
95272	MULTIVITAMINS		0.0240
95280	MULTIVITAMINS W-IRON		0.0230
95290	MULTIVITAMINS W-IRON		0.0460
95533	MULTIVITAMINS,THERAPEUTIC		0.0210
95540	MULTIVITAMINS W-MINERALS		0.0300
95600	MULTIVITS W-IRON,OTHER MINERAL		0.0267

95680	MULTIVITAMINS W-IRON	0.0136
95820	MULTIVITS W-FE,OTHER MIN	0.0318
26559	INFUVITE ADULT	0.7200
22880	TRETINOIN	.05% 1.9500

These additions are made to bring Medical Assistance reimbursement to pharmacists more closely in line with the actual acquisition cost of the drugs listed above. The Department estimates that there will be a state savings of \$ 335,000 for State Fiscal Year 2006 (July 1, 2006 through June 30, 2007).

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

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

## Minnesota Department of Natural Resources

### Order Approving Names of Geographic Features

Pursuant to the authority granted by *Minnesota Statutes*, Section 83A.02, I hereby approve the naming/renaming of the following geographic features of the state herein:

- **Beseau Lake**, Minnesota Public Water No. 3-638, located in sections 29, 30 and 32, Township 139 North, Range 43 West, Becker County, Minnesota, is renamed "Bijou Lake."
- **Unnamed Lake**, Minnesota Public Water No. 21-191, located in Section 17, Township 128 North, Range 39 West, Douglas County, Minnesota, is named "Martin Lake."
- **Mud Lake**, Minnesota Public Water No. 86-26, located in Section 36, Township 121 North, Range 24 West, in the City of Albertville, Wright County, Minnesota, is renamed "Hunters Lake."
- **Unnamed Lake**, Minnesota Public Water No. 71-34, located in Section 13, Township 35 North, Range 26 West, Sherburne County, Minnesota, is named "Lake Margritte."
- **Mann Lake**, Minnesota Public Water No. 11-282, located in Sections 3, 4 and 10, Township 140 North, Range 29 West, and in Sections 33 and 34, Township 141 North, Range 29 West, Cass County, Minnesota, is renamed "Man Lake."

Dated: 23 February 2006 for Bijou Lake  
30 March 2006 for Martin Lake  
9 May 2006 for Hunters Lake  
20 July 2006 for Lake Margritte  
15 August 2006 for Man Lake

Gene Merriam, Commissioner  
Department of Natural Resources

## Minnesota Pollution Control Agency

### Notice of Public Meeting and Thirty-Day Comment Period on Feasibility Study and Proposed Response Action Plan for TCF Bank Stadium/Former Republic Creosoting Site

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (the "MPCA") will hold a public meeting at 7:00 pm on Wednesday, November 8, 2006 at:

University Lutheran Church of Hope  
Heritage Room  
601 13th Avenue SE  
Minneapolis, MN

for the purpose of presenting to the public the results of an environmental Feasibility Study ("FS") and proposed Response Action Plan ("RAP") developed and submitted by the University of Minnesota (the "University") to the MPCA with respect to the former Republic Creosoting Site (the "Site"). The Site is located on a portion of the future site of the TCF Bank Stadium™, an outdoor football stadium

# Official Notices

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to be located on the University's East Bank Campus (the "Property"). Past environmental investigations have documented that soils and groundwater at the Site are contaminated with wood treating compounds including numerous polyaromatic hydrocarbons. Some of the contaminated soil at the Site was cleaned up in the mid-1990s. However, the MPCA has determined that additional response actions must be taken with respect to the remaining creosote-contamination and other contaminated soils prior to or as part of the redevelopment of the Property.

Environmental reports documenting past investigations, the FS and other related materials are available for public review at the document repository established by the University, which is located at:

Minneapolis Public Library – Southeast Branch  
1222 SE 4th St.  
Minneapolis, MN

and on the following website: [http://www1.umn.edu/stadium/environmental\\_process.html](http://www1.umn.edu/stadium/environmental_process.html)

The RAP will be available for public review at the document repository and website on or before Friday, October 13, 2006.

