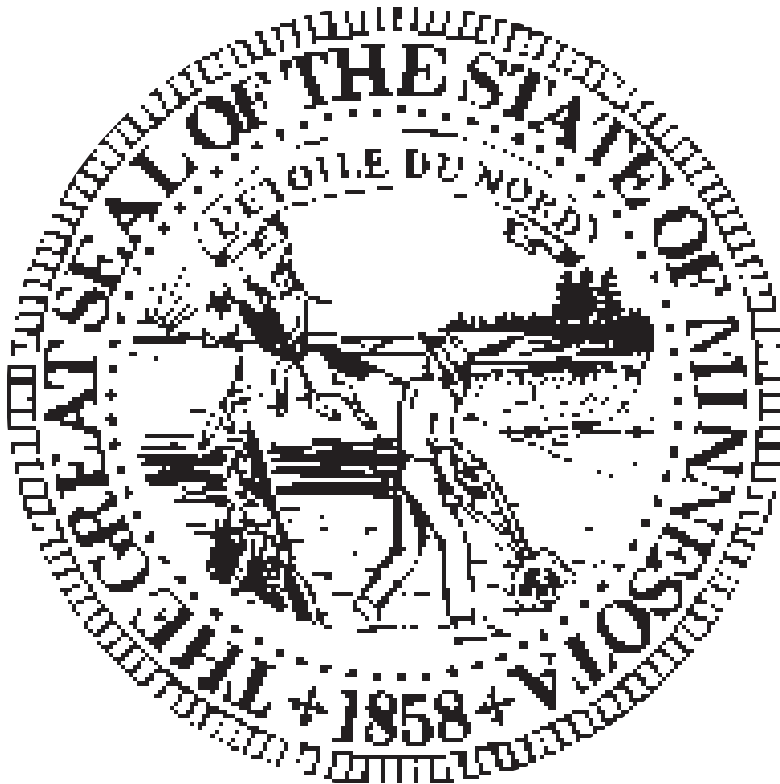


The Minnesota

# State Register

**Rules and Official Notices Edition**



Published every Monday (Tuesday when Monday is a holiday) by the  
Department of Administration – Communications Media Division

**Monday 20 April 1998**  
**Volume 22, Number 42**  
**Pages 1857-1902**

# State Register

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

The *State Register* is the official publication of the State of Minnesota, 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.

### Printing Schedule and Submission Deadlines

Vol. 22 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
# 42	Monday 20 April	Noon Wednesday 8 April	Noon Tuesday 14 April
# 43	Monday 27 April	Noon Wednesday 15 April	Noon Tuesday 21 April
# 44	Monday 4 May	Noon Wednesday 22 April	Noon Tuesday 28 April
# 45	Monday 11 May	Noon Wednesday 29 April	Noon Tuesday 5 May

Arne H. Carlson, Governor 612/296-3391	Hubert H. Humphrey III, Attorney General 612/297-4272	Joan Anderson Grove, Secretary of State 612/296-2079
Joanne E. Benson, Lt. Governor 612/296-3391	Judi Dutcher, State Auditor 612/297-3670	Michael A. McGrath, State Treasurer 612/296-7091
Department of Administration:	Communications.Media Division	Robin PanLener, Editor 612/297-7963
Elaine S. Hansen, Commissioner 612/296-1424	Mary Mikes, Director 612/297-3979	Gretchen Stark, Assistant Editor 612/296-0929
Kent Allin, Asst. Commissioner 612/297-4261		Jessie Rahmeyer, Subscriptions 612/297-8774

Copyright © 1998 Communications.Media Division, Department of Administration, State of Minnesota.  
Publication Number: 326630. (ISSN 0146-7751)

**PUBLISHING NOTICES IN THE *State Register*:** Submit TWO COPIES of your notice, typed double-spaced. State agency submissions must include a "State Register Printing Order" form, and a "Certification/Internal Contract Negotiation" form with contracts for professional, technical and consulting services. Non-State Agencies should submit TWO COPIES, with a letter on your letterhead stationery requesting publication and date to be published. FAXED submissions to 612-297-8260 are received to meet deadline requirements, but must be followed by originals and applicable forms or letters to be accepted. The charge is \$84.00 per page, billed in tenths of a page (columns are seven inches wide). About 2-1/2 pages typed double-spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Contact the editor if you have questions.

An "Affidavit of Publication" can be obtained at a cost of \$10.00 for notices published in the *State Register*. This service includes a notarized "Affidavit of Publication" and a copy of the issue of the *State Register* in which the notice appeared.

**SUBSCRIPTION SERVICES:** The *State Register* is published by Communications.Media Division, Department of Administration, State of Minnesota, pursuant to *Minnesota Statutes* § 14.46 and is available at the main branch of county libraries in Minnesota and all "State Depository Libraries": State University and Community College libraries; the University of Minnesota libraries; St. Paul, Minneapolis and Duluth Public Libraries; the Legislative Reference Library; State Law Library; Minnesota Historical Society Library; and the Library Development Service at the State Department of Children, Families and Learning. Copies are available at Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Order by phone: Metro area: 297-3000 Toll free 800-657-3757. TTY relay service phone number: 1-800-627-3529. **NO REFUNDS.** Subscribers who do not receive a copy of an issue should notify the *State Register* Subscription Office immediately at (612) 297-8774. Copies of back issues may not be available more than two weeks after publication. Both editions are delivered postpaid to points in the United States, Periodicals Postage Paid for the *State Register* at St. Paul, MN, first class for the *Contracts Supplement*. See the *State Register* "Table of Contents" on our website: <http://www.comm.media.state.mn.us>

- ***State Register*** (published every Monday, or Tuesday if Monday is a holiday) One year subscription: \$160.00; via Internet: \$185.00. Users agree not to redistribute without authorization. Internet subscribers to the *State Register* agree not to use their subscription at multiple offices in different cities. For example, a business or organization with branch offices in St. Paul, Minneapolis, Duluth, St. Louis, Chicago, New York and Washington, D.C. will use their subscription in only one city.
- ***Contracts Supplement*** (published every Tuesday, Wednesday, Friday) One year subscription: \$135.00 via first class mail, \$150.00 via fax or through our website. Users agree not to redistribute without authorization.
- **13-week trial subscription** which includes both the *State Register* and *Contracts Supplement*. \$65.00
- **Single issues** are available for a limited time: *State Register* \$5.00, *Contracts Supplement* \$1.00. Shipping is \$3.00 per order.

### FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Contact: Senate Public Information Office (612) 296-0504  
Room 231 State Capitol, St. Paul, MN 55155

Contact: House Information Office (612) 296-2146  
Room 175 State Office Building, St. Paul, MN 55155

<b>Minnesota Rules: Amendments &amp; Additions</b>	
Volume 22, issue 42 (issues #1-39 cumulative appeared in issued #39).....	1860
<b>Proposed Rules</b>	
<b>Pollution Control Agency</b>	
Air quality; standards of performance for stationary sources.....	1861
<b>Adopted Rules</b>	
<b>Emergency Medical Services Regulatory Board</b>	
Ambulance services.....	1877
<b>Pollution Control Agency</b>	
Air quality; incorporation of federal national emission standards for hazardous air.....	1877
<b>Water and Soil Resources Board</b>	
Wetlands.....	1877
<b>Executive Orders</b>	
<b>Office of the Governor</b>	
Emergency Executive Order # 98-04: providing for assistance to officials in Brown and Nicollet Counties.....	1878
<b>Commissioner's Orders</b>	
<b>Public Utilities Commission</b>	
Notice and Order for Hearing on the application by Lakehead Pipe Line Company, Inc. for a certificate of need for a large petroleum pipeline facility.....	1878
<b>Official Notices</b>	
<b>Agriculture Department</b>	
Minnesota Rural Finance Authority public hearing on issuing agricultural development revenue bonds for:	
• approximately 120 acres of bare farmland in Belmont Township, Jackson County.....	1882
• approximately 80 acres of bare farmland in Monson East Township, Traverse County.....	1882
• machinery purchase in Belmont Township, Jackson County.....	1883
• purchase of 100 head of holstein dairy heifers, dairy parlor and freestall barn improvements in Whitewater Township, Winona County.....	1883
<b>Children, Families and Learning Department</b>	
Establishment of the Minnesota Technology Learning Academy.....	1884
<b>Minnesota Comprehensive Health Association</b>	
Meeting Friday 24 April 1998 of the Nominating Committee.....	1884
<b>Minnesota Historical Society</b>	
Meeting Thursday 7 May 1998 of the State Review Board.....	1884
<b>Human Services Department</b>	
Notice of availability of the Minnesota Health Care Programs Provider Participation List (also known as DHS Rule 101 Programs Compliance List).....	1885
<b>Labor and Industry Department</b>	
Additions to the prevailing wage rates.....	1885
Comments sought on planned amendments to rules for high pressure piping.....	1885
<b>Marriage and Family Therapy Board</b>	
Comments sought on planned amendments to rule governing the board.....	1886
<b>Metropolitan Airports Commission</b>	
Public hearing on acquisition of property near Mpls-St.Paul International Airport, Hennepin County.....	1887
<b>Natural Resources Department</b>	
Comments sought on planned rule for re-establishment of a migratory waterfowl refuge at Swan Lake.....	1888
<b>Peace Officer Standards and Training Board</b>	
Comments sought on planned amendment to rules for training and licensing rules.....	1888
<b>Revenue Department</b>	
Presumed legal cigarette prices.....	1889
<b>Public Safety Department</b>	
Comments sought on planned rules for driver's licensing agents.....	1890
<b>Teachers Retirement Association</b>	
Meeting Friday 8 May 1998 of the Board of Trustees.....	1891
<b>Transportation Department (Mn/DOT)</b>	
Goal for disadvantaged business enterprises for federal fiscal year 1998.....	1891
Petition of Division of State Aid for Local Transportation for a variance from state aid requirements for design standards using English units.....	1892
<b>State Grants &amp; Loans</b>	
<b>Amateur Sports Commission</b>	
Mighty Ducks Grant Program funds available for RFP (Request for Proposals) for ice arena construction and renovation.....	1983
"Mighty Kids" youth sports and recreation grant program funds available for RFP (Request for Proposals).....	1893
<b>Labor and Industry Department</b>	
Proposals sought for development of curriculum for Youth Apprenticeship Program.....	1894
<b>Professional, Technical &amp; Consulting Contracts</b>	
<b>Colleges and Universities, Minnesota State (MnSCU)</b>	
Hibbing Community College seeks proposals for converting a fundamentals of nutrition course to technology bases instruction.....	1896
Winona State University seeks bids for 250 metal bed lofts.....	1896
<b>Economic Security Department</b>	
Retraction of request for proposals to develop an enterprise data warehouse.....	1896
<b>Natural Resources Department (DNR)</b>	
Proposals sought for MinnAqua Educator for Fisheries Region 2....	1897
<b>Peace Officer Standards and Training Board</b>	
Proposals sought for peace officer recruitment video.....	1898
<b>Public Safety Department</b>	
Traffic Safety Office requests proposals for conducting the statewide Motorcycle Safety Program.....	1898
<b>Non-State Public Bids, Contracts &amp; Grants</b>	
<b>Anoka County</b>	
Proposals sought for household hazardous waste facility and operations and optional bid for purchase of Anoka County's paint bulking unit.....	1899
<b>Minnesota Historical Society</b>	
Bids sought for printing six issues of Minnesota Historical Society's <i>Member News</i> .....	1899
<b>Metropolitan Council</b>	
Invitation for bid for air circuit breakers.....	1900
<b>University of Minnesota</b>	
Bid Information Service (BIS) available for all potential vendors....	1900
Commodity, Service and Construction contracts are published in a bulletin, the <i>State Register Contracts Supplement</i> , published Tuesday, Wednesday and Friday. Award results are available from the Materials Management Helpline 612/296-2600. Professional, Technical and Consulting contract awards are published monthly in an <i>Awards Report</i> . Individual copies and subscriptions for both publications are available through Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757.	

# Minnesota Rules: Amendments and Additions

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

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1995 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

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

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

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

**Volume 22, issue 42**

**(issues #1-39 cumulative appeared in issue #39)**

**Agriculture Department**

1552.0050 (proposed) ..... 1811  
 1552.0040 s.2 (proposed repealer)..... 1811

**Health Department**

4690.0800; 4400; .7000; .8200; .8300 (adopted)..... 1877  
 4690.0900 s.5; .8300 s.6 (repealed) ..... 1877

**Pollution Control Agency**

7007.0050; .0100; .0500; .0750; .1200; .1500; .3010 (proposed)..... 1835  
 7001.0020; .4200; .4210; .4215; .4220; .4230; .4240; .4250; **7151.1100**;  
 1200; .1300; .2100; .3100; .4100; .5100; .5200; .5300; .5400; .5500;  
 .5600; .5700; .6100; .6200; .6300; .6400; .6500; .6600; .6700; .7100;  
 .7200; .7300; .7400; .7500; .8100; .8200; .8300; .8400; .8500; .9100;  
 .9200; .9300; .9400; .9500; .9600 (proposed)..... 1813

7011.0010; .0105; .0510; .0510; .0610; .0710; .0805; .1305;  
 .1405; .1410; **7017.2001**; .2005; .2015; .2018; .2020; .2025;  
 .2030; .2035; .2045; .2050; .2060 (proposed)..... 1861  
 7011.7340; .7360; .7380; .7400; .7420; .7440 (adopted)..... 1877  
 7100.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090  
 (proposed repealer) ..... 1813

**Minnesota Racing Commission**

7869.0100; **7872.0100**; **7877.0100**; .0110; .0120; .0175; **7883.0100**;  
 .0150; **7884.0190**; **7890.0140**; **7897.0110** (adopted)..... 1785

**Water and Soil Resources Board**

**8420.0100**; .0102; .0103; .0105; .0110; .0112; .0115; .0122; .0200;  
 .0210; .0230; .0240; .0250; .0260; .0268; .0290; .0300; .0350;  
 .0400; .0505; .0510; .0520; .0530; .0540; .0550; .0610; .0620;  
 .0650; .0720; .0730; .0740; .0750; .1010; .1040 (adopted)..... 1877  
**8420.0110** s.5, 13, 26, 27, 47; .0120; .0250 s.2; .0710 (repealed)..... 1877

# Proposed Rules

## Comments on Planned Rules or Rule Amendments

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

## Rules to be Adopted After a Hearing

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

## Rules to be Adopted Without a Hearing

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

## Minnesota Pollution Control Agency

### Air Quality Division

#### Proposed Permanent Rules Relating to Air Quality; Standards of Performance for Stationary Sources

#### Notice of Withdrawal and DUAL NOTICE of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received

#### Proposed Amendments to Rules Governing Standards of Performance for Opacity and Performance Tests, *Minnesota Rules* chapters 7011 and 7017.

