

State of Minnesota

# State Register



**Proposed, Adopted, & Expedited Rules; Executive Orders; Appointments;  
Commissioners' Orders; Revenue Notices; Official Notices;  
State Grants & Loans; State Contracts; Non-State Public Bids, Contracts & Grants**  
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# State Register

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

- Proposed Rules
- Adopted Rules
- Exempt Rules
- Expedited Rules
- Withdrawn Rules
- Vetoed Rules
- Executive Orders of the Governor
- Appointments
- Proclamations
- Commissioners' Orders
- Revenue Notices
- Official Notices
- State Grants and Loans
- Contracts for Professional, Technical and Consulting Services
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# 49	Monday	8 June	Noon Tuesday	2 June	Noon Wednesday	27 May
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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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# Proposed Rules

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

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

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

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

## Minnesota Board of Chiropractic Examiners

### Proposed Permanent Rules Relating to License Reinstatement from the Minnesota Board of Chiropractic Examiners

#### NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

#### Proposed Amendment to Rules Governing License Reinstatement Procedures, *Minnesota Rules*, 2500.1900, 2500.2040, 2500.2110, and 2500.2130

**Introduction.** The Board of Chiropractic Examiners intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until June 30, 2009

**Agency Contact Person.** You must submit comments or questions on the rules and written requests for a public hearing to the agency contact person. The agency contact person is: Micki King at Minnesota Board of Chiropractic Examiners, 2829 University Ave SE, Suite 300, Minneapolis Minnesota 55414, **phone:** (651) 201-2849, and **e-mail:** [Micki.king@state.mn.us](mailto:Micki.king@state.mn.us). TTY users may call the Board of Chiropractic Examiners at TTY phone 1-800-627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules are about standardizing license reinstatement procedures for ease of understanding, compliance, and implementation. Currently, there are different requirements or procedures depending on the reason for being unlicensed, i.e. practicing in another jurisdiction, late renewal, retired, or disciplinary action. The statutory authority to adopt the rules is *Minnesota Statutes*, section 148.08 and 14.23. A copy of the proposed rules is published in the *State Register*. A free copy of the rules is available upon request from the agency contact person listed above and on the Board's web site at [www.mn-chiroboard.state.mn.us](http://www.mn-chiroboard.state.mn.us).

**Comments.** You have until 4:30 p.m. on Tuesday, June 30, 2009, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and the agency contact person must receive it by the due date. The Board encourages comment. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. You must also make any comments about the legality of the proposed rules during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the Board hold a hearing on the rules. Your request must be in writing and the agency contact person must receive it by 4:30 p.m. on Tuesday, June 30, 2009. Your written request for



# Proposed Rules

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a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. 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, the Board will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

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

**Modifications.** The Board may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules, unless the agency follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Board encourages you to participate in the rulemaking process.

**Statement of Need and Reasonableness.** The statement of need and reasonableness 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. It is now available from the agency contact person. You may review or obtain copies at the cost of reproduction by contacting the agency contact person or by downloading a copy from the Board's web site.

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

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

Dated: May 13, 2009

Signed by Larry A. Spicer, DC  
Executive Director

## 2500.1900 LICENSE REINSTATEMENT.

A license ~~which is~~ terminated by reason of the licensee's failure to comply with the continuing education requirements of parts 2500.1200 to 2500.2000, or failure to submit a completed application for license renewal as prescribed by the board, ~~may, at the election of the licensee or former licensee, be reinstated or restored to full status by either of the following one of the applicable procedures: in items A to E.~~

~~A. submission to the board of proof of the makeup of all continuing education requirements which would have been necessary for continuous licensure from the date of the person's last license renewal or initial licensure, whichever is more recent, and proof of attendance at an additional ten units of board recognized and approved continuing education courses for each intervening renewal year; or~~

~~B. reexamination approved by the board.~~

~~A license which is terminated by reason of the licensee's failure to submit fees or comply with continuing education reporting requirements may be reinstated subject to the procedures in this part, provided that the appropriate renewal fees and all accrued penalty fees are also paid.~~

A. An applicant whose license has been terminated for a period of less than five years, and who can verify continual practice elsewhere during that time, may be reinstated by completing all interim continuing education and paying all interim licensure fees that would have been required for continual licensure, paying any accrued penalty fees established in part 2500.1100, subpart 3, and repairing any other deficiencies that led to the termination.

B. An applicant whose license has been terminated for a period of greater than five years and who can verify continual practice

elsewhere during that time must, in addition to item A, complete the board's jurisprudence examination.

C. An applicant whose license has been terminated for a period of less than five years, and who cannot verify continual practice during that time, may be reinstated by completing all interim continuing education that would have been required for continual licensure, completing an additional ten units of approved continuing education for each intervening renewal year, paying all accrued penalty fees and interim licensure fees required for continual licensure, and repairing any other deficiencies that led to the termination.

D. An applicant whose license has been terminated for a period of greater than five years, and who cannot verify continual practice during that time, may be reinstated by paying all accrued penalty fees and interim licensure fees that would have been required for continual licensure, repairing any other deficiencies that led to the termination, taking the board's jurisprudence examination, and completing the Special Purposes Examination in Chiropractic administered by the National Board of Chiropractic Examiners, or other examination approved by the board.

E. At the election of the applicant, the board shall waive any of the continuing education requirements in items A to C upon successful completion of the Special Purposes Examination in Chiropractic administered by the National Board of Chiropractic Examiners, or any other examination approved by the board, within 12 months preceding the application.

Any units acquired in another jurisdiction for the purposes of license renewal may be applied to item A, B, or C. None of the continuing education units obtained for the purpose of reinstating a terminated license apply to the current annual requirement. Applicants must complete a board-approved application for reinstatement.

### 2500.2040 REINSTATEMENT OF INACTIVE LICENSE.

An inactive license may be reinstated to ~~a nonrestricted~~ an active license according to items A to E:

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

### 2500.2110 REINSTATEMENT OF VOLUNTARILY RETIRED LICENSE.

~~A. A licensee~~ An applicant who has voluntarily retired a license ~~for a period equal to or less than five years~~ may be reinstated to ~~a nonrestricted license after:~~ or restored to full status by:

A:

(1) ~~completion of~~ completing a board-approved application of reinstatement;

B:

(2) ~~payment of~~ paying a reinstatement fee in the amount of \$100;

(3) submitting a certification of good standing from each state the doctor was granted a license; and

(4) following one of the applicable procedures in items B to G.

C: payment of license fees for each year the license was voluntarily retired; and

D: completion of 30 units of board-approved continuing education for each year the license was voluntarily retired.

None of the continuing education units obtained for the purpose of reinstating a voluntarily retired license apply to the current annual requirement.

A license which has been voluntarily retired for more than five years by a chiropractor who has also not been in active practice in another state or country during the period of voluntary retirement in Minnesota may only be reinstated following successful completion of the written and practical licensing examinations as approved by the board.

B. An applicant who has been voluntarily retired for a period of less than five years, and who can verify continual practice elsewhere during that time, may be reinstated by completing all interim continuing education and paying all accrued penalty fees and interim licensure fees which would have been required for continual licensure, and repairing any deficiencies that occurred prior to retirement.

C. An applicant who has been voluntarily retired for a period of greater than five years who can verify continual practice elsewhere during that time must, in addition to following the procedures in items A and B, complete the board's jurisprudence examination.

D. An applicant who has been voluntarily retired for a period of less than five years, and who cannot verify continual practice during that time, may be reinstated by completing all interim continuing education that would have been required for continual licensure, completing an additional ten units of approved continuing education for each intervening renewal year, paying all accrued penalty fees and interim licensure fees that would have been required for continual licensure, and repairing any deficiencies that occurred prior to retirement.

E. An applicant who has been voluntarily retired for a period of greater than five years, and who cannot verify continual practice during that time, may be reinstated by paying all accrued penalty fees and interim licensure fees that would have been required for continual licensure, repairing any other deficiencies that may have occurred prior to retirement, taking the board's jurisprudence examination, and completing the Special Purposes Examination in Chiropractic administered by the National Board of Chiropractic Examiners, or any other examination the board may deem appropriate.

F. At the election of the applicant, the board shall waive any of the continuing education requirements in items B to E, upon successful completion of the Special Purposes Examination in Chiropractic administered by the National Board of Chiropractic Examiners, or other examination the board may deem appropriate, within the 12 months preceding the application.

# Proposed Rules

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Any hours acquired in another jurisdiction, for the purposes of license renewal, may be applied to items B and D. None of the continuing education units obtained for the purpose of reinstating a voluntarily retired license apply to the current annual requirement. Applicants must complete a board-approved application of reinstatement.

## **2500.2130 EMERITUS CHANGE TO ACTIVE STATUS.**

Subpart 1. [See repealer.]

Subp. 2. [See repealer.]

Subp. 3. **Reinstatement.** Reinstatement of an emeritus status to an active license status shall be done according to the reinstatement provisions of a voluntarily retired license in part 2500.2110.

**REPEALER.** Minnesota Rules, part 2500.2130, subparts 1 and 2, are repealed.

## **Minnesota Department of Health (MDH)**

### **Division of Community and Family Health**

#### **Proposed Permanent Rules Relating to WIC Program Funds**

#### **DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, And Notice of Hearing If 25 or More Requests For Hearing Are Received**

#### **Proposed Amendment to Rules Governing the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program), *Minnesota Rules*, 4617.0002, 4617.0025, 4617.0067, 4617.0068, 4617.0070, 4617.0084, 4617.0090, 4617.0100, 4617.0121, and 4617.0176, and Repeal of 4617.0121, subpart 2, and 4617.0176, subpart 3.**

**Introduction.** The Department of Health (MDH) intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on July 6, 2009, the Department will hold a public hearing in the Red River Room, Snelling Office Park, 1645 Energy Park Drive, Saint Paul, Minnesota 55108, starting at 9 a.m. on Tuesday, July 21, 2009. To find out whether the Department will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after July 6, 2009 and before Tuesday, July 21, 2009.

**Agency Contact Person.** Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is:

Mary Rogness, WIC Program  
Minnesota Department of Health  
P.O. Box 64882  
Saint Paul, Minnesota 55164-0882  
**Phone:** (651) 201-4418  
**Fax:** (651) 215-8951  
**TTY** users may call the Department of Health at (651) 201-5797.

**Subject of Rules and Statutory Authority.** The primary intent of the proposed rules is to bring the rules into compliance with new federal requirements governing the WIC Program. The new federal requirements substantially revise the list of foods to be provided to WIC participants, seeking to increase WIC program participants' consumption of fruits, vegetables and whole grains, while decreasing consumption of saturated fat. Additional changes are needed to respond to changes in the banking and food manufacturing industries, to respond to other recent changes to the federal regulations governing the program, and to make minor technical adjustments and corrections to existing language. Two sections are being proposed for repeal: *Minnesota Rules* parts 4617.0121, subpart 2, and 4617.0176, subpart 3.

The statutory authority to adopt the rules is *Minnesota Statutes*, section 145.894 (k) and 144.11. A copy of the proposed rules is published in the *State Register*. The rules are also available on the WIC Program's website at:



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# Proposed Rules

[www.health.state.mn.us/divs/fh/wic/vendor/rqrmnts/rules.html](http://www.health.state.mn.us/divs/fh/wic/vendor/rqrmnts/rules.html).

A free copy of the rules is available upon request from the agency contact person listed above.

**Comments.** You have until 4:30 p.m. on Monday, July 6, 2009, 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 that you desire. You must also make any comments about the legality of the proposed rules during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the Department hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on Monday, July 6, 2009. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. 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, the Department will hold a public hearing unless a sufficient number of persons 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, the Department can make this Notice 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 Department may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the Department follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Department encourages you to participate in the rulemaking process.

**Cancellation of Hearing.** The Department will cancel the hearing scheduled for July 21, 2009 if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the agency will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person at (651) 201-4418 after July 6, 2009 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, the Department will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Department will hold the hearing 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 Barbara L. Neilson is assigned to conduct the hearing. Judge Neilson can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, **telephone:** (651) 361-7845, and **fax:** (651) 361-7936.

**Hearing Procedure.** If the Department holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. 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. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge 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. You may direct questions about the procedure to the Administrative Law Judge.

# Proposed Rules

The agency requests that any person submitting written views or data to the Administrative Law Judge before 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.** The statement of need and reasonableness summarizes 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. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. The SONAR is also published on the WIC Program's website at:

[www.health.state.mn.us/divs/fh/wic/vendor/rqrmnts/rules.html](http://www.health.state.mn.us/divs/fh/wic/vendor/rqrmnts/rules.html).

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of 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 Department will submit the rules and supporting documents 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 either to receive notice of this, to receive a copy of the adopted rules, or 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 that 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 that the agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by 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: May 18, 2009  
Department of Health

Dr. Sanne Magnan, Commissioner

## 4617.0002 DEFINITIONS.

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

Subp. 2a. **Applicant.** "Applicant" has the meaning given in *Code of Federal Regulations*, title 7, section 246.2, as amended.

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

Subp. 3c. **Cash-value voucher.** "Cash-value voucher" has the meaning given in *Code of Federal Regulations*, title 7, section 246.2, as amended. Cash-value voucher includes the legal equivalent of a paper cash-value voucher, such as an electronic form of the cash-value voucher, as defined in the Check 21 Act, Public Law 108-100.

Subp. 3e 3d. **Cashier.** "Cashier" means an individual who accepts ~~vouchers~~ a voucher or cash-value voucher on behalf of a vendor.

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

Subp. 8. **Clinic town.** "Clinic town" means a town or city in which the local agency distributes vouchers and cash-value vouchers to participants and proxies, or where participants are certified, or both.

[For text of subps 9 to 14b, see M.R.]