The MPCA will accept written comments to the FS and RAP for thirty (30) days, from **Monday, October 16, 2006 through Wednesday, November 15, 2006**. Public comments will be accepted by MPCA at the public meeting, or may be submitted to the MPCA as follows:

Mr. Wayne Sarappo  
Project Manager, Remediation Division  
Minnesota Pollution Control Agency  
Location: SP-5  
520 Lafayette Road  
St. Paul, MN 55155

Parties desiring additional information should contact Mr. Wayne Sarappo of the MPCA at (651) 296-7297.

## Department of Public Safety Bureau of Criminal Apprehension - CriMNet Notice of Information Meeting

The Minnesota Bureau of Criminal Apprehension, CriMNet Program, will hold a meeting from 9 a.m. to 12 noon on Thursday, Oct. 5, 2006 to discuss progress on several BCA and CriMNet initiatives regarding criminal justice information sharing in the state of Minnesota. The meeting will take place at the Bureau of Criminal Apprehension offices at 1430 Maryland Ave. E. in St. Paul. In addition, up to 30 people may be able to participate via webconference. Also, CriMNet and CJIS staff will be available after the conference for a more informal, roundtable-style discussion if vendors have any questions they'd like to discuss.

Vendors, particularly those working with local agencies to manage records, are encouraged to attend this meeting. For more information or to RSVP to participate in person or remotely, contact Michelle Fure, Information Officer, at (651) 201-7572 or [michelle.fure@state.mn.us](mailto:michelle.fure@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](http://www.mmd.admin.state.mn.us) for informal solicitation announcements.

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

## Department of Administration

### Beat the Competition

Obtain MORE and FASTER information. You receive much more with a SUBSCRIPTION than viewing the *State Register* on our website. Subscribe and receive many LINKS to the *State Register*. Open the *State Register* and click on Bookmarks in the upper right corner. You will also receive ALL the current rules, with an INDEX, and previous years' indices. You also receive a summarized "Contracts & Grants" section to review. Subscriptions cost \$180 a year (normal cost \$260 - an \$80 savings). Here's what you receive:

- Word Search Capability
- LINKS, LINKS, LINKS
- Easy Access to *State Register* Archives
- Updates to Index to Vol. 31
- "Contracts & Grants" Open for Bid
- Early delivery, on Friday
- E-mailed to you . . . its so easy
- Indexes to Vols. 30, 29, 28 and 27

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

## Department of Administration

### Real Estate Management Division

#### Notice of State Real Property for Sale - Faribault, Minnesota

**NOTICE IS HEREBY GIVEN** that the Department of Administration is offering for sale by sealed bid the real property located 25698 Ableman Trail, Faribault, Minnesota. The property contains a 5 bedroom, 2 bathroom rambler style home situated on 1.1 acres located approximately 4 miles south of Faribault on a frontage road along Hwy I-35. To obtain a copy of the complete bid package, visit [www.admin.state.mn.us](http://www.admin.state.mn.us), **e-mail:** [wayne.waslaski@state.mn.us](mailto:wayne.waslaski@state.mn.us) or call: (651) 201-2548. Written bids must be received no later than 2:30 p.m., on Tuesday, November 7, 2006.

## Department of Administration

### Real Estate Management Division

#### Notice of State Real Property for Sale - Golden Valley, Minnesota

**NOTICE IS HEREBY GIVEN** that the Department of Administration is offering for sale by sealed bid two secluded wooded lots located at 228 and 308 Meander Road in Golden Valley, Minnesota. The lots, containing approximately 1.3 and 1.04 acres, respectively, are located in a residential neighborhood adjacent to the Perpich Center for Arts Education. To obtain the complete bid package, visit [www.admin.state.mn.us](http://www.admin.state.mn.us), **e-mail** [wayne.waslaski@state.mn.us](mailto:wayne.waslaski@state.mn.us) or call: (651) 201-2548. Written bids must be received no later than 2:30 p.m., on Wednesday, November 8, 2006.