**Introduction.** The Minnesota Pollution Control Agency (MPCA) intends to adopt rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes* § 14.22 to 14.28 and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on May 20, 1998, a public hearing will be held in the MPCA Boardroom, 520 Lafayette Road North, St. Paul, Minnesota 55155-4197, starting at 9:00 a.m. on June 4, 1998, and continuing until all public testimony is heard. 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 May 20, 1998, and before June 4, 1998.

**Notice of Withdrawal and Background on Rulemaking.** The MPCA originally proposed these rules on July 28, 1997 under the noncontroversial rule process. The agency received more than 25 requests for a hearing and met with individual commenters in an attempt to resolve their issues. The MPCA and commenters agreed on language to modify the proposed rule and commenters withdrew their requests to have a hearing. The MPCA then mailed a copy of the modified rule and a Notice of Withdrawal of Hearing Requests to all individuals that requested a hearing. The MPCA had expected to adopt these rules in March or April of 1998. However, the MPCA was unable to file the rule proceedings with the Office of Administrative Hearings within the 180 day deadline as outlined in *Minnesota Statutes* § 14.26, subd. 1. *Minnesota Statutes* § 14.26, subd. 1 states "The rule and these materials shall be submitted to the administrative law judge within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn." Therefore, the rules as proposed and published at *State Register*, Volume 22, Number 4, pages 75-89 on July 28, 1997 have been automatically withdrawn by statute.

**MPCA Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

**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

---

Stuart Arkley  
Air Quality Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194  
(612) 296-7774  
1-800-657-3843 (MN Toll Free)  
FAX: (612) 297-7709  
Internet: stuart.arkley@pca.state.mn.us

**Subject of Rule and Statutory Authority.** The MPCA is proposing rule amendments to its Performance Test Rules to address concerns expressed by the U.S. Environmental Protection Agency (EPA) in order that the rule may be incorporated into Minnesota's State Implementation Plan (SIP). The rule must be incorporated into the SIP in order to make it federally enforceable and consistent with the needs of the Title V permitting program. In addition, the MPCA is amending the opacity standards which allow for "excursions," or a higher opacity than the base standard for a limited number of minutes in an hour. The intent of this update is to reconcile the standards (which were in effect before the currently adopted opacity test method, Method 9, was promulgated) with the averaging procedures employed in the opacity test method. The intent is not to make any opacity standard more stringent, or more lenient, but to simplify the way in which compliance is determined. Once the rule is adopted the MPCA will submit it to the EPA as a SIP revision.

The statutory authority to adopt the rule is *Minnesota Statutes* § 116.07, subd. 4. A copy of the proposed rule is published immediately after this notice.

**Comments.** You have until 4:30 p.m. on May 20, 1998, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rule. Your comment must be in writing and received by the MPCA contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

**Request for Rule Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on May 20, 1998. 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 MPCA for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

**Withdrawal of Requests.** If 25 or more persons submit a written request for 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 MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes* §§ 14.131 to 14.20.

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

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

**Cancellation of Hearing.** The hearing scheduled for June 4, 1998, will be canceled if the MPCA does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the MPCA will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the MPCA contact person after May 20, 1998 (date comment period ends), to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes* §§ 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at:

The Honorable Allan W. Klein  
Administrative Law Judge

Office of Administrative Hearings  
100 Washington Square, Suite 1700  
100 Washington Avenue South  
Minneapolis, Minnesota 55401-2138  
(612) 341-7609  
FAX (612) 349-2665  
Internet: allan.klein@state.mn.us

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the MPCA 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* 1400.2000 to 1400.2240, and *Minnesota Statutes* §§ 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

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

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

**Consideration of Economic Factors.** *Minnesota Statutes* § 116.07, subd. 6 requires the MPCA to give due consideration to economic factors in exercising its powers. This rulemaking is expected to have minimal overall negative economic impact.

The MPCA believes that the update of the opacity standards creates an equivalent data reduction procedure rather than a more stringent one. Opacity test failures by Method 9 have not been a common occurrence and the frequency is not expected to change as a result of this rulemaking. A total of twelve failures have occurred between 1993 and 1996 and none of the sources have failed when retested. About half of the twelve sources involved were subject to excursion type limits under current rules. The cost of a Method 9 opacity test or retest is estimated at \$200 - \$500, which is about 10% of the cost of conducting a test for particulate matter and is usually a small proportion of the cost of a testing program when other pollutants are involved. Cost savings are likely for the owners and operators of continuous opacity monitoring systems as, by eliminating one-minute averaging, it will become easier to program opacity data reduction or to visually determine compliance from opacity monitoring records.

The proposed revisions to the performance test rule are primarily changes that incorporate new methods, incorporate existing policy on performance tests, clarify the meaning of the rules and ensure consistency with other state and federal regulations. The MPCA believes that the updated rules will be more flexible and easier to comply with and therefore should provide a modest economic benefit to affected parties.

Additional information regarding the MPCA's consideration of economic factors is discussed in greater detail in Sections V and VI, Items B, C and E in the SONAR.

**Impact on Farming Operations.** *Minnesota Statutes* § 14.111 requires that if an agency adopts or repeals rules that affect farming operations, the agency must provide a copy of the proposed rule change to the Commissioner of Agriculture, no later than 30 days prior to publication of the proposed rule in the *State Register*. The proposed rules do not affect farming operations.

**Review by the Commissioner of Transportation.** *Minnesota Statutes* § 174.05 requires the MPCA to inform the

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

## Proposed Rules

---

Commissioner of Transportation of all rulemakings that concern transportation, and requires the Commissioner of Transportation to prepare a written review of the rules. The requirements of *Minnesota Statutes* § 174.05 are not applicable.

**Departmental Charges Imposed by the Rule.** *Minnesota Statutes* § 16A.1285 is inapplicable because the proposed rules do not impose any departmental charges or fees.

**Lobbyist Registration.** *Minnesota Statutes* Chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 612-296-5148 or 1-800-657-3889.

**Request to Have MPCA Board Make Decision on Rule.** If a hearing is required, the MPCA Citizens' Board will make the final decision on whether to adopt the rule. However, even if no hearing is required, you may submit a request to the MPCA Commissioner or a MPCA Citizens' Board member to have the MPCA Citizens' Board make the decision on whether to adopt the proposed rule. Your request must be in writing, must state to whom it is directed, and must be received by the MPCA contact person by 4:30 p.m. on May 20, 1998. Under *Minnesota Statutes* § 116.02, where a hearing is not required, the MPCA Citizens' Board will only make the decision on the rule if the MPCA Commissioner grants your request or if an MPCA Board member makes a timely request that the decision be made by the MPCA Citizens' Board.

**Adoption Procedure if No Hearing.** If no hearing is required and if the decision is not required to be made by the MPCA Citizens' Board, the MPCA Commissioner may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the MPCA to receive notice of future rule proceedings, submit your request to the MPCA contact person 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 rule. 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. After the report is issued, the MPCA Citizens' Board will make the final decision on whether to adopt the rule. You may also ask to be notified of the date on which the MPCA adopts the rule and files it with the Secretary of State, and can make this request at the hearing or in writing to the MPCA contact person stated above.

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

Peder Larson  
Commissioner

### 7011.0010 APPLICABILITY OF STANDARDS OF PERFORMANCE.

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

**Subp. 4. Opacity standards.** The opacity standards in an applicable requirement apply at all times except during periods of start-up, shutdown, and malfunction, and as otherwise provided in an applicable requirement or compliance document as defined in parts 7007.0100 and 7017.2005. The exemption for periods of start-up, shutdown, and malfunction applies only if:

A. at all times, including periods of start-up, shutdown, or malfunction, the owner or operator, to the extent practicable, maintains and operates the affected emission facility and air pollution control equipment in a manner consistent with good operating practice for the installed equipment design. Determination of whether acceptable operating and maintenance procedures are being used shall be based on, among other information, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source;

B. the owner or operator complies with parts 7019.1000 and 7019.2000 in the event of a shutdown, breakdown, or malfunction; and

C. the applicable requirement or compliance document does not state that the opacity standard applies during such conditions.

**Subp. 5. Transition to new opacity averaging method.** All permits issued before the effective date of this rule are amended to reflect the amendments to this chapter adopted on the effective date of this rule that are related to opacity averaging and excursions.

### 7011.0105 VISIBLE EMISSION RESTRICTIONS FOR EXISTING FACILITIES.

No owner or operator of an existing emission facility to which parts 7011.0100 to 7011.0115 are applicable shall cause to be discharged into the atmosphere from the facility any gases which exhibit greater than 20 percent opacity; ~~except that a maximum of 40 percent opacity shall be permissible for four minutes in any 60-minute period, except for one six-minute period per hour of not more than 33 percent opacity.~~ An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-



minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 33 percent.

**7011.0510 STANDARDS OF PERFORMANCE FOR EXISTING INDIRECT HEATING EQUIPMENT.**

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

Subp. 2. **Opacity.** No owner or operator of indirect heating equipment shall cause to be discharged into the atmosphere from said equipment any gases which exhibit greater than 20 percent opacity; ~~except that a maximum of 60 percent opacity shall be permissible for four minutes in any 60-minute period and that a maximum of 40 percent opacity shall be permissible for four additional minutes in any 60-minute period.~~ for one six-minute period per hour of not more than 60 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 60 percent.

**7011.0515 STANDARDS OF PERFORMANCE FOR NEW INDIRECT HEATING EQUIPMENT.**

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

Subp. 2. **Opacity.** No owner or operator of new indirect heating equipment of greater than 250 million Btu per hour rated heat input shall cause to be discharged into the atmosphere from said equipment any gases which exhibit greater than 20 percent opacity; ~~except that a maximum of 40 percent opacity shall be permissible for not more than two minutes in any 60-minute period.~~ for one six-minute period per hour of not more than 27 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 27 percent.

No owner or operator of new indirect heating equipment of 250 million Btu per hour or less rated heat input shall cause to be discharged into the atmosphere from said equipment any gases which exhibit greater than 20 percent opacity; ~~except that a maximum of 60 percent opacity shall be permissible for four minutes in any 60-minute period and that a maximum of 40 percent opacity shall be permissible for four additional minutes in any 60-minute period.~~ for one six-minute period per hour of not more than 60 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 60 percent.

**7011.0610 STANDARDS OF PERFORMANCE FOR FOSSIL-FUEL-BURNING DIRECT HEATING EQUIPMENT.**

Subpart 1. **Particulate limitations.** Particulate limitations:

A. No owner or operator of any direct heating equipment shall cause to be discharged into the atmosphere from the direct heating equipment any gases which:

(1) contain particulate matter in excess of the limits allowed by parts 7011.0700 to 7011.0735; or

(2) exhibit greater than 20 percent opacity, ~~except that a maximum of 60 percent opacity shall be permissible for four minutes in any 60-minute period and that a maximum of 40 percent opacity shall be permissible for four additional minutes in any 60-minute period.~~ for one six-minute period per hour of not more than 60 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 60 percent.

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

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

**7011.0710 STANDARDS OF PERFORMANCE FOR PRE-1969 INDUSTRIAL PROCESS EQUIPMENT.**

Subpart 1. **Prohibited discharge of gases.** No owner or operator of any industrial process equipment which was in operation before July 9, 1969, shall cause to be discharged into the atmosphere from the industrial process equipment any gases which:

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

**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

---

B. exhibit greater than 20 percent opacity, except ~~that a maximum of 60 percent opacity shall be permissible for four minutes in any 60-minute period and a maximum of 40 percent opacity shall be permissible for four additional minutes in any 60-minute period for one six-minute period per hour of not more than 60 percent opacity.~~ An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 60 percent.

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

### **7011.0805 STANDARDS OF PERFORMANCE FOR EXISTING PORTLAND CEMENT PLANTS.**

No owner or operator of an existing portland cement plant shall cause or allow the discharge into the atmosphere of any gases which:

A. contain particulate matter in excess of the limits established by parts 7011.0700 to 7011.0735; or

B. exhibit greater than 20 percent opacity, except ~~that a maximum of 40 percent opacity shall be permissible for not more than four minutes in any 30-minute period and a maximum of 60 percent opacity shall be permissible for not more than four minutes in any 60-minute period for one six-minute period per hour of not more than 47 percent opacity.~~ An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 47 percent.

The requirements of this part are applicable to the kiln, the clinker cooler, the raw mill system, the raw mill dryer, raw material storage, the finish mill system, clinker storage, finished product storage, conveyor transfer points, and bagging and bulk loading and unloading systems.

