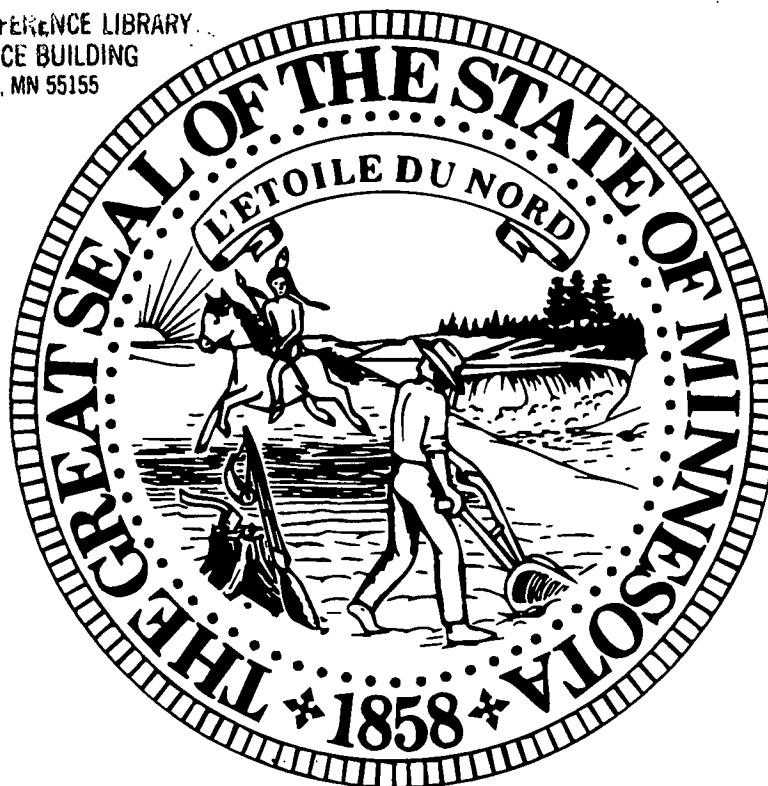


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State Register

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

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

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# 39	Monday 25 March	Monday 11 March	Monday 18 March
# 40	Monday 1 April	Monday 18 March	Monday 25 March
# 41	Monday 8 April	Monday 25 March	Monday 1 April
# 42	Monday 15 April	Monday 1 April	Monday 8 April

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Room 175 State Office Building, St. Paul, MN 55155

Minnesota Rules: Amendments & Additions

Vol. 20, issues #1-39 cumulative 2340

Proposed Rules

Arts Board

Receiving and reviewing requests for, and standards for distribution of, grants or other forms of assistance..... 2346

Adopted Rules

Children, Families and Learning Department

Graduation standards 2375

Medical Practice Board

Fee changes 2376

Crime Victims Reparations Board

Crime victims reparations board 2376

Executive Orders

Executive Department

Emergency Executive Order No. 96-3: Providing for personnel and equipment for the prairie island nuclear power plant drill and exercise..... 2376

Commissioners' Orders

Transportation Department

Order No. 81551: Amended uniform traffic control device manual 2377

Order No. 81557: Amended order and notice of street and highway routes designated and permitted to carry the gross weights allowed under *Minnesota Statute* 169.825 2377

Official Notices

Agriculture Department

Special local need registrations..... 2378

Minnesota Rural Finance Authority public hearing on issuance of agricultural development revenue bonds:

For purchase of approx. 80 acres of bare farmland, Sect 11, Lime Lake Township, Murray County 2378

For purchase of approx. 150 acres of bare farmland, Sect. 35, Moltke Township, Sibley County 2378

Human Services Department

Opinions sought on rules for providers of services under the medical assistance program 2379

Labor and Industry Department

Prevailing wage certifications for commercial construction projects..... 2380

Corrections to prevailing wage rates..... 2381

Correction to prevailing wage rates in Jackson County..... 2382

Nominations are being taken for arbitrators 2382

Outside opinions sought on rules for roll-over protective structures for tractors 2382

Metropolitan Airports Commission

Qualifications statements sought for legal services 2384

Pollution Control Agency

Opinions sought on rules on waste combustors 2384 ✓

Natural Resources Department

Sale of metallic minerals exploration and mining leases..... 2385

Transportation Department

Notice of petition for State Aid Variances:

Waseca County for design speed..... 2386

St. Louis County for street width..... 2386

State Grants

Corrections Department

Funds available to establish a coalition of abused children programs 2387

Professional, Technical & Consulting Contracts

Corrections Department

Applications sought for nurse practitioner / physician assistant..... 2388

Applications sought for specialized health care service 2388

Human Services Department

Proposals sought for professional services to evaluate systems of service delivery for persons with developmental disabilities 2389

Labor and Industry Department

Proposals sought for administrator of workers compensation arbitration process 2389

Revisor of Statutes

Contract available for computer services..... 2392

The Professional-Technical-Consulting Contract Award Reports is published monthly.

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

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

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

Minnesota Rules: Amendments and Additions

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

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

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

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

Vol. 20 issues 1-39 cumulative

Accountancy Board

1100.0100; .1300; .2500; .3550; .3600 (proposed)..... 855
 1100.0100; .1300; .3600 (adopted)..... 2033

Administration Dept

1215.1400 (adopted) 303
 1300.2400; .2900; .6300; 1305.0305; .0308; .0310; .0904;
 .1202; .1704; 1315.0200; 1325.1100 (proposed)..... 1509

1310.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800;
 .0900; .1000; .1100; .1200; .1300; .1400; .1500; .1600;
 .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400;
 .2500; .2600; .2700; .2800; .2900; .3000; .3100; .3200;
 .3300; .3400; .3500; .3600; .3700; .3800; .3900; .4000;
 .9000; .9100; .9200; .9300; .1000; .1100, s.4,5; 1325.1200;
 .1300; .1400; .1500; .1600; .1700; .1800; .1900; .2000;
 .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2800;
 .2900; .3000; .3100; .3200; .3300; .3400; .3500; .3600;
 .9000; .9100; .9200; .9300; .9400; .9500 (proposed repealer)..... 1509

1340.0100; .1102; .1103; .1104; .1105; .1106; .1107; .1110; .1120;
 .1130; .1140; .1150; .1155; .1160; .1170; .1180; .1190; .1200;
 .1210; .1220; .1230; .1240 (adopted)..... 1991

1340.0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900;
 .1100; .1200; .1300; .1400; .1500; .1600; .1700; .1800; .1900;
 .9000; .9100; .9200; .9300; .9400; .9500; .9600; .9700; .9800;
 .9900 (repealed) 1991

1360.0100; .0200; .0300; .0400; .0800; .0900; .1300; .1500;
 .1600; .1800; .1900; .2000; .2500; .2600; .2700; .2800; .3400;
 .3500; .3600 (proposed) 1514

1360.0100, s.1; .0200; s.3,4,9,10,11,17,18; .0600; .0900, s.2,3,5,6;
 .1700; .1900; s.2; .2100; .2200; .2300; .2900; .2910; .3000;
 .3100; s.1,2; .3200; .3300; .3400; .3500; .3600, s.2
 (proposed repealer) 1514

1361.0100; .0200; .0300; .0400; .0500 (proposed)..... 1514

Administrative Hearings Office

1400.0200; .0250; .0300; .0400; .0500; .0600; .0700; .0800;
 .0850; .0900; .0950; .1000; .1100; .1200; .1500; .0200; .0300;
 .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200;
 .1300; .1400; .9900; .9905; .9910; .9913; .9916; .9920; .9925;
 .9930; .9935; .9940; .9945; .9946; .9951; .9955; .9960
 (proposed repealer) 1012

1400.0200; .0250; .0300; .0400; .0500; .0600; .0700; .0800;

.0850; .0900; .0950; .1000; .1100; .1200; .1500; .0200;
 .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000;
 .1100; .1200; .1300; .1400; .9900; .9905; .9910; .9913;
 .9916; .9920; .9925; .9930; .9935; .9940; .9945; .9946;
 .9951; .9955; .9960 (repealed) 2058

1400.2000; .2010; .2020; .2030; .2040; .2050; .2060; .2070;
 .2080; .2090; .2100; .2110; .2200; .2210; .2220; .2230; .2240;
 .2300; .2310; .2400; .2450; .2500; .2510; .2520; .2530; .2540;
 .2550; .2560 (proposed) 1012

1400.2000; .2010; .2020; .2030; .2040; .2050; .2060; .2070;
 .2080; .2090; .2100; .2110; .2200; .2210; .2220; .2230;
 .2240; .2300; .2310; .2400; .2450; .2500; .2520; .2530;
 .2540; .2550; .2560 (adopted) 2058

Agriculture Department

1505.0754; .0756; .0758 (adopted) 63
 1505.0980; .1100 (adopted) 759

1505.4000; .4010; .4020; .4030; .4040; .4050; .4060; .4070;
 .4080; .4130 (adopted) 468

1510.0480; .0490; .0500; .0510; .0520; .0530; .0540; .0550;
 .0560; .0570; .0580; .0590; .0600; .0610; .0620; .0630; .0640;
 .0650; .0660; .0670; .0680; .0685; .0690; .0700; .0710; .0720;
 .0730; .0740; .0750; .0760; .0770; .0780; .0790; .0800; .0810;
 .0820; .0830; .0840; .0850; .0860; .0870; .0880; .1100; .1110;
 .1120; .1130; .1140; .1150; .1160; .1170; .1180; .1190; .1200;
 .1210; .1220; .1230; .1240; .1250; .1260; .1270; .1280; .1290;
 .1300; .1310; .1320; .1330; .1340; .1350; .1360; .1370; .1380;
 .1390; .1400; .1410; .1420; .1430; .1440; .1450; .1460; .1470;
 .1480; .1490; .1500; .1510; .1520; .1530; .1540; .1550; .1560;
 .1570; .1580; .1590; .1600; .1610; .1620; .1630; .1640; .1650;
 .1660; .1670; .1680; .1690; .1700; .1710; .1720; .1730; .1740;
 .1750; .1760; .1770; .1780; .1790; .1800; .1810; .1820; .1830;
 .1840; .1850; .1860; .1870; .1880; .1890; .1900; .1910; .1920
 (proposed repealer) 1521

1513.0010; .0020; .0030; .0040; .0100; .0110; .0120; .0130;
 .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210; .0220;
 .0230; .0300; .0310; .0320; .0330; .0340; .0350; .0360; .0370;
 .0380; .0400; .0410; .0420; .0430; .0440; .0450; .0460; .0470;
 .0480; .0490; .0500; .0600; .0610; .0620; .0630; .0640; .0700;
 .0710; .0720; .0730; .0740; .0750; .0760; .0770; .0780; .0790;
 .0800; .0810; .0820; .0830; .0900; .0910; .0920; .0930; .1000;
 .1010; .1020; .1030; .1040; .1050; .1060; .1070; .1100
 (proposed) 1521

Minnesota Rules: Amendments and Additions

1558.0020; .0030; .0040; .0050; .0060; .0070; .0080 (adopted).....	1037	1900.0110; .0210; .0310; .0410; .0510; .0610; .0710; .0810; .0910;	
1560.8800 (proposed)	1426	.1010; .1110; .1210; .1310; .1410; .1510; .1610; .1710; .1810;	
1650.0010; .0020; .0030; .0040; .0045; .0055; .0065; .0067;		.1910; .2010; .2110; .2210; .2310; .2410; .2510; .2610; .2710;	
.0070 (proposed repealer)	1549	.2810; .2910; .3010; .3110; .3210; .3310; .3410; .3510; .3610;	
1650.0011; .0021; .0031; .0041; .0046; .0056; .0066; .0068;		.3710; .3810; .3910; .4010; .4110 (proposed)	2346
.0071 (proposed)	1549	Chiropractic Examiners	
1650.0500; .0510; .0520; .0530; .0540; .0550; .0560; .0570		2500.0100; .0600 (adopted)	1245
(proposed repealer)	1553	2500.0200; .1100; .1110; .1200; .1720; .1900; .2000; .5000	
1650.0501; .0511; .0521; .0531; .0541; .0551; .0561; .0571		(proposed)	2052
(proposed)	1553	2500.2500,s.2-6,9 (repealed)	1245
1650.0600; .0610; .0620; .0630; .0640; .0650; .0660		Commerce Department	
(proposed repealer)	1560	2642.0380 (adopted)	227
1650.0601; .0611; .0621; .0661 (proposed).....	1560	2675.0901; .2170; .2620 (adopted)	168
1651.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080;		2761.0200; .0300; .0400; .0500; .0700 (adopted).....	1925
.0090; .0100 (proposed repealer)	1565	2809.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080;	
1651.0011; .0021; .0031; .0041; .0051; .0061; .0071; .0081;		.0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170;	
.0091; .0101 (proposed).....	1565	.0180; .0190; .0200; .0210; .0220; .0230 (proposed).....	1585
1653.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080;		2820.3710; .4510; .4610; .4710; .4720; .4915; .6605; .6705;	
.0090; .0100; .0110 (proposed repealer)	1571	.6805; .6905; .7005; .7110; .7205; .7305; .7405; .9060;	
1653.0011; .0021; .0031; .0041; .0051; .0061; .0071; .0081;		.9070; (adopted)	916
.0091; .0101; .0111 (proposed).....	1571	2820.4730; .4740; .4910; .6600; .6701; .6801; .6900; .7000;	
1655.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080;		.7100; .7300; .7400 (repealed)	916
.0090; .0100 (proposed repealer)	1575	Petroleum Tank Release Compensation Board	
1655.0011; .0021; .0031; .0041; .0051; .0061; .0071; .0081;		2890.0010; .0070; .0071; .0072; .0073; .0074; .0075; .0076; .0077;	
.0091; .0101 (proposed).....	1575	.0078; .0079; .0080; .0081; .0082; .0083; .0084; .0085; .0086;	
1656.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080		.0089; .0090 (adopted)	227
(proposed repealer)	1580	2890.0075; .0080 (repealed)	227
1656.0011; .0021; .0031; .0041; .0051; .0061; .0071; .0081;		Dentistry Board	
.0091; .0095; .0100 (proposed).....	1580	3100.0100; .1150; .1160; .1700; .1750; .2000 (proposed).....	1602
Animal Health Board		3100.0100; .2000; .4100; .4200; .4300; .4400; .4500 (proposed).....	1606
1719.0100; .0200; .0300; .0310; .0500; .0600; .0700; .0750; .0800;		3100.1300; .8500; .8700 (proposed)	1611
.1000; .1100; .1200; .1300; .1500; .1600; .1700; .1800; .1900;		3100.1400; .4200; .6300; .7000; .8400; .9300 (proposed).....	1614
.2000; .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2800;		3100.1400; .4200; .6300; .7000; .8400; .9300 (adopted).....	2316
.2900; .3000; .3100; .3200; .4000; .4200; .4250 (proposed).....	897	3100.1850, s. 4 (proposed repealer).....	1614
1719.0100; .0200; .0300; .0310; .0400; .0500; .0600; .0700;		3100.1850, s.4 (repealed).....	2316
.0750; .0800; .1000; .1100; .1200; .1300; .1500; .1600;		3100.2000 (proposed)	493
.1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400;		3100.2000 (adopted)	1163
.2500; .2600; .2700; .2800; .2900; .3000; .3100; .3200;		3100.3600; .8700 (proposed)	490
.4000; .4200; .4250; (adopted).....	2033	3100.3600 (adopted)	1196
1719.0100, s.8,9; .3250; .4300; .4400; .4500; .4600		3100.4300, s.5,6; .4500; .s.1; .4600 (proposed repealer).....	1606
(proposed repealer)	897	Dietetics and Nutrition Board	
1719.0100, s.8,9; .3250; .4300; .4400; .4500; .4600 (repealed)	2033	3250.0010; .0020; .0030; .0040; .0050 (proposed).....	372
Architecture, Engineering, Land Surveying, Landscape		3250.0010; .0020; .0030; .0040; .0050 (adopted).....	1288
Architecture, Geoscience, and Interior Design		Economic Security	
1800.0200; .0300; .0400; .0500; .0600; .0800; .0900; .1000;		3300.5010; .5040; .5050; .5060 (adopted).....	168
.1100; .1200; .1500; .1600; .1700; .1900; .2100; .2200; .2500;		3300.5010, s.38; .5060, s.1a,4,6,8,10 (repealed)	168
.2600; .2700; .2800; .2900; .4000; .4100; .5100; .5200; .5800		3315.0210(adopted)	197
(proposed)	1863	Children, Families, and Learning Department	
1800.0700; .0900, s.2; .1000, s.8; .1100, s.3; .2000; .2300; .2500,		3501.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080;	
s.3; .2700, s.4; .2900, s.3; .5700 (proposed repealer)	1863	.0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160;	
Arts Board		.0170; .0180 (proposed)	961
1900.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900;		3501.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090;	
.1000; .1100; .1200; .1300; .1400; .1500; .1600; .1700; .1800;		.0100; .0120; .0130; .0140; .0150; .0160; .0170; .0180	
.1900; .2000; .2100; .2200; .2300; .2400; .2500; .2600; .2700;		(adopted).....	2375
.2800; .2900; .3000; .3100; .3200; .3300; .3400; .3500; .3600;		Public Safety Department	
.3700; .3800; .3900; .4000; .4100; .4200; .4300; .4400; .4500;		3520.2400; .2500; .2600; .2800; .3100; .3400 (repealed).....	702
.4600; .4700; .4800; .4900; .5000; .5100; .5200; .5300; .5400;		Department of Trade and Economic Security	
.5500; .5600; .5700; .5800; .5900 (are repealed)	2346	4300.0100; .1200; .1901; .2000; .3100 (proposed).....	1839
		4300.0100, s.18,23 (proposed repealer).....	1839
		4300.0100, s.2a renumbered as 4300.0100, s.3a	1839

Minnesota Rules: Amendments and Additions

Ethical Practices Board

4500.0100; .0200; .0300; .0400; .0600; .0700; .0800; .0900; .1000; .1100; .1200; .1400; .1500; .1600; .1700; .1900; .2000; .2100; .2200; .2300; .2400; .2500; 3.2600; 2700; 2800; .3000; .3100; .3200; .3300; .3400; .3500; .3600; .3700; .3800; .3900; .4000; .4300, s. 1,2,4,5; .4400; 4505.0100, s.1a, 2; .0200; .0200; .0300; .0400; .0500; .0600; .0800; .0900, s.1; .1000; 4510.0100; .0200; .0300; .0400; .s.1,2; .0600, s.4; .1000; .1200; .1300; .1400; 4515.0100, s.2,4,6,7; .0200; .0300; .0400; .0500,s.2; .0600; .0800; 4520.0100; .2,5,7; .0200; .0300; .0600; .0800; 4525.0100, s.1a,2,4,7; .0500, s.4 (proposed repealer)..... 1623

4500.2900 renumbered as 4503.0600

4501.0010; .0100; .0200; .0300; .0400; .0500; .0600; .0700; 4503.0010; .0100; .0200; .0300; .0400; .0500; .0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400; .1500; .1600; 4505.0010; .0100; 4510.0010; .0050; 4512.0010; .0100; .0200; .0300; .0400; .0500; .0600; 4515.0010; .0100; .0500; .0700; 4520.0010; .0100; .0400; .0500; .0700; 4525.0010; .0100; .0200; .1000 (proposed).... 1623

Health Department

4605.7090 (adopted)..... 858
 4620.3000; .3100; .3200; .3250; .3300; .3310; .3330; .3340; .3350; .3410; .3415; .3420; .3425; .3430; .3435; .3440; .3450; .3460; .3470; .3480; .3559; .3560; .3566; .3567; .3568; .3569; .3570; .3571; .3572; .3573; .3575; .3580; .3581; .3582; .3585; .3592; .3594; .3596; .3597; .3598; .3702; .3704; .3708; .3710; .3714; .3716; .3718; .3720; .3722; .3722; .3724; 4717.7000 (proposed).... 1633
 4620.3100, s.2,9,10,12,15,17,18,22,26,30; .3200, s.1,6,7; .3400; .3500; .3600; .3700 (proposed repealer)..... 1633
 4651.0100; .0110; .0120; .0150 (proposed)..... 1427
 4651.0100, s.13,17; .0110, s.1 (proposed repealer)..... 1427
 4652.0100; .0110; .0120; .0140 (proposed)..... 1030
 4652.0100 (adopted)..... 2185
 4655.0010, s.4; .0320; .2410; .2420; .3900; .4900; .5600; .5700; .5800; .5900; .6000; .6100; .6200; .6800; .7600; .7700; .7710; .7720; .7730; .7740; .7750; .7760; .7770; .7780; .7790; .8100; .9400; .9500; .9600; .9700; .9800; .9900 (repealed)..... 303
 4655.0090; 4658.0010; .0020; .0025; .0045; .0050; .0055; .0060; .0065; .0070; .0075; .0080; .0085; .0100; .0105; .0110; .0115; .0130; .0135; .0140; .0190; .0300; .0350; .0400; .0405; .0420; .0430; .0435; .0445; .0450; .0455; .0465; .0470; .0490; .0500; .0505; .0510; .0515; .0520; .0525; .0530; .0580; .0700; .0705; .0715; .0720; .0725; .0730; .0750; .0800; .0805; .0810; .0815; .0850; .1300; .1305; .1310; .1315; .1320; .1325; .1335; .1350; .1360; .1365 (adopted)..... 303
 4655.0090; .1084; .6500; .7000; .9200; .9210; .9337; .9338; .9339; .9342; 4658.0010; .0191; .0192; .0193; .0200; .0205; .0210; .0215; .0220; .0250; .0255; .0260; .0265; .0275; .0290; .0300; .0445; .0450; .0615; .0620; .0900; .0950; .0960; .0990; .1000; .1005; .1090; .1100; .1190; .1200; .1290; .1400; .1405; .1410; .1415; .1420; .1425; .1490; .1600; .1605; .1610; .1690; .2000; .2010; .2020; .2030; .2090; .3000; .3005; .3090; .3500; .3590; .4000; .4005; .4010; .4015; .4020; .4025; .4030; .4035; .4040; .4090; .4100; .4105; .4110; .4115; .4120; .4125; .4130; .4135; .4140; .4145; .4150; .4155; .4160; .4165; .4170; .4175; .4190; .4200; .4205; .4210; .4215; .4290; .4300; .4305; .4310; .4315; .4320; .4325; .4330; .4335; .4340; .4345; .4350; .4355; .4360; .4365; .4370; .4375; .4390; .4400; .4405; .4415; .4420; .4425; .4430; .4435; .4440; .4445; .4450; .4455; .4460; .4490; .4500; .4505; .4510; .4515; .4520; .4525; .4530; .4535; .4540; .4545; .4550; .4590; .4600; .4605; .4610; .4615; .4620; .4625; .4630; .4635; .4640; .4690; .5000; .5005; .5010; .5015; .5020; .5025; .5030; .5035; .5040; .5090; .5100; .5190; .5200; .5205; .5210; .5215; .5220; .5225; .5230; .5235; .5240; .5245; .5290; .5300; .5305; .5310; .5315; .5390; .5400; .5405; .5410; .5415; .5490; .5500; .5505; .5510; .5515; .5520; .5590; 4660.0090; .3900; .7800; .8000; .8310; 4665.0900 (proposed)..... 1881