Subp. 14c. **Food assistance program.** "Food assistance program" means ~~the WIC program, the Food Stamp Supplemental Nutrition Assistance Program (SNAP),~~ or any other food and consumer service program in Minnesota or in any other state, district, commonwealth or territory of the United States.

[For text of subps 14d and 14e, see M.R.]

Subp. 14f. **Food sales.** "Food sales" has the meaning given in *Code of Federal Regulations*, title 7, section 246.2, as amended.

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## Proposed Rules

Subp. 14f. **Health promotion.** “Health promotion” means activities intended to reduce the prevalence of risk conditions or behaviors of individuals or communities for the purpose of preventing chronic disease and effecting other definable advances in health status. These activities include the coordination or provision of community organization, regulation, targeted screening, and education, as well as informational and other scientifically supported interventions to foster health by affecting related conditions and behaviors.

[For text of subps 15 to 17a, see M.R.]

Subp. 17b. **Incentives.** “Incentives” means goods or services, in addition to the food products specified on a voucher or cash-value voucher, offered or provided to a WIC customer who redeems a voucher or cash-value voucher at a particular vendor.

[For text of subps 18 to 19a, see M.R.]

Subp. 19b. **Launder.** “Launder” means to receive, transact, or redeem a voucher or cash-value voucher outside of authorized channels and includes redeeming a voucher or cash-value voucher accepted at a store that is not authorized as a WIC vendor, accepting a voucher or cash-value voucher at a place other than an established check-out lane at the vendor’s business site, accepting or redeeming a voucher or cash-value voucher from any source other than a WIC customer, and accepting a voucher or cash-value voucher that is then redeemed through another vendor.

[For text of subps 20 to 36, see M.R.]

Subp. 36a. **Provide unauthorized food.** “Provide unauthorized food” means:

A. to provide any food other than WIC-allowed food in exchange for a voucher or cash-value voucher;

B. to provide, in exchange for a voucher or cash-value voucher, any WIC-allowed food that is not listed on the voucher or cash-value voucher;

C. to provide, as a substitute for any WIC-allowed food listed on a voucher or cash-value voucher, an excess quantity of another WIC-allowed food listed on the voucher or cash-value voucher; or

D. to provide, in exchange for a voucher or cash-value voucher, and to charge the WIC program for, more WIC-allowed food than is listed on the voucher or cash-value voucher.

[For text of subp 37, see M.R.]

Subp. 37a. **Rain check.** “Rain check” means a credit provided by a vendor to a WIC customer in exchange for a voucher or cash-value voucher, if the credit can only be used to purchase one or more specific food items listed on the voucher or cash-value voucher but not received by the WIC customer.

[For text of subps 37b to 40e, see M.R.]

Subp. 40f. **Tier 1 county.** “Tier 1 county” means a Minnesota county in which the total population is 250,000 or more according to the most recent ~~State of~~ Minnesota or United States census or estimated update as compiled by the state demographer.

Subp. 40g. **Tier 2 county.** “Tier 2 county” means a Minnesota county in which the total population is less than 250,000 according to the most recent ~~State of~~ Minnesota or United States census or estimated update as compiled by the state demographer.

[For text of subps 41 to 43, see M.R.]

Subp. 44. **Voucher.** “Voucher” means a document which is authorized by the commissioner for use by a WIC customer to obtain WIC-approved foods from a vendor, and which may be deposited in the vendor’s account at an established financial institution. Voucher includes the legal equivalent of a paper voucher, such as an electronic form of the voucher, as defined in the Check 21 Act, Public Law 108-100.

Subp. 44a. [Repealed, 22 SR 266]

Subp. 44b. **WIC-allowed foods.** “WIC-allowed foods” means special infant formula, and foods approved by the commissioner under this chapter for purchase with WIC vouchers and cash-value vouchers.

Subp. 44c. [Repealed, 25 SR 555]

Subp. 44d. **WIC cashier trainer.** “WIC cashier trainer” means the employee or other representative of a vendor who is, or, in the case of a vendor applicant, who will be, responsible for training the vendor’s cashiers in properly transacting WIC vouchers and cash-value vouchers.

[For text of subps 44e and 44f, see M.R.]

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Subp. 44g. **WIC ID folder.** “WIC ID folder” means a document issued by a local agency to a participant or proxy which contains eligibility information on a participant and contains the signatures of all individuals authorized to sign vouchers and cash-value vouchers issued to the participant.

[For text of subp 45, see M.R.]

Subp. 46. **WIC sales.** “WIC sales” means all sales by a vendor for which the vendor receives payment in the form of a WIC voucher or a cash-value voucher.

## 4617.0025 DISQUALIFICATION.

The commissioner shall stop providing WIC program funds to a local agency if the local agency does not comply with parts 4617.0002 to ~~4617.0174~~ 4617.0171 or with *Code of Federal Regulations*, title 7, part 246, as amended. A local agency shall reimburse the commissioner for WIC program funds that are not distributed according to this chapter.

## 4617.0067 VENDOR ELIGIBILITY REQUIREMENTS.

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

### Subp. 2. Location, licensing, and registration requirements.

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

B. A retail food vendor must:

- (1) be licensed by all government entities that require a license for the vendor to be open to the public for business; ~~and~~
- (2) be authorized by the United States Department of Agriculture to accept ~~food stamps~~, SNAP benefits; ~~and~~
- (3) not have any restriction placed on its license that would preclude it from meeting the requirements of subpart 3.

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

### Subp. 3. Minimum in-stock food requirements for retail food vendors.

A. A retail food vendor located in a Tier 2 county shall at all times have in stock and available for purchase, at a minimum:

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

(3) ten gallons of unsweetened, unflavored, WIC-allowed fluid cow’s milk in gallon or half-gallon containers in any combination of at least two of the following varieties:

- (a) skim or nonfat;
- (b) one percent milkfat; ~~and~~
- (c) two percent milkfat; ~~and~~
- ~~(d) whole;~~

(4) four pounds of WIC-allowed domestic cheese in packages of at least one-half pound each, in any combination of at least two varieties;

(5) four one-dozen containers of WIC-allowed fresh eggs;

(6) three ~~14- to 16-ounce~~ packages in sizes up to 16 ounces of WIC-allowed dried legumes, which do not contain any added ingredients;

~~(7) 128 ounces of WIC-allowed canned beans or legumes, in any combination of at least three varieties;~~

~~(7)(8) three 16- to 18-ounce containers in sizes up to 18 ounces~~ of WIC-allowed peanut butter which does not contain any other food product such as jelly, jam, or chocolate;

~~(8) two pounds of WIC-allowed fresh or frozen carrots, or canned carrots packed in water;~~

~~(9) 24 pounds of WIC-allowed fresh fruits and vegetables in at least five varieties, two of which must be bananas and carrots;~~

~~(9)(10) four six-ounce containers of WIC-allowed canned tuna~~ 30 ounces of WIC-allowed canned fish;

~~(10)(11) 12 containers of any combination of the following, as long as at least four containers are 100 percent citrus juice:~~

- (a) 11.5- to 12-ounce containers of WIC-allowed pure and unsweetened frozen ~~or nonfrozen~~ concentrate 100 percent juice;

or

- (b) ~~46 64-ounce~~ containers of WIC-allowed pure and unsweetened 100 percent juice; ~~and~~

~~(11)(12) nine boxes or bags of whole grain~~ WIC-allowed cereal in any combination of at least five varieties;

~~(13) 128 ounces of WIC-allowed baby food fruits and vegetables in at least two varieties of baby food fruits and two varieties of baby food vegetables; and~~

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(14) three pounds of WIC-allowed whole grains of at least three of the following varieties: whole grain bread, whole grain tortillas, oatmeal, and brown rice.

B. A retail food vendor located in a Tier 1 county shall at all times have in stock and available for purchase, at a minimum:

~~(1) except as provided in item D, 31 containers of milk-based concentrated infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171;~~

~~(2) (1) except as provided in item D, 15 18 containers of milk-based powdered infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171;~~

~~(3) except as provided in item D, ten containers of soy-based powdered infant formula of the brand, size, and level of iron fortification approved by the commissioner under part 4617.0171;~~

~~(4) (2) 48 ounces of WIC-allowed plain, dry, infant cereal;~~

~~(5) (3) 15 gallons of unsweetened, unflavored, WIC-allowed fluid cow's milk in gallon or half-gallon containers in any combination of at least two of the following varieties:~~

~~(a) skim or nonfat;~~

~~(b) 1 percent milkfat; and~~

~~(c) 2 percent milkfat; and~~

~~(d) whole;~~

~~(6) (4) six pounds of WIC-allowed domestic cheese in packages of at least one-half pound each, in any combination of at least three varieties;~~

~~(7) (5) six one-dozen containers of WIC-allowed fresh eggs;~~

~~(8) (6) four 14- to 16-ounce packages in sizes up to 16 ounces of WIC-allowed dried legumes, which do not contain any added ingredients;~~

~~(7) 192 ounces of WIC-allowed canned beans or legumes, in any combination of at least three varieties;~~

~~(9) (8) four 16- to 18-ounce containers in sizes up to 18 ounces of WIC-allowed peanut butter which does not contain any other food product such as jelly, jam, or chocolate;~~

~~(10) two pounds of WIC-allowed fresh or frozen carrots, or canned carrots packed in water;~~

~~(9) 30 pounds of WIC-allowed fresh fruits and vegetables in at least seven varieties, two of which must be bananas and carrots;~~

~~(11) (10) four six-ounce containers of WIC-allowed canned tuna 30 ounces of WIC-allowed canned fish;~~

~~(12) (11) 18 containers of any combination of the following, as long as at least six containers are 100 percent citrus juice:~~

~~(a) 11.5- to 12-ounce containers of WIC-allowed pure and unsweetened frozen or nonfrozen concentrate 100 percent juice;~~

or

~~(b) 46 64-ounce containers of WIC-allowed pure and unsweetened 100 percent juice; and~~

~~(13) (12) 12 boxes or bags of whole grain WIC-allowed cereal in any combination of at least six varieties;~~

~~(13) 256 ounces of WIC-allowed baby food fruits and vegetables in at least three varieties of baby food fruits and three varieties of baby food vegetables; and~~

(14) five pounds of WIC-allowed whole grains of at least three of the following varieties: whole grain bread, whole grain tortillas, oatmeal, and brown rice.

C. In determining the amounts and varieties of foods in stock and available for purchase, a retail food vendor may not include any expired or damaged foods or any food ~~which~~ that originated from the Commodity Supplemental Food Program.

D. If the vendor has been a vendor for more than six months and, during the most recent six months for which data are available, has not redeemed any voucher for ~~a particular type of the~~ infant formula specified in item A, subitem (1), or B, subitem (1), the vendor does not need to maintain in stock and available for purchase any of that type of infant formula.

E. If a WIC customer requests ~~a prescribed infant formula approved by the commissioner under part 4617.0171~~ one of the following products, the vendor must ensure that ~~the requested formula~~ a sufficient quantity of the product is in stock and available for purchase at the vendor's location within one week of the WIC customer's request:

(1) an infant formula approved by the commissioner under part 4617.0171;

(2) WIC-allowed soy beverage;

(3) WIC-allowed tofu;

(4) WIC-allowed baby food meats;

(5) WIC allowed canned fruits and vegetables;

(6) WIC allowed frozen fruits and vegetables; and

(7) other WIC-allowed products authorized under Code of Federal Regulations, title 7, part 246, as amended.

Subp. 4. **Additional requirements.** A vendor shall comply with the following requirements:



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

C. Employees who accept vouchers and cash-value vouchers for the vendor must be able to demonstrate their ability to process vouchers and cash-value vouchers according to this chapter.

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

E. A vendor must ensure that no controlling person of the vendor and no spouse, child, or parent of any controlling person of the vendor:

- (1) is employed by the Minnesota Department of Health in connection with the WIC program;
- (2) is employed by a local agency in a capacity that allows the employee access to WIC vouchers or cash-value vouchers; or
- (3) has a direct or indirect financial interest in a local agency.

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

Subp. 5. **Vendor prices.** With the exception of the authorized foods in subpart 3, items A, subitem (9), and B, subitem (9), a retail food vendor's price for each of the authorized foods in subpart 3 must not be more than 115 percent of the average price charged by retail food vendors. The commissioner shall determine the average price charged by retail food vendors based on the most recent price information available to the commissioner on prices charged by retail food vendors and according to Code of Federal Regulations, title 7, part 246, and approved by USDA in the annual state plan submitted by the commissioner. A change in the manufacturer's price of an authorized food in subpart 3 is grounds for the commissioner to change the commissioner's calculation of the average price charged by retail food vendors. If the commissioner determines that there is a religious need for a vendor to charge a specific price greater than 115 percent of the average price charged by retail food vendors, the vendor may charge that specific price.

## Subp. 6. Special requirements for vendor applicants.

A. Within one year immediately preceding the date the commissioner received the vendor application, and at any time on or after the date the commissioner received the application, a vendor applicant must not have accepted a WIC voucher or cash-value voucher when the vendor applicant did not have a fully executed vendor agreement, unless the voucher or cash-value voucher was never paid by the WIC program's bank.

B. An applicant must not be disqualified from any WIC program or food assistance program at any time between the commissioner's receipt of the vendor application and the commissioner's execution of a vendor agreement with the vendor applicant. If a vendor applicant is subjected to a civil money penalty by a WIC program or food assistance program, and:

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

C. This item applies only to vendor applicants that are not vendors on the date the commissioner receives the application.

(1) The vendor applicant must not have as a controlling person someone who is, or has been, within the year immediately preceding the date the commissioner receives the vendor application, a controlling person of another retail food store or pharmacy at any location in the United States which:

(a) is disqualified from a WIC program or food assistance program; or

(b) within one year before the date the commissioner received the vendor application or at any time on or after the date the commissioner received the application, accepted a voucher or cash-value voucher when the retail store or pharmacy did not have a fully executed vendor agreement and the voucher or cash-value voucher was then paid by the WIC program's bank.