### **7011.1305 STANDARDS OF PERFORMANCE FOR EXISTING SEWAGE SLUDGE INCINERATORS.**

No owner or operator of an existing sewage sludge incinerator shall cause to be discharged into the atmosphere from the sewage sludge incinerator any gases which:

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

C. contain particulate matter in excess of 0.1 ~~gr/dscf~~ gr/dscf corrected to 12 percent CO<sub>2</sub> if the incinerator has a burning capacity of greater than 2,000 pounds per hour.

No owner or operator of an existing sewage sludge incinerator shall cause to be discharged into the atmosphere from the incinerator any gases which exhibit greater than 20 percent opacity, except ~~that a maximum of 40 percent opacity shall be permissible for four minutes in any 60-minute period for one six-minute period per hour of not more than 33 percent opacity.~~ An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 33 percent.

No owner or operator of an existing sewage sludge incinerator shall operate such incinerator unless such incinerator utilizes auxiliary fuel burners that maintain a minimum temperature of 1,200 degrees Fahrenheit for a minimum retention time of 0.3 second or other method of odor control as approved by the commissioner.

### **7011.1405 STANDARDS OF PERFORMANCE FOR EXISTING AFFECTED FACILITIES AT PETROLEUM REFINERIES.**

Subpart 1. **Fluid catalytic cracking unit catalyst regenerator and incinerator-waste heat boiler.** No owner or operator of an existing fluid catalytic cracking unit catalyst regenerator or its incinerator-waste heat boiler at a petroleum refinery shall cause to be discharged into the atmosphere from such regenerator or its incinerator-waste heat boiler any gases which:

A. contain particulate matter in excess of 10.0 lb/1000 lb (10.0 kg/1000 kg) of coke burn-off in the catalyst regenerator; or

B. exhibit greater than 30 percent opacity, except that 30 percent opacity may be exceeded for ~~three minutes one six-minute period~~ in any 60-minute one-hour period and except that this opacity standard shall not apply during periods of soot blowing. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 30 percent.

If auxiliary liquid or solid fossil fuels are burned in the fluid catalytic cracking unit incinerator-waste heat boiler, particulate matter in excess of that permitted by item A may be emitted provided that the incremental rate of particulate emissions shall not exceed 0.4 pounds per million Btu (0.72 grams per million cal) of heat input attributable to such liquid or solid fossil fuel.

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

Subp. 3. **Indirect heating equipment.** No owner or operator of existing indirect heating equipment at a petroleum refinery shall cause to be discharged into the atmosphere from such equipment any gases which:

A. contain particulate matter in excess of 0.4 pounds per million Btu (0.72 grams per million cal) heat input; or

B. exhibit greater than 20 percent opacity, except ~~that a maximum of 60 percent opacity shall be permissible for four minutes in any 60 minute period and that a maximum of 40 percent opacity shall be permissible for four additional minutes in any 60 minute period~~ for one six-minute period per hour of not more than 60 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 60 percent.

**7011.1410 STANDARDS OF PERFORMANCE FOR NEW AFFECTED FACILITIES AT PETROLEUM REFINERIES.**

Subpart 1. **Fluid catalytic cracking unit catalyst regenerator and incinerator-waste heat boiler.** No owner or operator of a new fluid catalytic cracking unit catalyst regenerator or its incinerator-waste heat boiler at a petroleum refinery shall cause to be discharged into the atmosphere from such regenerator or incinerator-waste heat boiler any gases which:

A. contain particulate matter in excess of 1.0 lb/1000 lb (1.0 kg/1000 kg) of coke burn-off in the catalyst regenerator; or

B. exhibit greater than 30 percent opacity, except that 30 percent opacity may be exceeded for ~~three minutes~~ one six-minute period in any ~~60-minute one-hour~~ period. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 30 percent.

If auxiliary liquid or solid fossil fuels are burned in the fluid catalytic cracking unit incinerator-waste heat boiler, particulate matter in excess of that permitted by item A may be emitted provided that the incremental rate of particulate emissions shall not exceed 0.1 pound per million Btu of heat input attributable to such liquid or solid fossil fuel.

No owner or operator of a new fluid catalytic cracking unit catalyst regenerator at a petroleum refinery shall cause to be discharged into the atmosphere from such regenerator any gases which contain carbon monoxide in excess of 0.050 percent by volume.

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

Subp. 3. **Indirect heating equipment.** Indirect heating equipment:

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

B. No owner or operator of new indirect heating equipment at a petroleum refinery shall cause to be discharged into the atmosphere from such equipment any gases which:

(1) contain particulate matter in excess of 0.4 pounds per million Btu (0.72 grams per million cal) heat input; or

(2) exhibit greater than 20 percent opacity, except ~~that a maximum of 60 percent opacity shall be permissible for four minutes in any 60 minute period and that a maximum of 40 percent opacity shall be permissible for four additional minutes in any 60 minute period~~ for one six-minute period per hour of not more than 60 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 60 percent.

C. The owner or operator of a new steam generating unit of more than 250 million Btu per hour (63 million cal per hour) heat input at a petroleum refinery shall comply with the following requirements:

[For text of subitem (1), see M.R.]

(2) No gases shall be discharged which exhibit greater than 20 percent opacity, except ~~that a maximum of 40 percent opacity shall be permissible for two minutes in any hour~~ for one six-minute period per hour of not more than 27 percent opacity. An exceedance of this opacity standard occurs whenever any one-hour period contains two or more six-minute periods during which the average opacity exceeds 20 percent or whenever any one-hour period contains one or more six-minute periods during which the average opacity exceeds 27 percent.

[For text of subitem (3), see M.R.]

**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

---

### 7017.2001 APPLICABILITY.

Subpart 1. **Applicability.** For the purpose of conducting a performance ~~tests test~~ as required by ~~a compliance document, federal regulation, or Minnesota rule or statute~~ an applicable requirement or compliance document or as a data submittal engineering test, parts 7017.2001 to 7017.2060 apply unless more stringent requirements or equivalent procedures are mandated by ~~a an applicable requirement or compliance document, federal regulation, or Minnesota rule or statute applicable to the emission facility.~~ However, for the purpose of conducting a data submittal engineering test, part 7017.2025 does not apply and the operating conditions for the test shall be defined in the test plan. If the commissioner determines that a data submittal engineering test was not conducted at appropriate operating conditions for the type of data submittal, the commissioner shall declare the results invalid for their intended purpose unless the results can be adjusted and made representative using a scaling factor or engineering judgment or, in the case of a permit application, the permit contains an operating limit based on the tested conditions.

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

### 7017.2005 DEFINITIONS.

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

Subp. 1a. **Applicable requirement.** “Applicable requirement” has the meaning given in part 7007.0100, subpart 7.

Subp. 2. **Compliance document.** “Compliance document” means a permit, stipulation agreement, administrative penalty order, administrative order, compliance agreement, schedule of compliance, consent order, consent decree, or variance issued by the agency or EPA to control air pollution.

Subp. 2a. **Data submittal engineering test.** “Data submittal engineering test” means a performance test that is conducted voluntarily by the owner or operator of the emission facility for the purpose of submitting the results to support a permit application, emission inventory submittal, or any other type of data submittal. This does not include voluntary retests conducted following a failure to demonstrate compliance or performance tests conducted voluntarily in order to relax an operating limit in accordance with part 7017.2025, subpart 3b.

[For text of subs 3 and 4, see M.R.]

Subp. 5. **Test plan.** “Test plan” means the document which describes the objectives of a performance test, how the emissions unit will be operated during the performance test, how operating conditions will be monitored and recorded, which test methods will be used, and any other specific requirements of the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute.

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

Subp. 8. **Worst case conditions.** “Worst case conditions” means the mode of operation of an emissions unit, including the air pollution control equipment, that is allowed under the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute and which is known, through performance test data or mass balance calculation, to give the highest emission rate for an air pollutant within the allowed range of operating conditions. The type of operating conditions included in this definition shall be limited to the process or operating rate and any operational parameters that are regulated by the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute.

### 7017.2015 INCORPORATION OF FEDERAL TESTING REQUIREMENTS BY REFERENCE.

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

Subp. 4. **Document submission.** All requests, reports, applications, submittals, and other communications to the administrator pursuant to subparts 2 and 3 must be submitted to the person identified in part 7017.2018, except that for those sections identified in this part as not delegated to the commissioner, the request, report, application, or submittal must be submitted to the EPA administrator.

### 7017.2018 SUBMITTALS.

All notifications, applications, or submittals required under parts ~~7017.2020~~ 7017.2015 to 7017.2060 shall be sent to the Supervisor, Compliance Determination Unit, Compliance and Enforcement Section, Air Quality Division, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota ~~55155-3898~~ 55155-4194.

The performance test report required by parts 7017.2025, subpart 4, item A, subitem (3), and 7017.2035, subpart 2, shall be submitted as a bound, paper copy with the signed certification statements required by part 7017.2040. However, as an alternative to the microfiche copy of the performance test report, the commissioner shall accept the submittal in a format such as computer disk or CD-ROM, provided that the commissioner has given prior approval for the use of the alternative format in order that compatibility between the software and hardware configurations of the agency and the owner or operator of the emission facility can be assured. Similarly, performance test notifications and test plans shall be accepted in the type of format referenced above or by electronic mail subject to the commissioner's prior approval as described above.

**7017.2020 PERFORMANCE TESTS GENERAL REQUIREMENTS.**

Subpart 1. **Testing required.** The owner or operator of an emission facility shall arrange to conduct a performance test to determine the characteristics and amount of emissions of air pollutants from any emission facility at the times required by an applicable requirement or compliance document, federal regulation, or Minnesota rule or statute and at additional times if the commissioner requests a performance test in order to:

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

B. determine compliance with ~~a~~ an applicable requirement or compliance document, federal regulation, or Minnesota rule or statute;

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

E. determine the compliance status of an emission facility following a modification to the emission facility that the commissioner determines could cause an increase in the amount of emissions of any air pollutant from that facility; ~~or~~

F. determine the relative accuracy of a continuous emissions monitoring system; ~~or~~

G. quantify the emissions from an emission facility where the commissioner has determined a possible environmental or public health concern.

EPA may request a performance test under this part for the reasons listed in items A to F. ~~When EPA requires a performance test under this subpart, and EPA directly administers the performance test, EPA will G and may~~ make the decisions that the commissioner makes under parts 7017.2001 to 7017.2060 and any other Minnesota rule or statute for that performance test. EPA's authority to require performance testing under its own regulations or under the Clean Air Act is not affected by this part.

Subp. 2. **Testing company.** The performance test shall be conducted by a testing company unless a compliance document allows the owner or operator to conduct the performance test or to contract with an alternative entity that does not meet the criteria of the definition of testing company, or unless the agency, EPA, or any authorized employee or agent of the agency or EPA is conducting the performance test.

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

Subp. 4. **Verification of test results.** The results of a performance test are not final until a complete report, as defined in part 7017.2035, subpart 3, is submitted and the commissioner gives written verification of the compliance status of the emission facility. Upon verification of the test results, the duration of the compliance status that the performance test determines for the emission facility begins with the date of the performance test. Nothing in this subpart prevents the use of any evidence to establish the existence of a violation before the date of the performance test, or excuses noncompliance between the date of the performance test and the commissioner's written verification of it.

Subp. 5. **Test runs.** Each performance test shall consist of at least three separate test runs using the applicable test method, ~~with the exception of opacity determinations and performance tests conducted for the purpose of completing a relative accuracy test on a continuous emissions monitoring system. One test run shall be required for opacity determinations. Relative accuracy tests shall be conducted in accordance with the applicable compliance document, federal regulation, or Minnesota rule or statute except that one test run shall be required for opacity determination.~~ However, the commissioner shall require more test runs to be conducted if the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute requires additional test runs or determination of emissions at more than one process or operating condition.

Data reduction for opacity shall be conducted in accordance with part 7017.2060, subparts 5 and 6. For all other pollutants, the arithmetic mean of the test runs is the result of the performance test, with the exception of opacity readings which are subject to part 7017.2060, subparts 5 and 6. In the event that a sample is accidentally lost or conditions occur in which one of three test runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the control of the owner or operator and the testing company, compliance may, upon the commissioner's approval, be determined using the arithmetic mean of the two remaining test runs. The owner or operator shall document in the test report all reasons for excluding a test run or failing to conduct a test run.

Subp. 6. **Evidence of noncompliance.** The results of a performance test that have been rejected or deemed incomplete or indeterminate by the commissioner due to failure to comply with parts 7017.2001 to 7017.2060 and performance tests which are not

**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

---

subject to parts 7017.2001 to 7017.2060 may still be used in establishing violations pursuant to part 7017.0100 if they represent credible evidence of such violations. This includes, but is not limited to, results of tests:

- A. that were started but abandoned before completing all the required test runs;
- B. submitted without the required notification or test plan;
- C. that are incomplete due to lack of emission facility operating data in the test report; and
- D. conducted under unrepresentative operating conditions or conditions that deviated from the test plan.

### 7017.2025 OPERATIONAL REQUIREMENTS AND LIMITATIONS.

Subpart 1. **Scope.** This part specifies criteria that the commissioner will use to determine which operating parameters, if any, will be subject to limitations based upon the mode of operation during a performance test. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in an applicable requirement or compliance document, federal regulation, or Minnesota rule or statute.