4655.0100, s.4,8,10; .7500; .8000; .9070; .9300; .9320; .9312; .9322; .9323; .9324; .9325; .9326; .9327; .9328; .9329; .9330; .9331; .9332; .9333; .9337; .9335; .9336; .9337; .9338; .9339; .9341; 4660.1300; .1400; .1410; .1420; .1430; .1440; .1450; .1460; .1470; .1480; .1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400; .2500; .2600; .2610; .2620; .2630; .2640; .2700; .2800; .2900; .3000; .3100; .3200; .3300; .5700; .5800; .5810; .7600; .7010; .8300; .8380; .7410; .8500; .7510; .8520; .8530; .8540; .8550; .8560; .8700; .9910; .9920; .9930 (proposed repealer)..... 1881
 4655.1070; .1072; .1076; .1078; .1080; .1082; .1084; .1086; .1088; .1090; .1092; .1094; .1096; .1098 (adopted)..... 340
 4666.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400 (proposed)..... 1330
 4670.1320; .4210; .4220; .4230; .4240 (proposed)..... 2092
 4688.0005; .0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160 (proposed)..... 1142
 4690.4600; .5900; .7200 (proposed)..... 821
 4690.4600; .5900; .7200 (adopted)..... 1482
 4690.4600; s.4e; .5900, s.4e; .7200, s.4e (proposed repealer)..... 821
 4730.5000; .5050; .5100; .5200; .5300; .5400; .5500 (proposed)..... 1675

Higher Education Services Office

4830.0100 (proposed)..... 1439
 4830.0100 (adopted)..... 2284
 4830.0100, s.12 (proposed repealer)..... 1439
 4830.0100, s.12 (repealed)..... 2284
 4830.0110 (proposed)..... 1439
 4830.0110 (adopted)..... 2284
 4830.0300; .0400; .0600; .0700 (proposed)..... 1439
 4830.0300; .0400; .0600; .0700 (adopted)..... 2284
 4830.2200; .2300; .2500; .2600 (proposed)..... 2055
 4830.7200; .7400; .7500; .7720; .7800; .7900 (proposed)..... 1439
 4830.7200; .7400; .7500; .7720; .7800; .7900 (adopted)..... 2284
 4830.9015; .9020; .9030 (proposed)..... 1226
 4830.9015; .9020; .9030 (adopted)..... 2214
 4830.9015, s.9; .9025 (proposed repealer)..... 1226
 4830.9015, s.9; .9025 (repealed)..... 2214
 4840.0100; .0400; .0500; .0600; .0700; .0900; .1100 (proposed)..... 1354
 4840.0100; .0300; .0400; .0500; .0600; .0700; .0900; .1100 (adopted)..... 2214
 4840.0500, s.3,8; .0800; .1000 (proposed repealer)..... 1354
 4840.0500, s.3,8; .0800; .1000 (adopted)..... 2214
 4850.0011, s.3,7,16a (proposed repealer)..... 1229
 4850.0011, s.3,7,16a (repealed)..... 2214
 4850.0011; .0012; .0014; .0015; .0016; .0017; .0018 (proposed)..... 1229
 4850.0011; .0012; .0014; .0015; .0016; .0017; .0018 (adopted)..... 2214
 4880.1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400 (proposed)..... 1435
 4880.1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400 (adopted)..... 2214

Higher Education Coordinating Board

4890.0500 (adopted)..... 303

Housing Finance Agency

4900.0010 (adopted)..... 41
 4900.1331; .1345; .1375 (proposed)..... 1234
 4900.1315, s.7,10; .1345, s.1 (proposed repealer)..... 1234

Labor and Industry Department

5200.1010; .1020; .1030; .1035; .1040; .1050; .1060; .1080; .1100 (proposed)..... 1148
 5200.1020, s.3; .1030, s.3; .1050, 3b (proposed repealer)..... 1148
 5202.0010 (adopted)..... 2122
 5205.0010 (adopted)..... 197
 5205.0010 (proposed)..... 426
 5205.0010 (adopted)..... 1040

Minnesota Rules: Amendments and Additions

5205.0010 (proposed)	1242	6230.1400; 6232.0100; .0300; .0600; .0800; .1100; .1200; .1250;	
5205.1500 (proposed)	376	.1600; .1750; .1800; .1950; .2100; .2450; .2500; 6234.1900; .2000;	
5205.1500 (adopted)	1994	.2200; .2600 (adopted expedited emergency)	429
5210.0005; .0020; .0040; .0050; .0060; .0070; .0080; .0090; .0100;		6230.0400 (adopted expedited emergency)	321
.0210; .0300; .0310; .0320; .0330; .0340; .0410; .0420; .0450;		6232.0100, s.3, .0600, s.3(repealed)	429
.0460; .0470; .0480; .0490; .0500; .0510; .0520; .0530; .0533;		6232.0100, s.3; .0400, s.1.3; .0600, s.3; .1700; 6236.0800;	
.0536; .0539; .0542; .0548; .0551; .0554; .0557; .0561; .0564;		6250.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800;	
.0567; .0570; .0573; .0576; .0579; .0589; .0595; .0596; .0597;		.0900; .1000; .1100; .1200; 6258.0700, s.2,3; 6260.2000, s.1	
.0650; .0800; .0810; .0820; .0830; .0835; .0850; .0860; .0870		(proposed repealer)	1447
(proposed)	970	6232.0100, s.3; .0400, s.1.3; .0600, s.3; .1700; 6236.0800;	
5210.0010; .0030; .0100, s.4; .0200; .0220; .0230; .0240; .0250;		6250.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800;	
.0260; .0270; .0280; .0290; .0310, s.3,4; .0340, s.1; .0400; .0430;		.0900; .1000; .1100; .1200; 6258.0700, s.2,3; 6260.2000, s.1	
.0440; .0470, s.3,4,6; .0540; .0550; .0560; .0820, s.2,3,5,6; .0830,		(repealed)	2287
s.2,4,5; .0840 (proposed repealer)	970	6232.0900 (adopted expedited emergency)	198
5215.0100; .0200; .0500; .0600; .0700; .0900; .1000; .1100;		6236.0600; .0810; .1060; .0650 (adopted expedited emergency)	1303
.1400; .1500; .1600; .2100; .5000; .5050; .5200; .5210; .5350;		6236.0600; .1060 (repealed)	1303
.5500; .5600; .5700; .5800; .5900; .6100 (proposed)	986	6240.0600; .0650 (adopted expedited emergency)	497
5215.0200, s.3,4,7,14; .0700, s.5,6,7; .0711; .0721; .0730;		6244.0100; .0200; .0300; .0400; .0410; .0420; .0430; .0440;	
.0800; .1200; .1700; .1800; .1900; .2000; .2011; .2200;		.0450; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1110;	
.2300; .2400; .2500; .2560; .4900; .5000, s.5; .5200, s.3;		.1200; .1300; .1400; .1500; .1500; .1600; .1700; .1800; .1900;	
.5250; .5300; .5400; .6000 (proposed repealer)	986	.2000 (proposed)	1768
5221.0405; .4030; .4033; .4040; .4050; .4051; .4060		6262.0400 (adopted exempt)	1288
(adopted exempt)	530	6262.0500, s.4 (proposed emergency repealer)	1447
5221.4030, s.2; .4033, s.2; .4040, s.2; .4050, s.2; .4060, s.2		6264.0300; .0400 (adopted)	2248
(repealed)	530	6280.0100; .0250; .0350; .0450; .0600; .0700; .0900; .1000;	
5221.4040 (adopted)	1163	.1100; .1200 (proposed)	1780
5221.4050 (adopted)	858	6280.0100, s.15; .0200; .0300; .0400; .0500 (proposed repealer)	1780
5225.1110; .1140; .1180; .2700; .3100 (proposed)	268	Nursing Board	
5229.0100; .0200; .0300; .0350; .0400; .0410; .0420; .0500; .0600;		6301.0810; 6305.0500; 6310.3600 (proposed)	1788
.0700 (proposed)	1236	POST Board	
5229.0100; .0200; .0300; .0350; .0400; .0410; .0420; .0500;		6700.0900; .1600; .1710 (adopted)	828
.0600; .0700 (adopted)	2286	Pharmacy Board	
Mediation Services Bureau		6800.4210; .4230; .4240 (proposed)	1275
5530.0100; .0200; .0300; .0600; .0700; .0800; .0900; .1200		Podiatric Medicine Board	
(proposed)	2210	6900.0200, s.8 (repealed)	168
Medical Practices Board		Pollution Control Agency	
5600.0605; .0610; .0300; .2500 (proposed)	1160	7000.0100; .0400; .0500; .0650; .0750; .1300; .1750; .1800;	
5600.0605; .0610; 5601.0300; 5600.2500 (adopted)	2376	.2000; .2100; .5000; .7000; .9100 (proposed)	1475
Natural Resources Department		7000.0400, s.2 (proposed repealer)	1475
6105.0330 (adopted)	1196	7002.0015; .0025; .0035; .0045; .0055; .0065; .0075; .0085;	
6110.1200 (adopted)	759	7005.0100; 7007.0150; .0300; .0500; .1110; .1115; .1120;	
6120.5900 (proposed)	1738	.1125; .1130; .1300; 7019.1000; .3000; .3020; .3030; .3040;	
6120.5900 (adopted)	2287	.3050; .3060; .3070; .3080; .3090; .3100 (proposed)	1358
6122.0100; .0200; .0300; .0400 (proposed)	1740	7002.0015, s.2,4; .0025, s.2; .0095; 7005.0100, s.10c,10d;	
6134.0200; .0300; .0400 (proposed)	1746	7007.0300, s.2; 7019.3010 (proposed repealer)	1358
6134.0200, s.5 (proposed repealer)	1746	7005.0100; 7007.0100; .0150; .0200; .0250; .0300; .0350; .0500;	
6210.0100; 6230.0400; .1400; 6232.0100; .0300; .0400; .0600;		.0800; .1110; .1115; .1120; .1130; .1150; .1200; .1250; .1300;	
.1100; .1500; .2200; .3000; .3100; .3200; .3700; .4100;		.1400; .1450; .1500; 7009.1000; .1040; 7011.0070; .0080;	
6234.1900; .2000; .2200; .2600; .2800; 6236.0100; .0300;		.0150; 7017.2040 (proposed)	270
.0500; .0600; .0700; .0810; .1000; .1100; 6240.1000; .1100;		7005.0100; 7007.0100; .0150; .0200; .0250; .0300; .0350; .0500;	
.1150; .1850; .1900; 6250.0101; 6252.; 6258.0300; .0400;		.0800; .1110; .1115; .1120; .1125; .1130; .1150; .1200; .1250;	
.0500; 6260.1800; .2000; 6262.0100; .0200; .0500; 6266.0100;		.1300; .1400; .1450; .1500; 7009.1000; .1040; 7011.0070.0080;	
.0300; .0400; .0500; .0600 (proposed)	1447	.0150; .2040 (adopted)	2316
6210.0100; 6230.0400; .1400; 6232.0100; .0300; .0400; .0600;		7005.0100, s.10d (proposed repealer)	270
.1100; .1500; .2200; .3000; .3100; .3200; .3700; .4100;		7005.0100; s.10d (repealed)	2316
6234.1900; .2000; .2200; .2600; .2800; 6236.0100; .0300;		7005.0100; 7011.7000; .7040; .7060; .7080; .7100; .7120; .7140;	
.0500; .0600; .0700; .0810; .1000; .1100; 6240.1000; .1100;		.7160; .7180; .7200; .7220; .7240; .7240; .7260; .7280; .7300;	
.1150; .1850; .1900; 6250.0101; 6250.0500; 6258.0300;		.7320; 7017.1010; .2010; .2015; 7019.0100 (proposed)	1790
.0400; .0500; 6260.1800; .2000; 6262.0100; .0200; .0500;		7007.0100; 7011.2220; 7017.2020; 7029.0005; .0010; .0020; .0030;	
6266.0100; .0300; .0400; .0500; .0600 (adopted)	2287	.0040; .0050; .0060; .0070; .0080; .0100; .0105; .0110; .2835;	
6212.1600; .1900 (proposed repealer)	1768	.2875; .2800 (proposed)	1795
6216.0100; .0200; .0250; .0300; .0400; .0500; .0600 (proposed)	1764		

Minnesota Rules: Amendments and Additions

7007.1110; .1130; .0900; .0903; .0905; .0911; .0913; .0917; .0920; .0922 (proposed repealer).....	1375
7009.9000 (adopted).....	1167
7011.0300; .0305; .0310; .0315; .0320; .0325; .0330; .2215 (proposed repealer).....	1795
7011.0915 (proposed repealer).....	1375
7011.0925 renumbered to 7011.0909.....	1375
7025.0200; .0210; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0290; .0300; .0310; .0320; .0330; .0340; .0350; .0360; .0370; .0380 (proposed).....	1384
7045.0020; .0221; .0225; .0230; .0240; .0248; .0255; .0855, s.2; .0990, s.3a (withdrawn).....	237
7045.0020; .0545; .0546 (adopted).....	694
7045.0020; .0125; .0135; .0692; .0790; .0795; .0800; .0805; .0810; .0815; .0820; .0825; .0835; .0840; .0845; .0855; .0865; .0875; .0885; .0895; .0990; .1300 (adopted).....	695
7045.0065; .0075;.0131; .0135; .0141; .0528; .0628; .0638; .1350... 7076.0110; .0130; .0215; .0240 (adopted).....	395 1245
7080.0010; .0020; .0030; .0040; .0060; .0110; .0120; .0125; .0130; .0150; .0160; .0170; .0175; .0176; .0200; .0210 (withdrawn proposed rules).....	83
7080.0010; .0020; .0025; .0030; .0060; .0065; .0110; .0120; .0125; .0130; .0160; .0170; .0175; .0176; .0300; .0305; .0310; .0315; .0350; .0700; .0705; .0710; .0715; .0720; .0800; .0805; .0810; .0815; .0820; .0830; .0850; .0855; .0860; .0900; .0910; .0920 (proposed).....	93
7080.0010; .0020; .0025; .0030; .0065; .0110; .0120; .0125; .0130; .0150; .0160; .0170; .0175; .0176; .0300; .0305; .0310; .0315; .0350; .0700; .0705; .0710; .0715; .0720; .0810; .0815; .0820; .0830; .0850; .0855; .0860; .0910; .0920; (adopted).....	1995
7080.0020, s.10,22a,29,34,41,50; .0050; .0070; .0080; .0090; .0110, s.1,2,3,5; .0120, s.2; .0130, s.5; .0180; .0210, s.7,9,10-15 (withdrawn proposed repealer).....	93
7080.0020, s.10,20,22a,24a,29,34,41,50; .0040; .0050; .0070; .0080; .0090; .0100; .0110, s.1,2,3,5; .0120, s.2; .0130, s.5; .0180; .0200; .0210 (proposed repealer).....	93
7080.0020, s.10,11e,20,22a,24a,28b,29,34,41,50; .0040; .0050; .0070; .0080; .0090; .0100; .0110, s.1,2,3,5; .0120, s.2; .0130, s.5; .0180; .0200; .0210 (repealed).....	1995
Public Safety Department	
7406.0100; .0300; .0330; .0350; .0360; .0370; .0400; .0450; .0500; .0700; .0800; .0900; .1000; .1100; .1150; .1200; .1300; .1400; .1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400; .2500; .2600 (proposed).....	1808
7406.0100, s.2-4; .0450, 1a; .0500, s.3,4; .0600 (proposed repealer).....	1808
7406.0100, s.5 renumbered as 7406.0100, s.19; 7406.0100, s.6 renumbered as 7406.0100, s.20	
7410.2400 (proposed).....	824
7410.2400, s.3 (proposed repealer).....	824
7410.2400 (adopted).....	2122
7470.1000; .1100; .1200; .1400; .1500; .1600; .1700 (adopted).....	702
Crime Victims Reparations Board	
7505.3100; .3200; .3500 (proposed).....	1328
7505.3100; .3500 (adopted).....	2376
Public Safety Department	
7520.0650; .1000 (proposed).....	2234
Public Service Department	
7601.0100; .1000; .3015; .3030 (adopted).....	1928

Gambling Board											
7861.0030 (proposed).....	2150										
7861.0030, s.6 (repealed).....	2150										
7861.0010; .0040; .0060; .0070; 7862.0010; .0020; .0030 (proposed).....	2156										
7861.0070; s.3,4,5,6; 7862.0010, s.5 (proposed repealer).....	2156										
Racing Commission											
7870.0450; .0490; 7871.0070; .0120; .0150; 7872.0100; 7873.0120; .0125; .0185; .0186; .0192; .0230; 7874.0100; 7877.0120; .0130; .0170; .0175; 7878.0100; .0110; .0130; 7879.0100; 7883.0100; .0130; .0140; .0160; 7890.0140; 7892.0120; 7895.0110; .0125 (proposed).....	2236										
7883.0140, s.21 (proposed repealer).....	2236										
Revenue Department											
8122.0100; .0150; .0200; .0250; .0300; .0350; .0400; .0450; .0500; .0550; .0600; .0650 (proposed).....	292										
8122.0250; .0400; .0550; .0600 (adopted).....	1482										
8130.4900 (proposed repealer).....	1035										
Secretary of State											
8200.0400; .0700; .1400; .1500; .3200; .3300; .3400; .9100; .9200; .9300, s.1-6; .9910; .9919; .9953; 8210.0700, s.4-6; .1950; .2750; 8240.1000; .2600; 8250.1500 (proposed repealer)...	1829										
8200.1100; .1200; .1700; .2100; .2200; .3800; .5100; .6100; .6200; .6300; .9300; .9939; 8210.0200; .0700; .3000; 8220.0050; .0150; .0250; .0850; .1450; .1550; 8230.0250; .2250; .3250; .4350; 8240.0100; .0200; .1300; .2400; 8250.0370; .1200; .1600; .1800 (proposed).....	1829										
Water and Soil Resources Board											
8400.0050; .0100; .0200; .0300; .0600; .0700; .0900; .1000; .1100; .1200; .1250; .1300; .1400; .1405; .1460; .1500; .1600; .1650; .1700; .1750; .1800 (proposed).....	906										
8400.0100, s.1a,2,5,6,7a,8a,11,12,13,14a,19,20,20c,21,22; .0400; .1950; .2000; .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2705; .2800 (proposed repealer).....	906										
8400.0100; .0600; .0900; .1800 (adopted).....	2185										
Transportation Department											
8810.9400; .9700 (proposed).....	905										
8810.9400; .9700 (adopted).....	2287										
8820.0100; .0600; .0700; .0800; .1000; .1100; .1200; .1400; .1500; .1600; .2100; .2200; .2300; .2500; .2700; .2800; .2900; .3100; .3200; .3300; .3400; .4030; .4050; .4070; .9990; .9920; .9926; .9931; .9936; .9946; .9956; .9961; .9981; .9986; .9995 (proposed).....	143										
Proposed Renumbering.....	143										
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">COLUMN A</td> <td style="width: 50%; text-align: center;">COLUMN B</td> </tr> <tr> <td>8820.0100, subpart 2, item B</td> <td>8820.0100, subpart 2, item D</td> </tr> <tr> <td>8820.0100, subpart 17, item A</td> <td>8820.0100, subpart 17, item D</td> </tr> <tr> <td>8820.0100, subpart 18</td> <td>8820.0100, subpart 15, item B</td> </tr> <tr> <td>8820.1500, subpart 10, item A</td> <td>8820.1500, subpart 8, item A</td> </tr> </table>		COLUMN A	COLUMN B	8820.0100, subpart 2, item B	8820.0100, subpart 2, item D	8820.0100, subpart 17, item A	8820.0100, subpart 17, item D	8820.0100, subpart 18	8820.0100, subpart 15, item B	8820.1500, subpart 10, item A	8820.1500, subpart 8, item A
COLUMN A	COLUMN B										
8820.0100, subpart 2, item B	8820.0100, subpart 2, item D										
8820.0100, subpart 17, item A	8820.0100, subpart 17, item D										
8820.0100, subpart 18	8820.0100, subpart 15, item B										
8820.1500, subpart 10, item A	8820.1500, subpart 8, item A										
8820.0100, s.4a,9,15a,19; .1000, s.3; .2900, s.1a,2; .3100, s.3,4,7,9; .9910; .9925; .9930; .9935; .9940; .9945; .9950; .9955; .9965; .9970; .9985 (proposed repealer).....	143										
8820.1500; .9920 (adopted).....	1041										
Veterans Homes Board											
9050.0040; .0050; .0055; .0060; .0070; .0200; .0220; .0230; .0400; .0520; .0580; .0600; .0750; .0755; .0770; .0800; .0820; .1030; .1070 (proposed).....	747										
9050.0040, s.25,40a,88,99; .0060, s.4; .1030, s.2-19 (proposed repealer).....	747										
Health Department											
9050.0040; .1070 (proposed).....	1881										