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

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

E. The vendor applicant must not have as a controlling person someone who was, at the time of the ~~food stamp program~~ SNAP disqualification or civil money penalty, a controlling person of another retail food store or pharmacy at any location in the United States that:

(1) was permanently disqualified from the ~~food stamp program~~ SNAP; or

(2) received a civil money penalty in lieu of permanent disqualification from the ~~food stamp program~~ SNAP.

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

## 4617.0068 OPERATING REQUIREMENTS.

### Subpart 1. Acceptance and pricing of vouchers and cash-value vouchers.

A. A pharmacy vendor shall not accept WIC cash-value vouchers or vouchers for any foods other than special infant formula, ~~infant cereal, and juice~~; unless the pharmacy vendor is also a retail food vendor.

B. For each voucher or cash-value voucher accepted by a vendor, the vendor shall ensure that:

- (1) the voucher or cash-value voucher is accepted at a check-out lane at the vendor's business site;
- (2) the voucher or cash-value voucher is accepted on a date between the first-day-to-use date and the last-day-to-use date, inclusive, on the voucher or cash-value voucher;
- (3) the date that the voucher or cash-value voucher is accepted is inserted on the voucher or cash-value voucher when the voucher or cash-value voucher is accepted;
- (4) the price of the food purchased with the voucher or cash-value voucher is inserted in the space provided on the voucher or cash-value voucher before the WIC customer signs the voucher;
- (5) the price inserted on the voucher or cash-value voucher reflects a discount in the amount of any store or manufacturer coupons presented by a WIC customer for the food purchased;
- (6) the vendor does not charge the WIC program more for WIC-allowed food than the vendor's usual and customary charge to non-WIC customers;
- (7) the vendor does not charge the WIC program more than the vendor's shelf price for the WIC-allowed food provided to the WIC customer at the time the vendor accepts the voucher or cash-value voucher in exchange for the food;
- (8) the WIC customer signs the voucher or cash-value voucher at the time the WIC customer uses the voucher to obtain food;
- (9) the cashier verifies that the signature of the individual who signs the voucher or cash-value voucher matches an authorized signature on the WIC ID folder;
- (10) before deposit in the vendor's bank, the number on the vendor stamp has legibly been imprinted onto the voucher or cash-value voucher; and
- (11) the voucher or cash-value voucher does not contain any alteration of the first-day-to-use date, last-day-to-use date, or food prescription.

Subp. 2. **Deposit of vouchers.** A vendor shall deposit each voucher and cash-value voucher in the vendor's bank within 60 days of the first-day-to-use date on the voucher or cash-value voucher, except as provided in part 4617.0084, subpart 18, item C. The vendor may only deposit into the vendor's account vouchers and cash-value vouchers which were accepted at a check-out lane at the vendor's business site. The vendor may not transfer any vouchers or cash-value vouchers accepted by the vendor to anyone else for deposit in an account other than the vendor's account.

Subp. 3. **Access to vouchers and cash-value vouchers.** A vendor shall allow representatives of the Minnesota Department of Health and representatives of the United States Department of Agriculture access to vouchers and cash-value vouchers that are present at the vendor's business site on the day of an on-site monitoring visit and access to any cash register or other area of the vendor's premises where vouchers or cash-value vouchers may be located.

Subp. 4. **Three-year documentation of purchases.**

A. For a minimum of three years, a vendor shall maintain, in chronological order:

- (1) documentation showing the dollar amount of all food sales by the vendor; and
- (2) documentation, including receipts or invoices, showing all purchases by the vendor while a vendor agreement was in effect of all WIC-allowed foods for which the vendor accepted one or more vouchers or cash-value vouchers.

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

[For text of subps 4a to 9, see M.R.]

Subp. 10. **Shelf labels.** If the commissioner requests it due to a violation of this chapter, a vendor shall display in proximity to each WIC-allowed food a current shelf label provided or approved by the commissioner which indicates that the food item is a WIC-allowed food.

Subp. 11. **Receipts.** When a vendor accepts a WIC voucher or cash-value voucher, the vendor must provide a cash register receipt to the WIC customer. The receipt must include the date, the total price, and the price of each item received by the WIC customer.

Subp. 12. **Coupons.** A vendor shall accept store and manufacturer's coupons for food purchased by a WIC customer.

Subp. 13. **Bank account information.** If the commissioner has provided notice under part 4617.0090, subpart 1a, and if there is a change in the vendor's bank name, bank routing number, or bank account number for the account to which the vendor deposits WIC vouchers and cash-value vouchers, the vendor shall promptly inform the commissioner in writing of the change.

[For text of subps 14 and 15, see M.R.]

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## 4617.0070 VENDOR STAMPS.

Subpart 1. **Issuance.** After a vendor agreement has been executed by the commissioner, the commissioner shall issue a vendor stamp to each vendor included in the agreement that does not already have a valid vendor stamp. The number on each stamp must be issued to only one vendor. A vendor shall not possess more than one vendor stamp, shall not use a vendor stamp issued to another vendor, shall not duplicate a vendor stamp, and shall not use or allow the use of the vendor stamp on any voucher or cash-value voucher other than a voucher or cash-value voucher accepted at a check-out lane at the vendor's business site. The commissioner shall issue only one vendor stamp to each vendor, even if the vendor is authorized as both a retail food vendor and a pharmacy vendor.

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

## 4617.0084 VENDOR SANCTIONS.

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

Subp. 2. **Permanent disqualification.** The commissioner shall permanently disqualify a vendor if any controlling person of the vendor is criminally convicted of either:

A. buying or selling one or more vouchers or cash-value vouchers for cash; or

B. selling any firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), as amended, for one or more vouchers or cash-value vouchers.

Subp. 3. **Six-year disqualification.** Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for six years if the vendor:

A. buys or sells one or more vouchers or cash-value vouchers for cash; or

B. sells any firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), as amended, for one or more vouchers or cash-value vouchers.

Subp. 4. **Providing alcohol or tobacco.** Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for three years if the vendor provides any alcohol, alcoholic beverage, or tobacco product in exchange for one or more vouchers or cash-value vouchers.

Subp. 5. **Redeeming vouchers or cash-value vouchers in excess of inventory.** Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for three years if, on two occasions within any two-year period, the vendor claims reimbursement for the sale of an amount of a specific supplemental food item during a month specified period of time and the amount claimed exceeds the store's documented inventory of that supplemental food item by at least 15 units for the month that period of time. The two occasions may be established during a single review of inventory records and may involve two different food items during the same month period of time, two different food items during two different months periods of time, or one food item during two different months periods of time.

Subp. 6. **Laundering vouchers or cash-value vouchers.** Except as provided in subparts 15 and 16, the commissioner shall disqualify a vendor for three years if, on two occasions within any two-year period, the vendor launders one or more vouchers or cash-value vouchers.

Subp. 7. **Providing credit or nonfood item.**

A. Except as provided in subparts 15, 16, and 19, the commissioner shall disqualify a vendor for three years if, twice within any two-year period, the vendor provides credit, other than a rain check, or provides a nonfood item, other than any alcohol, alcoholic beverage, tobacco product, cash, firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), as amended, in exchange for a voucher or cash-value voucher.

B. Except as provided in subparts 15, 16, and 19, the commissioner shall disqualify a vendor for three years if, four times within any two-year period, the vendor provides a rain check in exchange for a voucher or cash-value voucher.

Subp. 8. **Overcharging and charging for food not received.**

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

B. Except as provided in subparts 15, 16, and 19, the commissioner shall disqualify ~~the~~ a vendor for three years if the vendor commits a violation under item A twice within any two-year period and if:

(1) for each violation, the price the WIC program paid the vendor for the voucher or cash-value voucher was \$2 or more greater than the correct price for the voucher or cash-value voucher; and

(2) each violation involved any of the following circumstances:

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- (a) no price was entered on the voucher or cash-value voucher at the time it was accepted by the vendor;
  - (b) the price on the voucher or cash-value voucher was at any time altered to reflect a price higher than the price originally entered on the voucher or cash-value voucher;
  - (c) the price the WIC program paid the vendor for the voucher or cash-value voucher was more than 20 percent greater than the correct price for the voucher or cash-value voucher;
  - (d) no receipt was provided at the time the voucher or cash-value voucher was accepted by the vendor;
  - (e) the price for any of the WIC-approved food items obtained with the voucher or cash-value voucher was not displayed for easy viewing or marked on the food; or
  - (f) the cashier or other store representative asked the WIC customer for any identification other than the WIC ID folder.
- C. Except as provided in item B and subparts 15, 16, and 19, the commissioner shall disqualify the vendor for three years if the vendor commits a violation under item A three times within any two-year period and if, for each violation, the price the WIC program paid the vendor for the voucher or cash-value voucher was \$2 or more greater than the correct price for the voucher or cash-value voucher.
- D. Except as provided in items B and C and subparts 15, 16, and 19, the commissioner shall disqualify the vendor for three years if the vendor commits a violation under item A four times within any two-year period.

### Subp. 9. **Providing unauthorized food.**

- A. A vendor shall not provide unauthorized food.
- B. Except as provided in subparts 15, 16, and 19, the commissioner shall disqualify ~~the a~~ vendor for one year if the vendor violates item A twice within any two-year period and each violation involved providing unauthorized food in exchange for any of the infant formula listed on the voucher, other than substituting another infant formula with the same level of iron fortification.
- C. Except as provided in item B and subparts 15, 16, and 19, the commissioner shall disqualify ~~the a~~ vendor for one year if the vendor violates item A four times within any two-year period.

### Subp. 10. **~~Food stamp SNAP~~ or food support sanctions.**

- A. If a vendor is disqualified from the ~~food stamp SNAP~~ or food support program, the commissioner shall disqualify the vendor from the WIC program for an equal amount of time, except as provided in subpart 15.
- B. If the ~~food stamp SNAP~~ or food support program assesses a vendor a civil money penalty for hardship instead of disqualifying the vendor from the ~~food stamp SNAP~~ or food support program, the commissioner shall disqualify the vendor from the WIC program for the amount of time the vendor would have been disqualified from the ~~food stamp SNAP~~ or food support program absent the hardship determination, except as provided in subpart 15.

### Subp. 11. **One-year disqualification for one violation.**

- A. The commissioner shall disqualify a vendor for one year if, during any 12-month period within the last three years, the dollar amount of the vendor's WIC sales was greater than 50 percent of the vendor's total food sales.
- B. Except as provided in subpart 15, the commissioner shall disqualify ~~the a~~ vendor for one year if:
- [For text of subitems (1) to (4), see M.R.]

- (5) during an on-site inspection, the vendor fails to allow the commissioner access to any voucher or cash-value voucher located on the vendor's premises or to any cash register or other area of the vendor's premises where vouchers or cash-value vouchers may be located; or
- (6) the vendor violates part 4617.0068, subpart 14.

### Subp. 12. **~~Six-month~~ One-year disqualification for two violations.**

- A. This subpart applies to the violations described in subitems (1) to (6). Violations described in each subitem are accumulated separately to determine the number of violations:
- [For text of subitems (1) and (2), see M.R.]

- (3) altering the first-day-to-use date, last-day-to-use date, or food prescription on a voucher or cash-value voucher or signing a voucher or cash-value voucher that the vendor has accepted without a signature;
- (4) offering an incentive for a WIC customer to redeem a voucher or cash-value voucher at the vendor's business site or advertising that the vendor would provide such an incentive; and
- (5) allowing a WIC customer to return or exchange any infant formula bought with a voucher, unless the customer is exchanging infant formula that is expired or damaged food for the identical size, type, brand, and level of iron fortification; and
- (6) ~~the vendor fails to provide as required, by the deadline and in the manner specified by the commissioner, documentation~~

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~~requested by the commissioner under part 4617.0068, subpart 4a.~~

B. Except as provided in subpart 15, the commissioner shall disqualify the vendor for ~~six months~~ one year if the vendor commits a violation under item A twice within any two-year period.

## Subp. 13. **Six-month disqualification for two violations.**

A. This subpart applies to the violations described in subitems (1) to (5). Violations described in each subitem are accumulated separately to determine the number of violations:

- (1) requiring a WIC customer to provide information or identification other than the WIC ID folder;
- (2) requesting any reimbursement or payment from a WIC customer for a WIC voucher or cash-value voucher returned by the bank;
- (3) failing to enter a dollar amount on a voucher or cash-value voucher at the time the vendor accepts the voucher or cash-value voucher from a WIC customer;
- (4) except as provided in subpart 12, item A, subitem (5), allowing a customer to return or exchange any food bought with a voucher or cash-value voucher, unless the customer is exchanging expired or damaged food for the identical size and type of food; and
- (5) accepting a voucher or cash-value voucher on which the last-day-to-use date, first-day-to-use date, or food prescription has been altered.

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

## Subp. 13a. **Three-month disqualification for three violations.**

A. This subpart applies to the violations described in subitems (1) to (4). Violations described in each subitem are accumulated separately to determine the number of violations:

- (1) failing to verify that the signature of the individual who signs the voucher or cash-value voucher matches an authorized signature on the WIC ID folder;
- (2) failing to accept a manufacturer's coupon for any food obtained by a WIC customer in exchange for a WIC voucher or cash-value voucher or failing to discount the price inserted on the voucher or cash-value voucher by the amount of the coupon;

[For text of subitems (3) and (4), see M.R.]