Subp. 2. **Operating conditions for performance testing.** The performance test shall be conducted at worst case conditions for each air pollutant that is required to be tested unless:

- A. the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute specifies alternative operating conditions for performance testing;

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

Subp. 3. **Compliance demonstrated at tested conditions.** Upon the commissioner's written notice that the emission facility has demonstrated compliance under the conditions of the performance test, the owner or operator of the emission facility shall operate the affected emissions unit as specified in item A, B, C, or D, unless another performance test is conducted at alternative conditions and the commissioner gives written notification that the performance test demonstrated compliance at those conditions. This subpart does not apply to performance test runs for pollutants for which the owner or operator maintains a continuous emission monitor or continuous opacity monitor that meets the requirements of part 7017.1000.

A. If the owner or operator did not conduct the performance test at worst case conditions as required, or elected to conduct the performance test under alternative conditions under subpart 2, item C, the affected emissions unit shall not be operated at a process rate, operating rate, or regulated operating condition that is closer to the worst case conditions than the actual conditions of the performance test. The owner or operator of the emission facility shall maintain at the emission facility adequate records to demonstrate continuous compliance with these operating condition limitations.

B. If the owner or operator conducted the performance test under the conditions specified in subpart 2, item A, the owner or operator shall comply with any operational limitations imposed by the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute.

C. If the owner or operator conducted the performance test at the maximum achievable process or operating rate under subpart 2, item B, the emissions unit may not be operated at a higher process or operating rate than was recorded during the performance test; or.

D. If the owner or operator conducted the performance test at worst case conditions, no new operating limits are imposed by this part but the owner or operator shall comply with any applicable requirement or compliance document, federal regulation, or Minnesota rule or statute. When the worst case testing condition is defined in terms of an operating rate for the affected emissions units, no new operating rate limit may be imposed by this part if the performance test was conducted at 90 percent or greater of the defined worst case condition.

If the owner or operator conducted the performance test under subpart 2, item D, no operational limitations will be imposed. However, if the performance test was conducted at less than 50 percent of rated capacity, the commissioner will reject the results of the performance test.

Subp. 3a. **Compliance with new operating limits.** If a new operating limit is imposed pursuant to subpart 3, it shall be implemented according to items A to C, unless otherwise defined in an applicable requirement or compliance document.

A. For operating rate limits, the new limit shall be expressed as an eight-hour block average calculated by totaling total throughput, input, or output as applicable during the eight-hour period and dividing by the total operating time during the eight-hour period. Periods of downtime of 15 or more minutes shall not be counted as operating time. The commissioner may shorten the averaging time or modify the calculation method in cases where the operating mode of the affected emissions unit is not continuous or consistent and in cases where the results of the performance test were greater than 80 percent of the applicable limits.

B. For operating rate limits imposed following a performance test where the results were less than or equal to 80 percent of the value of the applicable emission limits for all of the air pollutants that were required to be tested, the new limit shall be set at 110 percent of the tested rate except as otherwise provided in this item. The tested rate is the average of the operating rates recorded

during the required number of test runs. The commissioner may set the new operating limit at 100 percent of the tested rate if the new limit would otherwise conflict with an existing operating limit or the description of the emission unit in the applicable air emission permit or if engineering judgment indicates that increasing the allowable operating rate would cause a likely violation of an emission limit.

C. For new operating limits other than operating rate limits, the averaging time and any extension of the range of values shall be defined in the test plan based upon the type of emissions unit or air pollution control equipment affected, the parameter being monitored, the accuracy of the monitoring equipment, the frequency and method of monitoring, and any specific requirements defined in an applicable requirement or compliance document.

Subp. 3b. **Relaxation of operating limits by retesting.** The owner or operator of the emission facility may conduct a retest at alternate operating conditions in order to relax an operating limit set pursuant to subpart 3. The retest shall be subject to parts 7017.2001 to 7017.2060. The owner or operator must submit the test results to the commissioner and identify what the new operating conditions will be and how compliance with those new conditions will be monitored. The owner or operator shall comply with any relaxed conditions established under this subpart.

Subp. 4. **Failure to demonstrate compliance.**

A. Upon the commissioner's written notice that the emission facility has failed to demonstrate compliance with an applicable emission limit, the owner or operator of the emission facility, unless an alternative schedule is given in an applicable requirement or compliance document, federal regulation, or Minnesota rule or statute, shall:

~~A.~~ (1) conduct a retest within 30 days of receipt of the commissioner's written notice;

~~B.~~ (2) submit to the commissioner written notice of testing, submit a test plan for the retest, and schedule a pretest meeting at least 21 days in advance of the date of the retest. The pretest meeting shall be held at least seven ~~working~~ days prior to the date of the retest, except that a shorter period shall be allowed if the commissioner has approved a test notification of less than 30 days; and

~~C.~~ (3) submit a complete report of the results of the retest and a microfiche version of the report to the commissioner according to the requirements of part 7017.2035; ~~and.~~

~~D B.~~ The owner or operator may receive an extension to the schedule in ~~items item A to C~~ if one of the following special circumstances ~~apply~~ applies:

(1) seasonal or temporary shutdown of the affected emissions units;

(2) malfunction or breakdown of the affected emissions units, unless the commissioner determines that a retest under such conditions is warranted in order to determine the effect of the malfunction or breakdown on emissions or where such conditions are representative of past operation of the emissions units;

(3) weather conditions that prevent using the applicable test methods or prevent operation of the affected emission units at the required operating conditions;

(4) any other conditions beyond the control of the owner or operator that prevent using the applicable test methods or prevent operation of the affected emissions units at the required operating conditions; ~~or~~

(5) any other condition beyond the control of the owner or operator that prevents completion of a retest within the required schedule; or

(6) the owner or operator accepts that the retest would not demonstrate compliance and submits a compliance plan to the commissioner on or before the deadline for conducting the retest and the commissioner gives written approval of the compliance plan.

C. Any request for an extension of the time schedule shall be submitted to the commissioner in writing by the owner or operator prior to the date by which retesting is required. The request shall specify the reason why the extension is needed, include an alternative retest schedule, and include a detailed summary of the measures the owner or operator will take to bring the affected emission unit into compliance. The commissioner shall grant the request for extension if the commissioner finds that one or more of the special conditions in item ~~D B~~ apply. If the commissioner grants an extension, the owner or operator shall implement the alternative retest schedule and compliance measures. ~~The compliance plan may also include a detailed summary of additional mea-~~

**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

---

~~sure the owner or operator will implement if the owner or operator fails the retest.~~ A requested extension shall not be effective unless the commissioner has given written approval of the extension. The commissioner shall not extend a retest date more than 30 days after the start-up, completion of maintenance, seasonal weather change, or other improvement in conditions occurs under item ~~D B~~ subitems (1) to (4). The commissioner shall not extend a retest date under item ~~D B~~, subitem (5), for more than 30 days.

Subp. 5. **Failure of retest.** If a retest has been conducted under subpart 4 and the commissioner provides written notice to the owner or operator of the emission facility that the retest provides a second demonstration of noncompliance with an applicable emission limit, the owner or operator shall shut down the affected emissions units. ~~The owner or operator may not operate the emissions units~~ unless items A to C of this subpart apply.

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

Subp. 6. **Agency tests.** Upon request of the agency or the commissioner, the owner or operator of an emission facility shall allow the agency or EPA, or any authorized employee or agent of the agency or EPA, to enter upon the premises of the owner or operator for the purposes of conducting performance tests. The owner or operator shall provide performance testing facilities that enable the agency or its employees or agents to conduct performance tests, including:

- A. sampling ports adequate for the applicable test methods;
- B. safe sampling platforms;
- C. safe access to sampling platforms; and
- D. utilities for sampling and testing equipment.

~~The agency or EPA, or authorized employee or agent of the agency or EPA shall provide all other equipment and personnel necessary to conduct the performance test methods. The owner or operator shall operate the emission facility at worst case conditions or other conditions as requested by the commissioner or EPA, and shall provide assistance in process monitoring and process material sampling as requested.~~

### 7017.2030 PERFORMANCE TEST PRETEST REQUIREMENTS.

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

Subp. 2. **Submittal and approval of test plan.** The owner or operator of the emission facility shall submit to the commissioner a test plan with or in advance of the test notification required under subpart 1 or in response to the commissioner's request for supplemental permit application information. If the proposed test plan does not contain sufficient or accurate enough detail to ensure that the performance test meets the requirements of the applicable requirement or compliance document, federal regulation, or Minnesota rule or statute, the commissioner shall ask for an updated test plan to be submitted or shall write a test plan in place of the submitted document.

The commissioner shall give written approval of the test plan when the commissioner determines that it meets the requirements of parts 7017.2001 to 7017.2060. Written approval means any signed letter, note, or facsimile transmission which states that a given test plan may be used during a specific performance test. The commissioner shall reject the results of a performance test if it was conducted without written approval of the test plan or if no test plan was submitted.

Subp. 3. **Format and content of test plan.** The test plan shall be submitted in the following format and include, as a minimum, the following elements:

A. Part I. General information:

- (1) name and address of emission facility;
- (2) name, title, ~~and~~ telephone number, and facsimile number of contact person at emission facility;
- (3) permit number or name of other applicable compliance document;
- (4) reason for testing;
- (5) schematic drawing of stack and sample ports;
- (6) location of plant; and
- (7) name, contact person, ~~and~~ telephone number, and facsimile number for testing company contracted to conduct the test.

B. Part II. Testing requirements:

- (1) list of the emission units, as identified in the applicable requirement or compliance document, and pollutants to be tested, the emission limit for each pollutant, and the applicable rule or regulation for each emission limit; and
- (2) description of procedure for fuel sampling and analysis, where applicable.

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



D. Part IV. Test methods:

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

(3) reference to any applicable requirement or compliance document; ~~federal regulation, or Minnesota rule or statute~~ requiring use of specific methods or procedures;

[For text of subitems (4) and (5), see M.R.]

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

Subp. 4. **Pretest meeting.** The owner or operator of the emission facility shall contact the supervisor of the compliance determination unit to schedule a pretest meeting to be held ~~at the MPCA office in St. Paul~~ between authorized employees of the agency and the owner or operator of the emission facility, with optional representation by the testing company. The pretest meeting shall be held at least seven ~~working~~ days prior to the performance test date except that a shorter period shall be allowed if the commissioner has approved a test notification of less than 30 days. If the commissioner determines that an in-person meeting is not necessary, the pretest meeting will be conducted by telephone conference call unless the owner or operator of the emission facility requests an in-person meeting. ~~The commissioner will reject a test if the owner or operator of the emission facility refused to participate in a pretest meeting.~~

**7017.2035 PERFORMANCE TEST REPORTING REQUIREMENTS.**

Subpart 1. **Submittal of performance test results.** The owner or operator of the emission facility shall submit a test report and any additional information required by the applicable requirement, compliance document, or test plan; ~~federal regulation, or Minnesota rule or statute.~~ A report shall be submitted for any performance test that was required pursuant to part 7017.2020, subpart 1, whether or not the test data indicates compliance with the applicable emission limits or operating conditions and whether or not the test was completed according to the approved test plan.

Subp. 2. **Submittal schedule.** The performance test report shall be postmarked or received within 45 days following completion of the performance test unless an alternate schedule is given in the applicable compliance document. The owner or operator of the emission facility may request in the test plan that the submittal deadline be extended by up to 15 days if the complexity of the test schedule or the laboratory analysis is such that submittal within 45 days is impractical.

The owner or operator of the emission facility shall provide to the commissioner a microfiche copy of the performance test report to be postmarked or received within 60 days of the deadline for submittal of the test report. The complete permit file number, complete emission facility name, and exact date of testing shall be provided. ~~A cover letter which certifies that the microfiche is an exact and complete copy of the original test report shall be submitted with the microfiche copy.~~

Subp. 3. **Complete report.** The report shall include the following elements:

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

E. Operating parameters: readings of discrete data from monitoring instruments must be recorded at least every 15 minutes or other reasonable time interval as approved by the commissioner during the test and strip charts or retrieved electronic data from continuous monitors must be included in the test report.

[For text of subitems (1) to (4), see M.R.]

F. Maintenance: description, including dates, of all maintenance and operational inspections, including major cleaning operations and replacement, repair, or modification of functional components of process or control equipment done in the month prior to the test.

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

H. Appendix:

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

(6) calibration procedures and results, including Pitot tube, nozzle, meter box, thermometer, and barometer calibrations; ~~and~~

(7) project participants and titles; and

(8) a copy of the most recent version of the test plan and a copy of the commissioner's written approval of the test plan.

**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

---

---

### I. Additional information:

(1) any other special requirement of the test method, test plan, applicable requirement, or compliance document; ~~federal regulation, or Minnesota rule or statute~~; and

(2) any other information necessary to evaluate compliance with parts 7017.2020 and 7017.2025 as requested by the commissioner.

### **7017.2045 QUALITY ASSURANCE REQUIREMENTS.**

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

Subp. 3. **Quality assurance.** Any performance test shall meet the minimum requirements for quality assurance, performance standards, and specifications as stated in the reference method or in the alternative or equivalent method. The provisions in items A and B also apply.

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

B. Only employees of the testing company may operate source sampling equipment or otherwise be a part of the emission sampling or analysis of air pollutants from the emission facility during a performance test. The owner or operator or employees of the emission facility may not assist in any sampling or any analysis of samples unless authorized within an approved test plan.

Any request to deviate from the requirements of this subpart shall be submitted at least seven working days before the performance test. The commissioner shall reject the results of ~~all each test runs run~~ where deviations from quality assurance or methodology or test plan requirements exceeded those allowed under subpart 4.

Subp. 4. **Deviation from quality assurance, test method, or test plan.** The commissioner shall reject the results of a performance test if there was a deviation from the quality assurance requirements of this part, from the test method, or from the approved test plan unless:

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

D. the deviation was from the operating conditions required of the emissions unit and was within the range of operating conditions allowed by the applicable requirement or compliance document; ~~federal regulation, or Minnesota rule or statute~~ such that the compliance status of the emission facility can be determined under the test conditions. In this case, the conditions of part 7017.2025 apply.