Minnesota Rules: Amendments and Additions

Veterans Homes Board (previous Health rule)			
9050.0040; .0050; .0055; .0060; .0070; .0200; .0220; .0230; .0400; .0520; .0580; .0600; .0750; .0755; .0800; .0820; .1030; .1070 (adopted)	2095	9515.3000; .3010; .3020; .3030; .3040; .3050; .3060; .3070; .3080; .3090; .3100; .3110 (proposed)	84
9050.0040, s.25,40a,88,99; .0060, s.4; .1030, s.2-19 (repealed)	2095	9515.3000; .3010; .3020; .3030; .3040; .3050; .3060; .3070; .3080; .3090; .3100; .3110 (adopted)	935
9055.0015; .0020; .0080; .0105; .0510; 0520; .0530; .0540; .0560; .0580 (proposed)	1284	9520.0760; .0790; .0800; .0810 (proposed)	1692
9055.0105, s.4; .0540, s.4 (proposed repealer)	1284	9530.6610 (proposed)	2183
Veterinary Medicine Board		9530.6610, s.5 (proposed repealer)	2183
9100.0100; .1000 (adopted)	860	9545.0905; .0915; .0925; .0935; .0945; .0985; .0995; .1025; .1035; .1045; .1065; .1085; .1105; .1115 (adopted)	526
9100.0400; .0500; .0600 (adopted)	340	9550.0010, s. 10,11,13,16,20,21; .0040, s.7; .0050, s.4,7 (proposed repealer)	1263
Office of Environmental Assistance		9550.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0091; .0092; .0093 (proposed)	1263
9205.0400; .0410; .0420; .0425; .0430; .0432; .0435; .0445; .0700; .0710; .0720; .0730; .0740 (proposed)	1616	9553.0010; .0020; .0030; .0035; .0036; .0040; .0041; .0050; .0051; .0060; .0061; .0070; .0075; .0080 (proposed)	1694
9205.0400; .0410; .0420; .0425; .0430; .0432; .0435; .0445; 9210.0700; .0710; .0720; .0730; .0740 (adopted)	2285	9553.0020, s.25, 43,45; .0030, s.3-6; .0040, s1-4; .0070, s.4 (proposed repealer)	1694
9205.0430, s.1,3,4; 9210.0750; .0760 (proposed repealer)	1616	9560.0221 (proposed)	1725
9205.0430, s.1,3,4; 9210.0750; .0760 (repealed)	2285	9560.0500; .0510; .0521; .0523; .0525; .0527; .0529; .0532; .0535; .0542; .0545; .0552; .0560; .0580; .0590; .0603; .0606; .0609; .0613; .0615; .0620; .0665; .0670 (proposed)	1727
Human Services Department		9560.0520; .0530; .0540; .0550; .0560, s.1; .0570; .0610; .0630 (proposed)	1727
9505.0500; .0520; .0521; .0522; .0540; .5005; .5035; .5041; .5045; .5046; .5075; .5076; .5077; .5078; .5079; .5080; .5082; .5085; .5105 (proposed)	1680	9565.1200 (proposed)	1262
9505.0500 s.4a,19a,28; .5005, s.18b; .5040; .5050; .5055; .5065; .5070; .5080, s.2,3; .5090; .5096; .5100 (proposed repealer)	1680	9565.1200 (adopted)	2248
9505.5060 renumbered as 9505.5091		9575.0350; .1500 (proposed)	2027
9506.0010; .0200; .0400 (adopted)	495		

Proposed Rules

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

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

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

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

Board of the Arts

Proposed Permanent Rules Governing Procedures for Receiving and Reviewing Requests for, and Standards for Distribution of, Grants or Other Forms of Assistance

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

Introduction. The Board of the Arts intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, *Minnesota Rules* parts 1400.2300 - 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on April 24, 1996, a public hearing will be held at the Board of the Arts offices at Park Square Court, 400 Sibley Street, Suite 200, Saint Paul, Minnesota 55101, starting at 1:00 p.m. on May 6, 1996. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after April 24, 1996, and before May 6, 1996.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to: Natalie Madgy, Board of the Arts, Park Square Court, 400 Sibley Street, Suite 200, Saint Paul, Minnesota 55101, (612) 215-1600. TDD users may reach the Board of the Arts at (612) 297-5353.

Subject Of Rules And Statutory Authority. The proposed rules are about governing procedures for receiving and reviewing requests for, and standards for distribution of, grants and other forms of assistance. The statutory authority to adopt the rules is *Minnesota Statutes* Sec. 129D.04, subd. 1 (e) and (f). A copy of the proposed rules is published in the *State Register* and a free copy of the rule is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on April 24, 1996, 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 at the address listed above by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during the comment period.

Request For A Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person at the address listed above by 4:30 p.m. on April 24, 1996. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request, any changes you want made to the proposed rules, and provide a daytime telephone number.

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

Accommodation. If you need an accommodation to make this hearing accessible, please contact Natalie Madgy at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted

Proposed Rules

rule may not be substantially different than this proposed rule. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation Of Hearing. The hearing scheduled for May 6, 1996, will be canceled if the Board of the Arts does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the Board of the Arts will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (612) 215-1600 after April 24, 1996, to find out whether the hearing will be held.

Notice Of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on Monday, May 6, 1996, in the Board of the Arts Conference Room, Park Square Court, 400 Sibley Street, Suite 200, Saint Paul, Minnesota 55101, beginning at 1:00 pm and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the Administrative Law Judge. The Administrative Law Judge assigned to conduct the hearing is Judge Beck. Judge Beck can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone number 341-7601, and fax 349-2665.

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

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

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

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement should be directed to the Ethical Practices Board at First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148 or 1-(800) 657-3889.

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

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

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

Dated: 5 March 1996

Sam W. Grabarski, Executive Director
Board of the Arts

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

Proposed Rules

Rules as Proposed (all new material)

1900.0110 AUTHORITY.

This chapter is adopted pursuant to *Minnesota Statutes*, section 129D.04, subdivision 1, clauses (e) and (f).

1900.0210 PURPOSE.

The purpose of parts 1900.0110 to 1900.2210 is to set forth procedures and criteria to be followed by the board, advisory panels, all individuals, organizations, departments and agencies of the state, and political subdivisions in receiving, considering, and reviewing requests for, and distribution of, grants and other forms of assistance. Any actions taken by the board, its staff, and advisory panels related to the review and distribution of grants and other forms of assistance must be based on parts 1900.0110 to 1900.2210.

The purpose of parts 1900.2310 to 1900.4110 is to set forth procedures and criteria to be followed by the board and designated regional arts councils to conduct a decentralized system of providing grants and other forms of assistance at the grass roots level. Terms, procedures, and criteria used in this chapter are specific to this chapter due to the statutory provisions which guide the relationship between the board and the regional arts councils. Any actions undertaken by a regional arts council, its staff, or its advisory panels must be based on the criteria contained in parts 1900.2310 to 1900.4010.

1900.0310 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the following terms are defined as indicated unless otherwise specified.

Subp. 2. **Advisory panel or panel.** "Advisory panel" or "panel" means a group of citizens appointed by the board to review and make recommendations on grants and other forms of assistance offered by the board, or to make recommendations on public arts policy matters.

Subp. 3. **Applicant.** "Applicant" means any individual who submits an application for a grant, or any group, organization, department or agency of the state, or political subdivision on whose behalf an application for a grant is submitted.

Subp. 4. **Application.** "Application" means the official form supplied by the board, and any required attachments and work samples as described in the program information for each program.

Subp. 5. **Board.** "Board" means the governing body of the State Board of the Arts.

Subp. 6. **Certified audit.** "Certified audit" means an audit completed by an independent auditor who meets the independence standards specified in the General Accounting Office's "Standards for Audits of Government Organizations, Programs, Activities, and Functions." The reporting requirements for audit reports shall be in accordance with the American Institute of Certified Public Accountants' (AICPA) audit guide incorporated by reference as the Statement of Financial Accounting Standards (S.F.A.S. notes #116 and #117). This publication is available from the state law library and from the Accounting Standards Board in Norwalk, CT for \$11 each by calling (203) 847-0700. The publication is not subject to frequent change.

Subp. 7. **Equipment.** "Equipment" means an article of nonexpendable, tangible property, or a combination of articles with a single purpose, having a useful life of more than two years.

Subp. 8. **Fiscal agent.** For the purposes of parts 1900.0110 to 1900.2210, "fiscal agent" means any Minnesota nonprofit organization which is exempt from taxation under Section 501(c)(3) of the *Internal Revenue Code*, or governmental unit which is responsible to the board on behalf of an organization, individual, or group not meeting the nonprofit tax-exempt requirements.

Subp. 9. **Grant.** "Grant" means the decision by the board to award dollars. It is an allocation of funds to an applicant to be used for the purposes described in the application.

Subp. 10. **Individual artist or artist.** "Individual artist" or "artist" means a single professional artist working alone or, for a limited time, with other artists.

Subp. 11. **Organization.** "Organization" means institutions which are exempt from taxation under Section 501(c)(3) of the *Internal Revenue Code* and established in Minnesota including schools, governmental units, and departments and agencies of the state. This does not include radio and television stations.

Subp. 12. **Other forms of assistance.** "Other forms of assistance" means services and activities, other than grant programs, which foster the development of the arts in Minnesota. These may include workshops, conferences, directories, or programs jointly sponsored or administered with other entities including federal, state, or nonprofit agencies.

Subp. 13. **Person of color.** "Person of color" means an individual who identifies with or is recognized as belonging to one (or a combination) of the following racial or ethnic groups: African American; Asian/Pacific Islander; Hispanic/Latino/Chicano; or Native American/Alaskan Native.

Subp. 14. **Presenting activities.** "Presenting activities" means tasks associated with the engaging of artists, touring companies, or exhibitions which are external to the institution. The tasks must include paying an artistic fee, contracting with the artists, providing the facility, marketing, and assisting in the technical support.

Subp. 15. **Producing activities.** "Producing activities" means tasks associated with the conception or creation of an artistic work and the assembly of the artistic elements for its production, performance, or exhibition.

Subp. 16. **Program information.** "Program information" means any document issued describing programs and services of the board which includes instructions, application forms, deadlines, and other aids for the applicant seeking assistance.

Subp. 17. **Regional arts council.** "Regional arts council" means one of the grassroots, autonomous organizations designated by the board to assess regional needs, plan and administer programs, and make final decisions on the utilization of its share of the legislative arts allocation granted to the regional arts councils by the legislature.

1900.0410 AGENCY ADVISORY PANELS.

Subpart 1. **Creation and discontinuance.** The board may appoint advisory panels to review grant applications or applications for other forms of assistance. The board may discontinue any advisory panel, as it deems necessary.

Subp. 2. **Nomination and appointment to advisory panels.** Individuals may nominate themselves or someone else by contacting the board during regular business hours. All interested persons shall be provided information describing the process and procedures for pursuing a nomination.

Appointments to advisory panels must be made by majority vote of the board. Under emergency circumstances, when panel service is required prior to convening the next scheduled meeting of the board, the board's executive director in consultation with the board chair, or designated board member, may make such an appointment. Members shall serve one panel-specific fiscal year term at the pleasure of the board for a maximum of three consecutive fiscal years. Appointments to advisory panels must be made so that the appointment terms of at least one-third of the membership of each panel will expire in each year. Advisory panels shall be geographically balanced and include at least one person of color, insofar as is reasonable possible.

No member of an advisory panel may serve on a panel which would review an application from that member for a grant or other form of assistance from the board.

Subp. 3. **Member qualifications.** Advisory panel members shall have expertise and experience in a particular area of the arts, arts funding, or administration; in-depth knowledge of the Minnesota arts community; communications and decision-making skills; and an ability to work well in a group. In addition, members shall be chosen for their ability to adhere to review criteria. Panel members selected by the board from nominees shall include artists, administrators, educators, volunteer directors of arts organizations, trustees of arts organizations, and other participants in the arts.

Participation as an advisory panel member requires:

- A. that the panel member read all materials as requested in advance of the scheduled meeting; and
- B. that the panel member be in attendance and fully participate in all required activities associated with the work of the panel.

Subp. 4. **Compensation.** Members of advisory panels shall be compensated for expenses incurred to attend advisory panel meetings or their assignments as provided in *Minnesota Statutes*, section 15.059, subdivision 6.

Subp. 5. **Conflict of interest of member.** A conflict of interest exists when a member of an advisory panel is affiliated as listed in items A to D with an applicant whose application is before the panel for review:

- A. receives direct financial benefit from the applicant organization or proposal being reviewed;
- B. serves as an employee or governing board member of an applicant organization being reviewed;
- C. serves with or without payment as a consultant to an applicant being reviewed; or
- D. has a familial relationship with an applicant or with a staff or board member of an applicant organization.

Subp. 6. **Exclusion of member.** When a conflict of interest is identified, the advisory panel member shall inform the board of the affiliation prior to the review of applications. The board shall report annually on those advisory panel members for affiliations which declared actual conflicts of interest. Declaring a conflict of interest means that the panel member may not be present for any discussion or vote on those applicants with which the conflict exists.

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Proposed Rules

1900.0510 CRITERIA FOR REVIEW OF GRANTS AND OTHER FORMS OF ASSISTANCE.

The board shall establish criteria for review that are consistent with conditions set by the funding source according to the intent of each program and described in program information. These sources include federal agencies, the Minnesota legislature, and private corporations or foundations.

1900.0610 REVIEW CRITERIA USED BY ADVISORY PANELS.

The primary review criterion used by all advisory panels to make recommendations to the board, except as specifically noted otherwise, shall be the artistic excellence or quality of the applicant. Advisory panels shall review applications to make recommendations for grants and other forms of assistance according to the merit and artistic quality as demonstrated by the applicant's artistic work sample or equivalent, such as a site visit of the proposed activity, in order to make recommendations to the board. In the case of service programs and projects, the merit and quality of the service being provided to the arts shall be reviewed. The detailed program-specific criteria are described in parts 1900.1510 to 1900.2210. After reviewing applications, advisory panels shall recommend each application for full funding, partial funding, or no funding. If more applications are recommended for funding than funds are available, the advisory panel may use the mathematical tools of rating or ranking the recommended applications individually to determine funding priorities and the amount of recommended grant.

1900.0710 BOARD ACTION AND ADVISORY PANEL RECOMMENDATIONS.

The board shall give considerable weight to the recommendations of advisory panels. The board may request comments and recommendations from the staff on all aspects of applications. The board may request a revised budget or a proposal description, or both, before taking final action on a grant application. The board shall make all final decisions consistent with this chapter as to approval or rejection of grant applications or requests for other forms of assistance.

1900.0810 PROCESS FOR OBTAINING GRANTS AND OTHER FORMS OF ASSISTANCE.

Subpart 1. Application materials for a grant and other forms of assistance. All applications must be made in accordance with this chapter. Applicants must use an official application form for the appropriate fiscal year and program to which they are applying.

The application materials shall include the specific information needed to determine the eligibility of the applicant, to review the application according to the review criteria, to comply with federal reporting requirements, and to evaluate the programs and services of the board.

Subp. 2. Applications received by board. All applications must be received at the board office by the deadline in the current program information. A late application shall not be considered by the board.

Subp. 3. Application. The applicant shall be responsible for the quality and the nature of the responses given in the application, the attachments, and the supporting materials in this chapter and further described in the program information provided by the board. The items are:

- A. the completed current official application form provided to the applicant by the board;
- B. a narrative proposal in the form of typed attached pages which responds to specific questions in the program information;
- C. supporting documentation as requested and listed in the program information; and
- D. if a fiscal agent is used, a copy of the written agreement between the fiscal agent and the applicant.

Subp. 4. Applications screening. Staff shall screen applications received by the deadline for eligibility and completeness, subject to the criteria and processes described in parts 1900.0610 and 1900.1510 to 1900.2210. Eligible applications shall be reviewed at a meeting, open to the public, by an advisory panel when deemed necessary and appointed by the board. The panel shall identify recommended applicants presented by staff to the board. The board shall make the grant award after considering the advisory panel's recommendation. If the grant is less than the original request, the applicant shall revise, where appropriate, the official budget and application to reflect the actual grant amount. Upon receipt of revisions, the board, or designated agency staff, shall review the revisions and, if approved, shall continue processing the grant contract.

Subp. 5. Applicants notified of board decisions. All applicants shall receive a notification letter and grant contract of an award (full funding or an adjusted level) or of no award within 45 days after final review of the application by the board, except if a revised budget is necessary. If a revised budget is necessary, applicants shall receive a grant contract and notification letter which includes instructions to revise the budget and proposal.

Subp. 6. Process to seek other forms of assistance. All parties interested in assistance from the board that is not described in agency program information, may contact the board during regular business hours.

1900.0910 DETERMINING DISTRIBUTION OF PROGRAM FUNDS.

The board shall establish a sequence of program deadlines annually based on the resources available and the quality and characteristics of the potential applicant pool. The board may give priority to one program category over others during a fiscal year.

1900.1010 ELIGIBILITY REQUIREMENTS FOR APPLICANTS REQUESTING GRANTS OR OTHER FORMS OF ASSISTANCE.

Subpart 1. **Eligibility requirements; kinds.** General eligibility requirements must be met by all applicants who request grants or other forms of assistance. Other requirements depend on whether the applicant is an organization or an individual artist. Further eligibility requirements specific to the program are described in parts 1900.1510 to 1900.2210.

Subp. 2. **All applicants.** An application shall not be eligible to be funded when one or more of the following activities, conditions, or use of funds exist or are proposed:

- A. artists are required to pay excessive entry or exhibition fees in order to exhibit or perform in the project or program for which funding is sought;
- B. funds are requested for payment of debts incurred before the grant activities begin;
- C. funds are requested to support activities that are essentially for the religious socialization of the participants or audience;
- D. funds are requested to support activities in primary or secondary level parochial schools;
- E. funds are requested for activities that attempt to influence any state or federal legislation or appropriation;
- F. funds are requested to pay for capital costs, such as improvements, construction, property, equipment costing more than \$5,000, or endowment funds;
- G. funds are requested to support strictly commercial activities or activities intended for mass-market distribution;
- H. the application form and all required materials are not received in the arts board office by 4:30 p.m. on the deadline date specified in the program information;
- I. the applicant has any overdue reporting requirements as specified in a previous contract with the board;
- J. the applicant is not in compliance with any active contract with the board;
- K. the applicant does not make all events open to the general public or whenever feasible, does not establish admission charges for the events; or
- L. the project budget contains combined funding from a regional arts council and the board that amounts to more than one-half of the project's total cash expenses.

Subp. 3. **Organizations.** The applicant must conform to the definition of an organization in part 1900.0310, subpart 11. If not, with prior written approval from the board or its designee, a fiscal agent must be identified.

Subp. 4. **Fiscal agent duties.** If a fiscal agent is identified in accordance with subpart 3, the fiscal agent must enter into a written agreement with the applicant that includes a description of both parties' responsibilities, and, if a grant is received, sign the grant contract. The fiscal agent shall be legally responsible for the completion of the grant activity and for the proper management of the grant funds.

Subp. 5. **Individual artist.**

- A. The applicant must conform to the definition of an individual artist under part 1900.0310, subpart 10.
- B. The applicant must be a United States citizen or have attained permanent resident alien status.
- C. The applicant must be at least 18 years old unless the funding source explicitly permits grants or other forms of assistance to persons under 18 years of age or unless otherwise specified under parts 1900.1510 to 1900.2210.
- D. The applicant, unless otherwise specified under parts 1900.1510 to 1900.2210 must be a Minnesota resident according to the principles described in the determination of residence under *Minnesota Statutes*, section 200.031, and demonstrated by evidence including:
 - (1) possession of a valid Minnesota driver's license;
 - (2) legal documentation of occupancy and home ownership or rental of a dwelling in Minnesota for at least six months prior to the application deadline;
 - (3) employment in Minnesota for at least six months prior to the application deadline; or

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Proposed Rules

(4) payment of Minnesota income taxes.

E. The applicant must not engage in or propose to engage in any of the activities, conditions, or uses of granted funds listed in subitems (1) to (7):

- (1) covering the costs of activities involving any organization which is the applicant's employer;
- (2) paying for tuition, fees, or work toward any degree;
- (3) paying for the translation of literary work;
- (4) developing curriculum plans, teaching materials, or teaching programs which are intended to be used in the applicant's regular course of employment;
- (5) covering the costs of relocating the applicant's legal residence outside the state of Minnesota;
- (6) paying for the establishment of an arts organization; or
- (7) paying for publishing with a vanity press.

Subp. 6. **Additional requirements.** Additional requirements are identified in the specific program parts listed in items A to C.

A. Pilot or new programs, part 1900.1410.

B. Grant programs:

- (1) part 1900.1510, Operating Support;
- (2) part 1900.1610, Formula Funds;
- (3) part 1900.1710, Series Presenters;
- (4) part 1900.1810, Folk Arts: Apprenticeships and Sponsorship;
- (5) part 1900.1910, Artist Assistance: Fellowship, Career Opportunity Grants, and Cultural Collaborations;
- (6) part 1900.2010, Arts in Education: School Support, and Organizational Support.

C. Other forms of assistance:

- (1) part 1900.2110, Juried Listings (Folk Arts Directory and Arts in Education Roster of Artists);
- (2) part 1900.2210, Percent for Art in Public Places.

1900.1110 APPEAL PROCESS.

Subpart 1. **Basis for an appeal.** There is no right of appeal for disputes of decisions with respect to interpretation of review criteria. An appeal may be made only if it is asserted that the board did not follow its policies and procedures as provided by this chapter.

Subp. 2. **Appeal procedure.** Any applicant who disputes a decision of the board regarding the applicant's grant application on any issue other than review criteria may appeal the decision of the board. The appeal shall be conducted according to items A to D.

A. The applicant must submit an appeal in writing within 45 days of the date of the letter notifying the applicant of the board's decision.

B. The appeal must state reasons for the appeal.

C. The board shall review the appeal at its first meeting following the receipt of the appeal.

D. The board may take one of the actions provided in subitems (1) to (5) in response to the appeal:

- (1) determine that the applicant does not show sufficient cause for an appeal;
- (2) direct the staff to investigate the applicant's appeal and bring a recommended resolution of the appeal to a subsequent meeting of the board;
- (3) request that the applicant appear before the board at a subsequent meeting and address the appeal at that time;
- (4) determine that the applicant does show sufficient cause for appeal and offer a settlement to the applicant at the meeting; or
- (5) refer the appeal to an administrative law judge for a contested case proceeding.

Subp. 3. **Disputed decision.** Following the appeal to the board, if the applicant continues to dispute the board's decision the board shall refer the matter to an administrative law judge for a contested case proceeding.