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

Subp. 14. [Repealed, 29 SR 1202]

## Subp. 14a. **Written warnings; termination.**

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

B. If a vendor commits a violation under subitems (1) to (12), the commissioner shall issue a written warning to the vendor. The vendor must correct the violation within 15 days after the vendor receives the warning. If the vendor fails to correct the violation or commits the same violation at any time more than 15 days but less than six months after receiving the written warning, the commissioner shall terminate the vendor agreement. The commissioner shall issue a written warning if the vendor:

- (1) violates part 4617.0067, subpart 4, item A, B, C, D, or E, or 5; or 4617.0068, subpart 4a;
- (2) is a retail food vendor and ~~does not meet~~ any license or authorization required requirement under part 4617.0067, subpart 2; ~~item B; is suspended or revoked or is not renewed;~~
- (3) is a pharmacy vendor and the vendor's Minnesota Board of Pharmacy registration is suspended or revoked or is not renewed;
- (4) ~~with respect to two or more food items, fails to ensure that the price charged for each WIC-allowed food stocked by the vendor is displayed for easy viewing or marked on the food;~~
- (5) (4) is a retail food vendor that fails to maintain the required minimum stock under part 4617.0067, subpart 3;
- (6) (5) on two occasions, fails to ensure that a prescribed infant formula is in stock and available for purchase within one week of a WIC customer's request under part 4617.0067, subpart 3, item E;
- (7) (6) fails to ensure that a representative of the vendor receives required WIC-approved training ~~at least once every year;~~
- (8) (7) fails to make full payment to the commissioner within 120 days of a request by the commissioner under part 4617.0090, subpart 4;
- (9) (8) has in stock and available for purchase any expired infant formula of the brand and level of iron fortification approved by the commissioner under part 4617.0171;
- (10) (9) is a pharmacy vendor, is not also a retail food vendor, and accepts a WIC voucher or cash-value voucher for any foods other than special infant formula, ~~infant cereal, and juice;~~
- (11) (10) fails to be open for business during the business hours that the vendor has reported to the WIC program; or



~~(+2)~~(11) fails to provide to the commissioner by the applicable deadline the corrective action plan required under subpart 15, item G.

**Subp. 15. Inadequate participant access; corrective action plan.**

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

B. Disqualification of a vendor located in a Tier 1 county would result in inadequate participant access if the vendor is the only vendor in a clinic town or if:

(1) during the most recent 12 months for which voucher and cash-value voucher redemption information is available for the commissioner's review, the vendor redeemed WIC vouchers and cash-value vouchers in an average monthly amount of at least \$150; and

[For text of subitem (2), see M.R.]

C. Disqualification of a vendor located in a Tier 2 county would result in inadequate participant access if the vendor is the only vendor in a clinic town or if:

(1) during the most recent 12 months for which voucher and cash-value voucher redemption information is available for the commissioner's review, the vendor redeemed WIC vouchers and cash-value vouchers in an average monthly amount of at least \$100; and

(2) as of the date of the notice of disqualification or civil money penalty, the next closest retail food vendor is more than five miles by public road from the vendor, including roads on which pedestrians are prohibited.

D. If the commissioner determines under this part that disqualification of the vendor would result in inadequate participant access, then instead of disqualifying the vendor, the commissioner shall, except as provided in item F and in subpart 16, item C, impose on the vendor one or more civil money penalties.

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

(3) For each violation described in subparts 11, item B, and 12 to 14a, the civil money penalty is \$700 or the average monthly amount of the vendor's WIC redemptions during the most recent 12 months for which voucher and cash-value voucher redemption information is available for the commissioner's review, whichever is less.

(4) The total amount of all civil money penalties imposed for violations investigated as part of a single investigation shall not exceed \$40,000.

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

[For text of subps 16 and 17, see M.R.]

**Subp. 18. General provisions.**

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

C. A retail food store or pharmacy that has been disqualified or terminated must deposit each voucher and cash-value voucher in the store's or pharmacy's bank account by the earlier of:

(1) 60 days after the first-day-to-use date on the voucher or cash-value voucher; or

(2) five days after the effective date of the disqualification or termination.

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

F. If a violation involves a vendor's acceptance of a voucher or cash-value voucher, the violation occurs on the date the vendor accepts the voucher or cash-value voucher.

G. If a vendor provides food in exchange for a voucher or cash-value voucher under circumstances where the vendor informs the WIC customer that the customer may return the food for cash or a nonfood item and if the WIC customer subsequently does return the food for cash or a nonfood item, the vendor shall be sanctioned in the same way as if the vendor had provided the cash or nonfood item directly to the WIC customer in exchange for the voucher or cash-value voucher.

**Subp. 19. Previous history of disqualification.** Notwithstanding subparts 7 to 9, if a vendor was previously disqualified under this subpart or subparts 3 to 10, and if any controlling person of the vendor was a controlling person at the time of the previous disqualification, except as provided in subparts 15 and 16, the commissioner shall disqualify the vendor for:

A. three years if, twice within any two-year period, the vendor, in exchange for a WIC voucher or cash-value voucher, provides credit other than a rain check or provides a nonfood item other than any alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances, as defined under the federal Controlled Substances Act, *United States Code*, title 21, section 802, clause (6), as amended;

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

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## 4617.0090 REJECTION OF VOUCHERS AND CASH-VALUE VOUCHERS AND REIMBURSEMENT BY VENDORS.

Subpart 1. **Return without payment.** The bank which processes WIC vouchers and cash-value vouchers on behalf of the commissioner shall return a voucher or cash-value voucher to a vendor without payment if:

- A. the voucher or cash-value voucher is not stamped with a vendor stamp;
- B. the voucher or cash-value voucher is stamped with a vendor stamp which is illegible;
- C. the voucher or cash-value voucher is not signed by a WIC customer;
- D. the space provided on the voucher or cash-value voucher for the price of the food purchased is left blank by the vendor;
- E. there is no first-day-to-use or last-day-to-use date on the voucher or cash-value voucher;
- F. the commissioner has placed a stop-payment order on the voucher or cash-value voucher;
- G. the date that the WIC customer used the voucher or cash-value voucher to obtain food is before the first-day-to-use date or after the last-day-to-use date on the voucher or cash-value voucher;
- H. the vendor deposits the voucher or cash-value voucher before the first-day-to-use date on the voucher or cash-value voucher;
- I. the vendor does not initially deposit the voucher or cash-value voucher in the vendor's bank by the earlier of:
  - (1) 60 days after the first-day-to-use date on the voucher or cash-value voucher; or
  - (2) five days after the effective date of the vendor's disqualification or termination;
- J. the voucher or cash-value voucher was returned to the vendor under item A or B and the vendor does not redeposit the voucher or cash-value voucher in the vendor's bank by the earlier of:
  - (1) 90 days after the first-day-to-use date on the voucher or cash-value voucher; or
  - (2) five days after the effective date of the vendor's disqualification or termination;
- K. the first-day-to-use date, last-day-to-use date, or food prescription on the voucher or cash-value voucher has been altered; or
- L. the voucher or cash-value voucher is stamped with a vendor stamp other than a vendor stamp issued to the vendor by the commissioner under part 4617.0070.

Subp. 1a. **Return with credit.** Before this subpart applies, the commissioner shall give at least two months' written notice to vendors. If the price of the food purchased with a voucher or cash-value voucher exceeds the maximum price calculated by the commissioner for that voucher or cash-value voucher under part 4617.0088, subpart 1, the bank that processes WIC vouchers and cash-value vouchers on behalf of the commissioner shall:

- A. return the voucher or cash-value voucher to the vendor;
- B. not pay the price listed on the voucher or cash-value voucher;
- C. for a voucher, credit the vendor in an amount equal to the maximum price calculated by the commissioner for that voucher under part 4617.0088, subpart 1, or for a cash-value voucher, credit the vendor in an amount equal to the maximum price listed on the cash-value voucher; and
- D. notwithstanding item C, not credit the vendor in any amount if the bank is unable to credit the vendor because of the vendor's failure to comply with part 4617.0068, subpart 13, or failure to provide accurate information on the vendor's most recent vendor application.

### Subp. 2. **Payment of rejected vouchers and cash-value vouchers.**

A. A voucher or cash-value voucher returned to a vendor under subpart 1, item A or B, may be corrected by the vendor and redeposited in the vendor's bank within 90 days of the first-day-to-use date on the voucher or cash-value voucher.

B. A voucher or cash-value voucher returned to a vendor under subpart 1, item D or E, or for a reason not authorized by this part, may be submitted by the vendor to the commissioner for payment if:

- (1) the voucher or cash-value voucher is received by the commissioner not more than ~~120~~ 90 days after the first-day-to-use date on the voucher or cash-value voucher; and
- (2) for a voucher or cash-value voucher returned to the vendor under subpart 1, item D, the vendor inserts the correct price and provides to the commissioner documentation showing that the vendor had failed to insert the correct price due to inadvertent error, oversight, or some other reason not inconsistent with the purposes of this chapter.

Subp. 2a. **Bank fees.** The commissioner is not liable for any bank fees incurred by a vendor.

Subp. 3. [Repealed, 29 SR 1202]

Subp. 4. **Vendor liability.** A vendor shall pay to the commissioner, within 30 days of a request by the commissioner, the amount of any overcharges paid by the commissioner to the vendor, the amount paid by the commissioner to the vendor in excess of the maximum price of the voucher or cash-value voucher calculated under part 4617.0088, subpart 1, the amount erroneously paid by the commissioner

to the vendor for a voucher or cash-value voucher that should have been returned to the vendor without payment according to subpart 1, all money paid by the commissioner to the vendor for food items not received by a WIC customer, all money paid by the commissioner to the vendor for products other than WIC-allowed foods, and all money paid by the commissioner to the vendor for vouchers or cash-value vouchers accepted by the vendor while there was not in effect a WIC vendor agreement for the vendor. If the vendor does not pay these amounts within 90 days of the initial request by the commissioner, then, in addition to any other sanction specified in this chapter, the vendor must pay interest to the commissioner computed in the same manner that interest on judgments is computed under *Minnesota Statutes*, section 549.09.

Subp. 5. **Prohibited vendor conduct.** A vendor shall not seek reimbursement from any WIC customer for a voucher or cash-value voucher not paid according to this part, for any banking charges paid by the vendor as a result of the nonpayment of a voucher or cash-value voucher, or for any money paid by the vendor to the commissioner according to this part. A vendor shall not require a WIC customer to provide a signature that was not provided at the time the voucher or cash-value voucher was used to buy food from the vendor.

### **4617.0100 APPEALS BY VENDORS, VENDOR APPLICANTS, LOCAL AGENCIES, AND LOCAL AGENCY APPLICANTS.**

#### **Subpart 1. Procedures for appeals by applicants and participants.**

A. An applicant or participant may appeal an action which results in a claim for repayment of the cash value of vouchers and cash-value vouchers redeemed in violation of Code of Federal Regulations, title 7, part 246, or this chapter; a finding of ineligibility; the denial of benefits; or disqualification from the program.

B. An appeal by or on behalf of an applicant or participant must be received by the commissioner not more than 60 days after notice of adverse action was mailed or given to the applicant or participant or the applicant's or participant's parent or legal guardian.

C. An appeal by an applicant or participant of an action cited in item A will be decided according to this part and procedures established by the commissioner according to Code of Federal Regulations, title 7, part 246.9, and approved by USDA in the state plan submitted by the commissioner.

#### **Subpart 1. Subp. 1a. Procedures for appeals by local agencies, local agency applicants, vendors, and vendor applicants.**

A. A local agency, local agency applicant, vendor, or vendor applicant against whom the commissioner takes adverse action that affects participation in the WIC program may appeal the action, except that the following actions by the commissioner are not subject to appeal:

(1) a notice of violation under part 4617.0084 is not subject to appeal unless the violation results in the vendor's disqualification, the termination of the vendor agreement, a civil money penalty imposed on the vendor, or denial of the vendor's reauthorization application;

(2) disqualification under part 4617.0084, subpart 10, item A;

(3) the commissioner's determination of whether disqualification would result in inadequate participant access under part 4617.0084, subpart 15; or

(4) the commissioner's return of an application to a vendor applicant under part 4617.0065, subpart 3, item C or E; or 4617.0066, subpart 3, item B.

The denial of a vendor application for the vendor applicant's failure to meet the requirement of part 4617.0067, subpart 6, item C, subitem (3), is subject to appeal. The validity and appropriateness of the criteria referenced in part 4617.0067, subpart 6, item C, subitem (3), are not subject to administrative review.

B. An appeal by a vendor, vendor applicant, local agency, or local agency applicant must be in writing and be received by the commissioner not more than 30 days after notice of adverse action was mailed. An appeal by a local agency, local agency applicant, vendor, or vendor applicant must be decided according to this part; parts 1400.5100 to 1400.8401; *Minnesota Statutes*, sections 14.57 to 14.62; and *Code of Federal Regulations*, title 7, section 246.18, as amended. Expiration of a contract or agreement with a local agency or vendor is not subject to appeal.

C. All appeals by local agencies and local agency applicants are subject to full administrative reviews under item D. Appeals by vendors and vendor applicants are subject to full administrative reviews under item D, except that appeals of the following actions by the commissioner are subject to abbreviated administrative reviews under item E:

(1) denial of authorization based on the vendor applicant's failure to comply with part 4617.0067, subpart 6, item B; C, subitems (1), ~~units (a) and (c)~~; and (2); D; or E, subitem (1);

(2) termination of a vendor agreement under part 4617.0066, subpart 2; and

(3) disqualification of a vendor under part 4617.0084, subpart 2 or 10, item B.

D. Full administrative reviews shall be conducted under the contested case provisions of the Minnesota Administrative Procedures Act, *Minnesota Statutes*, chapter 14, and rules adopted thereunder. The commissioner shall provide an appellant not less than ten days'

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advance written notice of the time and place of a hearing. The appellant must be given one opportunity to request that a hearing date be rescheduled.

E. Abbreviated administrative reviews shall be conducted in writing, without a hearing, according to the following procedures:

(1) The commissioner shall appoint a decision maker who had no involvement in the initial determination to take adverse action against the vendor.