Subp. 5. **Precision of test methods.** The inherent precision, level of confidence, and bias of any test method approved by the commissioner for use during a performance test shall not be a factor in determining the compliance status of an emission facility. However, the commissioner shall reject any test runs that were not conducted with acceptable accuracy within the limits of the test method and the sampling conditions or if the detection limit of the test method was higher than the applicable emission standard.

If the commissioner determines that the test results are valid under the quality assurance requirements of the method and that the performance test was conducted in accordance with parts 7017.2001 to 7017.7060 and the applicable requirement or compliance document; ~~federal regulation, Minnesota rule or statute~~, and the test result exceeds the applicable emission limit by any amount, the owner or operator is in violation of that emission limit.

Subp. 6. **Adjustments for detection limit.** The commissioner shall require that the sample volume to be collected be increased above the minimum amount specified in ~~a~~ an applicable requirement or compliance document; ~~federal regulation, or Minnesota rule or statute~~, if necessary to ensure that the amount or concentration of the pollutant collected is greater than the detection limit given by the analytical procedure employed upon the field samples. If the commissioner requires this, the minimum sample volume shall be determined by the following equation:

$$V = A \times \frac{100 \times 100 \times 1}{B \times C \times D}$$

Where: V = minimum sample volume to be collected (dscm)  
A = the analytical detection limit in g  
B = percent of the sample required per analytical run  
C = sample recovery (%)  
D = stack emission limit or expected emission rate (g/dscm)

In cases where a performance test for a pollutant yields a result that is less than the detection limit of the method as utilized, the results shall be calculated and reported as less than or equal to that detection limit.

**7017.2050 PERFORMANCE TEST METHODS.**

Subpart 1. **Test methods.** Unless a different method is given in an applicable requirement or compliance document, ~~federal regulation, or Minnesota rule or statute,~~ the owner or operator of an emission facility shall conduct performance tests using the methods in Code of Federal Regulations, title 40, part 60, appendix A; part 61, appendix B; and part 51, appendix M, incorporated by reference in part 7017.2010 and following the requirements in part 7017.2060, unless an alternative or equivalent method is approved or required by the commissioner in accordance with subpart 2.

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

**7017.2060 PERFORMANCE TEST PROCEDURES.**

Subpart 1. **Applicability.** For the purpose of using the methods referenced in part 7017.2050, the requirements in this part apply unless otherwise stated in the applicable requirement or compliance document; ~~federal regulation, or Minnesota rule or statute.~~

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

Subp. 4. **PM-10 determination.**

A. ~~For Method 201 or 201A; shall be used unless the commissioner has approved an alternate or equivalent method.~~ The sampling time for each run shall be at least 60 minutes and the minimum sampling volume will be 32 dscf (0.9 dscm).

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

D. ~~Condensibles may be determined, with approval of the commissioner, by the procedure given in part 7011.0725 if technical limitations make Method 202 impractical or if it can be demonstrated to the commissioner through mass balance calculations or previous performance test results that inorganic condensibles account for less than five percent of the total particulate matter.~~

E. The determination of condensible particulate matter may be waived if it can be demonstrated to the commissioner through mass balance calculations or previous performance test results that the emissions unit is not a source of condensible particulate matter emissions.

Subp. 5. **Opacity determination by Method 9.** Opacity observations shall be performed by a certified observer and in accordance with the requirements of Method 9. In addition, the requirements of subpart 6 and the following items shall apply:

A. The commissioner may reject the opacity results if the commissioner cannot determine the compliance status of the emission facility due to error, bias, or insufficient documentation during the performance test. The ~~quality assurance~~ recommendations of Method 9 and EPA document EPA-600/4-77-027b, Addition Section 3.12 (Feb. 1984), as amended, entitled "Quality Assurance Handbook for Air Pollution Measurement Systems: Volume III. Stationary Source Specific Methods," which is incorporated by reference, shall be used in determining the criteria ~~for~~ acceptability of opacity results. This document is available at the state law library and is not subject to frequent change.

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

D. ~~The opacity standards set forth in a regulation shall apply at all times except during periods of start-up, shutdown, malfunction, and as otherwise provided in the applicable compliance document, federal regulation, or Minnesota rule or statute.~~

E. Data reduction shall be performed in accordance with ~~the process in Paragraph 2.5 of Method 9 and subpart 6.~~ A one-hour period means any 60 consecutive minutes and a six-minute period means any set of 24 consecutive 15-second intervals. ~~A violation of the standard will be recorded if a six-minute average, which means the arithmetic mean of any set of 24 consecutive observations at 15-second intervals, exceeds the applicable standard, unless the standard is contained in a Minnesota rule or statute that allows an excursion above the standard for a specified number of minutes within a specified time period and the excursion opacity limit is not exceeded. A violation of the standard will be expressed as the number of nonoverlapping six-minute averages exceeding the standard within a one-hour time period and the amount that each six-minute average exceeds that standard.~~

Subp. 6. **Additional Opacity data reduction procedures.** ~~The following items describe data reduction procedures that are not included in Method 9: Item A applies only to reduction of data from continuous emission monitoring systems. Item B applies and shall be used for reduction of data for Method 9, an equivalent or alternative method, or a continuous emission monitoring system; when an applicable Minnesota rule or statute allows an excursion above the opacity standard for a specified number of minutes within a specified time.~~

**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

---

A. For continuous emission monitoring systems, compliance shall be determined on the basis of a six-minute average. A six-minute average is the arithmetic mean of six consecutive one-minute averages and a one-minute average is the arithmetic mean of the number of readings required to be taken in each minute. A violation of the standard shall be recorded if any six-minute average exceeds the standard, unless item B is applied and the applicable excursion opacity limit is not exceeded. The violation shall be recorded as the number of nonoverlapping six-minute averages exceeding the standard and the amount by which each six-minute average exceeds the standard.

B. Excursion opacity limits apply only if an exceedance of the standard is recorded when the applicable data reduction process is used. In determining compliance with the excursion limits, the data shall be reduced to one-minute averages. A one-minute average is the arithmetic mean of the number of readings required to be taken in one minute. Each data point may be used only once in calculating the one-minute averages but the data points used to determine exceedance of the standard may be used in calculating one-minute averages.

(1) If only one excursion limitation is specified, count the number of nonoverlapping one-minute averages above the applicable standard. Compare the total number of minutes above the opacity limit to the time allowed in the excursion. A violation will be recorded if any one-minute average is greater than the excursion opacity limit or if the number of minutes above the standard exceeds the time allowed.

(2) If two excursions above a standard are allowed, count, starting with the one-minute average with the highest numerical value and continuing in descending order, the number of nonoverlapping one-minute averages whose value exceeds the lower excursion opacity limit. If this number of minutes is less than the time period of the higher excursion limit, include the highest of the one-minute averages that are below the lower excursion opacity limit until the number of minutes counted is equal to the time period of the higher excursion opacity limit. Finally, count the number of remaining one-minute averages that are above the opacity standard. A violation will be recorded if any one-minute average is greater than the higher excursion opacity limit, if the number of one-minute averages greater than the lower excursion opacity limit exceeds the time period of the higher excursion opacity limit, or if the total number of one-minute averages above the applicable standard exceeds the total time period of the excursion opacity limits.

(3) Violation of an opacity standard with excursion limits shall be expressed as the exceedance of the opacity standard according to the applicable six-minute average data reduction process plus the total number of nonoverlapping minutes that are independent of the six-minute average and which exceed the opacity excursion limit during a period of consecutive readings in the applicable time period. For the purpose of this part, "excursion" means an opacity higher than the base standard that is allowed for a limited number of minutes within a time period. Compliance with opacity limits shall be determined from all data points collected in an averaging period and according to items A and B.

A. For opacity standards which allow excursions based on six-minute periods, an exceedance of the standard has occurred if, having taken the allowable excursion into account, any six-minute average exceeds the standard. The exceedance shall be expressed as the value of the highest six-minute average and the number of nonoverlapping six-minute averages that exceed the standard within the period of the test run.

B. For opacity standards that do not allow excursions, an exceedance of the standard has occurred if any six-minute average exceeds the standard. The exceedance shall be expressed as the value of the highest six-minute average and the number of nonoverlapping six-minute averages that exceed the standard within the period of the test run.

[For text of subp 7, see M.R.]

**EFFECTIVE DATE.** For emission points that are monitored by a continuous opacity monitoring system meeting the requirements of part 7017.1000, the amendments to parts 7011.0010, 7011.0105, 7011.0510, 7011.0515, 7011.0610, 7011.0710, 7011.0805, 7011.1305, 7011.1405, and 7011.1410 apply at the start of the first full quarterly reporting period after the data acquisition system is reprogrammed or replaced, but no later than January 1, 1999.

## Adopted Rules

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

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

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

### Exempt Rules

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

### Emergency Expedited Rules

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

## Emergency Medical Services Regulatory Board

### Adopted Permanent Rules Relating to Ambulance Services

The rules proposed and published at *State Register*, Volume 22, Number 33, pages 1396-1399, February 17, 1998 (22 SR 1396), are adopted as proposed.

## Pollution Control Agency

### Adopted Permanent Rules Relating to Air Quality; Incorporation of Federal National Emission Standards for Hazardous Air

The rules proposed and published at *State Register*, Volume 22, Number 17, pages 665-667, October 27, 1997 (22 SR 665), are adopted as proposed.

## Board of Water and Soil Resources

### Adopted Permanent Rules Relating to Wetlands

The rules proposed and published at *State Register*, Volume 22, Number 28, pages 1187-1236, January 12, 1998 (22 SR 1187), are adopted as proposed.

**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

---

---

### Office of the Governor

#### Emergency Executive Order #98-04: Providing for Assistance to Officials in Brown and Nicollet Counties

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**, on March 29, 1998, a powerful storm with a mix of tornadoes, heavy rain and hail ripped through much of south-central Minnesota; and

**WHEREAS**, local citizens are in need of temporary housing; and

**WHEREAS**, the Brown and Nicollet County sheriffs have stated that temporary housing must be provided for citizens that have lost their home or place of residence;

**NOW, THEREFORE**, I hereby order that:

1. The Adjutant General of Minnesota order to state active duty on April 9, 1998, in the service of the state, such personnel and equipment of the military forces of the state as required, and for such period of time as necessary, to transport, set-up and supervise temporary housing for Brown, Nicollet and other affected counties and to provide support to the Department of Emergency Management and other state agencies as required.
2. The Adjutant General is authorized to purchase, lease or contract goods or services necessary to accomplish the mission.
3. The cost of subsistence, transportation, fuel, pay and allowances of said individuals shall be defrayed from the general fund of the state, as provided for in *Minnesota Statutes* 1996, sections 192.49, subd. 1; 192.51 and 192.52.

Pursuant to *Minnesota Statutes* 1996, section 4.035, subd. 2, this Order is effective immediately and shall remain in effect until such date as elements of the military forces of the state are no longer required.

**IN TESTIMONY WHEREOF**, I have set my hand this ninth day of April 1998.

Arne H. Carlson  
Governor

Filed According to Law:  
Joan Anderson Growe  
Secretary of State

## Commissioners' Orders

---

---

### Public Utilities Commission

#### Before the Minnesota Public Utilities Commission

Edward A. Garvey	Chair
Joel Jacobs	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Gregory Scott	Commissioner

#### Notice and Order for Hearing in the Matter of the Application by Lakehead Pipe Line Company, Inc. for a Certificate of Need for a Large Petroleum Pipeline Facility

**ISSUE DATE:** March 25, 1998

**DOCKET NO.** PL-9/CN-98-327

#### PROCEDURAL HISTORY

##### I. THE APPLICATION

On March 9, 1998, Lakehead Pipe Line Company, Inc. (Lakehead or the Company) submitted a certificate of need application for approval to construct a large petroleum pipeline facility in northwestern Minnesota. The filing was submitted in accordance with *Minnesota Statutes* § 216B.243 and the rules promulgated thereunder.

On March 9, 1998, the Commission issued its NOTICE OF CERTIFICATE OF NEED APPLICATION AND COMMENT PERIOD, which provided a March 16, 1998 deadline for filing written comments on the completeness of Lakehead's application.

Following a telephone discussion with Commission Staff, Lakehead filed a supplement on March 11, 1998. The supplement included an explanatory cover letter and an affidavit of mailing for the application. Lakehead also provided extra copies of six pages of the "confidential" version of the application that contained information omitted from the "non-confidential" version. As indicated in the cover letter, Lakehead indicated on those pages the sections of changed or additional text that referred to or contained shipper-specific data ordinarily treated as confidential under Section 15 (13) of the Interstate Commerce Act.

On March 16, 1998, the Minnesota Department of Public Service (the Department) filed comments stating that based on its review the Department believed that Lakehead had met the filing requirements for completeness.

The Commission met on March 20, 1998 to consider this matter.

## **Findings and Conclusions**

### **II. JURISDICTION**

The Commission has jurisdiction over applications for certificates of need for large energy facilities under *Minnesota Statutes* § 216B.243 (1996). The statute requires the Commission to hold at least one public hearing under the Administrative Procedure Act before acting on this or any other application for a certificate of need. *Minnesota Statutes* § 216B.243, subd. 4 (1996).

### **III. FINDING FILING SUBSTANTIALLY COMPLETE**

Lakehead appears to have made a good-faith effort to respond to the requirements of the rules. Further, the Commission notes that the filing is quite similar to Lakehead's 1993 certificate of need filing, which was accepted by the Commission as substantially complete.