1900.1210 LEGAL RELATIONSHIP BETWEEN APPLICANT AND BOARD.

A legal relationship is established between an applicant who has been awarded a grant and the board when a grantee enters into a contract. The grantee must sign and return to the board, within 45 days from the date of the written notice of the board's decision, the required number of copies of the grant contract and any necessary attachments. The grant contract shall include provisions defining the obligations and rights of the board and the grantee. No action by the applicant shall be required following notification that an application was not approved for funding.

1900.1310 PUBLIC ACCESS TO RULES AND PROGRAM INFORMATION.

Copies of the current rules and program information shall be available for public review at the offices of the board during regular business hours. People with disabilities may make special arrangements with the board to access the documents. In addition, program information and a copy of this chapter shall be provided upon request to all applicants and the public.

1900.1410 ADDITIONAL REQUIREMENTS AND PROCESSES FOR A PILOT OR NEW PROGRAM.

The board may initiate new categories of assistance or pilot programs as needed to achieve its mission. For the purposes of this chapter, a "pilot program" means a program whose funding source may not be permanent, whose program information is under development, and for which adopted agency rules are not applicable.

No pilot program may continue for longer than four years without being established by the board on a permanent basis or discontinued. If the board changes the status of a pilot program to a permanent program, rules must be adopted.

1900.1510 ADDITIONAL REQUIREMENTS AND PROCESSES FOR OPERATING SUPPORT PROGRAM.**Subpart 1. Definitions.**

A. "Operating expenses" means all unrestricted, temporarily restricted, or restricted expenses, but does not include any depreciation costs, in-kind expenses, or any expenses associated with charitable gaming, plant and equipment, endowment, acquisition, or board designated reserve or quasi-endowment.

If a use of "operating expenses" refers to a context prior to fiscal year 1996, then operating expenses means all restricted and unrestricted expenses of the operating fund, minus any depreciation costs and in-kind expenses reported in a certified audit. Funds or accounts considered to be expenditures related to charitable gaming, fixed assets, plant and equipment, endowment, acquisition, or board designated reserves or quasi-endowment are not included.

B. "Organization" means an institution exempt from taxation under section 501(c)(3) of the *Internal Revenue Code* that has been established in Minnesota and is engaged in producing arts activities; or an artist service agency that works to maintain an independent operation dedicated solely to the arts. Organization does not include schools, universities, libraries, civic organizations, or other community service agencies.

Subp. 2. **Purpose of operating support.** The operating support program shall provide unrestricted support to high quality, established arts organizations that produce or exhibit works of art or provide services to artists.

Subp. 3. **Activities.** Operating support funding shall enable organizations to maintain ongoing programs, services, and facilities without special emphasis on new initiatives as a justification for funding.

Subp. 4. **Criteria of advisory panel for operating support recommendations.** The three review criteria by which an operating support applicant shall be evaluated by the advisory panel are listed in this part. Artistic excellence and leadership shall be the primary criterion. Management and fiscal responsibility and accessibility and education shall be secondary criteria and equally important.

A. Artistic excellence and leadership shall be demonstrated by:

- (1) the qualities and characteristics of the artistic activities or services;
- (2) contributions to the artistic growth of the organization's constituencies;
- (3) the effectiveness and appropriateness of the activities in interpreting a cultural or artistic vision as defined in the mission statement;
- (4) how the activities allow the art form and artists to develop;
- (5) evidence of artistic impact in the community, region, state, or nation;

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Proposed Rules

- (6) opportunities for the involvement and support of Minnesota artists; and
- (7) the qualifications and achievements of artists and artistic leadership.

B. Management and fiscal responsibility shall be demonstrated by:

- (1) evidence of sound financial planning and marketing which supports the artistic programs;
- (2) the relationship of decisions to planning and evaluation processes;
- (3) the extent to which planning includes the viewpoints of artists and the audience;
- (4) board composition and roles, staff qualifications, and responsibilities;
- (5) organizational stability and fiscal position;
- (6) the relationship of projected earnings to earning capacity;
- (7) commitment to a balanced budget;
- (8) evidence of a long-term plan to apply reserves wisely, where reserves exist; and
- (9) the challenges and opportunities associated with the artistic disciplines involved, geographic location, and availability of resources of an applicant.

C. Accessibility and education shall be demonstrated by:

- (1) qualities and programs which make the organization and its work approachable and available to a broad public audience;
- (2) how well the actual audience matches the intended audience;
- (3) efforts to create community understanding and awareness of works of art through educational objectives;
- (4) commitment to education beyond regular public programming; and
- (5) the role of the organization and its leaders as advocates for the arts in the community.

Subp. 5. **Eligibility requirements.** Operating support applicants must meet the additional eligibility requirements in items A to D to apply for funds.

A. The applicant must be an organization as defined in subpart 1.

B. The applicant must be able to demonstrate in its most recently completed certified audit that it meets the operating expense level requirements which are printed in the current program information. Category entry levels which are rounded to the nearest \$1,000 shall be calculated for the even year of each biennium based on the rate of change of a professionally acknowledged economic indicator, or index, such as the Minneapolis/St. Paul Consumer Price Index (incorporated by reference as the figures released each August and February by the United States Department of Labor office in Chicago, Illinois. The index is available by telephone at (312) 353-1880) since the last qualifying amount printed in program information. For example, the fiscal year 1996 requirement is:

Operating Expense Level Requirement	Organization Category
\$3,184,000 and above	Group I
\$531,000-\$3,183,999	Group II
\$106,000-\$530,999	Group III

C. The applicant must have been in existence for two full fiscal years and legally incorporated in Minnesota for at least six months prior to the application deadline.

D. The applicant must have at least one paid, professional, administrative staff person.

Subp. 6. **Certified audit.** The official application must include one certified audit for each of the applicant's two most recently completed fiscal years.

Subp. 7. **Site review.** Applicants for operating support must participate in a site review with the board or its designee.

Subp. 8. **Amounts of grants.** The minimum grant award shall be based on the applicant's operating expenses according to the category established annually by the board and listed in the current program information. The category shall be determined by the operating expense level requirements described in subpart 5, item B. The maximum grant award shall be ten percent of the applicant's operating expenses for the most recently completed and audited fiscal year.

1900.1610 ADDITIONAL REQUIREMENTS AND PROCESSES FOR FORMULA FUNDS PROGRAM.**Subpart 1. Definitions.**

A. "Current grant recipient" means an organization that has been awarded a grant:

(1) during the most recent cycle of one of the board's programs at the time of the formula funds deadline; or

(2) by a regional arts council involving an accountable review process during the specific time period stated in program information.

B. "Operating expenses" has the definition provided in part 1900.1510, subpart 1.

C. "Organization" means an independent institution established for three full years with a primary orientation and mission to engage in arts presenting or producing activities or to provide services to the arts, including arts educators and artists, and works to maintain an independent operation. If an institution is a nonarts organization, its arts entity must have a distinct identity, professional arts management, a season of arts programming, and evidence of a broad community following to be considered an organization for the purposes of this part. A collection of arts activities or arts programming within a nonarts institution is not included.

Subp. 2. **Purpose.** The formula funds program provides funds to stabilize and ensure the long-term health of Minnesota's arts community. It is intended to provide a guaranteed and predictable source of state funding for Minnesota's primary arts institutions.

Subp. 3. **Activities.** Formula funds are intended to be used for operating support to enable organizations to maintain ongoing programs, services, and facilities without special emphasis on new initiatives as a justification for funding.

Subp. 4. **Criteria for formula funds grants.** The two primary review criteria by which formula funds applicants shall be evaluated by the board for grants shall be "Continued Artistic Excellence" and "Continued Financial Stability," both of which are equally important.

Subp. 5. **Additional eligibility requirements.** Formula funds applicants must meet the additional eligibility requirements in items A to E to apply.

A. The applicant must be able to demonstrate that it meets the description of an organization as defined in subpart 1.

B. The applicant must be a "current grant recipient" in one of the board's permanent (not pilot) programs or in one of the regional arts councils' programs under this part.

C. The applicant must demonstrate that its operating expenses over the last three completed fiscal years, when averaged together, are equal to the minimal qualifying operating expense amount in the board's operating support program established for the even year of each biennium and described in part 1900.1510, subpart 5.

D. The applicant must not merely serve as a fiscal agent for another organization receiving a grant from the board or a regional arts council.

E. The applicant must certify that it will remain in operation for at least one year after the grant is awarded.

Subp. 6. Additional items.

A. The official formula funds application must include one complete and unaltered certified audit from each of the organization's last three completed fiscal years.

(1) In fiscal year 1996, an organization that seeks a grant without three completed certified audits may instead submit at least two of the most recently completed certified audits and one year-end financial statement which has been approved by the applicant's board.

(2) In fiscal year 1996 and fiscal year 1997, if an applicant is a nonarts organization as described in subpart 1, item C, the applicant may have one additional year to meet the certified audit requirement. The applicant shall submit in fiscal year 1996 one certified audit from the most recently completed year and two year-end financial statements approved by the applicant's board; and in fiscal year 1997, two audits and one year-end financial statement. The certified audit must specifically delineate expenses and revenue for the arts component.

B. Current regional arts council grantees must also submit:

(1) one copy of the entire grant application that qualifies them for formula funds; and

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Proposed Rules

(2) one copy of their letter from the Internal Revenue Service stating they are exempt from taxation under the *Internal Revenue Code*.

Subp. 7. **Additional processes.** The formula funds program process varies from the general process described in part 1900.0810 in that eligibility for nonarts organizations is determined by the board. In addition, eligible applications and accompanying financial information are reviewed by the board, or its designee, to verify the eligible average operating expenses.

Subp. 8. **Grant amounts.** All grantees shall receive the same percentage of their qualifying three-year average operating expenses. The board shall calculate the amount of each grant based on the eligible applicant pool and funds available. For example, in fiscal year 1995 there were 77 organizations eligible to receive \$1,724,580. This resulted in awards of 1.7 percent of an organization's qualifying three-year average operating expenses.

1900.1710 ADDITIONAL REQUIREMENTS AND PROCESSES FOR SERIES PRESENTERS PROGRAM.

Subpart 1. **Definitions.** "Series" means a sequence of professional arts presentations or events, related in some way, and marketed as a set to an audience.

Subp. 2. **Purpose of program.** The series presenters program shall provide an opportunity for the public to experience new, diverse, and outstanding live artistic performances, exhibitions, screenings, and readings in the visual, performing, and literary arts; and shall encourage presenters to build strong arts series programming within their communities.

Subp. 3. **Uses of grants.** The series presenters program shall provide grants to Minnesota organizations to support both the artistic fees and administrative costs necessary to present an artistic series of Minnesota, national, or international touring artists and companies.

Subp. 4. **Advisory panel criteria to make recommendations to board.** The three review criteria by which a series presenters applicant shall be evaluated by the advisory panel are: artistic excellence of the companies, artists, or exhibitions to be presented is the primary criterion. Program administration and demand for the series within the community are secondary criteria and equally important.

A. Artistic excellence of the companies, artists, or exhibitions to be presented shall be demonstrated by:

- (1) the qualities and characteristics of the artistic activities;
- (2) contributions to the artistic growth of the presenter's constituency;
- (3) program selection which reflects a diversity of artists or genres;
- (4) how the activities support the presenter's mission and complement and build upon past programming; and
- (5) the quality of the artistic activity considering the funds available for artistic fees.

B. Program administration shall be demonstrated by:

- (1) presentation skills and experience in areas such as marketing and evaluation;
- (2) strong cash commitment to the series, with income derived from a variety of sources;
- (3) the level of administrative costs associated with the series in comparison to artistic fees;
- (4) the relationship of decisions to planning and evaluation processes; and
- (5) series stability viewed in terms of organizational stability, strength of fiscal position, and leadership.

C. Demand for the series within the community shall be demonstrated by:

- (1) accessibility to and continued development of board audiences;
- (2) objectives which address the community's artistic needs;
- (3) the role of the presenter as an advocate for the arts in the community; and
- (4) efforts to create community understanding and awareness of works of art through educational offerings and programs.

Subp. 5. **Additional eligibility requirements.** Series presenters applicants must meet the additional eligibility requirements in items A to G to apply for funds:

A. the applicant must be an organization and be engaged in presenting activities;

B. the applicant must demonstrate two recent consecutive years of arts series programming experience in Minnesota;

C. the applicant must demonstrate an annual series cash expense of at least \$20,000 or the dollar amount printed in current program information;

D. the applicant must intend to assume the functions of a presenter as defined in this part;

E. the applicant must sponsor at least five professional artists, companies, exhibitions, or screenings during an annual season in a community or the number of artist groups printed in current program information;

F. the applicant must not apply for or have received an operating support or folk arts sponsorship grant from the board representing the same activity or fiscal year of funding; and

G. the applicant must not propose or engage in activities that fund single events, fairs, festivals, or touring programming intended to serve primarily elementary or secondary school students.

Subp. 6. **Interviews.** Applicants must agree to participate in an interview if requested.

Subp. 7. **Dollar amount of grants.** The minimum series presenters grant in fiscal year 1995 is \$5,000 and the maximum grant is 20 percent of the projected cash expenses of the proposed series. Any changes must be published in a *State Register* notice.

1900.1810 ADDITIONAL REQUIREMENTS AND PROCESSES FOR FOLK ARTS PROGRAMS.

Subpart 1. **Definitions.** The terms in this part have the meanings given in items A to F.

A. "Apprentice" means a person who shows promise in the art form of the master and who will benefit from teaching sessions with a master.

B. "Community" means a group of people who share the same ethnic or tribal heritage, occupation, language, religion, geographic area, or traditional art form.

C. "Folk art" means community-based traditional art. Whether music, dance, a handmade item, or any other form, folk art represents the long-standing character of a specific folk community.

D. "In-family apprenticeships" means apprenticeship activities involving two members of a nuclear or extended family.

E. "Interpretation" means helping members of the public to understand the connections between specific types of folk art and the cultures they represent.

F. "Master" means a person recognized in a community to be a highly skilled folk artist.

Subp. 2. **Purpose.** The purpose of the folk arts program is to focus on preserving and perpetuating Minnesota's living folk arts traditions. The program covers the specific areas in items A and B.

A. The folk arts sponsorship program is intended to support folk arts traditions of Minnesota, and help Minnesotan citizens appreciate the variety of traditions that make up their shared inheritance.

B. The folk arts apprenticeship program shall foster the transmission of folk arts skills by traditional means from a master artist to an apprentice.

Subp. 3. **Activities funded.** The folk arts program shall provide grants to folk artists and organizations creating or presenting folk arts. Each program focuses on the specific activities in items A and B.

A. The folk arts sponsorship program shall provide annual grants for identifying folk artists and presentation of Minnesota folk arts. The grant funds may support one event or a series of events including exhibitions, concerts, workshops, or festivals.

B. The folk arts apprenticeship awards shall be grants given for the serious study of folk arts between a master artist and an apprentice.

Subp. 4. **Criteria for advisory panel to make recommendations to board.** The program specific criteria by which a folk arts applicant shall be evaluated by the advisory panel to make recommendations to the board are listed in items A and B.

A. For folk arts sponsorship, an applicant shall be evaluated by the folk arts sponsorship advisory panel by four review criteria. Quality and traditionality of the folk art and merit and feasibility of the folk arts component shall be the primary criteria and equally important. The extent to which support will enhance the applicant's program and community need for the project shall be secondary criteria and equally important.

(1) Quality and traditionality shall be demonstrated by the work samples submitted with the application.

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Proposed Rules

(2) Merit and feasibility of the folk arts interpretive component shall be demonstrated by activities which broaden the public's awareness and understanding of the folk arts traditions presented.

(3) Extent to which support will enhance the applicant's program shall be demonstrated by:

- (a) the additional activities provided by the grant; and
- (b) the depth of the experience of the funded activity as presented to audience members.

(4) Community need for the project shall be demonstrated by:

- (a) the need for specific cultures to celebrate their traditions; and
- (b) the need for intercultural understanding provided by the project.

B. For folk arts apprenticeship, an applicant shall be evaluated by the folk arts apprenticeship advisory panel by three review criteria. Quality and traditionality of the folk art shall be the primary criteria. Merit of the apprenticeship plan and impact of the apprenticeship on community-based folk arts traditions of Minnesota shall be secondary criteria and equally important.

(1) Quality and traditionality of the folk art shall be demonstrated by:

- (a) the work samples of the apprentice and master;
- (b) the capabilities of the master; and
- (c) the appropriateness of the art form for a folk arts funding project.

(2) Merit of the apprenticeship plan shall be demonstrated by:

- (a) the readiness of the proposed apprentice to learn from the master;
- (b) the adequacy of the amount of support requested for payment of fees to the master, materials, travel, and other aspects of the budget expenditures; and
- (c) the adequacy of the number and length of meetings and the adequacy of the scheduling of meetings between master and apprentice.

(3) Impact of the apprenticeship on community-based folk arts traditions of Minnesota shall be demonstrated by:

- (a) the apprenticeship representing a community-based folk arts tradition of Minnesota; and
- (b) the likelihood of the apprentice practicing the newly acquired skills within an appropriate folk arts community.

Subp. 5. **Additional eligibility requirements.** Folk arts applicants must meet the additional program specific requirements in items A and B.

A. For folk arts sponsorship:

- (1) The applicant must be able to demonstrate that it meets the definition of an organization or has written approval by the board to use a fiscal agent.
- (2) The applicant has been in existence at least one year before applying for a grant.
- (3) The applicant proposing single event activities must include at least one Minnesota folk artist in the activities and, if proposing more than one event in a series, must include at least one Minnesota folk artist in each event in the series.
- (4) The applicant must not apply for or have received another operating support or series presenters grant from the board for the same activity or fiscal year of funding.
- (5) The applicant must not propose or engage in any of the activities, conditions, or use of funds in units (a) to (c):
 - (a) strictly for research;
 - (b) for events which are presented solely to kindergarten to grade 12 students during the school day; or
 - (c) for touring activities, performances, or exhibitions carried out exclusively by student organizations or schools.

B. For folk arts apprenticeship:

- (1) In-family apprenticeships shall be eligible only when funds for the master's fees are needed to avoid financial hardship caused by a loss of income resulting directly from training activities. Under no circumstances will the board support in-family apprenticeships when the persons reside in the same household or when the apprenticeship activities are combined with family socializing or any other nontraining event.
- (2) An apprentice may be younger than 18 years of age when all of the criteria and the conditions in units (a) to (d) are met:

- (a) the official applicant is the master;
 - (b) the apprentice is an individual of unusual aptitude and ability;
 - (c) the apprentice's parent or legal guardian signs a statement giving permission and acknowledging support for the project, and certifying that the apprentice will complete the training as described in the application; and
 - (d) when folk arts traditions within a specific community are typically passed on to persons under 18 years of age.
- (3) An applicant must not participate in the folk arts apprenticeship program, either as an apprentice or master, more than once every other year.
- (4) An individual who has received an artist assistance fellowship or cultural collaborations grant from the board in the year preceding the application program fiscal year is not eligible.
- (5) An applicant may not use funds for meals if one-way travel to the apprenticeship site is under 35 miles.

Subp. 6. **Dollar amount of grants.** The folk arts sponsorship minimum grant is \$300 and the maximum is \$4,000. The folk arts apprenticeship minimum grant is \$500 and the maximum is \$4,000.

1900.1910 ADDITIONAL REQUIREMENTS AND PROCESSES FOR ARTIST ASSISTANCE PROGRAMS.

Subpart 1. **Definitions.** "Collaboration" means the process that occurs when more than one artist or an artist and an organization work together to create and present artwork.

Subp. 2. **Purpose of program.** The purpose of the artist assistance program is to support individual artists at various stages in their careers. The program focuses on the specific purposes in items A to C.

A. The fellowship program is designed to recognize, reward, and encourage outstanding individual artists throughout Minnesota.

B. The career opportunity grant program shall help artists to take advantage of unique impending, concrete opportunities that will significantly advance their work or careers.

C. The cultural collaborations program is designed to foster the creation of any style of art, ranging from contemporary to classical or traditional, by artists of color in collaboration with Minnesota organizations and present it to a public audience.

Subp. 3. **Uses of grants.** The artist assistance program shall provide grants to fund time and costs related to continuing or creating new work. Each program focuses on the specific activities in items A to C.

A. The fellowship grants shall allow artists working in the visual, literary, and performing arts to set aside time to work, provide living expenses, purchase supplies and materials, undertake advanced study not related to a degree, or to pursue other artistic career goals.

B. The career opportunity grants shall provide funds for unique, short-term opportunities which enhance career goals.

C. The cultural collaborations grants shall provide funds to persons of color for the collaborative creation of any style of art, ranging from contemporary to classical or traditional in the visual, literary, or performing arts.

Subp. 4. **Criteria used by advisory panel to make recommendations to board.** The primary review criterion by which an artist assistance application shall be evaluated by the advisory panel to make recommendations to the board is artistic quality of work, as demonstrated by an artist's work sample. In addition, the secondary criteria stated in items A to C apply to specific program areas.

A. For a fellowship award, merit and feasibility shall be demonstrated by:

- (1) the anticipated impact on the applicant's career;
- (2) relevance to the artist's work; and
- (3) the artist's ability to accomplish the proposed activity.

B. For a career opportunity grant, merit and feasibility shall be demonstrated by the opportunity's anticipated impact on the applicant's work or the development of the applicant's career. Financial feasibility shall be demonstrated by a budget that realistically reflects costs associated with the project.

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Proposed Rules

C. For a cultural collaborations grant, merit and feasibility shall be demonstrated by:

- (1) the strength of the project idea;
- (2) a clear and complete project description;
- (3) an achievable timeline;
- (4) the commitment and ability to accomplish the project by the collaborating organization;
- (5) the suitability of the plans for access and involvement with the artist's respective community;
- (6) the degree that the project advances the artist's career; and
- (7) the strength of the public presentation component.

The third criterion, in order of importance, shall be that the collaboration involves an organization in the artist's respective community.

Subp. 5. **Additional requirements.** Artist assistance applicants must meet the additional program specific eligibility requirements in items A to C to receive a grant.

A. Fellowship applicants must not have received a cultural collaborations or a folk arts apprenticeship (either as apprentice or master) award from the board in either of the two fiscal years preceding the current year or in the current fiscal year. In addition, fellowship applicants must not have received a fellowship award from the board in any of the three fiscal years preceding the current year or in the current fiscal year. Finally, applicants must not submit more than one fellowship application each fiscal year.