(2) After receiving the appellant's appeal, the decision maker shall notify the appellant and the WIC program who the decision maker is and shall require the WIC program to mail to the appellant and provide to the decision maker a letter setting forth the WIC program's basis for the action being appealed, attaching copies of any supporting documentation. The appellant shall then have 30 days to serve on the WIC program and file with the decision maker a written response to the WIC program's letter, along with any documentation to support the response. The appellant and the WIC program may be, but need not be, represented by counsel.

(3) The decision maker shall determine whether to uphold the WIC program's action based solely on whether the WIC program has correctly applied federal and state statutes, rules, regulations, policies, and procedures governing the WIC program, according to the information provided to the appellant concerning the cause for the adverse action and the appellant's response. The decision maker shall notify the WIC program and the appellant in writing of the decision maker's determination, including the basis for the determination. If the decision maker is unable to make a determination on the basis of the information filed, the decision maker shall notify the WIC program and the appellant that the procedures described in item D should be followed in connection with the appeal.

Subp. 2. **Judicial review.** ~~A~~ An applicant, participant, local agency, local agency applicant, vendor, or vendor applicant aggrieved by the decision of the commissioner or other decision maker on an appeal is entitled to a judicial review of the decision under *Minnesota Statutes*, sections 14.63 to 14.69.

Subp. 3. **Burden of proof.** A local agency applicant or vendor applicant that appeals the commissioner's denial of an application to participate has the burden of proving the facts at issue by a preponderance of the evidence. ~~When a~~ an applicant, participant, local agency, or vendor appeals a disqualification or other sanction, the commissioner has the burden of proof.

## 4617.0121 TRANSITION PERIOD.

Subpart 1. [Repealed, 29 SR 1202]

Subp. 2. [See repealer.]

Subp. 3. **Effective date.** The provisions in parts 4617.0002, subparts 2a, 3c, 3d, 8, 14c, 14f, 14g, 17b, 19b, 36a, 37a, 40f, 40g, 44, 44b, 44d, 44g, and 46; 4617.0025; 4617.0067, subparts 2 to 6; 4617.0068, subparts 1 to 4, 10, 11, and 13; 4617.0070, subpart 1; 4617.0084, subparts 2 to 15, 18, and 19; 4617.0090, subparts 1, 1a, 2, 4, and 5; 4617.0100, subparts 1 to 3; and 4617.0176, subparts 1 and 2, are effective August 1, 2009.

## 4617.0176 APPROVAL PROCESS FOR WIC FOODS OTHER THAN INFANT FORMULA.

Subpart 1. **Approval process.** The commissioner shall approve for purchase using WIC vouchers ~~and cash-value vouchers:~~

A. food items within each food product in part 4617.0067, subpart 3, ~~item~~ items A, subitems (2) to ~~(14); B, subitems (2) to (14); and E, subitems (2) to (7);~~ and

B. any other food item permitted under *Code of Federal Regulations*, title 7, part 246, as amended, other than infant formula, if the commissioner determines that there is a nutritional need for participants to obtain such food item or that there is a need for the item or product within a specific cultural, religious, or ethnic group.

Subp. 2. **Approval criteria.** At least once every three years, the commissioner shall determine using the following factors which food items within each food product in part 4617.0067, subpart 3, items A, subitems (2) to (14); B, subitems (2) to (14); and E, subitems (2) to (7), to approve for purchase using WIC vouchers; ~~and cash-value vouchers:~~

A. ~~For food products in part 4617.0067, subpart 3, item A, subitems (2) to (10), the commissioner's determination must be based on the following factors:~~

~~(1)~~ whether the food item meets all specifications in the applicable subitem of part 4617.0067, subpart 3, ~~item~~ items A, B, and E;

B.

~~(2)~~ whether the food item meets the nutritional requirements of *Code of Federal Regulations*, title 7, section 246.10(c), as amended;

C.

(3) whether the food item contains any nonnutritive or artificial sweetener; and

D.

(4) for foods other than those listed in part 4617.0067, subpart 3, items A, subitem (9); and B, subitem (9), the price per ounce of the food item compared to other brands, sizes, and varieties of the food product.

B. For food products in part 4617.0067, subpart 3, item A, subitem (11), the commissioner's determination must be based on the factors in item A, subitems (1) to (4), and the following factors:

(1) the quantity of sucrose or other sugars in each ounce of the food item compared to other brands, sizes, and varieties of the food product;

(2) the extent to which the food item is available at WIC retail food vendors, based on the most recent survey conducted by the commissioner for which results are available; and

(3) the extent to which WIC participants prefer the food item, based on the most recent food preference survey conducted by the commissioner for which results are available.

Subp. 3. [See repealer.]

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

**REPEALER.** Minnesota Rules, parts 4617.0121, subpart 2; and 4617.0176, subpart 3, are repealed.



# 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 Labor and Industry (DLI)

### Adopted Exempt Permanent Rules Relating to Occupational Safety and Health Standards

The rules proposed and published at *State Register*, Volume 33, Number 39, pages 1692-1694, March 30, 2009 (33 SR 1692), are adopted as proposed.

## Board of School Administrators

### Adopted Exempt Permanent Rules Relating to Repeal of Board of School Administrators Rule

**REPEALER.** Minnesota Rules, part 3512.4000, is repealed.

## Expedited Rules

An agency adopts Expedited Rules (*Minnesota Statutes* 14.389) when a law requires or authorizes such rules. The agency must follow *Minnesota Statutes*, sections 14.19 and 14.366. Within 180 days after issuance of the administrative law judge's report, or that of the chief administrative law judge, an agency shall submit its notice of adoption, amendment, or repeal to the *State Register* for publication. If the agency has not submitted its notice to the *State Register* within 180 days, the rule is automatically withdrawn.

The agency may not adopt the withdrawn rules without again following the procedures of *Minnesota Statutes* 14.05 to 14.28. If the law authorizing or requiring rules to be adopted under this section 14.389, and refers to **Subdivision 5, Option**, then the notice must include a statement that a public hearing will be held if 100 or more people request a hearing. If such is the case, the agency may adopt the rule only after complying with all of the requirements of chapter 14 for rules adopted after a public hearing.

## Minnesota Department of Natural Resources (DNR)

### Adopted Expedited Permanent Game and Fish Rules: Deer, Bear, and Prairie Chicken ORDER ADOPTING RULES

#### ORDER

The above-named rules, in the form published in the State Register on January 20, 2009, are adopted under my authority in Minnesota Statutes, section 84.027.

Date: February 27, 2009

Mark Holsten, Commissioner  
Department of Natural Resources

#### Adoption of Rules and Repeal of Rules Governing Deer, Bear and Prairie Chicken, *Minnesota Rules*, chapters 6232 and 6237

The rules proposed and published at *State Register*, Volume 33, Number 29, pages 1257-1267, January 20, 2009 (33 SR 1257), are adopted as proposed.

# Commissioners' Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners orders are compiled in the year-end subject matter index for each volume of the *State Register*.

## Department of Natural Resources (DNR)

### Designation of Wildlife Management Lakes

Order No. 09-001

Pursuant to the provisions of *Minnesota Statutes*, section 97A.101, subdivision 2, the following described lake under the jurisdiction of the Minnesota Department of Natural is designated as a wildlife management lake: Jennie Lake (DOW# 21032300), Township 128, 129N; Range 40W; Sections 2, 35; Douglas County.

Pursuant to the provisions of *Minnesota Statutes*, section 97A.101, subdivision 4, the following surface use restrictions apply to Jennie Lake (DOW# 21032300), Township 128, 129N; Range 40W; Sections 2, 35; Douglas County:

Motorized boat use is limited to boats powered by an electric motor powered by no more than one 12-volt battery, effective during the open water season.

**NOW THEREFORE, IT IS HEREBY ORDERED** that the lake described above is designated as a wildlife management lake and has the above motorized boat surface use restrictions.

Dated: May 15, 2009

Signed: Mark Holsten, Commissioner  
Department of Natural Resources

## Department of Natural Resources (DNR)

### Designation of Wildlife Management Lakes

Order No. 09-002

Pursuant to the provisions of *Minnesota Statutes*, section 97A.101, subdivision 2, the following described lake under the jurisdiction of the Minnesota Department of Natural is designated as a wildlife management lake: Smith Lake (DOW# 86025000), Township 119N; Range 27, 28W; Sections 30, 31, 36; Wright County.

Pursuant to the provisions of *Minnesota Statutes*, section 97A.101, subdivision 4, the following surface use restrictions apply to Smith Lake (DOW# 86025000), Township 119N; Range 27, 28W; Sections 30, 31, 36; Wright County:

Motorized-boat use is limited to boats powered by an electric motor powered by no more than one 12-volt battery, effective during the open water season.

**NOW THEREFORE, IT IS HEREBY ORDERED** that the lake described above is designated as a wildlife management lake and has the above motorized-boat surface use restrictions.

Dated: 15 May 2009

Signed: Mark Holsten, Commissioner  
Department of Natural Resources

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# Commissioner's Orders

## Department of Natural Resources (DNR)

### Commissioner's Order Regarding Firewood Approved for Land Administered by the Commissioner

File Number: 3435-5-1-1.1

The 2007 *Minnesota Statutes* 89.551 Approved Firewood Required, Sec. 2 Subd. 3b authorizes the Commissioner of Natural Resources by written order to publish in the *State Register*, firewood that will be approved on land administered by the Commissioner.

No firewood will be allowed on land administered by the Commissioner unless it complies with the following:

- 1) Firewood offered for sale by the Minnesota Department of Natural Resources (MN DNR) is from approved vendors or meets paragraph 2)a, b and c or 3 below,  
– OR –
- 2) Firewood offered for sale to the public by vendors who have successfully completed the DNR application process. Approved firewood vendors must provide customers with a proof of purchase that includes the name of the vendor, date and quantity of wood purchased.

Approved firewood is:

- a. Non-ash firewood originating on lands within Minnesota AND within 100 miles of the Minnesota DNR land on which it is to be used, OR
  - b. Firewood originating from Minnesota that has been heat-treated in a kiln certified by the Minnesota Department of Agriculture, OR
  - c. Split firewood from Minnesota and is 100 percent debarked according to federal guidelines (removal of bark and outer ½-inch of sapwood).  
– OR –
- 3) Kiln-dried, untreated (unpainted/stained construction/dimensional) lumber that is free of any metal or foreign substance.

Pallet boards are not included in this category.

Firewood originating from a quarantined county in Minnesota will be approved only for use in that county. Firewood from counties contiguous to the quarantined county in Minnesota will be approved only for use in those counties.

By this order, I, Mark Holsten, Commissioner of Natural Resources, do hereby approve these firewood restrictions on all Department of Natural Resources lands.

APPROVED: Date: May 21, 2009

Signed: Mark Holsten, Commissioner  
Department of Natural Resources

This order supersedes the previous Commissioner's Order dated May 3, 2007, and is effective upon signing.

## Official Notices

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

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

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## Minnesota State Agricultural Society - MINNESOTA STATE FAIR Meeting of the Society's Board of Managers June 5, 2009

**MINNESOTA STATE FAIRGROUNDS** – The Minnesota State Agricultural Society board of managers will hold a general business meeting at 9 a.m. Friday, June 5. The Society is the governing body of the Minnesota State Fair. Agendas are available upon request by calling (651) 288-4400.

The 2009 Minnesota State Fair will run Aug. 27 through Labor Day, Sept. 7.

## Minnesota Department of Employment and Economic Development (DEED)

### *Minnesota's Unified Plan* for the Workforce Investment Act Authorized Under Title V, Section 501, of the Workforce Investment Act of 1998

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Employment and Economic Development, designated by the Governor as the state agency responsible for coordinating the public workforce investment system, is providing the public with an opportunity to review and comment on a modification of *Minnesota's Unified Plan* for the federal Workforce Investment Act. Currently, *Minnesota's Unified Plan* covers the period July 1, 2007, through June 30, 2010. However, WIA regulations at 20 CFR 661.230(b) requires states to submit a State Plan modification when there are changes in federal or state laws, policies, a state's vision, and/or strategies, including an extension. Minnesota's Unified Plan is a single plan which includes the following federal workforce development programs:

- WIA Title I - Adult, Dislocated Worker and Youth programs
- WIA Title II - Adult Basic Education
- WIA Title III - Wagner Peyser (Business Services, Job Seeker Services, and Labor Market Information)
- WIA Title IV - State Services for the Blind
- WIA Title IV - Vocational Rehabilitation - General
- Food Stamp Employment and Training Program



- Migrant and Seasonal Farmworkers Program
- Senior Community Service Employment Program
- Temporary Assistance For Needy Families - known as Minnesota Family Investment Program
- Trade Act Assistance Programs (Chapter 2 of Title II of the Trade Act of 1974)
- Unemployment Insurance
- Veterans Programs

In collaboration with the Governor's Workforce Development Council, state agencies and state councils with operational and oversight responsibility for the federal workforce development programs contained in Minnesota's Unified Plan are provided the opportunity maximize joint planning and coordination.

If you are interested in reviewing and commenting on the **modification** to *Minnesota's Unified Plan*, you may do so from May 26, 2009 through June 25, 2009. The document and further information is available at: [www.deed.state.mn.us/wia](http://www.deed.state.mn.us/wia)

Your written comments must be received no later than 4:00 p.m. on Thursday, June 25, 2009. Submit comments via mail, e-mail, or fax to:

Shelley Landgraf, State Unified Plan Coordinator  
Minnesota Department of Employment and Economic Development  
1<sup>st</sup> National Bank Building, 332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351  
**E-mail:** [Shelley.landgraf@state.mn.us](mailto:Shelley.landgraf@state.mn.us)  
**Fax:** (651) 215-3842

This information is available in alternative formats upon request.