Although Lakehead's initial filing contained deficiencies that could have potentially been deemed sufficiently serious to prevent a finding of substantial completeness, the Company's supplemental filing on March 11, 1998 adequately addressed those deficiencies. The Department reached the same conclusion in its March 16, 1998 comments.

Accordingly, the Commission finds that Lakehead's filing is substantially complete. The Commission clarifies that its assessment of the completeness of the filing does not prejudice the merits of Lakehead's application which will be thoroughly examined in the course of this docket.

### **IV. REFERRAL FOR CONTESTED CASE PROCEEDINGS**

The Commission finds that it cannot satisfactorily resolve all issues raised by the Company's application on the basis of its filing and the single public hearing required under the statute. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

### **V. PUBLIC PARTICIPATION**

*Minnesota Statutes* § 216B.243, subd. 4 (1996) encourages public participation in certificate of need proceedings. The statute requires at least one hearing to obtain public opinion on the application and requires the Commission to designate an employee to facilitate citizen participation in the hearing process.

The Commission has designated statistical analyst David L. Jacobson to facilitate and coordinate public participation in this proceeding. He may be reached by telephone at

(612) 297-4562 and by FAX at (612) 297-7073. His address is 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147.

Members of the public need not become formal parties to participate in the hearing process. They are encouraged to attend the public hearing(s) and to submit testimony and exhibits. Persons who cannot attend the public hearing(s) and wish to comment may submit written comments to the Administrative Law Judge. The Commission will require the Company to publish notice of the public and evidentiary hearings in relevant newspapers to encourage public participation.

### **VI. PROCEDURAL OUTLINE**

#### **A. Administrative Law Judge**

The Administrative Law Judge assigned to this case is Allan W. Klein. His address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota 55401-2138; (612) 341-7609.

#### **B. Hearing Procedure**

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, *Minnesota Statutes* §§ 14.57-14.62 (1996); the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, *Minnesota Rules*, parts 7830.0100 to 7830.4400 and *Minnesota Rules*, parts 7849.0010 to 7849.0400. Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155, (612) 297-3000.

## Commissioners' Orders

---

Under these rules formal parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under *Minnesota Rules*, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Any person intending to appear at the hearing as a formal party must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing. Failure to appear at the hearing may result in facts and issues being resolved against the party who fails to appear.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions. They should take note that any material introduced into evidence may become public data unless a party objects and requests relief under *Minnesota Statutes* § 14.60, subd. 2 (1996).

Any questions regarding discovery under *Minnesota Rules*, parts 1400.6700 to 1400.6800 or informal disposition under *Minnesota Rules*, part 1400.5900 should be directed to Dennis Ahlers, Special Assistant Attorney General, 700 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (612) 296-0410.

The times, dates, and places of public and evidentiary hearings will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

### C. Parties and Intervention

Current parties to this proceeding are Lakehead and the Minnesota Department of Public Service.

Other persons wishing to become formal parties to this proceeding shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. *Minnesota Rules*, part 1400.6200.

### D. Prehearing Conference

A prehearing conference will be held on Thursday, April 9, 1998 at 9:30 a.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147.

All parties and persons intending to intervene should attend the conference, prepared to discuss time frames and scheduling. Other matters which may be discussed include the scope of the hearing, the locations and dates of hearings, discovery procedures, and similar issues.

### E. Time Constraints

Under *Minnesota Statutes* § 216B.243, subd. 5 (1992), the Commission is required to act on the Company's application within six months of receipt of a substantially complete filing. The Commission asks the Administrative Law Judge to conduct contested case proceedings in light of these time constraints. Parties should note the six-month statutory time frame at the outset and be prepared for the expedited hearing schedule that time frame requires.

### F. Application of Lobbying Provisions

The lobbying provisions of the Ethics in Government Act, *Minnesota Statutes* §§ 10A.01 et seq. (1992), apply to certificate of need proceedings. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Minnesota Ethical Practices Board, telephone number (612) 296-1720, with any questions.

### G. Ex Parte Communications

Restrictions on *ex parte* communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at *Minnesota Rules*, parts 7845.7300 to 7845.7400, which all parties are urged to consult.

## ORDER

1. A contested case proceeding shall be held on the Company's certificate of need application.
2. The contested case proceeding shall begin with a prehearing conference on Thursday, April 9, 1998, at 9:30 a.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147.
3. At least one public hearing shall be held in this matter at a time and place determined by the Administrative Law Judge after consultation with the Commission.
4. All parties to this proceeding may serve information requests on any other party. Information requests shall be answered within ten days of receipt.



5. Lakehead shall publish notice of the public and evidentiary hearings at least 10 days in advance in newspapers of general circulation throughout its service area. The Company shall work with Commission Staff to develop a plan to meet this requirement, including a proposed text, a list of the newspapers it proposes to use, and proposed publication dates. The Commission authorizes Staff to approve the plan, with the Company retaining the right to Commission review.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION  
Burl W. Haar  
Executive Secretary

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-4596 (voice), (612) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS**

**Suite 1700**

**100 Washington Square**

**Minneapolis, Minnesota 55401-2138**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION**

**Suite 350**

**121 Seventh Place East**

**St. Paul, Minnesota 55101-2147**

**In the Matter of the Application by Lakehead Pipe Line Company, Inc. for a Certificate of Need for a Large Petroleum Pipeline Facility**

**MPUC Docket No. PL-9/CN-98-327**

**OAH Docket No.**

**NOTICE OF APPEARANCE**

**Name and Telephone Number of Administrative Law Judge:**

Allan W. Klein  
(612) 341-7609

**TO THE ADMINISTRATIVE LAW JUDGE:**

You are advised that the party named below will appear at the above hearing.

**NAME OF PARTY:**

**ADDRESS:**

**TELEPHONE NUMBER:**

**PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:**

**OFFICE ADDRESS:**

**TELEPHONE NUMBER:**

**SIGNATURE OF PARTY OR ATTORNEY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

# Official Notices

---

---

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

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and mat-

## 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, for Approximately 120 Acres of Bare Farmland in Belmont Township, Jackson County

**NOTICE IS HEREBY GIVEN** that a public hearing will be held on May 8, 1998, 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 farm improvements and approximately 120 acres of bare farmland located in Section 6, Belmont Township, Jackson County, Minnesota on behalf of Paul W. and Tara M. Hansen, a married couple (the Borrowers). The maximum aggregate face amount of the proposed bond issue is \$195,000.00. 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: 1 April 1998

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, for Approximately 80 Acres of Bare Farmland in Monson East Township, Traverse County

**NOTICE IS HEREBY GIVEN** that a public hearing will be held on May 8, 1998, 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 29, Monson East Township, Traverse County, Minnesota on behalf of Steven G. Lundquist, a single man (the Borrower). The maximum aggregate face amount of the proposed bond issue is \$58,000.00. 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: 1 April 1998

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*, for Machinery Purchase in Belmont Township, Jackson County**

**NOTICE IS HEREBY GIVEN** that a public hearing will be held on May 8, 1998, 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 machinery located in Section 6, Belmont Township, Jackson County, Minnesota on behalf of Paul W. and Tara M. Hansen, a married couple (the Borrowers). The maximum aggregate face amount of the proposed bond issue is \$55,000.00. 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: 1 April 1998

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*, for Purchase of 100 Head of Holstein Dairy Heifers, Dairy Parlor and Freestall Barn Improvements in Whitewater Township, Winona County**

**NOTICE IS HEREBY GIVEN** that a public hearing will be held on May 8, 1998, 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 100 head holstein dairy heifers; dairy parlor and freestall barn improvements located in Section 6, Whitewater Township, Winona County, Minnesota on behalf of Nathan Radel, a single man (the Borrower). The maximum aggregate face amount of the proposed bond issue is \$250,000.00. 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: 1 April 1998

Jim Boerboom  
RFA Director

## Department of Children, Families and Learning

### Office of Teaching and Learning

#### Notice of Establishment of the Minnesota Technology Learning Academy

The Department of Children, Families and Learning announces the establishment of the Minnesota Technology Learning Academy. The purpose of the Learning Academy is to provide professional development to teachers in the application of technology for the achievement of the Minnesota Graduations Standards. Providers for the Minnesota Technology Learning Academy should be prepared to offer technology training for teachers and other school district staff beginning June 1, 1998. All courses must be aligned with the criteria identified by the Department of Children, Families and Learning.

The Department of Children, Families and Learning will issue a process and criteria for participation in the Minnesota Technology Learning Academy. This process, including standards and requirements, will be disseminated on request after April 22, 1998. Educational agencies, public and private higher education institutions, technology corporations and other organizations interested in providing courses through the Minnesota Technology Learning Academy should contact Mary Dalbotten, Department of Children, Families and Learning, 550 Cedar Street, St. Paul, MN 55101, 612-296-2207, [mary.dalbotten@state.mn.us](mailto:mary.dalbotten@state.mn.us) for further information.

To request a copy of the legislation, and/or to be placed on a mailing list to receive the process and criteria for participation in the Minnesota Technology Learning Academy, potential providers should contact Teri Kostelecky, Department of Children, Families and Learning, 550 Cedar Street, St. Paul, MN 55101, 612-296-2752, [teri.kostelecky@state.mn.us](mailto:teri.kostelecky@state.mn.us)

## Minnesota Comprehensive Health Association

### Notice of Meeting of the Nominating Committee

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Nominating Committee will be held at 9:30 a.m. on Friday, April 24, 1998 *by conference call*. Members of the public interested in monitoring the conference call, should come to the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

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

## Minnesota Historical Society

### Notice of a State Review Board Regular Meeting

A meeting of the State Review Board of the Minnesota Historical Society to consider nominations to the National Register of Historic Places will be held on Thursday, May 7, 1998, in the Cargill Commons, MacMillan Education Wing, Minnesota Historical Society History Center, St. Paul, Minnesota. The State Review Board will meet at 7:00 p.m. for an informational presentation on program activities made by the Preservation Office staff. The meeting will be called to order and consideration of the meeting's agenda will begin at 7:30 p.m. A sign language interpreter is available with one weeks notice, and auxiliary aids are available with two weeks notice. Call 612/296-5434, or TTY 800-627-3529. For further information contact the State Historic Preservation Office, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102, (612) 296-5434.

## Department of Human Services

### Notice of Availability of the Minnesota Health Care Programs Provider Participation List [Also Known As DHS Rule 101 Provider Compliance List]

**NOTICE IS HEREBY GIVEN** that the Minnesota Health Care Programs Provider Participation List for April 1, 1998, is now available. The Provider Participation List is a compilation of fee-for-service health care providers who are in compliance with DHS Rule 101. This list is distributed on a quarterly basis to the Department of Employee Relations, the Department of Labor and Industry, and the Department of Commerce. To obtain the list, contact Jodey Klein, Rule 101 Specialist, at (612) 296-0766, 1-800-657-3974. You may FAX your request to (612) 296-5690 or send to the Customer Services Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3856.

David Doth, Commissioner  
Department of Human Services

## Department of Labor and Industry

### Labor Standards Division

### Notice of Addition to Prevailing Wage Rates

A correction has been made for power equipment operators **Group 6** for the Commercial Prevailing Wage Rates in **Polk County** which were certified 10/20/97.

Additional classes of Labor, **Code 402, Boilermakers**, in **Polk County**; **Code 435, Asbestos Abatement Worker**, in **Crow Wing County**; **Code 430, Wiring System Technician and Code 431, Wiring System Installer**, in **Renville County** have been determined for the Commercial Prevailing Wage Rates which were certified 10/20/97.

Copies of the corrected certification may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306 or by calling (612) 296-6452. Charges for the cost of copying and mailing are \$1.00 for the first page and \$.50 for each additional page. Make check or money order payable to the State of Minnesota.

Gretchen B. Maglich  
Commissioner

## Department of Labor and Industry

### Workplace Services Division, Code Administration and Inspection Services Unit

### Request for Comments on Planned Amendments to Rules Governing High Pressure Piping, *Minnesota Rules, Parts 5230.0010 to 5230.0210*

**Subject of Rules.** The Minnesota Department of Labor and Industry, Workplace Services Division, Code Administration and Inspection Services, Unit requests comments on its planned amendments to rules governing the administration of the high pressure piping permitting and inspection process and the administration of high pressure piping competency and business licenses. The planned amendments do not involve changes to the technical standards, codes and safety standards governing high pressure piping. The Department is considering rule amendments that update its procedures for administration of the high pressure piping standards authorized by law and contained elsewhere in the rules. Some of the rules to be amended relate to an advisory council for pipefitting examinations which no longer exists in statute. Other rule amendments under consideration relate to qualifications for high pressure pipefitting inspectors; the procedures to be used when applying for high pressure pipefitting competency and business licenses; and, the procedures to be used by the Department when considering or taking regulatory action against a license holder. The planned amendments include definitions of terms used in pipefitting rules and may include amendments to the minimum ratio of pipefitter trainees to licensed pipefitters. The Department does not intend to expand the scope of work governed by the high pressure piping rules nor does it intend to make any substantive changes to the existing rules governing high pressure piping technical standards, codes or safety standards in these planned rule amendments.

## Official Notices

---

**Persons Affected.** The planned amendments to the rules will primarily affect pipefitters and pipefitting contractors engaged in high pressure piping. Additional affected parties include those persons and entities owning, operating, improving or constructing high pressure piping systems.

**Statutory Authority.** *Minnesota Statutes*, section 326.48 requires the Department to adopt rules for the examination and licensing of pipefitters; for the issuance or permits for the installation of high pressure piping; and, for application for and issuance of high pressure pipefitting business licenses. *Minnesota Statutes*, section 175.171 authorizes the Department to adopt reasonable and proper rules relative to the exercise of its powers and duties.