B. Cultural collaborations applicants must not have received a cultural collaborations, folk arts apprenticeship (either as apprentice or master), or fellowship award from the board in either of the two fiscal years preceding the current year or in the current fiscal year. Applicants must identify with and be recognized as a person of color. Each applicant must name a nonprofit entity as the collaborating organization as defined in part 1900.0310, subpart 11. However, for this program, an exception to that definition is that a radio or television station may be the collaborating organization.

C. Career opportunity grant proposals must be unique and not have been submitted in a prior career opportunity grant review cycle in the same fiscal year.

An individual awarded a career opportunity grant in a fiscal year may not apply for an additional career opportunity grant at any future deadline in the same fiscal year.

An individual awarded an artist assistance fellowship grant or a folk arts apprenticeship grant (as either an apprentice or a master) may not apply for a career opportunity grant at any future deadline in the same fiscal year.

Opportunities must fit within the time frame described in the current career opportunity grant program information.

Subp. 6. **Additional processes for reviewing grants.** Career opportunity grant applications shall be reviewed preliminarily by agency staff based on the criteria. Leading applications shall be identified by staff and then reviewed by a subcommittee of the board which makes the final decisions to award grants.

Subp. 7. **Dollar amount of grants.** The fellowship is \$6,000. The career opportunity grant minimum shall be \$100 and the maximum \$1,000. The cultural collaborations minimum grant shall be \$1,000 and the maximum \$6,000.

1900.2010 ADDITIONAL REQUIREMENTS AND PROCESSES FOR ARTS IN EDUCATION PROGRAMS.

Subpart 1. **Definitions.** The terms in this part have the meanings given in items A to C.

A. "Professional artist" means someone whose primary career is the creation of art, and who demonstrates the ability to teach an art form to kindergarten to grade 12 students.

B. "Residency" means the activity that occurs when an artist works with kindergarten to grade 12 students in a school according to the residency model.

C. "Residency model" means the board prescribed description, contained in program information, of the responsibilities, activities, roles, and characteristics of the activity that occurs when an artist works with kindergarten to grade 12 students in a school setting funded by the board.

Subp. 2. **Purpose of program.** The purpose of the arts in education program shall be to convey to students and teachers that the arts are essential to education and to daily life. In the program, qualified artists and arts organizations shall participate in educational settings to reinforce students' critical thinking, self-discipline, and creative self-expression.

A. The arts in education school support grants are intended to help schools to involve professional artists to strengthen school arts programming. The artist residency shall serve to demonstrate the vitality of an arts discipline. The artist shall act as a profes-

sional role model, assist teachers and students in using the creative process in their work and lives, and draw attention to the necessity for arts in the classroom and in the community.

B. The arts in education organizational support program is intended to encourage and expand the delivery of cost-efficient quality arts residency programs to schools by providing grants to arts organizations.

Subp. 3. **Uses of funds.** The program shall fund artist residency activities at kindergarten to grade 12 public or private non-parochial schools or educational organizations. The program shall focus on the specific activities in items A and B.

A. The arts in education school support program shall provide matching grants to elementary and secondary Minnesota schools for artist residencies.

B. The arts in education organizational support program shall provide grants for organizations that produce school residency programs.

Subp. 4. **Criteria used by advisory panel to make recommendations to board.** The criteria apply to the specific programs in items A and B.

A. For arts in education school support, the five review criteria by which an applicant shall be evaluated for an arts in education school support grant are listed in subitems (1) to (5). Artistic quality and merit shall be the primary criteria and equally important. Ability of the school applicant to accomplish the residency, demand or need for the residency, impact of the proposed residency on school curricula, and growth in and increased local commitment to school arts programming shall be secondary criteria and equally important. The fifth criterion, growth in and increased local commitment to school arts programming, shall be only for previous grant recipients of the board's arts in education school support program. The criteria are:

(1) artistic quality and merit of the proposed residency, as demonstrated by:

- (a) artistic quality of the work of the artist in the residency;
- (b) merit of the residency plan, including an overall schedule listing what the artist will actually do;
- (c) the artistic goals of the school and how the residency fulfills those goals and meets the curricular objectives; and
- (d) involvement of parents and community in the residency;

(2) ability of the school applicant to accomplish the residency, as demonstrated by:

- (a) the planning process;
- (b) how the school, students, staff, and community will be prepared for the residency;
- (c) how the school will finance the residency; and
- (d) how the residency will be publicized, documented, and evaluated;

(3) demand or need for the residency, as demonstrated by:

(a) the existing arts resources in the school's community and how the residency complements, rather than replaces, those existing resources;

- (b) the partnership between educators and artists;
- (c) the variety of arts experiences available throughout the state; and
- (d) a strong cash commitment to the residency program;

(4) impact of the proposed residency on school curricula, as demonstrated by:

- (a) use of artist-teacher contact time;
- (b) the school's progress toward a comprehensive education in the arts for all students; and
- (c) program enhancement by an art critic/historian/aesthethician; and

(5) growth in and increased local commitment to school arts programming, as demonstrated by:

- (a) increased length of residency;
- (b) innovative plan for instruction;

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Proposed Rules

- (c) artists' collaboration;
- (d) a residency plan focusing on a different arts discipline than previous applications; and
- (e) greater financial commitment by the applicants.

B. For arts in education organizational support, the four review criteria by which an applicant shall be evaluated for an arts in education organizational support grant are in subitems (1) to (4). Artistic quality and merit of the residency program shall be the primary criteria and equally important. Ability of the applicant to accomplish the residencies, demand or need for the program, and impact of the proposed residency program on school arts curricula shall be secondary criteria and equally important. The criteria are:

- (1) artistic quality and merit of the residency program shall be demonstrated by:
 - (a) methods of selection and qualifications of the artists to be involved in the residencies;
 - (b) preparation of and services to artists, including appropriate compensation;
 - (c) commitment to promoting arts education for all students;
 - (d) merit of the residency, including overall schedule, length of residency, publicity aids, teacher contact time, and curriculum materials;
 - (e) how residency program goals and objectives relate to the overall artistic mission of the organization;
 - (f) involvement of parents and community in the residency; and
 - (g) residencies beyond five days in length;
- (2) ability of the applicant to accomplish the residencies shall be demonstrated by:
 - (a) a thorough planning process;
 - (b) qualifications of administrative personnel;
 - (c) previous experience in arts in education residencies;
 - (d) realistic projections of residency activities; and
 - (e) how the residencies are booked and managed;
- (3) demand or need for the program as demonstrated by:
 - (a) cost effectiveness of residencies, including the reasonableness of the costs to the schools;
 - (b) a strong cash commitment to the residency program, including administrative support;
 - (c) a commitment to and a history of arts residency programming outside the seven-county metro area;
 - (d) programs which actively involve the local community as well as the school audiences; and
 - (e) programs which involve and address the needs of geographically diverse and varied populations, including people of color, people with disabilities, and high achieving or high potential individuals; and
- (4) impact of the proposed residency on school curricula, as demonstrated by:
 - (a) use of artist-teacher contact time;
 - (b) a connection between residency content and schools' curricula; and
 - (c) activity designed for long-term effect.

Subp. 5. **Additional requirements.** Arts in education applicants must meet the additional program specific requirements in items A and B.

A. Arts in education school support.

- (1) The applicant must be a public or private nonparochial school or an institution which is exempt from taxation under the *Internal Revenue Code*, established in Minnesota, whose primary focus is the education of students in kindergarten to grade 12.
- (2) The applicant must name professional artists to participate in a residency who have been Minnesota residents for a minimum of six months prior to the application deadline.
- (3) The residency activity must conform to the residency model established by the board and printed in the program information.
- (4) The applicant must not propose or engage in any of the activities or uses of funds in units (a) to (i):

ended;

- (a) a residency beginning before the fiscal year for which the funds are budgeted or after the date the school year has ended;
- (b) a residency which consists exclusively of presentations by student organizations or student artists;
- (c) a residency which is exclusively for curriculum development;
- (d) a residency which is to be funded by the board in an amount which is more than one-half of the total residency costs, and does not include some cash match from the applicant;
- (e) a residency whose major audience is other than elementary or secondary students and faculty;
- (f) a residency which takes place outside the state of Minnesota;
- (g) to pay solely for the production costs associated with the creation of an arts event;
- (h) to purchase or commission a work of art; or
- (i) to pay artistic fees to include an arts organization in the residency.

B. Arts in education organizational support.

(1) The applicant must be able to demonstrate that it meets the description of an organization and is engaged in producing activities defined in part 1900.0310, subparts 11 and 15, or that it provides services to the arts.

(2) The applicant must have been legally incorporated in Minnesota for at least six months prior to the application deadline.

(3) The applicant must, in three recent years, have provided arts programming experience for students in kindergarten through grade 12.

(4) The applicant must pay artists a daily rate which is comparable to rates otherwise established within its organization.

(5) The residency activity must conform to the residency model established by the board and printed in the program information.

(6) The applicant must not propose or engage in any of the activities or uses of funds in units (a) to (j):

- (a) residencies that take place outside of Minnesota;
- (b) residencies whose major audience is other than elementary or secondary students;
- (c) residencies also funded by the board's arts in education school support program;
- (d) residencies used exclusively for curriculum development;
- (e) residencies not coordinated by a paid, professional administrator;
- (f) a residency for which the board's grant is more than one-half of cash expenses and the applicant has not provided a dollar for dollar cash match;
- (g) a residency budget that includes more than 20 percent in administrative costs;
- (h) a residency budget that includes any administrative costs, if the applicant is already funded through the board's operating support program;
- (i) a residency budget that includes indirect production expenses associated with the creation of an arts event, such as costumes, sets, matting, and framing costs; and
- (j) a residency plan that does not involve multiple sites.

Subp. 6. Dollar amount of grants.

A. The arts in education school support program may fund up to one-half of the total cost of a residency.

B. The arts in education organizational support program may fund a maximum of one-half of residency expenses which must be matched in cash by the grant recipient.

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Proposed Rules

1900.2110 ADDITIONAL REQUIREMENTS AND PROCESSES FOR JURIED LISTINGS.

Subpart 1. Definitions.

A. "Juried" means a process when an advisory panel recommends to the board artists of sufficient caliber to be included in a publication based on a set of written criteria.

B. "Paired artists" means two artists who want to be juried together and who are listed jointly as a single entry and whose activity is a collaboration for a single experience.

Subp. 2. **Purpose of juried listing.** The purpose of a juried listing is to provide a centralized source of written information about a specific group of artists. Based on a board review, artists who are included shall have been judged to be qualified to represent their art form or expertise to the public. The board is not an agent of any artist or group.

A. The Minnesota folk artists directory is intended to provide a list of high-quality folk artists and groups interested in public performance opportunities to be distributed to arts programmers and others throughout the Upper Midwest, and to be used as a reference by state and local organizations interested in presenting the folk arts.

B. The arts in education roster of artists shall provide a list of artists who specialize in school and community residency work, offering a balanced range of arts disciplines, teaching styles, and residency approaches to schools interested in offering artist residencies.

Subp. 3. **Criteria used for recommendations to board.** The program specific review criteria in items A and B shall be used by the advisory panel to make juried listing recommendations to the board.

A. For the Minnesota folk artists directory, the two review criteria by which an applicant is evaluated shall be quality and traditionality of the artists' work and shall be equally important.

(1) Quality, as demonstrated by gauging the level of artistic achievement of individual works of art compared to the standards of a given art form.

(2) Traditionality, as demonstrated by the degree to which specific works share the established artistic conventions of other works in a given art form.

B. For the arts in education roster of artists, the two review criteria by which an applicant shall be evaluated are listed and described in subitems (1) and (2). Artistic quality of the artist's work and teaching and planning ability to carry out a residency model shall be equally important.

(1) Artistic quality shall be demonstrated by:

(a) artistic merit of the work sample;

(b) technically and conceptually accomplished work; and

(c) evidence of strong professional development, career commitment, and artistic recognition.

(2) Teaching and planning ability to carry out a successful school residency shall be demonstrated by:

(a) the teaching ability to express ideas clearly, to relate one's art and ideas to students;

(b) past teaching experience;

(c) understanding different age levels and abilities, a diversity of cultures and communities in all geographic regions of Minnesota, and individuals with disabilities;

(d) a residency plan that outlines a positive art experience for participants; and

(e) the planning ability to effectively organize a residency approach and coordinate a residency with school personnel that is realistic and tied to educational concepts with a high probability for completion.

Subp. 4. **Additional juried listings eligibility requirements.** Juried listings applicants must meet the additional program specific eligibility requirements in items A and B.

A. For the folk artists directory, a majority of the members of a folk arts group must be Minnesota residents under part 1900.1010, subpart 5, item D.

B. For the arts in education roster of artists:

(1) two artists may apply to the arts in education roster of artists program as paired artists;

(2) the applicant must be available for and willing to conduct residencies throughout Minnesota;

(3) the applicant must agree to participate in activities that are consistent with the residency model; and

(4) the applicant must be at least 18 years old, be a United States citizen or have attained permanent resident alien status, and be a Minnesota resident under part 1900.1010, subpart 5, item D.

Subp. 5. **Additional processes for reviewing juried listings applications.** The additional program specific processes for reviewing juried listing applicants are described in items A and B.

A. Folk artists directory.

(1) Applicants listed in a current folk artists directory may be listed in up to three future editions of the directory without additional review.

(2) Each artist listed in the folk artists directory shall reapply at least once every four years following the processes and procedures described in part 1900.0510.

B. Arts in education roster of artists.

(1) Applicants may be rated and ranked by the advisory panel to determine the final listing of artists.

(2) Applicants listed in a current roster may submit an application by the regular deadline or an abbreviated application which has an earlier deadline when the conditions in units (a) and (b) are met:

(a) the applicant has completed at least one board-funded school support residency in the two school years prior to the deadline; and

(b) school residency reports document the applicant's success in previous board-funded residencies:

i. the applicant can demonstrate continued career activity or professional development; and

ii. the applicant agrees to maintain the qualities reviewed by the criteria in subpart 3, item B.

1900.2210 ADDITIONAL REQUIREMENTS AND PROCESSES FOR MINNESOTA PERCENT FOR ART IN PUBLIC PLACES PROGRAM.

Subpart 1. **Definitions.**

A. "Commission" or "commission award" means the creation of a new work specific to a site.

B. "Purchase award" means the direct purchase of an existing work of art.

C. "Site" or "project" means a state building, the construction of which is paid for wholly, or in part, by the state of Minnesota, and does not include construction funds primarily appropriated for the repair, replacement, or enhancement of the infrastructures (electrical, plumbing, heating and cooling, or structural) which are not regularly seen by the public unless it is the desire of the tenant or managing agency to proceed with approval from the commissioner of administration.

D. "Site selection committee" means at least five, and no more than seven, individuals who will recommend artwork for a designated site. The committee is chaired by a designee of the board who is a nonvoting member of the committee.

E. "Slide registry" means a nonjuried collection of slides and information on visual artists interested in having their work purchased or commissioned for newly constructed or renovated state building sites across Minnesota.

F. "Work of art" or "artwork" means original and unique creations in visual media:

(1) produced by or under the control of artists generally recognized by their peers and critics as professional artists; and

(2) chosen by site selection committees.

Subp. 2. **Purpose of program.** The purpose of the Minnesota percent for art in public places program is to make possible the acquisition of works of art to be exhibited in areas of a state building or its grounds, accessible on a regular basis to members of the public.

Subp. 3. **Activities that the program supports.** The program may purchase or commission original works of art with up to one percent of the total construction budget of a state building with a construction or renovation budget of at least \$500,000. This program shall enable artists to participate with client agencies and design professionals in the process of designing public spaces within and around state buildings; shall commission artists to create artworks to be integrated into the buildings and sites; or shall purchase existing artworks to be displayed throughout the buildings. In addition, the program shall manage and maintain a slide

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Proposed Rules

registry as a resource for selecting visual artists and artwork when new sites are identified for the program. The registry shall also be used by other nonstate organizations or individuals interested in locating artwork for commission or purchase. With authorization from the Department of Administration, the board may use up to 20 percent of each site's percent for art in public places' appropriation for administrative costs.

Subp. 4. **Processes used to select artwork for site.** The board shall generally use a site selection committee process described in subpart 9 to select artwork for a site. Under emergency circumstances, which the board determines in close consultation with the tenant when there is a lack of time or administrative financial resources, the board may determine that a purchase award is appropriate.

Subp. 5. **Criteria for recommendations.** The four criteria used when reviewing artwork for purchase, or artists to commission, shall be in the two perspectives as described in items A and B.

A. Artistic quality, design, and permanence are the three primary criteria and equally important. Site selection committee members will examine slides of artists' previous work, and a professional resume when considering and assessing the artwork or artists.

(1) Artistic quality shall be demonstrated by:

- (a) work samples;
- (b) adequate experience in production of public art; and
- (c) evidence of ability to work within budget.

(2) Design shall be demonstrated by:

- (a) aesthetic compatibility with the architecture; and
- (b) appropriate medium, given the function and use of the site.

(3) Permanence shall be demonstrated by:

- (a) use of durable materials; and
- (b) good construction techniques.

B. The secondary criterion in order of importance shall be the acquisition of a variety of artwork appropriate to a public collection, which is demonstrated by:

- (1) artwork in different mediums and styles, and with a breadth of themes or subjects;
- (2) artwork which recognizes and fosters diverse social, cultural, and historical values; and
- (3) artwork which is memorable, thought-provoking, and enduring.

Subp. 6. **Site selection committees.** Site selection committees shall be organized in the same manner as advisory panels under part 1900.0410, subparts 2 to 7. Additional criteria to select the individuals who serve on a site selection committee are:

A. members must have familiarity with public art issues and acquisition procedures or experience with community-based visual arts projects;

B. (1) two members (or three, if it is a seven person committee) shall represent the residents and users of the building, appointed by the Minnesota state agency which has authority over the bonding appropriation that includes funds for the project;

(2) one member shall represent the architect for the building; and

(3) two members (or three, if it is a seven person committee) who have expertise as an artist, curator, critic, writer, museum director, arts educator or administrator, member of the arts board, architect, landscape architect, or other design professional shall be appointed by the board;

C. each site selection committee must include a majority of Minnesota residents as voting members consistent with part 1900.1010, subpart 5, item D.

Subp. 7. **Residence exemption for slide registry.** Any artist may submit materials for the slide registry. The artist need not be a Minnesota resident.

Subp. 8. **Waiting periods for subsequent awards.** An artist who has received a purchase award through the program must wait one year from the contract execution date before being considered for other projects by the board.

An artist who has received a commission award must wait three years from the contract execution date before the artist shall be considered for other projects.

During the waiting period, an artist may remain on file in the slide registry, but the artist's work will not be considered for projects by the board.

Subp. 9. Processes to identify applicants for consideration.

A. One of the two methods in subitems (1) and (2) is used by the site selection committee to acquire works of art:

- (1) purchase of existing work; or
- (2) commission of new work especially for the site.

When new work is commissioned, the artist first presents a design proposal, including a budget and timeline, that must be reviewed and approved by the site selection committee.

B. The site selection committee may use a combination of competition types to assemble a pool of applicants for awards.

(1) Open competitions shall be announced through a large bulk mailing of a prospectus describing the project. Work samples from all applicants who respond shall be shown to the site selection committee. This type of competition is most suitable for projects with large budgets and extended timelines.

(2) Registry competitions shall use the slide registry to prescreen applicants who meet the specific criteria identified for the site by the site selection committee. The slide registry shall be used for all projects, often in combination with other types of competitions, but is particularly suitable for projects with limited budgets, short timelines, and if work is sought for a purchase award.

(3) Invitational competitions shall use a list of artists developed by the board for the purpose of sending an invitation to apply for a specific site award. This type of competition is most suitable when artists are sought who have particular skills or abilities, or who work in specific mediums appropriate to the project, or for projects with an extended timeline.

(4) For direct competitions, the site selection committee shall directly invite a limited list of artists developed by the board to apply, or the committee shall visit galleries, museums, or studios to select artwork. This type of competition is most suitable for projects with limited budgets, short timelines, or where work is sought for direct purchase.

The site selection committee's recommendations shall be given to the board, the Department of Administration, and other necessary state agencies for final approval. Upon approval, the board shall enter into a contract with the artist. The contract shall provide for the direct purchase of existing work, the production of design proposals for a commissioned work, or the actual production of commissioned work.

Subp. 10. Projects not eligible. A project is not eligible for consideration for the program if it is not demonstrated that it meets the description of a site or project as defined in subpart 1.

In addition, a project is not eligible for funds if:

- A. the funds are to be used solely for the design or construction of elements of incidental or ornamental detail;
- B. the funds are to be used for payment of any architect's fees for participating on the site selection committee; or
- C. if the Department of Administration has determined it to be inappropriate.

REGIONAL ARTS COUNCILS

1900.2310 DEFINITIONS.

Subpart 1. Scope. For the purpose of parts 1900.2310 to 1900.4110, the following terms have the meanings given in subparts 2 to 17.

Subp. 2. Allocation formula. "Allocation formula" means the mathematical formula devised by the regional arts council forum to determine the amount of funding each regional arts council receives in its regional arts council block allocation.

Subp. 3. Arts advisory council. "Arts advisory council" means a group of citizens with expertise in the arts who review and recommend arts grant requests for funding on behalf of a regional development commission serving as the designated regional arts council.

Subp. 4. Arts services. "Arts services" means nongrant activities including information services, technical and consultative services, planning, report evaluation, and other developmental efforts that are provided by a regional arts council to its individual region.

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Proposed Rules

Subp. 5. **Biennial plan.** "Biennial plan" means the written document prepared by a regional arts council and submitted to the board which outlines the decision making processes, programs, services, and budget to be followed by the regional arts council during the biennium.

Subp. 6. **Designated regional arts council.** "Designated regional arts council" means the one entity in each of the 11 regions which has gone through the designation process defined in parts 1900.3110 to 1900.3210.

Subp. 7. **Direct programming.** "Direct programming" means artistic endeavors which are initiated by one or more regional arts councils. It includes arts production, sponsorship, and presenting.