## Minnesota State Colleges and Universities

### St. Cloud Technical College

#### Advertisement for Bid for a "SIMMAN" Patient Simulator

**NOTICE IS HEREBY GIVEN** that sealed bids for a "SIMMAN" Patient Simulator will be received by Paula Andrist, St. Cloud Technical College Business Office, Room 1-401H, 1 540 Northway Drive, St. Cloud, MN 56303. Bids will be accepted until 4:00 p.m. on Friday, October 20, 2006. Bids will be opened and recorded by the St. Cloud Technical College Purchasing Agent at that time.

# State Contracts

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Specifications and bid forms may be obtained from the St. Cloud Technical College **website** at: [www.sctc.edu/rfp](http://www.sctc.edu/rfp).

For questions concerning this Request for Bid, please contact Paula Andrist in writing at St. Cloud Technical College, Room 1-401H, 1540 Northway Dr, St. Cloud, MN 56303; by phone at (320) 308-5946; or by **e-mail** at [pandrist@sctc.edu](mailto:pandrist@sctc.edu). Other department personnel are NOT allowed to discuss the Request for Bid with anyone, including responders, before the bid submission deadline. St. Cloud Technical College reserves the right to reject any or all bids, or portions thereof, or to waive any irregularities or informalities, in bid received. This is a request for bid not a purchase order.

Description: A "SIMMAN" Patient Simulator with compressor and Peripheral Kit with Linkbox and Compressor. Please include two day training classes to include assembly, interconnections, operating and programming of the simulator. Please indicate a separate line item estimate for Freight costs.

## Minnesota State Colleges and Universities (MnSCU) Southeast Technical College

### Notice of Request for Proposal for Owner's Representative Services

**NOTICE IS HEREBY GIVEN** that Southeast Technical College Request for Proposal for Owner's Representative Services.

To receive a copy of the RFP, send an e-mail to [mkroening@southeastmn.edu](mailto:mkroening@southeastmn.edu) or fax requests to (507) 453-2755.

Bids are due back by Monday, October 23, 2006 2:00 P.M. CDT and are to be addressed to Michael Kroening, Southeast Technical College 1250 Homer Road, P. O. Box 409 Winona, MN 55987 Room 1-102.

Late responses will not be considered.

Any questions should be in the form of an RFI and directed to Michael Kroening; [mkroening@southeastmn.edu](mailto:mkroening@southeastmn.edu).

Minnesota State Colleges and Universities is not obligated to complete the proposed project and reserves the right to cancel the solicitation.

## Minnesota State Colleges and Universities Winona State University

### Request for Proposals for the Publication, Marketing and Sale of a Sesquicentennial History Photo Book

**NOTICE IS HEREBY GIVEN** that Winona State University is seeking proposals for the publication, marketing and sale of a Winona State University Sesquicentennial History Photo Book.

Proposal specifications will be available October 2, 2006 by contacting the Purchasing Department at PO Box 5838, 205 Somsen Hall, Winona, MN 55987, **e-mail:** [sschmitt@winona.edu](mailto:sschmitt@winona.edu) or by calling (507) 457-5067.

Sealed proposals must be received by Sandra Schmitt at PO Box 5838, or at 175 W. Mark St., Somsen 205G, Business Office, Winona State University, Winona, MN 55987 by 3:00 PM on Tuesday, October 24, 2006.

Winona State University reserves the right to reject any or all proposals and to waive any irregularities or informalities in proposals received.

## Minnesota Department of Health

### Notice of Availability of Contract for a Minnesota Emergency Preparedness Public Information Campaign

The Minnesota Department of Health (MDH) is requesting proposals for the development of a public information campaign to persuade the people of Minnesota to implement recommendations to protect themselves, their families and their communities in the event of a serious emergency, such as a natural disaster, pandemic flu outbreak or terrorist incident. The campaign will likely involve a variety of strategies and tactics, including (but not limited to) audience needs assessment, Web design, marketing, advertising, publications, media purchases, events planning or other strategies to encourage behavior change. The identity developed for this campaign may be used by other state agencies, local public health, local emergency management, businesses and others over a longer time period than the contract dates.

Work is proposed to start after December 15, 2006 and must be completed by June 30, 2007.

A Request for Proposals will be available by mail from this office through October 13, 2006. **A written request (by direct mail or fax) is required to receive the Request for Proposal.** After October 13, 2006, the Request for Proposal must be picked up in person.