**Public Comment.** Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on Friday June 19, 1998. The Department will accept comments after that date until further notice is published in the *State Register* that the Department intends to adopt or to withdraw the rules, but in order for the commenters to be assured that their comments will be considered before the planned rule amendments are published in the *State Register*, the comments should be received by 4:30 PM on Friday June 19, 1998. The Department has appointed an advisory committee to comment on the planned rules. The advisory committee meetings are open to the public and the schedule is available from the agency contact person listed below. It is anticipated that the Advisory Committee will meet several times during the comment period and at least once after the initial comment period ends on June 19, 1998.

**Rules Drafts.** The Department has prepared a first draft of the planned rules amendments and copies may be obtained from the agency contact person listed below.

**Agency Contact Person.** Written or oral comments, questions, requests to receive a draft of the rule amendments, and requests for more information on these planned rule amendments should be addressed to:

Ruben Besonen  
Chief Inspector, High Pressure Piping  
Code Administration and Inspection Services  
Minnesota Department of Labor and Industry  
443 Lafayette Road North  
St. Paul, Minnesota 55155  
PHONE: (612) 296-4529  
FAX: (612) 296-1140

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

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

Dated: 10 April 1998

Gretchen B. Maglich, Commissioner  
Department of Labor and Industry

## Board of Marriage and Family Therapy

### Request for Comments on Planned Amendments to Rule Governing Board of Marriage and Family Therapy, *Minnesota Rules* 5300.0100-5300.0360

**Subject of Rule.** The Board of Marriage and Family Therapy requests comments on its planned amendments to rules governing the licensure, practice and continuing education of licensed marriage and family therapists. The board is considering rule amendments that clarify definitions; modify educational, post degree experience and supervision requirements. Associate and emeritus licensure status are also under consideration. The means by which continuing education requirements may be met are also being considered for expansion. Also under consideration are changes in the format of the oral exam, additions to the code of ethics, and changes related to reciprocity. The proposals are similar to those which the board sent to licensees, educational institution and professional association in April 1997.

**Persons Affected.** The amendments to the rule would likely affect licensees, applicants for licensure, continuing education sponsors, and graduate academic institutions with programs in marriage and family therapy.

**Statutory Authority.** *Minnesota Statutes*, section 148B.31 authorizes the board to adopt rules for protection of the public, establish licensure standards and an ethical code, and provide for continuing education standards.

**Public Comment.** Interested persons or groups may submit comments or information on this proposed rule in writing or orally until 4:30 p.m. on June 30, 1998. The board has prepared a draft of the proposed rule amendments. Written or oral comments, questions, requests to receive the draft of the rules amendments, and requests for more information on this planned rule should be addressed to:

Robert C. Butler, Executive Director, Minnesota Board of Marriage and Family Therapy, 2829 University Avenue SE, Minneapolis 55414-3222. Telephone (612) 617-2220.

**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.**

Robert C. Butler,  
Executive Director

## **Metropolitan Airports Commission**

### **Notice of Public Hearing Concerning Acquisition of Property Near Minneapolis-Saint Paul International Airport Hennepin County, Minnesota**

**NOTICE IS HEREBY GIVEN** that the Metropolitan Airports Commission, a public corporation organized under the laws of the State of Minnesota, will hold a public hearing pursuant to *Minnesota Statutes* § 473.641 to consider the acquisition by the Metropolitan Airports Commission of certain property located proximate to the Minneapolis-Saint Paul International Airport, more specifically:

**The U.S. Bureau of Mines Property** located at Fort Snelling, known as the Twin Cities Research Center Main Campus, 5629 Minnehaha Avenue South, Minneapolis, Minnesota, and Building No. 201 thereon, Highway 55 and Bloomington Road, Minneapolis, Minnesota.

The U.S. Department of the Interior will convey the Bureau of Mines Property (the "Property") to the Metropolitan Airports Commission ("MAC") under the authority of Public Law 104-134 (the "Act"), which allows the Secretary of the Interior to donate lands held by the U.S. Bureau of Mines to "such university or government entities as the Secretary deems appropriate." The Department of the Interior has determined that the MAC is a "government entity" and is eligible to receive the Property under the Act. In return, the MAC will make a gift to the U.S. Fish and Wildlife Service of a sum of money closely approximating the value of the Property.

The public hearing will be held commencing at 2:00 p.m. on the 5th day of May 1998 in the Main terminal building at the Minneapolis-Saint Paul International Airport, Room 3040.

The hearing will afford interested persons, groups and agencies an opportunity for public consideration of the economic, social and environmental effects of the proposed acquisition. Information relating to relocation will be presented at the public hearing in accordance with appropriate federal requirements. Any person wishing to submit information relating to this matter may appear at the public hearing and make an oral statement or present written material. Persons intending to make oral presentations are requested to notify the Commission by April 27, 1998 in writing or by telephone to Ms. Jenn Unruh, Metropolitan Airports Commission, 6040 28th Avenue South, Minneapolis, Minnesota 55450; telephone 726-8100. Written statements and other exhibits relating to this matter will be incorporated into the transcript of the hearing, provided such statements or exhibits are submitted at the hearing or are presented to the Metropolitan Airports Commission prior to the close of work on May 18, 1998.

Dated: 15 April 1998

Jeffrey W. Hamiel  
Executive Director  
Metropolitan Airports Commission  
6040 28th Avenue South  
Minneapolis, Minnesota 55450

## Official Notices

---

### Department of Natural Resources

#### Division of Fish and Wildlife

#### **Request for Comments on Planned Rule Governing Re-establishment of a Migratory Waterfowl Refuge at Swan Lake, *Minnesota Rules*, Chapter 6230**

**Subject of Rule.** The Minnesota Department of Natural Resources requests comments on its planned rule governing re-establishment of the Swan Lake Migratory Waterfowl Refuge in Nicollet County, Minnesota. The rule will re-establish the Migratory Waterfowl Refuge in the Swan Lake Number 1 Game Refuge that was in effect from 1957 to 1993.

**Persons Affected.** The rule may affect hunters using Swan Lake and landowners in the area of the migratory waterfowl refuge.

**Advisory Committee.** The department does not contemplate appointing an advisory committee to comment on the planned rule. Direct communication with interested and affected parties and public news releases will be used to provide input for the proposed rule.

**Statutory Authority.** The adoption of the rule is authorized by *Minnesota Statutes*, section 97A.095, subd. 1.

**Public Comment.** Interested persons or groups may submit comments or information on these planned rules in writing or orally until 4:30 p.m. on June 19, 1998. The department has not yet prepared a draft of the planned rule. Written or oral comments, questions, 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:

Ed Bogges  
Department of Natural Resources  
500 Lafayette Road, Box 7  
St. Paul, Minnesota 55155  
Telephone: (612) 297-2072

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

**Note:** Comments submitted in response to this notice will be considered in drafting rules, but 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.

Dated: 13 April 1998

Rodney W. Sando, Commissioner  
Department of Natural Resources  
By Gail Lewellan, Assistant Commissioner for  
Human Resources and Legal Affairs

### Board of Peace Officer Standards and Training

#### **Request for Comments on Planned Amendment to Rules Governing Training and Licensing Rules, *Minnesota Rules*, Chapter 6700**

**Subject of Rules.** The Board of Peace Officer Standards and Training requests comments on its planned amendment to rules governing training and licensing. The Board is reviewing and will consider rule amendments to violation of standards of conduct, minimum selection standards and related standards for professional peace officer education participation and examinations. Comments on this review and possible amendments are requested.

**Persons Affected.** Amendments to these rules would likely affect those within the law enforcement community and those associated whether in educational, administrative, or community groups.

**Statutory Authority.** *Minnesota Statutes*, § 626.843 provides the authority to adopt rules with respect to the recruitment and licensing of peace officers within the state and such matters as may be necessary, consistent with the statutory duties and areas of involvement of the POST Board. Subd 1 (e) requires that the board shall review the minimum standards of conduct for possible modification in 1998.

**Public Comment.** Interested persons or groups may submit comments or information on these planned rules in writing until further notice is published in the *State Register* that the Board intends to adopt or to withdraw the rules.



**Rules Drafts.** The Board has not yet prepared a draft of planned amendments. Drafts will be available when prepared and should be available prior to publication of any proposed amendments.

**Agency Contact Person.** Written comments, questions or requests to receive a draft of the amendments when they have been prepared and requests for more information on this review and any planned amendments should be addressed to: Mark Bliven, Minnesota Board of Peace Officer Standards and Training (POST Board), 1600 University Avenue Suite 200, St. Paul, MN 55104-3825, (612) 603-0070. TTY users may call the Board at (612) 297-2100.

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

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

Dated: 9 April 1998

John T. Laux, Executive Director  
Minnesota Board of Peace Officer Standards and Training

## Department of Revenue

### Notice of Presumed Legal Cigarette Prices

The presumed prices for wholesaler and retailers as provided for by *Minnesota Statutes 325D* are shown in this schedule. The computations are based on manufacturer's list prices available as of April 7, 1998. All cigarettes in a wholesaler's or retailer's inventory must be priced to reflect the new presumed prices within 7 calendar days after the manufacturer's price change is reflected on a purchase invoice. A wholesaler or retailer may sell for less if they can show that their actual costs of doing business is lower than the presumed minimum.

	<b>Presumed Minimum Wholesale Price Per Carton</b>	<b>Presumed Minimum Retail Price Per Carton</b>	<b>Presumed Minimum Retail Price Per Pack</b>
Major Brands (Kings, Regulars 100's, 120's) Examples of major brands: Marlboro, Winston, Merits, Virginia Slims, Kools, Capri, Kent, Newport, Carlton	\$19.48	\$21.04	\$2.10
Players Lights 25's (Kings, 100's)	\$19.48	\$21.04	\$2.10
Marlboro 25's (Kings)	\$19.48	\$21.04	\$2.63
Old Gold, Richland 20's, Best Value, GPC'S, Basics, Mistys, Raliegh Extra, Viceroy, Doral, Riviera, Magna, Sterling, Cambridge, Am Light, Montclair, Pyramid, Bristol, Alpine, Bucks, Stars & Bars, Quality Lights, Class A, Black and Yellow (Kings, Regulars 100's, 120's)	\$16.66	\$17.99	\$1.80
Ligget Private Label (Kings, Regulars, 100's)	\$16.66	\$17.99	\$1.80

## Department of Public Safety

### Driver and Vehicle Services Division

#### Request for Comment on Planned Rules Governing Driver's Licensing Agents, *Minnesota Rules, chapter 7407*

**Subject of Rules.** The Minnesota Department of Public Safety requests comment on its planned rules governing driver's licensing agents. The Department is considering rules on the:

- (1) criteria, procedures, and requirements for appointing an individual as an agent of the commissioner;
- (2) criteria for establishment, operation, management, location, and movement of an agent office;
- (3) standards for the administration of laws governing the receipt of applications;
- (4) number of applications to be processed;
- (5) standards for submitting applications including valid forms of identification, depositing funds, maintaining records, and holding proper bonds; and
- (6) standards for discontinuing the individual's appointment and for enforcement action.

The rules will be developed in conjunction with the standards contained in *Minnesota Statutes*, section 171.06, subdivision 4; section 171.061; section 373.33; and *Laws of Minnesota 1997*, Chapter 250.

There are 122 driver's license agents who have been appointed by court administrators or via state law. These persons accept applications for driver's licenses, instructional and motorized bicycle permits and state identification cards on behalf of the commissioner. Under *Laws of Minnesota 1997*, Chapter 250, section 10, a county board may appoint an agent, with the approval of the commissioner. Ninety-nine agents are also deputy registrars who process vehicle titles and registrations.

Because a majority of the current agents are also deputy registrars, the planned rules will mirror existing rules which govern deputy registrars. Issues to be addressed in the agent rules will be the location of new agent offices, selection and denial criteria, training, and a bond to cover license application receipts.

**Persons Affected.** The rules would likely affect current and prospective licensing agents, deputy registrars, county officials, and the customers of driver and vehicle services.

**Statutory Authority.** *Minnesota Statutes*, section 171.061, subdivision 6 requires the Department to adopt rules governing licensing agents. *Minnesota Statutes*, section 299A.01, subdivision 6 and section 14.06 of the Administrative Procedures Act also provide authority to the commissioner to adopt rules. *Minnesota Statutes*, section 299A.01, subdivision 6 provides that the commissioner of public safety shall have the power to promulgate rules under chapter 14 as are necessary to carry out the purposes of *Laws 1969*, chapter 1129, article 1. Section 18 transferred authority with regard to drivers' licenses and safety, as prescribed by *Minnesota Statutes*, Chapters 168, 169 and 171, to the commissioner of public safety. Section 14.06 of the Administrative Procedures Act gives the Department of Public Safety general rulemaking authority. Under section 14.06, the commissioner of public safety has the authority to promulgate rules that directly affect the rights of and procedures available to the public.

**Public Comment.** Interested persons or groups may submit comment or information on these planned rules in writing until further notice is published in the *State Register* that the Department intends to adopt rules. The Department is forming a rule advisory committee to provide advice on the planned rules. The advisory committee will be comprised of public and private agents and deputy registrars who have offices in both urban and rural areas. Representatives of county officials and legislative interests will also be invited to participate. The Department anticipates convening meetings in May and June to review draft rule policy.

**Rules Drafts.** The Department has prepared a draft of the planned rules. Subsequent drafts will also be available.

**Agency Contact Person.** Written or oral comments, questions, requests to receive a copy of a draft of the rules under development, and requests for more information on the planned rules should be addressed to:

Jane A. Nelson  
Department of Public Safety  
Driver and Vehicle Services Division  
445 Minnesota Street, Suite 196  
St. Paul, Minnesota 55101-5196  
(612) 296-2608 E-Mail: Jane.Nelson@state.mn.us  
FAX (612) 296-3141  
TTY users may call the Department at (612) 282-6555.