Subp. 8. **Fiscal agent.** "Fiscal agent" means any Minnesota nonprofit organization which is exempt from taxation under the *Internal Revenue Code* or any governmental unit which handles and accounts for funds for a group or organization receiving legislative funds through the board or a regional arts council. The fiscal agent is legally responsible for the proper management of disbursed funds.

Subp. 9. **Legislative arts allocation.** "Legislative arts allocation" means the biennial legislative appropriation which is intended for use by the regional arts councils.

Subp. 10. **Local regional arts development.** "Local regional arts development" means the work done by one or more of the regional arts councils to develop or enhance local or regional artists, arts organizations, arts resources, or arts audiences.

Subp. 11. **Obligated funds.** "Obligated funds" means funds from a regional arts council's block allocation from one fiscal year which are legally obligated to a specific future expense and recorded in a regional arts council's certified public audit.

Subp. 12. **Preliminary biennial plan.** "Preliminary biennial plan" means the initial document submitted to the regional arts advisory committee for review and advice about the plan's adherence to the applicable rules.

Subp. 13. **Regional arts council block allocation.** "Regional arts council block allocation" means money from the legislature which goes to a regional arts council through the board to provide arts services, direct programming, and grants for local and regional arts development.

Subp. 14. **Regional Arts Council Forum or RAC Forum.** "Regional Arts Council Forum" or "RAC Forum" means an incorporated, not for profit, 501(c)(3), voluntary membership association of the 11 regional arts councils formed to provide resources, deal with common issues, and develop mutual support among regional arts councils in order to promote arts in Minnesota. The organization is registered under the name Forum of Regional Arts Councils of Minnesota. Some of its functions shall include developing the regional arts council allocation formula, negotiating the Regional Arts Council/Minnesota State Arts Board Fiscal Agent Agreement, and consulting with the board in the regional arts council designation process.

Subp. 15. **Regional Arts Council/Minnesota State Arts Board Fiscal Agent Agreement.** "Regional Arts Council/Minnesota State Arts Board Fiscal Agent Agreement" means the written agreement negotiated annually by the board and the Regional Arts Council Forum on behalf of the regional arts councils. The agreement shall include a description of the responsibilities of the board and the regional arts councils and identify the board as having statutory responsibility for the proper management of disbursed funds. Release of a regional arts council block allocation shall be initiated when the agreement is signed by both the board and the regional arts council.

Subp. 16. **Regional Arts Council Service Boundaries.** "Regional Arts Council Service Boundaries" means the geographic service area assigned to each regional arts council. The service boundaries correspond to state economic development regions as defined in *Minnesota Statutes*, section 462.384. Each region shall have its own regional arts council except regions 6E, 6W, and 8 which are served by one regional arts council.

Subp. 17. **Regional development commission.** "Regional development commission" means the entities defined in *Minnesota Statutes*, section 462.384, subdivision 5.

1900.2410 CHANGE TO SERVICE BOUNDARIES.

The regional arts council service boundaries which define the 11 regions may be changed if changes in the boundaries or number of regional arts councils are agreed to by the board and eight or more of the regional arts councils.

1900.2510 REQUIRED GOVERNANCE STRUCTURE.

A regional arts council may be a nonprofit, tax-exempt 501(c)(3) corporation, a regional development commission or an organization that conforms to the definition of a regional arts council but uses a fiscal agent until its 501(c)(3) status is approved. If a council is part of a regional development commission or another entity whose primary mission or function is not serving as a regional arts council, the organization must establish a distinct arts program, guided by an arts advisory council to make recommendations to the commission on the use of the legislative arts allocation.

1900.2610 ELIGIBILITY FOR ALLOCATION.

Subpart 1. **Year one of biennium.** To receive a regional arts council block allocation in year one of a biennium, the council must submit a preliminary biennial plan to the regional arts advisory committee by June 15 for review and feedback. After review,

the council must submit a biennial plan to the board by June 30. This plan may be identical to the preliminary biennial plan. In addition, the council must meet the requirements of part 1900.4110, subparts 3 and 4.

Subp. 2. **Year two of biennium.** To receive a regional arts council block allocation in the second year of the biennium, the council must submit to the board, by June 15, an annual plan update which outlines anticipated changes to the biennial plan for the coming year. In addition, the council must meet the requirements of part 1900.4110, subparts 2 and 3.

1900.2710 BIENNIAL PLAN COMPONENTS.

Subpart 1. **Required components.** For a biennial plan to be complete, the requirements of subparts 2 to 11 must be fulfilled.

Subp. 2. **Mission statement.** The biennial plan must include the regional arts council's mission statement which must describe the overall philosophy and aims of the organization concerning local and regional arts development.

Subp. 3. **Needs assessment.** The biennial plan must be based on a needs assessment carried out in a manner which ensured input from the arts community and the arts involved public. The components of the needs assessment shall be determined by the regional arts council and may consist of any combination of constituent meetings, focus groups, program evaluations, mail or telephone surveys, individual interviews, or other evaluative tools. The assessment shall be conducted to assess and prioritize constituent needs, to evaluate appropriate community and regional resources to meet those needs, and to determine the practicality of continuing existing programming activities, service and grants assistance programs, or the feasibility of developing new programs, services, or grants by the regional arts council. The needs assessment shall be updated at intervals determined and announced by the regional arts council, but no less frequently than once every four years. The results shall be included in the plan.

Subp. 4. **Description of planning process.** The biennial plan must include a description of the biennial planning process used by the council including a list of the steps included in the development of the biennial plan and the participants involved in the biennial planning process. Before the biennial plan is submitted to the board at least one public meeting must be held for the purpose of gathering reaction to the biennial plan.

Subp. 5. **Work plan for grants, programs, and services.** The biennial plan must include a work plan which contains a description of services, programs, and grants available from the council and the goals and objectives of these activities as related to the needs assessment.

Subp. 6. **Program information.** The biennial plan must include program information which describes grants and other forms of assistance available, the review criteria for evaluating grant requests, and eligibility requirements.

Subp. 7. **Organizational structure.** The biennial plan must include:

- A. a copy of the council's bylaws;
- B. an identification of the arts experience and background requirements for regional arts council board and arts advisory council membership;
- C. job descriptions of the staff of the organization;
- D. a description of the rotation system which will ensure replacement of regional arts council board and arts advisory council members on a regular basis;
- E. the names and affiliations of all regional arts council board, advisory council members and staff; and
- F. a description of the regional arts council board and advisory committee nominations process. The description of the nominations process shall include a statement of the council's commitment and methods used to identify, recruit, and appoint board and council members to provide representation from all counties.

Subp. 8. **Arts granting policy statement.**

A. When a council is part of a regional development commission the biennial plan must include a memorandum describing the policies and procedures under which grants will be made including a statement that the regional development commission agrees to fund only organizations or projects which have been recommended by its arts advisory council and that the recommendations will be based on the regional arts advisory committee's review of the application's artistic merit, the applicant's ability, and the need for the project or program.

B. If a council is using a fiscal agent because its 501(c)(3) application has been filed but not yet approved, the biennial plan

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Proposed Rules

must include a letter of agreement between the council and its fiscal agent stating that the fiscal agent has no jurisdiction over the council's review and awarding of arts grants.

Subp. 9. **Budget.** The biennial plan must include a budget which must be a total projected budget identifying all local, regional, state, and federal sources of public and private support. The budget must include the amount of the legislative arts allocation that the council will receive based on the allocation formula.

Subp. 10. **Grant making and monitoring process.** The biennial plan must include a detailed description of the council's grant making process including the review process, the terms of the grant contract with grant recipients, the time needed and process followed in paying grant recipients, the responsibilities of grantees, and the grant monitoring process.

Subp. 11. **Public meeting.** Each council must hold at least one public meeting to solicit reaction to its preliminary biennial plan before it is approved and submitted to the board. The plan must be available for review at the council's office a minimum of three days before the meeting. At the meeting, the substance of the plan shall be presented to the general public in a manner that is clear and understandable and the audience given an opportunity to respond to the presentation. The meeting shall be scheduled to allow for revisions of the plan prior to its final submission. A written record or taped recording of the public meeting must be kept in the council's office and available for public review for one year.

1900.2810 PRELIMINARY AND BIENNIAL PLAN REVIEW PROCESS.

Subpart 1. **Preliminary biennial plan review.** The preliminary biennial plan of each regional arts council shall be reviewed by the regional arts advisory committee at a meeting.

Subp. 2. **Notice of regional arts advisory committee meeting.** The council must be notified by the board a minimum of ten days prior to the regional arts advisory committee meeting and given the opportunity, at its option, to present the preliminary biennial plan in person before the regional arts advisory committee and to respond to questions raised by the committee.

Subp. 3. **Regional arts council advisory committee recommendations.** The regional arts advisory committee shall submit to the board its comments and recommendation about a council's preliminary biennial plan and the reasons for making that recommendation. At the same time the recommendation is sent to the board, a copy of the committee's comments and recommendation shall be sent to the council.

Subp. 4. **Biennial plan process.** After the council receives the advice of the advisory committee, the council must submit a biennial plan to the board.

Subp. 5. **Board action after receipt of biennial plan.** After the biennial plan is received, the board shall reject the plan only if it determines that the plan is incomplete. The council must be informed in writing of the board's decision to reject or accept the plan, and the basis for that decision, within ten working days of the board's determination.

Subp. 6. **Process if biennial plan is not accepted by board.** A council whose biennial plan is not accepted shall have 30 days to respond in writing to the board's decision.

Subp. 7. **Process if biennial plan is not accepted second time.** If the biennial plan is not accepted a second time, the board may, at its discretion, allow the council to again submit a plan. A council whose biennial plan will not be reconsidered by the board may follow the appeals process provided by part 1900.3310.

1900.2910 PROCESS FOR AMENDING BIENNIAL PLAN.

Subpart 1. **Regional arts council's responsibilities.** If a regional arts council intends to make substantive changes in its biennial plan it must:

A. notify the board in writing of its intent to change the biennial plan a minimum of 30 days before implementing any changes; and

B. include a detailed description of the proposed revisions, the reasons for making the changes, and a schedule for implementing proposed changes.

Subp. 2. **Board's responsibilities.** After the board receives notice of a regional arts council's intent to revise its biennial plan it must review and act upon the revisions within ten working days.

A. If the board has concerns about the proposed revision, it shall provide a written response to the regional arts council outlining its concerns within ten working days of receipt of notification. If the board has no concerns, it shall provide a written response to the regional arts council within ten working days stating that the revisions have been reviewed and filed.

B. The regional arts council must provide, within ten working days, a written response acknowledging receipt of the board's letter of concern and indicating the regional arts council's response to those concerns.

1900.3010 PROCESS FOR RELEASING FUNDS TO REGIONAL ARTS COUNCILS.

Subpart 1. **Time for release of funds.** Within ten days of the board's acceptance of a biennial plan, the board must provide the

council with a regional arts council/Minnesota State Arts Board fiscal agent agreement to be executed by the council and returned for execution by the board. After receipt of the signed agreement, the board shall have until the end of the third full week of July, or a date mutually agreeable to the board and the Regional Arts Council Forum, to execute its portion of the agreement, including approvals required by *Minnesota Statutes*, section 16B.06, subdivision 2, to release the full amount of the regional arts council block allocation.

Subp. 2. **Councils whose designation is being challenged.** If a council's biennial plan has not been filed because the council is in the process of responding to comment on its preliminary plan or if the council is in the process of being challenged for designation, the board must provide an interim payment schedule and written conditions for payments which will ensure that the council's normal operations are not impeded while the designation process is completed.

Subp. 3. **Special circumstances.**

A. At the beginning of a fiscal year, if negotiations for the regional arts council/Minnesota State Arts Board fiscal agent agreement are still in process, the board must institute a system of partial allocation payments to each council until the agreement is completed. The payments may be contingent upon the submission of reports or receipt of information requested by the board. The Regional Arts Council Forum and each of the 11 regional arts councils must be notified by the board in writing by May 31 prior to the beginning of the fiscal year, of the board's intent to make partial payments, the conditions for the board making payments, and the conditions for the board's discontinuing the contingent payment system. If a contingent payment system is instituted by the board, it must be done in a manner which ensures that the normal operations of the councils are not impeded.

B. When a region is not served by a designated regional arts council, the regional arts council block allocation for regions not served by a council shall be administered by the board with the advice of the regional arts advisory committee until a new council is designated, but in no case for longer than six months. If a region is without a council for longer than six months, the Regional Arts Council Forum may direct the board to redistribute the region's unexpended and unobligated regional arts council block allocation for the current fiscal year to the remaining councils in a formula to be determined by the Regional Arts Council Forum.

1900.3110 REGIONAL ARTS COUNCIL LOSS OF DESIGNATION.

Subpart 1. **Existing councils.** The designated regional arts council at the time that parts 1900.0110 to 1900.4110 are adopted shall be the designated regional arts council for its region.

Subp. 2. **Council designation removed; conditions.** There can only be one designated council in each region. A designated council shall remain the designated council until its designation is officially removed. The following circumstances shall result in the removal of designation:

A. At any time, a council may determine that it is not in its organization's or its region's best interest for it to continue as the regional arts council. The council must notify the board of its intent to cease operation as a council and work cooperatively with the board to provide for an orderly transition when a new organization receives the regional arts council designation.

B. The regional arts council/Minnesota State Arts Board fiscal agent agreement shall define the terms for a council's receipt of its block allocation. It shall also define the process of notification which the board must follow if it believes that a council is out of compliance with the agreement and the process which must be followed to remedy concerns or to rescind a council's designation. If the council successfully remedies concerns, it shall remain the designated council. If it does not successfully remedy, the board shall remove the council as the designated regional arts council.

C. Removal of designation initiated by the board due to an unsuccessful probationary period, as described in part 1900.3210, subpart 7.

D. If, after following part 1900.3210, a competing organization is awarded the designation by the board, the challenged council must receive written notification that its designation has been removed by a vote of the board. This notification must contain a timeline for transfer of all appropriate records, a description of the closure process to be followed, and a request for return or transfer of all unexpended legislative funds.

1900.3210 PROCESS FOR AN ORGANIZATION TO RECEIVE COUNCIL DESIGNATION THROUGH CHALLENGE TO AN EXISTING COUNCIL.

Subpart 1. **Notice of intent to file preliminary biennial plan.** An organization that wants to be designated a regional arts council must notify the board and the challenged regional arts council, in writing, of its intent to file a preliminary biennial plan by January 1 of the second year of the biennium.

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Proposed Rules

Subp. 2. **Board actions required after receipt of notice.** Within 30 days of receipt of the notice of intent to file a biennial plan, the board must schedule a meeting with the challenging organization to make a preliminary determination of the appropriateness of the organization's ability to carry out the challenge. This determination shall be made by the regional arts advisory committee and a recommendation to accept or reject the challenge will be made to the board. The challenging group and the challenged council must be notified within ten days of the board's decision.

Subp. 3. **Change in preliminary biennial plan due date.** If the competing organization's challenge is accepted, the existing council must be notified in writing by February 10 that the challenge has been accepted and that the existing council's preliminary biennial plan will be due on April 1 instead of June 15.

Subp. 4. **Process for organization filing preliminary biennial plan.** An organization that wants to be designated a regional arts council must follow all steps outlined in parts 1900.2610 to 1900.2810 except that its preliminary biennial plan must be submitted by April 1.

Subp. 5. **Process for assigning regional arts council designation.** The board's regional arts advisory committee shall be enlarged to include the chair of the Regional Arts Council Forum or another Regional Arts Council Forum designated representative, an additional board designated representative, and as many board-appointed citizen advisors as the board deems manageable to review and evaluate all preliminary biennial plans and make a recommendation to the full board about designation. In its review of preliminary biennial plans, the committee must follow the process in part 1900.2810. In making its determination, the committee may also schedule public meetings, request additional information, schedule interviews with board members or staff of the competing organizations, or with citizens of the region in order to evaluate the competing preliminary biennial plans and organizations. The information gathered shall be part of the public record and shall be used in making the final determination about designation. At the conclusion of its review, the regional arts advisory committee shall recommend that the board confer designation to the organization which has demonstrated, through its preliminary biennial plan and the committee's review, that it will most effectively serve the needs of its region.

Subp. 6. **Board process for designating regional arts council status.** The board must approve, reject, or defer the committee's recommendation on which competing organization receives designation. If the board cannot make a decision, it may defer its decision up to 45 days while it gathers additional information. The organization selected by the board to receive designation as the regional arts council must follow part 1900.2810 to submit a biennial plan. The biennial plan must be received and accepted before designation is assigned. All competing organizations must be informed in writing within ten days of the outcome of the board's decision. A regional arts council's designation shall stand until the designation is officially rescinded by a vote of the board.

Subp. 7. **Probationary period.** If the challenging organization is designated as the regional arts council, its designation shall be subject to a one-year probationary period. At the time of designation, it shall receive from the board a written probationary agreement which shall include a description of the process to be used at the end of the year to review the organization's performance as a regional arts council. If all terms of the probationary agreement are satisfactorily met, the council's probationary status shall be lifted. If the terms are not met, the board may either extend the probationary period or remove the organization as the designated council. The regional arts advisory committee must be consulted by the board prior to approving or revoking the designation.

1900.3310 APPEALS OF DISPUTED DESIGNATION.

Subpart 1. **Initiating an appeal.** An organization seeking or affirming designation through the submission of preliminary biennial plans that disputes the decision of the board regarding the designation of regional arts council status may appeal the decision of the board. This appeal will be conducted in the following manner:

- A. the appellant organization must submit a written request for consideration of an appeal within 45 days of notification of the board's decision;
- B. the request must state the reasons for the appeal; and
- C. the board shall review the request at its first meeting following the receipt of the request.

Subp. 2. **Board action on appeals.** The board shall take one of the following actions in response to the request for consideration of an appeal:

- A. determine that the appellant does not show sufficient cause for an appeal in which case the appellant may follow subpart 3;
- B. determine that the appellant does show sufficient cause for appeal and request that the appellant appear before the board at a subsequent meeting to address the appeal; or
- C. refer the appeal to mediation or to an administrative law judge as a contested case.

Subp. 3. **Dispute resolution.** Following the appeal to the board, if the appellant continues to dispute the decision of the board regarding the organization's appeal, either party may request a mediation process. If the other party chooses not to mediate, the further appeal shall be conducted as a contested case. If both parties agree to mediation, the costs of mediation shall be shared equally.

1900.3410 ASSIGNMENT OF LEGISLATIVE ARTS ALLOCATION TO REGIONAL ARTS COUNCILS.

Subpart 1. **Role of Regional Arts Council Forum.** The Regional Arts Council Forum shall determine an allocation formula for distributing the legislative arts appropriation that is equitable to all regional arts councils. The forum must inform the board of the allocation formula to be used in the next biennium by June 30 of the year immediately prior to the first year of the biennium.

Subp. 2. **Board role in allocation process.** The board must use the Regional Arts Council Forum's allocation formula to divide the legislative arts appropriation for the regional arts council system. If the Regional Arts Council Forum does not submit an allocation formula to the board by June 30, the board shall prepare the fiscal agent agreements using the previous year's allocation formula.

1900.3510 REGIONAL ARTS ADVISORY COMMITTEE.

Subpart 1. **Purpose of committee.** The committee shall serve in an advisory capacity to the board on matters which affect the regional arts councils and the Regional Arts Council Forum. Specific responsibilities include, but are not limited to:

A. reviewing regional arts councils preliminary biennial plans;

B. advising the board on the administration of regional arts council functions in regions where there is no designated regional arts council;

C. reviewing preliminary biennial plans and other information as described in part 1900.3210, subpart 5, of regions that are competing for regional arts council designation and making a recommendation to the board about designation; and

D. hearing and making recommendations to the board about disputes between a regional arts council and the board or the Regional Arts Council Forum and the board.

Subp. 2. **Member appointment.** The regional arts advisory committee shall be a board committee comprised of a minimum of six members. Two members shall be appointed by the board from the board membership, two members shall be appointed by the Regional Arts Council Forum who may or may not be members of the forum, one member shall be an at-large member appointed by the board, and one member shall be an at-large member appointed by the forum. The at-large members shall not be current members of the board or the forum. The board may appoint additional at-large members to serve in cases of a challenge to regional arts council designation. The executive director of the board shall serve as a nonvoting member of the committee.

Subp. 3. **Rules affecting advisory committee members.** The board's appointments to the committee must follow part 1900.0410. For the purpose of this chapter, appointees other than the required six members shall be considered board appointees. The Regional Arts Council Forum shall define the qualifications, nominations, compensation, policies regarding conflicts of interest, and other matters pertaining to regional arts councils appointments.

Subp. 4. **Terms of service.** Members appointed by the board and the forum shall serve one fiscal year term and, at the pleasure of the appointing organization, may serve up to a total of three consecutive fiscal year terms.

1900.3610 PARTICIPANTS IN RESOLVING DISPUTES BETWEEN REGIONAL ARTS COUNCILS AND BOARD.

In the case of a dispute between the board and a regional arts council or the board and the Regional Arts Council Forum, the regional arts advisory committee must be consulted for a recommendation.

1900.3710 PROCESS TO CARRY FORWARD BLOCK ALLOCATIONS TO NEXT FISCAL YEAR.

Subpart 1. **Regional arts council duties.** A regional arts council must notify the board, in writing, by May 1 of the first year of the biennium that the council plans to carry regional arts council block allocation funds forward to the next fiscal year. The notification must contain a narrative describing the intended purpose for the funds to be obligated and a budget for their use.

Subp. 2. **Board role.** The board must review the regional arts council's plan to carry funds forward into the next fiscal year to ensure that it is reasonable and that the process used to carry funds forward is appropriate. If the board has concerns about the plan or process to be used to carry funds forward, it shall provide a written response within ten days of receipt of the notification outlining its concerns and informing the council what steps must be taken to remedy its plan. The board may recall a council's uncommitted block allocation funds at the end of the fiscal year if the council does not follow the process outlined in part 1900.3710.

1900.3810 PROCESS TO CARRY FORWARD BLOCK ALLOCATIONS TO NEXT BIENNIUM.

Subpart 1. **Regional arts council duties.** A regional arts council must notify the board in writing by May 1 of the second year of the biennium that the council plans to carry regional arts council block allocation funds forward to the next biennium. The notifica-

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Proposed Rules

tion must contain an outline of the process that will be used to obligate funds, a narrative describing the intended purpose for the funds to be obligated, and a budget for their use.