The Request for Proposals can be obtained from:

Katherine Carlson, Principal State Planner  
Infectious Disease Epidemiology, Prevention and Control Division  
Minnesota Department of Health  
625 Robert Street North  
P.O. Box 64975  
St. Paul, MN 55164-0975  
**Fax:** (651) 201-5501

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above no later than October 31, 2006 at 2:30 p.m. **Late proposals will not be considered.** Faxed or e-mailed proposals will **not** be considered.

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

## Minnesota Historical Society

### Notice of Request for Bids for Roof Replacement and Exterior Preservation of the Farmhouse and Barn at Oliver Kelley Farm Historic Site, Elk River Minnesota

The Minnesota Historical Society is seeking bids from qualified professionals for architectural services involving the exterior preservation of the Kelley Farmhouse and Barn, at the Oliver Kelley Farm Historic Site in Elk River. Services will include: preparation of construction documents and cost estimates as well as performing bid administration and construction administration/observation services. Construction work is to take place in early Spring 2007, and should be substantially complete before the Site opens in May.

The goal of the project is to restore the Farmhouse to a weather-tight condition, while preserving as much of the historic fabric as possible. Anticipated needs of the Farmhouse include: wood shingle roof replacement, metal roof repairs, selective repointing at foundation, carpentry repairs, and painting (including windows and shutters). Anticipated needs of the Barn include wood shingle roof replacement and carpentry repairs and painting of the windows and doors.

The Request for Bids is available by contacting Mary Green-Toussaint, Purchasing Coordinator, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, Minnesota 55102. **Telephone:** (651) 297-7007; **e-mail:** [mary.green-toussaint@mnhs.org](mailto:mary.green-toussaint@mnhs.org).

There will be a **MANDATORY pre-bid meeting** for all interested parties at the Site at 10:00 A.M. Local Time on Thursday, October 19, 2006. The Site is located at 15788 Kelley Farm Road, one mile south of the City of Elk River on Highway 169.

#### Submission of Bids:

All bids are due no later than **2:00 p.m. Local Time on Tuesday, October 31, 2006.** Late bids will not be considered.

Dated: October 2, 2006

## Department of Human Services

### Notice of Availability of Request for Proposal (RFP) for Business Writing Skills Training

The State of Minnesota Department of Human Services is soliciting proposals from interested, qualified consultants for a Professional / Technical contract for business writing skills training services.

Proposals must be delivered to: Tom Albrecht, Human Resources Division of the Department of Human Services at PO Box 64997, Department of Human Services, St. Paul, MN 55164-0997. Questions must be mailed to Tom Albrecht at the Department or e-mailed to him at: [Tom.Albrecht@state.mn.us](mailto:Tom.Albrecht@state.mn.us)

Proposals are due no later than 4:00 P.M., October 24, 2006. Late responses will not be considered. It is anticipated that the contract will be for a two year period. The State of Minnesota is not obligated to complete the proposed project and reserves the right to cancel the solicitation if it is considered to be in its best interest.

To receive a complete Request for Proposal, please notify: Tom Albrecht, Human Resources Division of the Department of Human Services at PO Box 64997, Department of Human Services, St. Paul, MN 55164-0997.

# State Contracts

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## Department of Labor and Industry

### Notice of Availability of Request for Proposals for an Enterprise-wide Electronic Licensing System

The State of Minnesota Department of Labor and Industry is requesting proposals for the purpose of implementing an enterprise-wide electronic licensing system. The State is seeking a proven technology solution and implementation partner to work with the State in building a scalable framework for electronic licensing and permitting activities. The primary purposes of the system are to allow applicants to apply for and renew licenses online, and to assist agencies in managing and improving efficiency of end-to-end licensing processes. At a high level, this includes:

- Design and development of an integrated and extensible technical framework for electronic licensing, including license applications and renewals, credential submission and verification, fulfillment, license look-up, and complaint management;
- Development of the Minnesota State portal and accompanying interfaces, as they relate to the functionality of the electronic licensing system;
- Selection, integration and configuration of security services (directory, authentication/authorization);
- Design of wizards to be used by license process owners to create workflows within the system;
- Integration of content/document management services;
- Interface specification through web services to agency back-office systems;
- Integration with the State's e-payment service; and
- Specification and development of interfaces with third-party testing and other credentialing entities.