## Department of Health (MDH)

### Division of Compliance Monitoring

### Managed Care Systems Section

### Notice of Application for Essential Community Provider Status

**NOTICE IS HEREBY GIVEN** that applications for designation as an Essential Community Provider (ECP) have been submitted to the Commissioner of Health by

- 1.) Indian Health Board of Minneapolis, Inc., 1315 East 24<sup>th</sup> Street, Minneapolis, Minnesota, 55404;
- 2.) Lake Superior Community Health Center, 4325 Grand Avenue, Duluth, MN 55807; and
- 3.) Community-University Health Care Center, 2001 Bloomington Avenue, Minneapolis, MN 55404.

An ECP is a health care provider that serves high-risk, special needs, and underserved individuals. In order to be designated as an ECP, a provider must demonstrate that it meets the requirements of *Minnesota Statutes* Section 62Q.19 and *Minnesota Rules* Chapter 4688. The public is allowed 30 days from the date of the publication of this notice to submit written comments on the application. The commissioner will approve or deny the application once the comment period and compliance review is complete.

For more information contact:

Mary Ann Fena  
Managed Care Systems Section  
Division of Compliance Monitoring  
Department of Health  
P.O. Box 64882  
St. Paul, MN 55164-0882  
Phone: (651) 201-5164

# Official Notices

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## Department of Human Services (DHS)

### 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.

No earlier than June 1, 2009 the Department may add the following outpatient prescribed drugs to the state MAC list:

**Drug Name**

MYCOPHENOLATE MOFETIL

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 \$95,000.00 for State Fiscal Year 2008 (July 1, 2008 through June 30, 2009).

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 Pharmacy Program Manager Sara Drake R.Ph., Health Services and Medical Management Division, Health Care Administration, Minnesota Department of Human Services, P.O. Box 64984, St. Paul, Minnesota 55164-0984.

## Department of Labor and Industry (DLI)

### Board of High Pressure Piping Systems

### REQUEST FOR COMMENTS on Possible Amendment to Rules Governing High Pressure Piping: Definitions and Journeyman High Pressure Pipefitter Qualifications, *Minnesota Rules*, parts 5230.0005 and 5230.0080

**Subject of Rules.** The Minnesota Board of High Pressure Piping Systems (Board) requests comments on its possible amendment of rules governing high pressure piping. The Board is considering rule amendments regarding the definitions and the journeyman high pressure pipefitter qualifications.

The rule amendments being considered fall into the following categories. The current citation (if any) in *Minnesota Rules* is listed parenthetically:

- Definitions (including a definition of “repairs” as used in *Minnesota Statutes* section 326B.921, subd. 1) (5230.0005)

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## Official Notices

- Journeyman High Pressure Pipefitter Qualifications, including whether the applicant should be required to have a certain number of hours of relevant experience (5230.0080)

**Persons Affected.** Persons affected by the rule amendments may include high pressure pipefitters, high pressure pipefitting businesses, unlicensed individuals who wish to assist in the practical contraction and installation of high pressure piping and appurtenances while in the employ of a licensed high pressure piping business, engineers, and owners, managers and users of high pressure piping systems.

**Statutory Authority.** The authority to adopt the rules is *Minnesota Statutes*, section 326B.925, subdivision 2, clause (a)(5), which gives the Board the power to adopt rules that regulate the licensure or registration of high pressure piping contractors, journeymen, and other persons engaged in the design, installation, and alteration of high pressure piping systems, except for those individuals licensed under *Minnesota Statutes* section 326.02, subdivisions 2 and 3. This does not include the authority to adopt rules regulating continuing education.

**Public Comment.** Interested persons or groups may submit comments or information on these possible rule amendments in writing until further notice is published in the *State Register* that the Board intends to adopt or to withdraw the rules. The Board hopes to publish proposed rule amendments by the end of 2009. The Board does not contemplate appointing an advisory committee to comment on the possible rule amendments.

**Rules Drafts.** The Board has not yet prepared a draft of the possible rule amendments. When a draft of the possible rule amendments becomes available to the public, the draft and other information about the rulemaking will be posted on the Department of Labor and Industry's rulemaking docket at: <http://www.dli.mn.gov/RulemakingCCL.asp>.

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rule amendments when it has been prepared, and requests for more information on these possible rule amendments should be directed to: Annette Trnka at the Minnesota Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155; **phone:** (651) 284-5860; **fax:** (651) 284-5749; and **e-mail:** [annette.trnka@state.mn.us](mailto:annette.trnka@state.mn.us). **TTY** users may call the Department at (651) 297-4198.

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

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

Dated: 15 May 2009

Larry Stevens, Jr., Chair  
Minnesota Board of High Pressure Piping Systems

## Minnesota Pollution Control Agency (MPCA) Remediation Division

### Notice of Proposed Update of the State Superfund Priority List (Superfund List) (also known as the Permanent List of Priorities (PLP)) Among Releases or Threatened Releases of Hazardous Substances or Pollutants or Contaminants

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA) is publishing for public comment proposed deletions from the State Superfund List which lists releases or threatened releases of hazardous substances, pollutants, or contaminants for which the MPCA may take removal or remedial actions under the Minnesota Environmental Response and Liability Act (MERLA), *Minnesota Statutes* §§ 115B01-115B.20.

# Official Notices

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Pursuant to *Minnesota Statutes* § 115B.17 (2008) and Minn. R. 7044.0950 (2006), the MPCA is proposing the following changes to the Superfund List.

The MPCA is proposing to delete the following two sites from the Superfund List: Nutting Truck and Caster Site, Faribault, Rice County; and Boise Cascade Paint Waste Dump, Koochiching County.

The MPCA has determined that either all MERLA Response Actions have been completed at these sites; or that the sites do not pose a threat to public health or welfare or the environment. If necessary, appropriate institutional controls as determined by the MPCA will be in place prior to final deletion from the PLP. In both cases, all appropriate MERLA response actions have been completed and long term monitoring indicates that each site does not pose a threat to public health or welfare or the environment.

For the Nutting Site, contaminated soils from an on-site disposal pit were excavated and disposed off-site. The disposal pit was filled with clean soil and covered by a concrete parking surface. Groundwater extraction wells were installed and operated for more than 15 years to control and remove contaminated groundwater. Long term monitoring since extraction wells were shut down have shown that groundwater contamination has decreased to non-detection at compliance monitoring points. All monitoring and extraction wells have been properly abandoned at the Site, per MPCA approval. An Environmental Covenant and Easement was finalized in 2009 which requires no changes in land use unless the MPCA is notified and annual reporting to the MPCA to ensure compliance with land use restrictions.

For the Boise Cascade Site, waste material and contaminated soil was excavated and disposed off-site, with some less contaminated soil treated on-site. A soil cap was placed over the excavated and treated soil area. Long term ground and surface water monitored was conducted following excavation and treatment activities. Monitoring was conducted for more than 20 years. To meet required site closure elements, a closure site investigation was conducted in 2007 to evaluate the site conditions. Based on the results of this closure site investigation and results from the long-term monitoring activities, MPCA staff determined that no further investigations or response actions were necessary at the Site.

The MPCA is not proposing to add any sites to the Superfund List at this time.

The MPCA invite members of the public to submit written comments on the proposed deletions from the State Superfund List. All written comments with regard to these proposed changes to the Superfund List must be received no later than 4:30 p.m. on June 30, 2009.

Written comments regarding these proposed MPCA deletions from the Superfund List should be submitted to:

Gary L. Krueger, Superfund Program,  
Remediation Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194.

Any interested person may submit a petition to the Commissioner of the MPCA requesting that the MPCA Citizens' Board make the decision on whether to adopt these changes to the Superfund List that have been proposed by the MPCA. To be considered timely, the petition must be received by the MPCA contact person, Gary L. Krueger, by 4:30 p.m. on June 30, 2009.

The decision whether to adopt these proposed changes to the Superfund List will be made by the MPCA Citizens' Board if: (1) the MPCA Commissioner grants the petition requesting the matter to be presented to the MPCA Citizens' Board; or (2) a MPCA Citizens' Board member requests to hear the matter prior to the time the MPCA Commissioner makes a final decision on the proposed changes to the Superfund List.

All written comments received by the above deadline will be considered by the MPCA in establishing the updated State Superfund List.

Paul Eger, Commissioner  
Minnesota Pollution Control Agency

## **Teachers Retirement Association**

### **Notice of Meeting of the Board of Trustees June 16, 2009**

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Tuesday, June 16, 2009 at 9:30 a.m. in Suite 400, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the Board.

## **State Grants & Loans**

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

## **Applying for Grants**

Have you checked up on all the “active” state grants? Only for *State Register* subscribers is a “Contracts & Grants” section available that lists all grants and contracts open for bid. Open the *State Register* and click on Bookmarks in the upper left corner. You will see a list of ALL the current rules, with an INDEX, and previous years’ indices, as well as a list of all contracts and grants open for bid. Subscribe and receive LINKS to the *State Register*. You also receive Subscriptions cost \$180 a year (an \$80 savings). Here’s what you receive via e-mail:

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# State Grants & Loans

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## Department of Human Services (DHS)

### Community Partnerships

### Office of Economic Opportunity

#### Availability of Homeless Prevention and Rapid Re-Housing Program (HPRP)

#### Funding. HPRP is a Federal Housing and Urban Development (HUD) Program Funded under the Recent American Recovery and Reinvestment Act (ARRA)

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Human Services (DHS) Community Partnerships, Office of Economic Opportunity announces the availability of the ARRA Homeless Prevention and Rapid Re-Housing funding. Funding under these programs may be used to pay the costs of homeless prevention and rapid re-housing services to homeless persons and persons at risk of losing their housing.

The amount of available funding is \$9,996,018. All funds will be awarded through a competitive grant process. Funds will be awarded for a two-year period beginning September 15, 2009 through September 30, 2011. To be considered for funding under this program, applicants must e-mail one electronic copy to: [isaac.wengerd@state.mn.us](mailto:isaac.wengerd@state.mn.us) by 4:30 pm on Wednesday, July, 1, 2009 and mail three hard copies of the application, postmarked by July, 1, 2009 to:

Isaac Wengerd  
Minnesota Department of Human Services  
Office of Economic Opportunity  
P.O. Box 64962  
St. Paul, MN 55164-0962

To request an application packet, contact:

Isaac Wengerd  
Minnesota Department of Human Services  
Office of Economic Opportunity  
P.O. Box 64962  
St. Paul, MN 55164-0962  
**Phone:** (651) 431-3815, or  
**E-mail:** [isaac.wengerd@state.mn.us](mailto:isaac.wengerd@state.mn.us)

Questions about the application process must be submitted in writing to Beth Holger-Ambrose by e-mail:

[beth.holger-ambrose@state.mn.us](mailto:beth.holger-ambrose@state.mn.us)

## Department of Labor and Industry (DLI)

### Workplace Safety Consultation Unit

#### Notice of Safety Grants for Employers

The Department of Labor and Industry (DLI) announces continuation of its safety hazard abatement matching grant program under *Minnesota Statutes*, section 79.253, and *Minnesota Rules*, parts 5203.0010 through 5203.0070. Employers covered by workers' compensation insurance, and those approved as self-insured employers, are eligible to apply for safety/health matching grants to abate safety hazards in their workplace. The safety/health hazards must have been identified in an on-site survey conducted by one of the following:

- 1) MNOSHA safety/health investigator,
- 2) DLI Workplace Safety Consultation safety/health consultant,
- 3) in-house employee safety/health committee,
- 4) workers' compensation underwriter,
- 5) private safety/health consultant or
- 6) a person under contract with the Assigned Risk Plan.



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## State Grants & Loans

The on-site safety/health survey must have resulted in specifically recommended safety and/or health practices or equipment, training for purchased equipment, and/or tuition reimbursement designed to reduce the risk of injury to employees. Costs eligible for program participation are all or part of the cost of purchasing and installing recommended safety/health equipment, training for purchased equipment, tuition reimbursement, the cost of operating or maintaining safety/health equipment, and/or the cost of purchasing or renting real property, if necessary, to meet criteria established by the on-site safety/health survey. Automobiles, weapons, or personnel costs, such as salary and benefits, will not be covered by these grants.

Whether we approve your grant application or not, in no way diminishes delays or absolve you of any obligation to abate hazards as required by law. No state funds will be distributed until all grant documents are signed by all parties; funds expended before that must not rely on grant approval. Invoices dated prior to your fully executed grant agreement are not eligible for this program.

Grants are limited to a total maximum match of \$10,000 per project. The employer must provide at least \$1.00 (one dollar) in project costs for every dollar awarded. No grant will be awarded for more than half the amount of the approved project. Grant Applications received by April 15, June 15, August 15, October 15, December 15, and February 15, respectively, will be reviewed and processed in the two months that follow each. Projects will be judged according to the criteria established by law. Qualified projects having the greatest impact and feasibility will be given priority.

Priority will also be given to projects meeting the other requirements for grants: creating production jobs in an area, preventing loss of jobs due to safety problems, and in areas that are the current focus of Minnesota OSHA's compliance and consultation strategic plan, including

General Industry Primary Group; utilities except nuclear electric power generation, food manufacturing, construction, beverage and tobacco product manufacturing, wood product manufacturing, nonmetallic mineral product manufacturing, primary metal manufacturing except foundries, transportation equipment manufacturing, furniture & related product manufacturing, building material & garden equipment & supplies dealers, warehouse and storage, combustible dust, foundries, refineries, grain facilities, meatpacking, public sector, tree trimming/logging and industries or processes with high risk from amputations.

Health Primary Group; asthma, lead, methylene chloride, popcorn, silica, process safety management, ergonomics & safe patient handling, including hospitals, surgical centers and nursing homes.