Subp. 2. **Board role.** The board must review the regional arts council's plan to carry funds forward into the next biennium to ensure that it is reasonable and that the process used to carry funds forward is appropriate. If the board has concerns about the plan or process to be used to obligate funds, it shall provide a written response within ten days of receipt of notification outlining its concerns and informing the council what steps must be taken to remedy its obligating plan. The board may recall a council's unobligated block allocation funds at the end of the biennium if the council does not follow the process outlined in this part.

1900.3910 UNOBLIGATED BLOCK ALLOCATION FUNDS.

A regional arts council must not carry unobligated regional arts council block allocation funds from one biennium to the next. If a council has unobligated block allocation funds at the end of a biennium, the funds must be returned to the general fund.

1900.4010 AUTHORITY OF DESIGNATED REGIONAL ARTS COUNCILS.

A designated regional arts council may:

- A. establish programs and services based on needs assessments;
- B. define and establish criteria for funding eligibility and grant making;
- C. award funds;
- D. hear and arbitrate appeals using a publicly defined appeals process;
- E. devise criteria for the selection and rotation of board members;
- F. apply for grants and funding through additional sources; and
- G. operate administratively and programmatically within the framework of the approved biennial plan.

There are no limitations on programs or grants which regional arts councils may award, including the opportunity to award funds to grantees of the board, as long as funds from the legislative arts appropriation awarded for a project do not exceed 50 percent of the total cash cost of the project.

1900.4110 REPORTING REQUIREMENTS.

Subpart 1. **Interim financial report.** Each regional arts council must submit to the board an annual, unaudited financial statement summarizing its total annual revenue and expenditures including a listing of all grants awarded within 45 days of the close of the regional arts council's fiscal year.

Subp. 2. **Annual plan update.** By June 15 of the first year of the biennium, each council must submit to the board an annual plan update which confirms that there will be no changes in the council's biennial plan for the coming year or outlines anticipated changes to the biennial plan for the coming year.

Subp. 3. **Biannual report.** Each council must submit to the board a written report describing the activities relating to expenditures and management of its regional arts council block allocation within 90 days after the end of the second year of the biennium. The report must include:

- A. a description of the relationship between the biennial plan and the actual grants and other forms of assistance provided during the year with the regional arts council block allocation; and
- B. a listing of the grants awarded, services provided, and programs disseminated using the regional arts council's block allocation.

Subp. 4. **Certified public audit.** Each regional arts council must submit a certified public audit accounting for its regional arts council block allocation for the fiscal years in which the biennial plan was in effect according to the terms of the regional arts council/Minnesota State Arts Board fiscal agent agreement.

REPEALER. *Minnesota Rules*, parts 1900.0100; 1900.0200; 1900.0300; 1900.0400; 1900.0500; 1900.0600; 1900.0700; 1900.0800; 1900.0900; 1900.1000; 1900.1100; 1900.1200; 1900.1300; 1900.1400; 1900.1500; 1900.1600; 1900.1700; 1900.1800; 1900.1900; 1900.2000; 1900.2100; 1900.2200; 1900.2300; 1900.2400; 1900.2500; 1900.2600; 1900.2700; 1900.2800; 1900.2900; 1900.3000; 1900.3100; 1900.3200; 1900.3300; 1900.3400; 1900.3500; 1900.3600; 1900.3700; 1900.3800; 1900.3900; 1900.4000; 1900.4100; 1900.4200; 1900.4300; 1900.4400; 1900.4500; 1900.4600; 1900.4700; 1900.4800; 1900.4900; 1900.5000; 1900.5100; 1900.5200; 1900.5300; 1900.5400; 1900.5500; 1900.5600; 1900.5700; 1900.5800; and 1900.5900, are repealed.

Adopted Rules

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

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

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

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

Department of Children, Families, and Learning

Adopted Permanent Rules Relating to Graduation Standards

The rules proposed and published at *State Register*, Volume 20, Number 18, pages 961-970, October 30, 1995 (18 SR 961), are adopted with the following modifications:

Rules as Adopted

3501.0030 DEFINITIONS.

Subp. 10. **Parent.** "Parent" means ~~the person or persons having legal custody of a child, for a student under age 18, the mother, father, guardian, person acting as the parent of the child, conservator, or surrogate parent who has been appointed in accordance with parts 3525.2435 to 3525.2455.~~ For a pupil age 18 or over, parent or parents also includes the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator. When the parents are separated or divorced, it means the parent who has the legal right, by court decree or agreement, to determine the pupil's education, even though the pupil may be living with the other parent.

Subp. 15. **Student.** "Student" means a person admitted to a public school as defined in Minnesota Statutes, section 120.05, in accordance with Minnesota Statutes, section 120.06.

Subp. 16. Test specifications. "Test specifications" means statements of the basic requirements that tests must include and how tests are designed. The specifications define the required content, format, level of difficulty, types of items, and length of the tests.

3501.0060 STATE TEST OPTION.

Subpart 1. District use of state test.

B. When a district uses a state test, it shall:

(4) adopt a passing score no lower than the passing score given in part ~~3501.0170~~ 3501.0180 for that basic requirement test.

3501.0120 REQUIRED NOTIFICATION TO PARENTS AND STUDENTS.

Subp. 2. **Notice of graduation requirements.** No later than 30 working days after the date of the entrance into the 9th grade or transfer of a student into the district during or after 9th grade, the school district shall provide to the parents and the student written notice of:

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

Executive Orders

Board of Medical Practice

Adopted Permanent Rules Relating to Fee Changes

The rules proposed and published at *State Register*, Volume 20, Number 20, pages 1160-1162, November 13, 1995 (20 SR 1160), are adopted as proposed.

Crime Victims Reparations Board

Adopted Permanent Rules Relating to Crime Victims Reparations Board

The rules proposed and published at *State Register*, Volume 20, Number 24, pages 1328-1330, December 11, 1995 (20 SR 1328), are adopted as proposed.

Executive Orders

Office of the Governor

Emergency Executive Order #96-3 Providing for Personnel and Equipment for the Prairie Island Nuclear Power Plant Drill and Exercise

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Emergency Executive Order:

WHEREAS, the Minnesota Department of Public Safety, Division of Emergency Management, has requested assistance in providing personnel and equipment to support the Prairie Island Nuclear Power Plant Drill and Exercise; and

WHEREAS, adequate personnel and equipment are not available from the Department of Public Safety, other participating state agencies, Dakota, Goodhue, and Washington Counties of Minnesota, and other local authorities;

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to active duty on or about April 2, 1996, and May 14, 1996, in the service of the State, such personnel and equipment of the military forces of the State as required by the Department of Public Safety and Dakota, Goodhue, and Washington Counties to successfully complete the Prairie Island Nuclear Power Plant Drill and Exercise.
2. The cost of subsistence, transportation, fuel, pay, and allowances of said individuals shall be paid by the Department of Public Safety, Division of Emergency Management, as provided by an interdepartmental agreement dated August 7, 1995.

Pursuant to *Minnesota Statutes* 1994, Section 4.035, subd. 2, this Order shall be effective April 2, 1996, through May 14, 1996.

IN TESTIMONY WHEREOF, I have set my hand this eighteenth day of March, 1996.

Arne H. Carlson
Governor

Filed According to Law:

Joan Anderson Growe
Secretary of State

Commissioners' Orders

Department of Transportation

Order No. 81551: Amended Uniform Traffic Control Devices Manual

WHEREAS, the Commissioner of Transportation has adopted a manual (Minnesota Manual on Uniform Traffic Control Devices for Streets and Highways, dated October 3, 1991) establishing a uniform system of traffic control devices for streets and highways of the State of Minnesota as required by *Minnesota Statutes*, Section 169.06, Subdivision 1; and

WHEREAS, said manual is being revised, to be adopted and distributed during calendar year 1996; and

WHEREAS, the Commissioner may authorize and adopt amendments to the Minnesota Manual of Uniform Traffic Control Devices.

NOW, THEREFORE, pursuant to authority vested in my office and as provided in *Minnesota Statutes*, Section 169.06, subd. 1 (1994, as Supplemented), I do hereby adopt and prescribe the revisions as listed on the Record of Revisions or Additions as an amendment to the 1991 Minnesota Manual on Uniform Traffic Control Devices for Streets and Highways.

This Order amends Commissioner's Order No. 77588, dated October 3, 1991 as amended by Commissioner's Order No. 78988, dated January 4, 1993, No. 79901 dated February 4, 1994, No. 80748 dated January 6, 1995, and as further amended by Commissioner's Order No. 80878, dated April 3, 1995.

RECORD OF REVISIONS OR ADDITIONS

REVISION NUMBER	DATE ISSUED	PAGES REVISED OR ADDED
5	3/96	i, iv, 2A-4, 2A-6, 2A-7, 2B-12, 2C-18.1, 2C-19, 2D-1, 2D-2, 2D-4, 2D-5, 2D-6.1, 2D-28, 2D-34, 2E-4, 2E-7, 2E-9, 2E-24, 2F-5, 2F-8, 2F-11, 2F-14, 2F-21, 2F-42, 2F-42.1, 2G-3, 2H-i, 2H-2, 2H-6, 2H-10, 2H-15, 2H-16, 2I-1, 2K-1, 8B-1, 8B-4, 8B-5, 9B-2.

Dated: 15 March 1996

James N. Denn
Commissioner of Transportation

Department of Transportation

Order No. 81557: Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minnesota Statutes* § 169.825

WHEREAS, the Commissioner of Transportation has made his Order No. 80000, dated March 10, 1994, which order has been amended by Orders No's. 80212, 80246, 80580, 80861, 80881, 81000, 81092, 81371 and 81511 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under *Minnesota Statutes* § 169.825, and

WHEREAS, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under *Minnesota Statutes* § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 80000 is further amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

COUNTY ROADS

COOK COUNTY

- C.S.A.H. 7 from T.H. 61 to County Road 62W (12 month).
- County Road 62W from C.S.A.H. 7 to North Limits of the City of Grand Marais (12 month).
- C.S.A.H. 12 from North Limits of the City of Grand Marais to Forest Road 304 (12 month).

GOODHUE COUNTY

- C.S.A.H. 9 from West County Line (Dennison) to T.H. 52 (12 month).

Dated: 18 March 1996

James N. Denn
Commissioner

Official Notices

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

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

Department of Agriculture

Agronomy and Plant Protection Division

Notice of Special Local Need Registrations

On March 13, 1996, the Minnesota Department of Agriculture issued Special Local Need (SLN) registrations for Bravo 720 and Bravo Zn fungicides for use on potatoes and for Lorsban insecticide for use on wheat. A federal or state agency, a local unit of government, or any person or groups of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, shall have 30 days from publication of notice in the *State Register* to file written objections with the commissioner regarding the issuance of the special local need registrations.

Objections may be submitted to: John C. Sierk, Minnesota Department of Agriculture, Agronomy and Plant Protection Division, 90 West Plato Boulevard, St. Paul, MN 55107.

Comment deadline is April 24, 1996.

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C

NOTICE IS HEREBY GIVEN that a public hearing will be held on **April 10, 1996**, at **9 A.M.** in **Room 145** Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of **approximately 80 acres of bare farmland** located in **Section 11, Lime Lake Township, Murray County, Minnesota** on behalf of **Paul & Maria Vosberg**, a married couple (the Borrowers). The maximum aggregate face amount of the proposed bond issue is **\$83,000.00**. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 6 March 1996

Jim Boerboom
RFA Director

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C

NOTICE IS HEREBY GIVEN that a public hearing will be held on **April 10, 1996**, at **9 A.M.** in **Room 145** Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of **approximately 150 acres of bare farmland** located in **Section 35, Moltke Township, Sibley County, Minnesota** on behalf of **Randall &**

Kathleen Bruns and David & Jane Bruns and Ricky Bruns, a partnership (the Borrowers). The maximum aggregate face amount of the proposed bond issue is **\$117,725.00**. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 6 March 1996

Jim Boerboom
RFA Director

Department of Human Services

Request for Comments on Planned Amendment of Rules Governing Conditions that Providers of Services under the Medical Assistance Program Must Meet to Receive Payment (Minnesota Rules, parts 9505.0170 to 9505.0475, informally known as DHS Rule 47)

Subject of Rule Amendment. The Department of Human Services requests comments on its planned amendments to the above-referenced rules. The amendments under consideration would change current rule requirements governing supervision as defined in part 9505.0175, subpart 46. The change would make Rule 47 requirements for provider supervision of physical assistants consistent with the standards set by *Minnesota Statutes*, Chapter 147A except for rural health clinics and Federally qualified health centers. In these settings, which must meet federal standards, the planned amendment would make the supervision requirements in part 9505.0175, subpart 46 consistent with the standards in *Code of Federal Regulations*, title 42, part 491, section 8.

Persons Affected. The amendments would affect such individuals and groups as supervising physicians, physician assistants, clinic administrators, and people seeking medical care. The department does not expect to appoint an advisory committee to comment on the proposed rule amendments because the content of the amendments is governed by state statute and federal regulation and because the amendments ease rather than increase requirements.

Statutory Authority. *Minnesota Statutes*, section 256B.04, Duties of State Agency, at subdivision 1 directs the department to supervise the administration of medical assistance and at subdivision 2 authorizes the department to make rules for carrying out that supervision.

Public Comment. Interested persons or groups may submit comments or information on this planned amendment in writing or orally until 4:30 p.m. on Wednesday, April 24, 1996. The department has prepared a draft of the planned amendment. Written or oral comments, questions, requests to receive a free copy of the draft amendment, and requests for more information on this planned amendment should be addressed to:

Alice Weck
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
Phone: 612-297-4302

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

Maria R. Gomez
Commissioner

Official Notices

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective March 25, 1996 prevailing wage rates were determined and certified for commercial construction projects in the following counties:

Anoka: Hamilton Elementary School 1996 Asbestos Abatement-Coon Rapids; 1996 Reroofing St Francis Public Schools-St Francis.

Blue Earth: Exterior Wall Restoration, Highland North, Mankato State Univ-Mankato.

Brown: New Ulm Public Utilities Facility Remodeling-New Ulm.

Chippewa: Parkview Tower-Montevideo.

Clay: Asbestos Removal in Weld Hall Moorhead State Univ-Moorhead.

Cook: Sawtooth Mountain Clinic-Grand Marais.

Crow Wing: Technology Magnet School ISD 181-Brainerd.

Dakota: Life Safety Improvements to Valley Middle School and Southview Elementary-Apple Valley; Facility Improvements to Metcalf Junior High School-Eagan.

Fillmore: Municipal Wastewater Treatment Facilities Improvements-Lanesboro.

Koochiching: Little Fork/Big Falls Schools-Littlefork.

Hennepin: ISD 196 Technology Upgrader, Cooper HS-New Hope, Sandburg MS-Golden Valley, Hosterman MS-New Hope; ISD 281 Brick Restoration Project-Hennepin; ISD 281 Fuel Tank Replacement, Lakeview Elem-Robbinsdale, Pilgrim Lane Elem-New Hope Plymouth MS-Plymouth, Sandburg MS-Golden Valley; 1996 Reroofing Wayzata Public Schools (Birchview Elem, Wayzata Senior High)-Plymouth; Frontier Hall Data Distribution System, U of M-Minneapolis; Met Airports Comm Richfield House Demo-City of Richfield; Territorial Hall Data Distribution System, U of M-Minneapolis; Asbestos Abatement Bureau of Engraving Building-Minneapolis; Parking Structures Rehabilitation 1996 Mpls/St Paul Int'l Airport-Minneapolis; Exterior Work Lehmann Center, Deferred Maint-Minneapolis; MN DOT Eden Prairie Truck Station Reroof-Eden Prairie; HCMC Fire Alarm System Upgrade-Minneapolis; Henry Lead Paint Stabilization-Minneapolis; Longfellow Asbestos Abatement & Lead Paint Stabilization Project-Minneapolis; Waite Park School Asbestos Abatement Project-Minneapolis; Bethune Asbestos Abatement Project-Minneapolis; 1996 Reroofing Osseo Schools (Orchard Lane Elementary)-Brooklyn Center; Washburn High School Life Safety Improvements, Bid Package 98-Minneapolis.

Meeker: Darwin/Dassel Safety Rest Area-Darwin/Dassel.

Olmsted: Classroom ST104 Remodel/Rochester Comm College-Rochester; Chicago Great Western Depot Renovation-Rochester.

Ramsey: Bailey Hall Data Distribution System U of M-St Paul; MWWTP I.D. Fan Improvements-St Paul; MWWTP Incineration/Dewatering Operations Center-St Paul; Asbestos Abatement-Longfellow Elementary School ISD 625-St Paul; Asbestos Abatement-Hancock Elementary School ISD 625-St Paul; MN DOT Maryland Ave Truck Station-St Paul; Ford Building-Removal of Barriers to Accessibility-St Paul; St Paul Schools, Boiler Additions at Jackson, Harriet Bishop and St Anthony, Pool Dehumidification at Murray and Cherokee Heights-St Paul; St Paul Public Schools, Cleveland Jr, Monroe, North End, Parkway and Phalen Boiler Additions-St Paul; Classroom Addition to Battle Creek Elementary School ISD 625-St Paul.

Redwood: Phase 2 Comprehensive Utility and Street Improvements-Redwood Falls.

St. Louis: UMD Tennis Court and Miscellaneous Site Improvements-Duluth; Research Laboratory Improved Access U of M Duluth Campus-Duluth; UMD Waste Management Facility Deck Waterproofing Repair-Duluth; Improvements to Memorial Park Complex-Chisholm.

Sherburne: St Cloud Airport Maintenance Building Addition-St Cloud.

Stearns: Sauk Centre Civic Arena/Installation of Artificial Ice Surface-Sauk Centre.

Wabasha: Plainview Schools-Plainview.

Waseca: Asbestos Removal New Richland Elementary School Tunnels-New Richland.

Wright: Delano Middle School Reroofing-Delano; Buffalo Energy Conservation Projects-Buffalo.

Yellow Medicine: Upper Sioux Agency St. Park-C.G. Sanitation Building-Near Granite Falls.

Copies of the certified wage rate for these projects may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The charge for the cost of copying and mailing are \$1.36 per project. Make check or money order payable to the State of Minnesota.

Gary W. Bastian, Commissioner

Department of Labor and Industry

Labor Standards Division

Notice of Corrections to Prevailing Wage Rates

Prevailing wage rate determined and certified in Renville County, October 30, 1995, for:

407-Electrician

Project: Upgrade National Guard Armory for ADA Compliance-Olivia NGA-Olivia.

Prevailing wage rates determined and certified in Kandiyohi County, February 12, 1996, for:

101-Laborer, Common

102-Laborer, Skilled

407-Electrician

Project: Willmar Sludge Transfer and Storage Facilities Project-Willmar

Prevailing wage rates determined and certified in Kandiyohi County, October 23, 1995 for:

101-Laborer, Common

102-Laborer, Skilled

407-Electrician

Project: Willmar LP Gas Upgrade-Willmar.

Prevailing wage rates determined and certified in Kandiyohi County, February 20, 1996 for:

101-Laborer, Common

102-Laborer, Skilled

407-Electrician

Project: MacCray Junior High Additions & Renovations-Clara City and;

Project: MacCray West Elementary Additions & Renovations-Maynard.

Prevailing wage rate determined and certified in Renville County, January 8 1996 for:

407-Electrician

Project: Olivia Public Library-Olivia.

Copies of the corrected certification may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306, or calling, (612) 296-6452.

Gary W. Bastian, Commissioner

Official Notices

Department of Labor and Industry

Labor Standards Division

Notice of Correction to Prevailing Wage Rates

Highway and Heavy Prevailing Wage Rates Certified 10/16/95 have been adjusted for various Labor Codes due to errors in calculation in the following County:

Jackson

Copies of the corrected certification may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306, or calling (612) 296-6452.

Gary W. Bastian, Commissioner

Department of Labor and Industry

Notice That Nominations are Being Taken for Arbitrators

NOTICE IS HEREBY GIVEN that nominations are now being taken for arbitrators for the Arbitration of Equitable Apportionment in Workers' Compensation cases under *Minnesota Statutes* §176.191, subs. 1a and 5 and *Minnesota Rules* Part 5229.0100 through 5229.0700, 20 S. R. 2286, (effective March 18, 1996). Nominations may be submitted by workers' compensation insurers, self-insured employers who administer their own claims, and third-party administrators for self-insured employers. Nominees must have a minimum of five years of technical claims handling in Minnesota workers' compensation or five years of legal experience in Minnesota workers' compensation. Nominations must be submitted to Mary Miller, 443 Lafayette Road, St. Paul, Minnesota, 55155 by April 17, 1996 in order to be considered for the roster of arbitrators for the coming year.

Dated: 15 March 1996

Gary W. Bastian, Commissioner

Department of Labor and Industry

Notice of Solicitation of Outside Information or Opinions Regarding Roll-over Protective Structures for Tractors Used in Non-Agricultural Operations

Subject of Standard: The Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA), is requesting comments, information, and opinions from sources outside the department on a draft proposed standard governing roll-over protective structures for tractors used in non-agricultural operations.

Person Affected: The proposed standard would apply to agricultural-type work activities other than those performed by a farmer, on a farm, or in conjunction with farming operations in Major Standard Industrial Classification Groups 01, "Agricultural Production of Crops," and 02, "Agricultural Production-Livestock and Animal Specialties." Groups and individuals who are likely to be affected by this standard are those engaged in activities such as landscaping, groundskeeping, roadway maintenance, construction services, loading, and digging.

Statutory Authority: *Minnesota Statutes* § 182.655 (1994) authorizes the Commissioner of Labor and Industry to adopt standards governing occupational safety and health.

Public Comments: A draft proposed standard has been prepared and is published at the end of this notice. Interested persons or groups are asked to submit written comments, information, or opinions on this proposal. Written comments should be addressed to:

Minnesota OSHA
Department of Labor and Industry
443 Lafayette Road
St. Paul, MN 55155-4307
FAX: (612) 297-2527

Written comments will be accepted until May 1, 1996. Any written material received by the Department will become part of the rulemaking record if the standard is formally proposed for adoption.

Questions and requests for more information on the proposal may be directed to Minnesota OSHA at (612) 296-2116.