Work is proposed to start after December 5, 2006.

The Request for Proposal can be downloaded from the Minnesota Department of Administration Materials Management website at <http://www.mmd.admin.state.mn.us/process/admin/ptList.asp>

Proposals submitted in response to the Request for Proposals in this advertisement must be received at:

Minnesota Department of Labor and Industry  
Attn: Minnesota Electronic Licensing System  
443 Lafayette Road North  
St. Paul, MN 55155

Proposals are due no later than 3:00 PM CDT on **Friday, October 27, 2006**, as indicated by the time stamp made by the Department of Labor and Industry front desk. **Late proposals will NOT be considered.** Fax or E-mailed proposals will NOT be considered.

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

## Pollution Control Agency

### REQUEST FOR PROPOSALS: Contractor to Provide a Landfill Gas-to-Energy System at the Louisville Landfill

Tasks under this Contract shall include designing, developing and operating landfill gas-to-energy systems for a minimum of ten (10) years at the landfill.

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA) is seeking proposals from consultants/contractors to identify the proposed amount of landfill gas (LFG) MMBTUs required to fuel proposed end use; identify method of calculation and percentage of Henry Hub index price of natural gas to be paid to MPCA for LFG consumed; project management; obtain financing; negotiate any necessary energy, inter-connection or product sales agreement; secure and renew all local, state and federal permits and rights-of-way for the construction and operation of the facility; design and install a LFGTE system with a minimum destruction efficiency for methane of 99%, and a minimum destruction efficiency for non-methane organic compounds of 98%; assume all operating and maintenance responsibility and costs for the LFGTE system; and assume all responsibility and costs for installation and/or replacement of the LFGTE system components.

The MPCA desires to contract with these qualified contractors for services from February 15, 2007 through February 14, 2017. No actual work or payment is guaranteed pursuant to the contract.

A complete Request for Proposal (RFP) describing the requirements necessary for the contract has been prepared. Requests for the complete RFP document should be directed to:

Martina Cameron  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155  
**Telephone:** (651) 296-7755  
**Fax:** (651) 297-8676  
**E-mail:** [martina.cameron@pca.state.mn.us](mailto:martina.cameron@pca.state.mn.us)

Proposers should submit in writing a list of questions they would like addressed. Questions must be mailed, e-mailed or faxed to Martina Cameron and received by 10:00 a.m. on November 3, 2006.

The deadline for receipt of completed proposals is 10:00 a.m. December 1, 2006. Proposals should be submitted to the attention of the above MPCA contact person. Late submittals will not be considered.

Dated: October 2, 2006

Tim Scherkenbach, Director  
Remediation Division  
Minnesota Pollution Control Agency

## Department of Transportation (Mn/DOT) 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 Ron Bisek at (651) 296-1361 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:

Ron Bisek  
Consultant Services  
Office of Technical Support  
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.**

# State Contracts

## Department of Transportation (Mn/DOT)

### Engineering Services Division

#### Notice Concerning Professional/Technical Contract Opportunities

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

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

## Non-State 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.

## Metropolitan Council

### Notice of Request for Proposals (RFP) for Website Hosting and Maintenance Contract Number 06P138

The Metropolitan Council is soliciting proposals to provide managed server hosting for the Metropolitan Council's website, located at [metro council.org](http://metro council.org), from approximately the end of January 2007 to approximately the end of January 2009. Managed server hosting includes personnel, service, software, hardware and connectivity required to host, monitor and diagnose the website and application environment, as well as server-side design, coding/programming and server-related advisory services. The site has HTML and database components. The approximate size of the site is 3 gigabytes and 16,000 associated files.

The anticipated solicitation schedule is shown below.