Grant applications will be accepted continuously and awarded every two months. An employer that has received a grant for a particular worksite will not be eligible to receive another grant for that worksite during the two years after the date of the award. All applicable information requested on the grant application form is required for grant approval. Missing information will result in your application being returned to you. Less than the requested amount may be awarded if program resources are insufficient to provide full assistance to all approved applicants and if the reduced grant could still achieve safety objectives.

Eligible applicants for grants must submit their proposals to:

James Collins, OSHA Management Team Director  
Workplace Safety Consultation  
Department of Labor and Industry  
443 Lafayette Road N.  
St. Paul, MN 55155.

For further information or to request a grant application, please contact Vikki Sanders, Grants Administrator, MNOSHA Workplace Safety Consultation, at (651) 284-5162, 1-800-731-7232 or e-mail at: [vikki.sanders@State.MN.US](mailto:vikki.sanders@State.MN.US).

# State Grants & Loans

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## Department of Transportation (Mn/DOT)

### Office of Transit

### Planning, Modal and Data Management Division

## Notice of Intent to Release Applications to Fund Public Transit Participation Program

**NOTICE OF INTENT** to Release Applications to fund Public Transit Participation Program, Job Access and Reverse Commute Grant and New Freedom Grant for 2010.

The Minnesota Department of Transportation (Mn/DOT) Office of Transit is releasing applications for three publicly funded transportation programs:

- Public Transit Participation Program,
- Job Access and Reverse Commute Grant,
- New Freedom Grant

Applications will be posted May 20, 2009 on the MN/DOT Office of Transit Website at: [www.dot.state.mn.us/transit](http://www.dot.state.mn.us/transit)

The **Public Transit Participation Program**, established under *Minnesota Statutes*, Section 174.24, provides state and federal (Section 5311) financial assistance for public transit services to eligible recipients, which include:

Any Legislatively established public transit commission or authority, and county or statutory or home rule charter city providing financial assistance to or operating public transit, any private operator of public transit, or any combination thereof is eligible to receive financial assistance through the public transit participation program. Eligible recipients must be located outside of the metropolitan area. This grant program supports capital, planning, and operations of transit systems in small and large urban areas and in rural areas outside of the seven county Twin Cities metropolitan area.

**The Job Access Reverse Commute Grant (JARC)**, supported with federal funds (Section 5316), is intended for public transportation alternatives. These funds are to improve access to transportation services to employment and employment related activities for welfare recipients and eligible low income individuals and to transport residents of urbanized areas and non-urbanized to suburban employment opportunities. Eligible recipients include small urban and rural areas with:

- State or Local Government Authorities;
- Private, Nonprofit organizations;
- Operators of public transportation services, and
- Private operators of public transportation services.

**The New Freedom Grant**, supported with federal funds (Section 5317), is intended to provide funding for “NEW” transportation services and public transportation alternatives beyond the requirements of the Americans with Disabilities Act (ADA) for persons with disabilities. Eligible recipients include small urban and rural areas with :

- State or Local Government Authorities;
- Private, Nonprofit organizations;
- Operators of public transportation services, and
- Private operators of public transportation services.

Application Workshops will be held at the following locations to provide additional information:

Bemidji Mn/DOT Office – Highway 2 West, Bemidji, MN 56601.  
Tuesday June 2, 2009 9:00 am to 3:00 pm

Brainerd/Baxter Mn/DOT Office – 7694 Industrial Park Road, Baxter, MN 56425.  
Thursday, June 4, 2009, 9:00 am to 3:00 pm

Rochester Mn/DOT Office – 2900 48<sup>th</sup> ST. NW, Rochester, MN 55901.  
Wednesday, June 9, 2009, 9:00 am to 3:00 pm

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## State Grants & Loans

Marshall Mn/DOT Office – 1800 East College Drive, Marshall MN 56258

Thursday June 11, 2009, 9:00 am to 3:00 pm

St. Cloud Mn/DOT Office – 3725 12<sup>th</sup> ST. North, St. Cloud MN 56303

Tuesday, June 23, 2009, 9:00 am to 3:00 pm

Applications for the **Public Transit Participation Program** must be mailed to Mn/DOT's Office of Transit and postmarked no later than 4:00 p.m. Central Daylight time on **August 28, 2009**. For further information, please contact:

Trudie Gustad

395 John Ireland Blvd., MS 430

St. Paul, MN 55155

**Phone:** (651) 366-4182

**E-mail:** *trudie.gustad@dot.state.mn.us*

Applications for the **JARC and New Freedom Grants** must be mailed to Mn/DOT's Office of Transit and postmarked no later than 4:00 p.m. Central Daylight time on **August 28, 2009**. For further information, please contact:

John Groothuis

395 John Ireland Blvd., MS 430

St. Paul, MN 55155

**Phone:** (651) 366-4187

**E-mail:** *john.groothuis@dot.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.

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

\$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600

\$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days;

\$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and

anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar day

## Subscribe to the *State Register*

A summarized "Contracts & Grants" section lists **all contracts and grants** currently open for bid. It is available **only to subscribers** to the *State Register*. Subscribers also receive LINKS to the *State Register*, as well as Bookmarks, and a growing INDEX to each volume, including the current issue, and previous volumes. Here's what you receive via e-mail:

- 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. 31, 30, 29, 28 and 27

Subscriptions cost \$180 a year (an \$80 savings). It's all E-mailed to you, at end-of-day on Friday, instead of waiting for the non-subscriber's issue released on Monday. Contact Cathy Hoekstra, our subscriptions manager, at (651) 297-8777, or **Fax:** (651) 297-8260, or **E-mail:** [cathy.hoekstra@state.mn.us](mailto:cathy.hoekstra@state.mn.us)

## Minnesota State Colleges and Universities (MnSCU)

### Office of Chancellor

### Request for Bid: PRINT and FULFILLMENT of Go Places Publications

The Office of the Chancellor is requesting bids from qualified vendors for the printing and fulfillment of Go Places publications.

Specifications are available by visiting the website: <http://www.pa.mnscu.edu/goplacesrfb> or by contacting Christine McGing, Minnesota State Colleges and Universities, Wells Fargo Place, 30 7<sup>th</sup> St. E., Suite 350, St. Paul, Minnesota 55101, **phone:** (651) 297-2720, **e-mail:** [christine.mcging@so.mnscu.edu](mailto:christine.mcging@so.mnscu.edu).

Sealed bids must be received by NOON CDT, FRIDAY, JUNE 12, 2009.

This request does not obligate Minnesota State Colleges and Universities to complete the proposed project, and the system reserves the right to cancel this solicitation if it is considered to be in its best interest.

The Minnesota State Colleges and Universities system is an Equal Opportunity employer and educator.

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

### **Metropolitan State University**

### **Request for Proposals for Commissioning of Building Systems Services**

#### **Advertisement for Proposals:**

NOTICE IS HEREBY GIVEN that proposals will be received by the Director of Purchasing, Metropolitan State University, until 2:00 pm, June 11, 2009, for the purpose of the Commissioning of Building Systems Services.

#### **Purpose of this Request for Proposal**

Metropolitan State University (MSU) is requesting proposals for Commissioning of Building Systems services for the Metropolitan State University Classroom Addition Project. The construction project includes construction and remodeling of approximately 18,000 GSF of existing as well as partial replacement of a demolished building in order to provide technology-enhanced classrooms and academic program offices.

Minnesota State Colleges and Universities, MSU is seeking proposals from prospective firms to act as the Owner's Independent Commissioning Agent (CA) to provide Commissioning of Building Systems services for the Project. The CA shall work with the Owner's appointed Project Manager, the Owner's Office of the Chancellor Facilities Unit, the Architect/Engineer (A/E) design team, the Owner's Representative (OR), related consultants and the construction contractor(s) throughout the Project as applicable.

A full Request for Proposals is available on the MSU website: [http://www.metrostate.edu/msweb/resources/depts\\_services/bldg\\_services/index.html](http://www.metrostate.edu/msweb/resources/depts_services/bldg_services/index.html).

#### **Proposals shall be delivered to:**

Metropolitan State University  
Dave Peasley  
Founders Hall, Room 329  
Metropolitan State University  
St. Paul, MN 55106-5000  
**E-mail:** *Dave.Peasley@metrostate.edu*

Sealed proposals can be hand delivered to the cashiers' window at Founders Hall, Room 329 on the Saint Paul Campus or mailed at the above address. Proposals received after this date and time will be rejected and returned unopened.

Faxed submissions are not acceptable. E-mail is acceptable if followed by a hard copy. This request for proposal does not obligate the state to complete the proposal project and the state reserves the right to cancel the solicitation process if it is considered to be in its best interest.

All communications, questions, and requests for clarification from potential Respondents shall be sent via e-mail to:

**Name:** John Stelten, Sr. Project Manager  
**Title:** Owner's Representative  
**Address:** CPMI, 3265 Northwood Circle, Suite 170, Eagan, MN 55121  
**E-mail:** *jstelten@cpmi.com*  
**Phone:** (612) 963-1274

# State Contracts

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## Minnesota State Colleges and Universities (MnSCU)

### Normandale Community College

#### Request for Bids for Parking Lot Improvement

##### Project Description

- Crack filling, Asphalt Repair and Chip Sealing of Normandale Parking lots # 1 & 2. (approximately 1,000 Parking stalls)
- Crack Filling and Asphalt Repairs to remaining lots and campus roadways.
- Striping and painting of all parking lots stalls, all yellow curbing, and arrows and crosshatching of all remaining lots.
- Small parking lot alterations and creation of a new campus bus stop. This will be bid as an alternate to the project as a possible addition.

(Project specifications available at Pre-bid Meeting)

##### Project Timing:

Work is to begin July 1<sup>st</sup>, 2009, to be completed by July 31<sup>st</sup>, 2009. (NCC plans to close only one lot at a time)

##### Contractor Information:

Pre-bid Meeting: June 16<sup>th</sup>, 2009 at 11 a.m. Room B1611

Sealed Bid Opening: June 23<sup>rd</sup>, 2009 at 11 a.m. B1611

Bids must be delivered to Room B1605 of the Building Services Building, 9700 France Ave South, Bloomington, MN 55431, not later than 11 a.m. June 23<sup>rd</sup>, 2009. Late responses will not be considered.

Normandale Community College 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.

College Contact Information: **Jon Hanson** (952) 487-8106 [office]; (952) 292-7217 [cell]; or **Michael Koreen** (952) 487-7007.

## Minnesota State Colleges and Universities (MnSCU)

### Northland Community and Technical College

#### ADVERTISEMENT FOR BIDS for Air Handling Unit Replacement

**Sealed Bids for:** Air Handling Unit Replacement  
Northland Community and Technical College  
Thief River Falls, MN 56701

**will be received by:** Mr. Clinton Castle  
Physical Plant Supervisor  
Northland Community and Technical College  
1101 Highway One East  
Thief River Falls, MN 56701

Until Tuesday, June 16, 2009, 3:00 p.m. local time, at which time the bids will be opened and publicly read aloud.

**Project Scope:** Replacement of five air handling units with four air handling units. A new variable air volume system to replace multi-zone and reheat systems. Heat exchanger and pumps to provide a new heating system connected to the existing campus hot water heating system.

A **Pre-Bid Meeting** will be held at 2:00 P.M., Monday, June 8, 2009, in Drafting Room 706, Northland Community and Technical College, Thief River Falls, MN. The Architect/Engineer and/or College/University Representatives will review the bidding procedures,



Bidding Documents and other conditions with interested Bidders and answer questions.

**Bidding Documents** as prepared by the Project Architect/Engineer; MBN Engineering are on file at the offices of the:

- 1) above named Project Architect/Engineer.
- 2) following Builders' Exchanges: St. Paul, Minneapolis, Duluth and Fargo-Moorhead.
- 3) McGraw Hill Construction Plan Room
- 4) Reed Construction Data Plan Room
- 5) MEDA Minority Contractors Plan Room
- 6) National Association of Minority Contractors of Upper Midwest

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

MBN Engineering  
503 7<sup>th</sup> St. N., Suite 200  
Fargo, North Dakota 58102  
**Phone:** (701)478-6336

A deposit of \$50.00 is required for each set.

Prospective Bidders requesting that Bidding Documents (complete sets only) be mailed to them, may send a separate non-refundable payment (check made out to the Architect) for \$10.00 per set for shipping & handling (in addition to the \$50.00 deposit) to the Architect. Such deposits and payments may be sent prior to June 8, 2009. Documents will be sent to street addresses only (P.O. Boxes not acceptable).

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

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

### **St. Cloud State University**

### **Notice of Availability of Request for Qualifications (RFQ) for Construction Manager at Risk for National Hockey Center Renovation & Addition**

The State of Minnesota, acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of St. Cloud State University, is soliciting qualifications from interested consultants for construction management at risk services for the above referenced project.

A full Request for Proposals is available on the Minnesota State Colleges Universities website:

*<http://www.finance.mnscu.edu/facilities/index.html>*

click on "Announcements". A copy of the pre-design is available for review at this same location. An informational meeting is scheduled for 9:00 AM, Tuesday, June 9, 2009 in Atwood Memorial Center, Glacier South Room on the St. Cloud State University campus, 720 4<sup>th</sup> Ave. S., St. Cloud, MN 56301. All firms interested in this meeting should contact Jane Spaude, at **320-308-2267** to sign up to attend the meeting.

Proposals must be delivered to Lisa Sparks, St. Cloud State University, 720 4<sup>th</sup> Ave., Building AS 122, St. Cloud, MN 56301, phone number 320-308-4788 not later than 3:00 P.M., Tuesday, June 23, 2009. Late responses will not be considered. Minnesota State Colleges and Universities 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.