Gary W. Bastian
Commissioner

Draft Proposed Standard:

5205._____Roll-over Protective Structures for Tractors Used in Non-Agricultural Operations.

Subpart 1. Scope and Application. This part applies to tractors used in non-agricultural operations as defined in subpart 2. For tractors manufactured on or after January 1, 1997, this part shall be effective May 1, 1997. For tractors manufactured on or after January 1, 1990, and before January 1, 1997, this part shall be effective May 1, 1998. For tractors manufactured before January 1, 1990, this part shall be effective May 1, 1999.

Subp. 2. Definitions. The terms used in this part have the meanings given them in this subpart.

A. "Tractor" means a self-propelled vehicle of more than 1,000 pounds operating weight, including attachments, ballast and fuel, and designed to furnish the power to pull, carry, propel, or drive attachments primarily intended for use in non-agricultural operations. For this definition, the weight of the operator and the ROPS shall not be included in the determination of operating weight.

B. "Non-agricultural operations" means work activity other than that designated in Major Group 01, Agricultural Production of Crops, and Major Group 02, Agricultural Production—Livestock and Animal Specialties, of the Standard Industrial Classification Manual, Office of Management and Budget, 1987 edition, and includes any practices other than those performed by a farmer, or on a farm, as an incident to, or in conjunction with, such farming operations. Examples of non-agricultural operations are landscaping, groundskeeping, roadway maintenance, construction services, loading, and digging.

C. "ROPS" means roll-over protective structure. ROPS may be a protective frame or a protective enclosure mounted to a tractor.

Subp. 3. Operation of a Tractor.

A. An employer shall not permit a tractor to be operated unless the tractor is equipped with a ROPS. A tractor is exempted from this requirement during its operation inside a building on a flat surface.

B. A ROPS for a tractor shall meet the test and performance requirements of Title 29 of the *Code of Federal Regulations*, Parts 1928.52, 1928.53, 1926.1001 or 1926.1002, or of the applicable standards recognized in the industry, including but not limited to SAE J1194, SAE J2194, SAE J1040, ASAE S519, ASAE S383, ASAE S478, ISO 5700, ISO 3471, and ISO 3463.

C. An employer shall equip each tractor having a ROPS with a seat belt which meets the requirements of applicable standards recognized in the industry, including but not limited to, SAE J386, ISO 6683, and ISO 3776, except as noted in sub-items (1) and (2):

(1) Where a suspended seat is used, the seat belt shall be fastened to the moveable portion of the seat to accommodate the ride-motion of the operator.

(2) Any seat belt hardware or webbing with defects that adversely affect the purpose of the seat belt shall be repaired or replaced.

D. An employee operating a tractor equipped with ROPS shall wear a seat belt which complies with paragraph C of this subpart.

E. Each ROPS shall have a label, permanently affixed to the structure, which states:

- (1) the manufacturer's or fabricator's name and address;
- (2) the ROPS model number, if any;
- (3) the tractor makes, models, or series numbers that the structure is designed to fit; and
- (4) that the ROPS model was tested in accordance with the requirements of this subpart.

Metropolitan Airports Commission

Public Notice for Qualifications Statements for Legal Services

Land Acquisition and Land Use Issues

The Metropolitan Airports Commission (MAC) is requesting qualifications statements from attorneys practicing law in the Twin Cities Metropolitan Area to provide legal representation to MAC in land use and land acquisition matters, including condemnation and inverse condemnation proceedings as set forth in the Request for Qualifications, which is available for review at the Commission offices. The attorney and/or law firm or firms selected by MAC to perform these legal services must have experience in representing a governmental agency in eminent domain/condemnation proceedings and other related areas of law.

To request a copy of the "Request for Qualifications for Legal Services" which outlines the selection process, contact the Legal Department of the MAC at 726-8197. The deadline for submission of qualifications statements is Friday, April 12, 1996.

Minnesota Pollution Control Agency

Air Quality Division

Requests for Comments on Planned Amendments to Rules Governing Waste Combustors, *Minnesota Rules Chapter 7011*

Subject of Rule: The Minnesota Pollution Control Agency (MPCA) requests comments on its proposal to initiate rulemaking in order to incorporate into state rules recent federal amendments to rules governing municipal waste combustors. The MPCA is considering rule amendments in order to comply with federal rules.

The U.S. Environmental Protection Agency (EPA) promulgated standards of performance for municipal waste combustors on December 19, 1995, (60 Fed. Reg. 65387). Because the federal standards are more restrictive than current state standards, the MPCA intends to amend its rules governing waste combustors (*Minnesota Rules 7011.1201 - 7011.1295*) to reflect the federal standards. The proposed rulemaking would address:

1. More stringent air emission standards for municipal waste combustors.
2. Recordkeeping and reporting for municipal waste combustors.
3. Performance test requirements for municipal waste combustors.
4. Operator training and certification.
5. Revising compliance schedules for existing municipal waste combustors.
6. Various clarifications to eliminate errors in the standards of performance for all waste combustors.

Persons Affected: The proposed amendments to the rules identified above would affect all municipal waste combustor owners and operators. In addition, the proposed amendments making clarifications to the rules would affect all waste combustor owners and operators, which include hospital, metal recovery, and large industrial and medical waste combustors. The MPCA does not contemplate appointing an advisory committee to comment on the planned rule.

Statutory Authority: *Minnesota Statutes* § 116.07, subd. 4, authorizes the MPCA to adopt rules and standards for the prevention, abatement and control of air pollution.

Public Comment: Interested persons or groups may submit comments or information on this proposal for rulemaking in writing or orally until 4:30 p.m. on April 24, 1996. The MPCA has not prepared a draft of the planned rule amendments. Written comments, requests to receive a draft of the rule when it has been prepared, and requests for more information on this planned rule should be addressed to:

Anne M. Jackson, P.E.
Air Quality Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

The MPCA will receive oral statements and questions during regular businesses hours over the telephone at (612) 296-8107 and in person at the above address.

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

Charles W. Williams
Commissioner

Department of Natural Resources

Notice of Intent to Hold State Metallic Minerals Lease Sale

State Lands to be Offered for Metallic Minerals Exploration

The Minnesota Department of Natural Resources announces that plans are being developed to hold the state's twenty-first sale of metallic mineral exploration and mining leases. The sale is tentatively scheduled for July or August 1996. The lease sale plans are being announced at this time in order to give mining companies, public interest groups and all other interested parties additional time to review the areas under consideration.

The purpose of Minnesota's metallic minerals rules (*Minnesota Rules*, part 6125.0100 - .0700) is to promote and regulate the exploration for, mining and removal of metallic minerals on state-owned and state-administered lands. These rules, and the leases issued under these rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of rentals that increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the addressing of environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

The areas under consideration for the lease sale cover portions of Beltrami, Carlton, Crow Wing, Itasca, Koochiching, Lake, and Saint Louis Counties. Some of the lands being considered have been offered in previous metallic minerals lease sales, but based upon the interest shown by industry, new geologic data, and exploration techniques developed during the past few years, it is felt that within these lands there is significant potential for the discovery of mineral resources. Certain new lands of interest are also being considered for the lease sale.

The exact time and place of the lease sale will be announced by legal notice at least thirty (30) days prior to the sale. Mining unit books, listing the state lands to be offered at the lease sale, will be available for inspection or purchase at that time.

A map showing the general areas under consideration may be obtained from the Division of Minerals, Box 45, 500 Lafayette Road, Saint Paul, MN 55155-4045, telephone 612-296-4807.

Dated: 27 March 1996

Rodney W. Sando
Commissioner of Natural Resources
William C. Brice, Director
Division of Minerals

Official Notices

Department of Transportation

Petition of Waseca County for a variance from State Aid requirements for DESIGN SPEED

NOTICE IS HEREBY GIVEN that the Waseca County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed resurfacing project on County State Aid Highway No. 35 between the south and north junctions of County State Aid Highway No. 5 in Waseca County.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9926, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to allow two 56 kilometer/hour vertical curves on the proposed resurfacing project on County State Aid Highway No. 35, between the south and north junctions of County State Aid Highway No. 5; in lieu of the required 60 kilometer/hour design speed.

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

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

Dated: 13 March 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

Department of Transportation

Petition of St. Louis County for a variance from State Aid requirements for STREET WIDTH

NOTICE IS HEREBY GIVEN that the St. Louis County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to a proposed resurfacing project on County State Aid Highway No. 144 (McKinley Avenue), between Fayal Road and Harrison Street in the City of Eveleth.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9946, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to allow an existing street width of 36 feet face-to-face of curb in lieu of the required 38 feet face-to-face of curb on the proposed resurfacing project on County State Aid Highway No. 144 (McKinley Avenue), between Fayal Road and Harrison Street in the City of Eveleth.

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

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

Dated: 13 March 1996

Patrick B. Murphy
Division Director
State Aid for Local Transportation

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

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

Department of Corrections

Victim Services Unit

Notice of Funds Available to Establish a Coalition of Abused Children Programs

The Minnesota Department of Corrections, Victim Services Unit, announces the availability of grant funds to establish a statewide membership coalition of abused children programs. The coalition's primary mission will be the development of a statewide organization that represents and responds to the needs of Minnesota's abused children.

One grant for up to \$56,000 is available for the 12-month period July 1, 1996, through June 30, 1997. Non-profit organizations are eligible to apply. Continued funding after the initial grant period is dependent on the successful completion of project activities.

The deadline for submissions of grant proposals is 4:30 p.m. on Friday, May 24, 1996. To receive a request for proposals which describes how to apply, contact:

Minnesota Department of Corrections

Victim Services Unit

1450 Energy Park Drive, Suite 200

St. Paul, MN 55108-5219

Phone: 612/642-0251, 800/657-3679 outside the Twin Cities metropolitan area, or TDD 612/643-3589

Professional, Technical & Consulting Contracts

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

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

Department of Corrections

Applications Sought for Nurse Practitioner/Physician Assistant

The Department of Corrections is seeking an individual to provide nurse practitioner/physician assistant services to the Minnesota Correctional Facilities at Faribault and Lino Lakes. Duties include physical examinations and primary care under the direction of the institution physician(s).

Please forward a cover letter and resume no later than 4:00 p.m. on Friday, April 5, 1996, to:

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

Questions may be directed to **Dana Baumgartner** at the above address or by phone at **612-642-0248**.

Department of Corrections

Applicants Sought for Specialized Health Care Service

The Department of Corrections is seeking specialized health care services to provide experienced, high-tech nursing care including on-going assessment and skilled care for adult inmates at the Minnesota Correctional Facilities. Care and services include:

- unstable and ventilator assisted or ventilator dependent;
- terminally ill with cancer, COPD, AIDS or other end-stage diseases;
- requiring airway maintenance due to tracheostomy;
- nutritionally compromised requiring enteral or parenteral therapy;
- requiring IV, epidural or intrathecal pain management;
- receiving chemotherapy or anti-infective therapy; or
- requiring blood product administration.

Please forward a cover letter and proposal no later than 4:00 p.m. on Friday, April 5, 1996, to:

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

Questions may be directed to **Dana Baumgartner** at the above address or by phone at **612-642-0248**.

Department of Human Services

Notice of Request for Proposal for Professional Services to Evaluate Systems of Service Delivery for Persons with Developmental Disabilities in Pilot Counties in Minnesota

NOTICE IS HEREBY GIVEN that the Division for Persons with Developmental Disabilities, Department of Human Services (DHS) is seeking professional services from qualified parties to develop a functional assessment and a quality assurance review of protocol for persons with mental retardation or related conditions in counties participating in pilots. The qualified party will be expected to design, field test, and develop a functional assessment instruction used to replace existing evaluations, assessments and protocols, as well as examine the impact on consumers, families, counties, managing entities and other stakeholders, the outcomes achieved for the current and implemented managed care model(s) with recommendations for future quality assurance systems.

The contract will not exceed \$100,000.00. Responses must be received no later than 4:00 p.m. April 26, 1996.

Direct inquiries to:

Gerald Nord
Department of Human Services
Development Disabilities Division
444 Lafayette Road
St. Paul, MN 55155-3825
Telephone: 612/297-3828

In compliance with *Minnesota Statutes* 16b.167, the availability of this contracting opportunity is being offered to state employees. We will evaluate the responses of any state employee along with other responses to this Request for Proposal.

Department of Labor and Industry

Request for Proposals for Administrator of Workers' Compensation Arbitration Process

Introduction and Background

The Department of Labor and Industry requests proposals for an administrator of the workers' compensation apportionment arbitration process.

In 1995, the Minnesota Legislature amended the Workers' Compensation Act to prohibit equitable apportionment of liability among employers and insurers. The prohibition is not applicable to occupational disease cases. The Legislature allowed two exceptions to the prohibition. The first allows parties, insurers and self-insured employers, to agree among themselves and settle equitable apportionment issues if the agreement is submitted on a stipulation agreement subject to approval under *Minnesota Statutes* 176.521. The other exception allows arbitration of equitable apportionment issues under *Minnesota Statutes* 176.191, subd. 1a and subd. 5. The 1995 law is found in *Laws of Minnesota 1995*, Chapter 231, Article 2, Sections 77 and 78. The Legislature amended Minnesota's workers' compensation system to, among other reasons, reduce disputes - including equitable apportionment disputes.

Minnesota Rules Chapter 5229, adopted by the Department of Labor and Industry, to implement the new apportionment arbitration process became effective March 18, 1996. It sets forth the procedure for the arbitration of workers' compensation equitable apportionment issues. It also provides a process for selecting arbitrators and establishes a general rule for presumptive apportionment.

The goal of this project is the efficient administration of the workers' compensation apportionment arbitration process described in *Minnesota Rules* 5229. The administrator would accomplish this goal by facilitating the selection of arbitrators and the expeditious resolution of equitable apportionment issues. The arbitration process will be staffed by experienced, qualified arbitrators nominated by workers' compensation insurers, self-insurers, and third-party administrators for self-insured employers. Administration of the apportionment arbitration process, in accordance with *MINNESOTA RULES* 5229, will not be a function of the Minnesota Department of Labor and Industry.

The administrator will manage the logistics of the arbitration process consistent with relevant laws and rules. The administrator's compensation will come from the fees paid with each request for arbitration. The duties of the administrator include:

1. Implementing *Minnesota Rules* 5229.0100 through 5229.0700 as adopted and amended by the Department of Labor and Industry;
2. Designating neutral arbitrators and maintaining a roster of the same;

Professional, Technical & Consulting Contracts

3. Managing logistics of the arbitration operation, for example: scheduling, notification of parties, accounting of fees;
4. Providing appropriate documents and forms for arbitration proceedings;
5. Developing and implementing quality control procedures; and
6. Maintaining documents, records, and results from arbitration proceedings.

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

Disclaimer

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

Agency Contact

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

Name: Mary Miller
Office of General Counsel
Address: 443 Lafayette Road
Saint Paul, MN 55155
Phone: (612) 296-8726

Other Department personnel are NOT allowed to discuss the request for proposal with anyone, including responders, before the proposal submission deadline.

All proposals must be sent to:

Agency: Minnesota Department of Labor and Industry
Name: Mary Miller
Office of General Counsel
Address: 443 Lafayette Road
Saint Paul, MN 55155
Phone: (612) 296-8726

All proposals must be received not later than 4:30 p.m. April 15, 1996, as indicated by the receipt date and time on each proposal affixed by the Department's Mail Room or Front Desk.

Late proposals will not be accepted.

Respondents must submit six (6) copies of the proposal. Proposals are to be sealed in mailing envelopes or packages with the respondent's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the submitting entity. Prices and terms, as stated in the proposal, must be valid for the length of any resulting contract.

Scope of the Project - Costs and Fees

The Department is unable to predict the volume of requests for arbitration that will be received by the administrator. The Department anticipates the legislative changes in the law governing equitable apportionment will reduce the number of disputes between or among insurers and self-insurers requiring formal resolution.

Under the statute, costs of arbitration will be paid by the parties using the apportionment arbitration process. The administrative rules allow for an administrative fee to be assessed on the party requesting an arbitration. The administrator's compensation will come from these fees. The amount of the fee that may be assessed upon a party requesting arbitration will be incorporated into the Department's agreement with the administrator.

The Department of Labor and Industry will not assume any direct or indirect financial responsibility for any incurred costs of administering the apportionment arbitration process. Administrative costs associated with the apportionment arbitration process will be borne by the parties filing the arbitration request.

Duration of Contract

The length of the contract is three years. The successful responder will be recognized as the Administrator of Minnesota's Workers' Compensation Apportionment Arbitration Process.

Proposal Format and Minimum Content

The following will be considered minimum contents of the proposal:

1. Proposal cover page providing the following:
 - A. Name and address of the responding organization;

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- B. Name and telephone number of the contact person;
 - C. Address and telephone number of the office from which services for the arbitration process would be delivered, if different from above.
 - D. Abstract/Synopsis of the proposal (executive summary); and
 - E. Proposed administrative cost/fee per requested arbitration.
2. Background information on the proposing organization which includes:
 - A. A description of the organization and services provided to customers;
 - B. How long the organization has been in business;
 - C. The most recent annual statement or other documentation of the organization's or parent organization' financial stability;
 - D. A description of the organization's involvement with the workers' compensation system and/or alternative dispute services including the percentage of business revenue derived from each; and
 - E. The organization's capacity to host arbitrations and perform requisite administrative tasks.
 3. A detailed plan of operation that describes the following:
 - A. Your understanding of the proposal's objectives;
 - B. Scheduling and notification procedures;
 - C. Document maintenance;
 - D. Quality control procedures;
 - E. Fee collecting and accounting procedures; and
 - F. Reporting procedures and case closure.
 4. Information on the individuals who will be assigned to work on the apportionment arbitration process, with their relevant work histories, functions and levels of responsibilities in each job.
 5. An estimated dollar amount the respondent would charge to facilitate apportionment arbitrations (per individual request), with a description explaining the basis for the administrative charge/fee.
 6. Five references of accounts handled by the responding organization that includes a brief description of service(s) provided and the name and telephone number of the contact person.

Evaluation Criteria

All proposals received by the deadline will be evaluated by the Department of Labor and Industry and an advisory group comprised of three representatives of insurers and one representative of self-insurers. In some instances, an interview may be part of the evaluation process. The factors reviewers will use to judge the submitted proposals will include, but are not limited to, the following:

1. Completeness of the proposal;
2. Expressed understanding of the proposal objectives;
3. Detailed plan of operation and its feasibility;
4. Bidder's knowledge of and experience with Minnesota's workers' compensation system and alternative dispute practices;
5. Bidder's capacity to administer the apportionment arbitration process, including technological resources, personnel, and access to facilities to carry-out the tasks required by the proposal;
6. Bidder's proposed administrative charge and its accounting systems to collect and account for collected fees;
7. Responses of the client references provided by the bidder; and
8. Qualifications of the bidder and its personnel.

Time Line

March 18, 1996	Apportionment Arbitration Administrative Rule Effective
March 25, 1996	RFP Published in <i>State Register</i>
April 15, 1996	RFP must be submitted by 3:00 p.m.
April 15-26, 1996	RFP reviews and proposer interviews
May 3, 1996	Approximate date contract to be awarded

Professional, Technical & Consulting Contracts

Workers' Compensation

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

Human Rights Compliance

In accordance with the provisions of the *Minnesota Statutes*, 1990 Supplement, Section 363.073; for all contracts estimated to be in excess of fifty thousand dollars (\$50,000), all responders having more than twenty (20) full-time employees at any time during the previous twelve (12) months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

1. A copy of your organization's current certificate of compliance by the Commissioner of Human Rights; or
2. A notarized statement certifying that your organization has not had more than twenty (20) full-time employees at any time during the previous twelve (12) months.

Office of the Revisor of Statutes

Notice of Intention to Contract for Computer Services

NOTICE IS HEREBY GIVEN that the Office of the Revisor of Statutes proposes to contract for the following systems design and programming services:

Converting the existing index programs from a VM system to a Unix system using Basis Plus, Basis Desktop and Basis Web Server software. The work will include at least the following:

- Designing a database to house index documents, including a thesaurus to perform automatic vocabulary control;
- Moving the existing database to the new format;
- Modifying Basis Desktop to allow a graphical user interface for the indexing work and documenting the modifications;
- Coordinating remote dial up access to the graphical user interface client database;
- Designing and formatting reports; and
- Writing other programs required for the various aspects of creating and publishing indexes for the publications of the Revisor's Office.

Inquiries must be received by the Office of the Revisor of Statutes by April 8, 1996.

Direct inquiries to:

Thomas M. Klein
Office of the Revisor of Statutes
700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155
(612) 297-2949
TDD use State Relay Services:
Metro MN 297-5353
Greater MN 1-800-627-3529

Wild About Birds

The DNR Bird Feeding Guide

ISBN 0-9647451-0-0

Carrol L. Henderson, Supervisor of the Non-Game Wildlife Program at Minnesota's Department of Natural Resources, shares his knowledge and appreciation for the natural habitats and traits of the wild birds who, with a little help from us, can thrive in spite of a rapidly changing landscape. Written in the same instructive manner as his popular books "Woodworking for Wildlife" and "Landscaping for Wildlife," "Wild About Birds: The DNR Bird Feeding Guide" provides techniques used by the author to double the number of species using his feeders. Includes woodshop basics for construction of 26 different feeders and tips on 44 types of food, plus detailed descriptions and photos of almost all the feeder-using species east of the Rocky Mountains - 69 in all. There's even a section on some of the unusual and unexpected wild visitors that may show up for a free meal. Over 425 color photographs, illustrations and diagrams make "Wild About Birds" a great reference manual, display book or gift. Ideal for the ornithologist, woodworker, or backyard birdwatcher. Spiral bound, 288 pages. **Stock Number 9-24 \$19.95**

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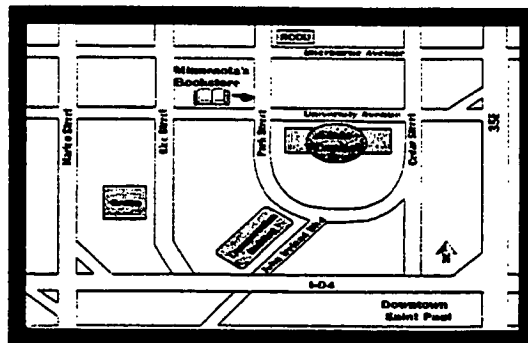
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