*Issue Request for Proposals*

*Receive Proposals*

*Award of Contract*

**October 2, 2006**

**1:00 PM on Friday, November 3rd, 2006**

**November or December, 2006**

All firms interested in receiving an RFP package are invited to submit an e-mail or written request to:

Sunny Jo Emerson, Senior Administrative Assistant

Contracts and Procurement Unit

Metropolitan Council

390 Robert Street North

St. Paul, MN 55101-1805

**Phone:** (651) 602-1499

**Fax:** (651) 602-1083

**E-mail:** [sunnyjo.emerson@metc.state.mn.us](mailto:sunnyjo.emerson@metc.state.mn.us)

Note: RFPs are **not** available in electronic form.

## Metropolitan Council

### Notice of Request for Proposals for Master Contract for Geotechnical Services Contract Number 06P119

The Metropolitan Council is soliciting proposals for architectural/engineering services to support its Metropolitan Council Environmental Services Division by providing on an as-needed (master contract) basis: geotechnical, construction compliance testing, environmental, hydrological and material testing services. These services are to be predominately in-house but the subcontracting of some services is allowable.

The Council plans to execute contracts with two proposers that are able to provide the above services. Each contract will have a maximum value of \$1,500,000 and a term of four years. The contracts will be structured to allow the Council to request specific professional services, generally valued at less than \$50,000, on an as-needed basis by issuing work orders. Each work order will include a specific scope of services, specified cost for the services, schedule and designated project managers.

The anticipated schedule for this procurement is:

<i>Issue Request for Proposals</i>	<b>September 26, 2006</b>
<i>Proposal Due Date</i>	<b>October 26, 2006</b>
<i>Selection of Firms</i>	<b>November 2006</b>
<i>Execution of Contracts</i>	<b>December 2006</b>

All firms interested in providing these services should request a copy of the Request for Proposals. Send or fax requests to:

Miriam Lopez-Rieth  
Metropolitan Council  
390 N. Robert Street  
St. Paul, MN 55101  
**PHONE:** (651) 602-1095  
**FAX:** (651) 602-1083  
**E-mail:** [Miriam.Lopez-Rieth@metc.state.mn.us](mailto:Miriam.Lopez-Rieth@metc.state.mn.us)

## Metropolitan Council

### Notice of Request for Proposals (RFP) for Security Guard Services Contract Number 06P135

The Metropolitan Council is requesting proposals for Security Guard Services for the Council's Environmental Services Division (MCES) facilities and 390 N. Robert Street facility.

<i>Issue Request for Proposals</i>	<b>October 6, 2006</b>
<i>Receive proposals</i>	<b>November 7, 2006</b>
<i>Contract negotiated, executed, NTP</i>	<b>December, 2006</b>
<i>Period of performance</i>	<b>February 1, 2007 to January 31, 2010</b>

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

Harriet Simmons  
Metropolitan Council  
390 N. Robert Street  
St. Paul, MN 55101  
**PHONE:** (651) 602-1086  
**FAX:** (651) 602-1083  
**E-mail:** [harriet.simmons@metc.state.mn.us](mailto:harriet.simmons@metc.state.mn.us)

## Non-State Contracts & Grants

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### Metropolitan Council - Metro Transit

#### Request for Proposals for Annual Training for the Metro Transit Police Department

Metro Transit, a division of the Metropolitan Council, is seeking the services of a qualified firm to provide annual training for its Transit Police Department in 2007 and 2008. This mandated annual training is regulated by the Minnesota Peace Officer Standards and Training Board. More specific information regarding the required training is contained in the Request for Proposals document.

Proposals are due by 2:00 p.m. on October 27, 2006.

Firms interested in receiving the Request for Proposals document should contact:

Candace Osiecki  
Metro Transit Purchasing Department  
515 N. Cleveland Avenue  
St. Paul, MN 55114  
**Phone:** (612) 349-5070  
**Fax:** (612) 349-5069  
**E-mail:** [candace.osiecki@metc.state.mn.us](mailto:candace.osiecki@metc.state.mn.us)

### Metropolitan Council - Metro Transit

#### Request for Proposals for Transit Advertising Service

Metro Transit, a division of the Metropolitan Council, is soliciting proposals for transit advertising service. The service will include the sale, implementation, and administration of Metro Transit's advertising program involving transit vehicles, light rail vehicles, rail stations, and other advertising opportunities.