# State Contracts

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## Minnesota State Colleges and Universities (MnSCU)

### St. Cloud Technical College

#### ADVERTISEMENT FOR BIDS for 2009 Pavement Rehabilitation

**Sealed Bids for:** 2009 Pavement Rehabilitation  
St. Cloud Technical College  
1540 Norway Drive  
St. Cloud, Minnesota 56303

**will be received by:** Sue Meyer, Purchasing  
St. Cloud Technical College  
Room 1-401H  
1540 Norway Drive  
St. Cloud, Minnesota

Until **2:00 PM, local time, June 9, 2009** at which time the bids will be opened and publicly read aloud.

**A Pre-Bid Meeting** will be held at **10:00 AM, June 2, 2009 in Room 1-452 at St. Cloud Technical College.**

The Architect/Engineer and/or College/University Representatives will review the bidding procedures, Bidding Documents and other conditions with interested Bidders and answer questions.

Bidding Documents as prepared by the Project Architect/Engineer; Inspec, Inc., are on file at the offices of the:

- 1) above named Project Architect/Engineer.
- 2) following Builders' Exchanges: ***St. Paul, Minneapolis, St. Cloud***
- 3) McGraw Hill Construction Plan Room
- 4) Reed Construction Data Plan Room
- 5) MEDA Minority Contractors Plan Room
- 6) National Association of Minority Contractors of Upper Midwest
- 7) AGC of Minnesota/iSqFt

Visit [www.inspec.com](http://www.inspec.com) to download the Bidding Documents for \$10, or call Northstar Imaging Services, (651) 686-0477, to order a paper copy for a non-refundable fee of \$50 plus shipping and handling.

Direct communications regarding this Project to the Project Manager, Cliff Buhman, Inspec, **telephone:** (763) 546-3434; **e-mail:** [cbuhman@inspec.com](mailto:cbuhman@inspec.com)

Bid result information may be obtained via **e-mail** request to Dawn'l Burns, [dburns@inspec.com](mailto:dburns@inspec.com)

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

### Department of Employment and Economic Development (DEED) Notice of Availability of Contract for a Business Liaison for the Dislocated Worker Programs

The Minnesota Department of Employment and Economic Development is requesting proposals for the purpose of Minnesota's Dislocated Worker Program will utilize the business liaison to develop and maintain formal linkages to all state, regional and local business organizations, facilitate business and the private sector's involvement in the program, and educate constituent groups and workers concerning the program's purpose and services available to eligible dislocated workers. The liaison will link their constituencies of business organizations with State and local program deliverers through Rapid Response activities, information meetings, networking, and other linkage activities to promote the program. The liaison will be an integral member of the Rapid Response team for plant closings and mass layoffs, taking direction from the Department's Rapid Response Coordinator. The Rapid Response Team functions through cooperation, common goal setting, consensus decisions making and ongoing communication both formally and informally. Each of these activities will be necessary to develop Employee-Management Committees which is a function of the Rapid Response team.

Work is proposed to start after July 1, 2009

A Request for Proposals will be available by mail from this office through June 15, 2009. **A written request (by direct mail, fax, or e-mail) is required to receive the Request for Proposal.** After June 15, 2009, the Request for Proposal must be picked up in person or will be sent electronically.

The Request for Proposal can be obtained from:

James Collins  
Workforce Development Division  
MN Dept. of Employment and Economic Development  
1st National Bank Building  
332 Minnesota Street  
Saint Paul, MN 55101  
**Phone:** (651) 259-7137  
**Fax:** (651) 215-3842  
**E-mail:** *James.E.Collins@state.mn.us*

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above no later than 2:30 p.m. Central Daylight Time Monday, June 22, 2009. **Late proposals will not be considered.** Faxed or emailed 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.

### Department of Employment and Economic Development (DEED) Availability of Contract for a Labor Liaison for the Dislocated Worker Programs

The Minnesota Department of Employment and Economic Development is requesting proposals for the purpose of Minnesota's Dislocated Worker Program will utilize the labor liaison to develop and maintain formal linkages to all state, regional and local labor organizations, facilitate labor's involvement in the program, and educate constituent groups and workers concerning the program's purpose and services available to eligible dislocated workers. The liaison will link their constituencies of labor organizations with State and local program deliverers through Rapid Response activities, information meetings, networking, and other linkage activities to promote the program. The liaison will be an integral member of the Rapid Response team for plant closings and mass layoffs, taking direction from the Department's Rapid Response Coordinator. The Rapid Response Team functions through cooperation, common goal setting, consensus decisions making and ongoing communication both formally and informally. Each of these activities will be necessary to develop Employee-Management Committees which is a function of the Rapid Response team.

# State Contracts

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Work is proposed to start after July 1, 2009

A Request for Proposals will be available by mail from this office through June 15, 2009. **A written request (by direct mail, fax, or e-mail) is required to receive the Request for Proposal.** After June 15, 2009, the Request for Proposal must be picked up in person or will be sent electronically.

The Request for Proposal can be obtained from:

James Collins  
Workforce Development Division  
MN Dept. of Employment and Economic Development  
1st National Bank Building  
332 Minnesota Street  
Saint Paul, MN 55101  
**Phone:** (651) 259-7137  
**Fax:** (651) 215-3842  
**E-mail:** *James.E.Collins@state.mn.us*

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above no later than 2:30 p.m. Central Daylight Time Monday, June 22, 2009. **Late proposals will not be considered.** Faxed or emailed 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.

## Department of Education

### NOTICE OF REQUEST FOR INFORMATION for Components Related to a Student Assessment System

The Department of Education is soliciting information from qualified vendors about possible solutions to the Department's growing need for increased efficiencies in item development, item banking, and online administration of large-scale assessments.

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

Diana Moore  
Minnesota Department of Education  
1500 Highway 36 West  
Roseville, Minnesota 55113-4567  
**Phone:** (651) 582-8231  
**Fax:** (651) 582-8874  
**E-mail:** *diana.moore@state.mn.us*

Responses are requested via electronic means no later than 12:00 p.m., July 9, 2009.

This RFI is being issued to obtain information only and is not intended to result in contracts or vendor agreements with any respondent.

## Department of Human Services

### Notice of Availability of Contract for Qualified Contractor(s) to Provide Dental Services

The Minnesota Department of Human Services, State Operated Services (SOS) is requesting proposals for the purpose of:

- Contracting with licensed professionals to provide dental services, including examinations, treatment, emergency and emergent care to clients of the Department's State Operated Services (SOS) and Minnesota Sex Offender (MSOP) programs
- Contracting with licensed professionals to provide dental services to SOS clients with mental and/or physical disabilities.
- The State anticipates awarding multiple Master Contracts to provide these services throughout the State of Minnesota as a result of this solicitation.

Work is proposed to start after July 1, 2009

The Request for Proposal will be available by mail or email from this office through 4:00 p.m., Central Daylight Time, 6/18/2009. **A written request (by direct mail, email or fax) is required to receive the Request for Proposal.**

The Request for Proposal can be obtained from:

Mary Sweep  
SOS-Contracts  
1801 Technology Drive NE  
Willmar, MN 56201  
**Fax:** (320) 231-7049  
**E-mail:** *mary.sweep@state.mn.us*

Proposals submitted in response to the Request for Proposal in this advertisement must be received at the address above no later than 4:00 p.m., Central Daylight Time, 6/22/2009. **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.

## Minnesota State Lottery

### Request for Proposals for Sponsorship Agreements

#### Description of Opportunity

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

#### Proposal Content

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

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

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

# State Contracts

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Lottery booth, from sales-generating promotions with Lottery retailers or from joint programs with the sponsor's media partners.

**3. Provide Promotional Extensions** – the event, sports or tie-in proposal should offer exciting, value-added ways to interact with our players and have opportunities to motivate attendees, listeners and viewers to participate in and purchase Lottery games. The proposal must include proper staffing availability or other considerations to help the Lottery implement any appropriate promotional extension ideas.

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

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

## Questions

Questions concerning this Solicitation should be directed to:

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

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

## Response Delivery

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

## Office of the Revisor of Statutes Notice of Request for Oracle Database Consultant

**NOTICE IS HEREBY GIVEN** that the Office of the Revisor of Statutes intends to enter into a contract to continue and complete the development of an Oracle database for the Revisor's new XML-based computer system. The need is anticipated to be for part-time work, up to 60% time, for the period of July 1, 2009 up to June 30, 2011. Actual contracts will be written in shorter time increments. In addition to the database development, the consultant may be asked to provide web development or other programming work as necessary to complete or enhance Revisor's systems. Because the development is in progress, existing contractors will be given preference.

All responses must include a cover letter and resume, together with hourly rates and references. Responses must be received no later than 4:30 p.m. on Friday, June 19, 2009. The Revisor's office reserves the right to award all, a part, or none of the above-described contract.

Inquiries and responses may be directed to:

Michele Timmons  
Revisor of Statutes  
Office of the Revisor of Statutes  
700 State Office Building  
100 Dr. Martin Luther King Blvd.  
St. Paul, MN 55155-1297



**E-mail:** [michele.timmons@revisor.leg.state.mn.us](mailto:michele.timmons@revisor.leg.state.mn.us)

**Phone:** (651) 296-2868

**TTY** use State Relay Services 1-800-627-3529

### **Department of Transportation (Mn/DOT)**

#### **Engineering Services Division**

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

This document is available in alternative formats for persons with disabilities by calling Juanita Voigt at (651) 366-4774 for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

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

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT’s Consultant Services web site, indicated below, to see which highway related professional/technical services are available for application. Applications are accepted on a continual basis. All expenses are incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

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

Send completed application material to:

Juanita Voigt  
Consultant Services  
Office of Technical Support  
Minnesota Department of Transportation  
395 John Ireland Blvd. Mail Stop 680

### **Department of Transportation (Mn/DOT)**

#### **Engineering Services Division**

#### **Notice Concerning Professional/Technical Contract Opportunities and Taxpayers’ Transportation Accountability Act Notices**

**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. Mn/DOT is also posting notices as required by the Taxpayers’ Transportation Accountability Act on the above referenced website.

## Non-State Bids, Contracts & Grants

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

### Dakota County

#### Dakota County Transportation Department

#### Notice of Request for Proposal (RFP) for Professional Right of Way Acquisition Services

**NOTICE IS HEREBY GIVEN** That Dakota County Physical Development Division, acting on behalf of the Dakota County Board of Commissioners, is accepting proposals for professional services, to provide full right of way acquisition project management, field title investigation, real estate appraisals, review appraisals and direct purchase negotiations for proposed right of way acquisition along the Cedar Avenue Transitway Implementation of shoulder-running Bus Rapid Transit (BRT) and highway improvements between the proposed 181<sup>st</sup> Street park and ride station and 138th Street. The corridor is located in the Cities of Lakeville and Apple Valley, Dakota County, Minnesota.

The professional service firm selected will be required to furnish all labor, materials, transportation, tools, supplies, equipment, etc. necessary for the completion of the real estate appraisals for an estimated 230 parcels by December 8, 2009.

The following is the anticipated solicitation schedule:

<b><i>Issue Request for Proposal:</i></b>	<b>June 1, 2009</b>
<b><i>Receive Proposals:</i></b>	<b>11:00 a.m., Monday, June 22, 2009</b>
<b><i>Award of Contract:</i></b>	<b>July 7, 2009</b>

All firms interested in receiving a RFP may contact:

John Sass  
**Phone:** (952) 891-7130  
**E-mail:** [john.sass@co.dakota.mn.us](mailto:john.sass@co.dakota.mn.us)

### Metropolitan Council Contracting Opportunities

The Metropolitan Council posts all notices of Requests for Proposals (RFP) and Invitations for Bids (IFB) for all of its divisions on its website: <http://www.metrocouncil.org> (see **Doing Business with the Council, Contracting Opportunities**). Project-specific instructions for obtaining the solicitation documents are provided in each notice.

If you have any questions regarding this advertisement, or need assistance accessing the notices, please contact: Miriam, for Metropolitan Council projects, at (651) 602-1095 or [miriam.lopez-rieth@metc.state.mn.us](mailto:miriam.lopez-rieth@metc.state.mn.us); or Candace, for Metro Transit projects, at (612) 349-5070 or [candace.osiecki@metc.state.mn.us](mailto:candace.osiecki@metc.state.mn.us).

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## Non-State Bids, Contracts & Grants

### Southwest Minnesota Private Industry Council, Inc.

#### Notice of Request for Proposals for the Minnesota Renewable Energy Marketplace - Alliance for Talent Development

This Solicitation is released in advance of and subject to the availability of federal funds.

The Minnesota Renewable Energy Marketplace - Alliance for Talent Development (MNREM) is requesting Proposals that address talent development, or entrepreneurship/innovation/ business growth in renewable/alternative energy. To download a copy of the Request for Proposals (RFP) and supporting documentation, or for more information, go to [www.mnrem.org](http://www.mnrem.org)

Any business or organization based in one of the 36 MNREM counties\* is eligible to apply for funds through this initiative. The MNREM Board will be awarding grants to develop innovative, collaborative initiatives to cultivate and grow the region's talent pool, and to build and promote entrepreneurship and innovation to support the renewable energy industry.

Any questions on the proposal should be posted and will be responded to in the Comments Section of the "RFP Process" page on [www.mnrem.org](http://www.mnrem.org)

Proposals are due by 4:00 p.m. on Friday, July 24, 2009. Proposals should be **e-mailed** as one file, either PDF or MS-Word, to: [rfp2@mnrem.org](mailto:rfp2@mnrem.org). Receipt of all e-mailed Proposals will be acknowledged. In addition, one hard copy, with signatures, should be postmarked by the same date and sent to:

SWMNPIC - MNREM  
ATTN: Wanda  
Lyon County Government Center, 3rd Floor  
607 West Main  
Marshall MN 56258

A copy, on our agency letterhead was faxed to you at (651) 297-8260. You may bill us for this at the address noted above.

If you have any questions, please feel free to contact Carol Dombek at (320) 269-5561.

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

The University of Minnesota offers 24-hour/day, 7-day/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.

**Source Code SR007**