A Pre-Proposal Conference will be held on October 10, 2006 at 1:00 PM at the Metro Transit Heywood Office, 560 6<sup>th</sup> Ave. N., Minneapolis, MN 55411. Proposals are due November 2, 2006.

Copies of the Request for Proposals are available by contacting:

Candace Osiecki  
Metro Transit Purchasing  
515 N. Cleveland Avenue  
St. Paul, MN 55114  
**Phone:** (612) 349-5070  
**Fax:** (612) 349-5069  
**E-mail:** [candace.osiecki@metc.state.mn.us](mailto:candace.osiecki@metc.state.mn.us)

### University of Minnesota

#### Subscribe to Bid Information Service (BIS)

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

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

**Statement of Ownership, Management, and Circulation**

1. Publication Title <b>STATE REGISTER</b>	2. Publication Number 0 1 4 6 - 7 7 5 1	3. Filing Date October 2, 2006
4. Issue Frequency Weekly	5. Number of Issues Published Annually 52	6. Annual Subscription Price 180.00
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4) State of Minnesota, Department of Administration Communications Media, 660 Olive St., St. Paul, MN 55155		Contact Person Robin Paul Lerner
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) Same as #7		Telephone 651-297-7963
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10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

Full Name	Complete Mailing Address
State of Minnesota	660 Olive St.
Department of Administration	St. Paul, MN 55155
Communications Media Division	

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box.

None

Full Name Complete Mailing Address

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)

The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes: Has Not Changed During Preceding 12 Months

Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

PS Form 3526, October 1999 (See Instructions on Reverse)

13. Publication Title  
**STATE REGISTER**

14. Issue Date for Circulation Data Below  
10-02-06

15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)			
(1) Paid/Requested Outside-County Mail Subscriptions (Based on Form 3541, (Include advertiser's proof and exchange copies))			
(2) Paid In-County Subscriptions (Based on Form 3541 (Include advertiser's proof and exchange copies))	65	65	
(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution			
(4) Other Classes Mailed Through the USPS			
c. Total Paid and/or Requested Circulation (Sum of 15b.(1), (2), (3), and (4))		65	65
d. Free Distribution (Sum of 15c. (1) and (2))			
(1) Outside-County as Stated on Form 3541			
(2) In-County as Stated on Form 3541			
(3) Other Classes Mailed Through the USPS			
e. Free Distribution Outside the Mail (Carriers or other means)		1,725	1,725
f. Total Free Distribution (Sum of 15d. and 15e.)		1,725	1,725
g. Total Distribution (Sum of 15c. and 15f.)		1,790	1,790
h. Copies not Distributed		20	20
i. Total (Sum of 15g. and h.)		1,810	1,810

16. Publication of Statement of Ownership  
 Publication required. Will be printed in the **October 2, 2006** issue of this publication.  Publication not required.

17. Signature and Title of Editor, Business Manager, or Owner  
*Robin Paul Lerner* Date **09-26-06**

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

**Instructions to Publishers**

- Complete and file one copy of this form with your postmaster annually on or before October 1. Keep a copy of the completed form for your records.
  - In cases where the stockholder or security holder is a trustee, include in items 10 and 11 the name of the person or corporation for whom the trustee is acting. Also include the names and addresses of individuals who are stockholders who own or hold 1 percent or more of the total amount of bonds, mortgages, or other securities of the publishing corporation. In item 11, if none, check the box. Use blank sheets if more space is required.
  - Be sure to furnish all circulation information called for in item 15. Free circulation must be shown in items 15d, e, and f.
  - Item 15h. Copies not Distributed, must include (1) newsstand copies originally stated on Form 3541, and returned to the publisher, (2) estimated returns from news agents, and (3) copies for office use, leftovers, spoiled, and all other copies not distributed.
  - If the publication had Periodicals authorization as a general or requester publication, this Statement of Ownership, Management, and Circulation must be published; it must be printed in any issue in October or, if the publication is not published during October, the first issue printed after October.
  - In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
  - Item 17 must be signed.
- Failure to file or publish a statement of ownership may lead to suspension of Periodicals authorization.**
- PS Form 3526, October 1999 (Reverse)