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

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

Dated: 8 April 1998

Donald E. Davis, Commissioner  
Department of Public Safety

## Teachers Retirement Association

### Notice of Meeting of the Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, May 8, 1998 at 9:30 a.m. in Suite 500, Gallery Building, 17 W. Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

## Department of Transportation (Mn/DOT)

### Goal for Disadvantaged Business Enterprises for Federal Fiscal Year 1998

The Minnesota Department of Transportation (Mn/DOT) has established a goal of 10% for Disadvantaged Business Enterprises (DBEs) for all modes of transportation for federal fiscal year 1998 (October 1, 1997 through September 30, 1998).

The Department's DBE Plan is available for public inspection during normal business hours (8:00 a.m. to 4:30 p.m.) at Mn/DOT Central Office, Room 207 Transportation Building, 395 John Ireland Blvd., St. Paul, Minnesota 55155, for 30 days following the date of this notice. Mn/DOT and the U.S. Department of Transportation will accept comments on the goals for 45 from the date of this notice. The comments are for information purposes only.

Please respond to: The Minnesota Department of Transportation  
Office of EEO Contract Management  
395 John Ireland Blvd  
Mail Stop 170 Transportation Building  
St. Paul, Minnesota 55155

The purpose of the DBE program is to foster the fullest possible economic participation of firms owned by women, people of color and other disadvantaged individuals in federally funded transportation projects.

The U.S. Department of Transportation requires government agencies that receive federal transportation funds to award at least 10 percent of contracted funds to DBEs annually. Each government agency receiving federal funds is required annually to set a DBE goal that meets or exceeds this minimum and the goal must be submitted to the U.S. Department of Transportation for approval.

Disadvantaged Business Enterprise (DBE) is a small business:

- a. Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; and
- b. Whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

## Official Notices

---

---

Socially and Economically Disadvantaged individual means a person who is citizen or lawful permanent resident of the U.S. and who is a:

- a. Women;
- b. Black/African-American;
- c. Hispanic;
- d. Native American;
- e. Asian-Pacific Islander;
- f. Asian Indian; or
- g. Found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or the metropolitan agency to whom the firm is applying.

SMALL BUSINESS means a small business as defined by regulations issued under Section 3 of the U.S. Small Business Act, and U.S. Department of Transportation regulations 49 CFR 23.

## Department of Transportation (Mn/DOT)

### Petition of the Division of State Aid For Local Transportation for a Variance from State Aid Requirements for DESIGN STANDARDS USING ENGLISH UNITS

**NOTICE IS HEREBY GIVEN** that the Division of State Aid For Local Transportation has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from rules as they apply to all State-Aid and Federal-Aid plans let prior to December 31, 1999.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2500, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit plans for which significant survey or design work has been performed prior to March 20, 1996 and for which a request for such design has been approved by the State Aid Engineer, which are designed and constructed according to the english unit standards contained in the *Minnesota Rules* Chapter 8820, adopted in 1991 and amended in 1993; in lieu of the *Minnesota Rules* Chapter 8820, adopted November 11, 1995.

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: 6 April 1998

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 grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

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

---

### Minnesota Amateur Sports Commission

#### Notice of the Availability of a Request for Proposal (RFP) for Ice Arena Construction and Renovation through the Mighty Ducks Grant Program

The State of Minnesota, acting through its agency, the Minnesota Amateur Sports Commission (MASC), is seeking proposals from communities interested in developing indoor ice arenas. The purpose of this grant is to assist Minnesota communities in developing and renovating ice arenas. As per *laws of Minnesota*, communities are eligible for grants up to \$250,000 for the development of each new sheet of artificial ice, and up to \$50,000 for the renovation of each existing ice arena. Grants must be matched by non-state sources at least on a 1:1 ratio. Grant applicants must have at least one local partner who is a political subdivision of the state.

The 1998 Minnesota Legislature has appropriated \$2,000,000 to the MASC for the continuation of the Mighty Ducks Ice Arena Grant Program. The MASC will award 4-6 new arena grants and 10-20 renovation grants. Completed proposals must be post-marked by Friday, May 29, 1998. Interested applicants may obtain an updated RFP on the Internet at:

[www.masc.state.mn.us](http://www.masc.state.mn.us)

or send a written request to:

**Minnesota Amateur Sports Commission**  
1700 105th Avenue NE  
Blaine, MN 55449  
fax: 785-5698

### Minnesota Amateur Sports Commission

#### Notice of the Availability of Request for Proposals (RFP) for "Mighty Kids" Youth Sports and Recreation Grant Program

The State of Minnesota, acting through its agency, the Minnesota Amateur Sports Commission (MASC), is seeking proposals from communities interested in developing youth sports and recreation programs. The grant program will promote before school, after school, and summer recreational youth sport activities. The purpose of this grant program is to assist Minnesota communities in the start-up of programming or the expansion of existing programs for youth sports, recreational, and other leisure activities. Grant amounts range from \$500 to \$20,000. All grants over \$2,500 will require a match from non-state sources.

The Minnesota Legislature has appropriated \$400,000 for the "Mighty Kids" grant program to be administered by the MASC in fiscal year 1999. Grant applicants must have at least one local partner who is a political subdivision of the state of Minnesota. All grant applications will be reviewed by MASC staff and awards will be made by the MASC Board of Directors. Completed proposals must be received by the MASC at the address listed below no later than Tuesday, June 30, 1998. Interested applicants may obtain a copy of the RFP on the Internet at:

[www.masc.state.mn.us](http://www.masc.state.mn.us)

or send a written request to:

**Minnesota Amateur Sports Commission**  
1700 105th Avenue NE  
Blaine, MN 55449  
fax: 785-5698

## Department of Labor and Industry

### Workplace Safety Consultation Unit

#### Notice of Request for Proposals for Development of Curriculum for Youth Apprenticeship Program

The Department of Labor and Industry announces the availability of funding through the Youth Apprenticeship Program for the development of a safety curriculum based on the OSHA 40-Hour Voluntary Compliance Manual. The goal of this project is to provide 16- and 17-year-old students with simplified basic safety information prior to being placed on a job site with an employer where the possibility of injury is present.

The successful responder will rewrite the OSHA 40-Hour Voluntary Compliance Manual into simple English to be read at the eighth-grade reading level. Each segment of the written material will conform with the content of each segment of the OSHA 40-Hour Voluntary Compliance Manual and will contain an index and table of contents permitting the teacher to select any segments or topics for instruction. Clip art and illustrations will be used to make the material more understandable, with generous use of catch phrases easily recognizable by the targeted teenage program participant to hold their interest in the subject material. Each completed segment will end with a question-and-answer section to ensure competency of the subject matter contained in each respective segment.

The successful responder will develop a curriculum approved by the Department of Labor and Industry along with an instructional guide and student manual to support the educational safety effort. All program material will be provided to the Department of Labor and Industry in both hard copy and computer-interactive form. Upon submission, the material developed under this request for proposals will become the solely-owned property of the Department of Labor and Industry.

#### Material Description and Specifications

The project is to be developed in three formats:

Format one: Workbook-based Self-study

Format two: Computer-based Interactive Self-study (CD ROM)

Format three: Computer-based Interactive Self-study (Internet/Intranet deliverable via NetScape)

All formats are to include eight packaged modules from the OSHA 40-Hour Voluntary Compliance Manual as follows: (1) Walking and Working Surfaces, subpart D; (2) Means of Egress/Fire Protection, subparts E and L; (3) Machine Guarding, subpart O; (4) Electrical, subpart S; (5) Hazard Communication, subpart Z; (6) Personal Protective Equipment, subpart I; (7) Lockout/Tagout, subpart J; and (8) Materials Handling, subpart N.

#### Format one: Workbook-based Self-study Deliverables

- Learner Manual
- Administrator Manual

The instructional design of the Learner Manual is to incorporate: (1) easy-to-read, engaging text; (2) graphics and illustrations to present content in visual form to enhance learning; (3) embedded questions; (4) pre and post tests; and (5) lesson modularity, which breaks lesson material into small, easily manageable segments to enhance the learner's ability to master the information.

The Learner Manual is to be provided in hard copy, Word 97, and Acrobat format.

The Administrator Manual is to be a short booklet containing directions and job aids to enable persons with minimal administration experience to administer the training program to the students.

#### Format two: Computer-based Interactive Self-study (CD ROM) Deliverables

Each of the eight separate Computer-based Modules (one each for the topics previously outlined) is to have the following characteristics: (1) record-keeping ability to track student completion and performance documentation; (2) log-in routine to enable registration and tracking of students; (3) easy-to-read, engaging text; (4) graphics and illustrations to present content in visual form to enhance learning; (5) embedded questions with interactive feedback; (6) pre and post tests with interactive feedback; (7) simple animations (dissolve animations) where appropriate to enhance clarity of concepts; (8) hot-spot interaction click/touch interactions; (9) menu-based navigation mechanisms allowing students easy access to topic sections within a module; (10) bookmarks to enable students to leave and return to the same section in the module; and (11) lesson modularity, which breaks lesson material into small, easily manageable segments to enhance the learner's ability to master the information.

#### Format three: Computer-based Interactive Self-study (Internet/Intranet deliverable via NetScape)

Each of the eight separate Computer-based Modules (one each for the topics previously outlined) is to have the same characteristics as the CD ROM format, but support delivery via internet/intranet using NetScape.

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 to be in its best interest. The department has estimated that the cost of this project should not exceed \$25,000.00 and the project is to be completed by October 29, 1998. All proposals received by the deadline of May 29, 1998, will be evaluated by representatives of the department's Workplace Safety Consultation Unit and members of the Youth Apprenticeship Safety Program Task Force.

Prospective responders who have any questions regarding this request for proposal may call or write: James Collins, OMT director, Workplace Safety Consultation, 443 Lafayette Road North, Suite 401, St. Paul, MN 55155, or call (612) 296-5433. 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 and received by James Collins, OMT director, Workplace Safety Consultation, 443 Lafayette Road North, Suite 401, St. Paul, MN 55155, no later than 4:30 p.m., May 29, 1998, as indicated by the date and time stamped on each response package by our mail room or front desk where responses will be received. Late proposals will not be evaluated.

Submit four copies of the proposal and one set of work samples. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm. Prices and terms of the proposal, as stated, must be valid for the length of any resulting contract.

The following will be considered minimum contents of the proposal: (1) a statement of the objectives, goals, and tasks to show or demonstrate the responder's view of the nature of the contract; (2) a description of the deliverables to be provided by the responder; (3) an outline of the responder's background and experience, with particular emphasis on local, state, and federal government work, and examples of similar work done by the responder and a list of personnel who will conduct the project, detailing their training, work experience and hourly fees. No change in personnel assigned to the project will be permitted without the written approval of the state program manager; (4) a detailed cost and work plan that will identify the major tasks to be accomplished and be used as a scheduling and managing tool as well as the basis for invoicing; and (5) identification of the level of the department's participation in the contract as well as any other services to be provided by the department, and details of cost allowances for this participation.

In some instances an interview may be part of the evaluation process. A 100-point scale will be used to create the final evaluation recommendation. The factors and weighting on which proposals will be judged are:

- |  |     |
|--|-----|
| 1. Expressed understanding of project objectives                 | 10% |
| 2. Work plan   | 40% |
| 3. Cost detail   | 20% |
| 4. Qualifications/experience of company                          | 5%  |
| 5. Qualifications/experience of personnel working on the project | 25% |

It is anticipated that the evaluation and selection will be completed by June 30, 1998.

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

The state's contract language includes the following terms and conditions (summarized here) which you should be aware of in preparing your response:

1. Compensation will be for ALL services performed, unless a specific payment schedule is mutually agreed upon. The state DOES NOT make regular payments based on the passage of time; it only pays for services performed or work delivered AFTER it is accomplished.
2. Payment is only made after the submission of an authorized invoice to the state, and the state must pay its invoices within 30 days of receipt, unless they are formally contested.
3. Reimbursement for travel and subsistence expenses actually incurred in performance of a contract is limited to the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. Travel outside of Minnesota must have received PRIOR written approval of the agency contact BEFORE it takes place. You can contact the commissioner of Employee Relations to get a copy of this plan.
4. No more than 90 percent of the full amount due under a contract may be paid until the final product(s) of the contract has/have been reviewed by the agency head, and the agency head has determined that the contractor has satisfactorily fulfilled all the terms of the contract.

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.

# 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, and final submission date of completed contract proposal.

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

---

## Minnesota State Colleges and Universities (MnSCU)

### Hibbing Community College

#### Notice of Request for Proposals for Converting a Fundamentals of Nutrition Course to Technology Bases Instruction

Notice of Request for Proposals for Converting a 2 credit Fundamentals of Nutrition Course to Technology Bases Instruction. The course will be used for Dental Assisting Students, Nursing Students, and as a General Nutrition Course.

For a full copy of the RFP, please leave your name, organization, telephone and fax numbers for:

Anne Badanjak  
2900 East Beltline  
Hibbing, MN 55746  
1-218-262-7242

Deadline for submission: April 30, 1998

This RFP does not obligate HCC to complete the proposal project, and HCC reserves the right to cancel the solicitation if it is considered to be in its best interest.

## Minnesota State Colleges and Universities (MnSCU)

### Winona State University

#### Notice of Request for Sealed Bid for 250 Metal Bed Lofts

**NOTICE IS HEREBY GIVEN** that Winona State University will receive sealed bids for 250 black metal bed lofts for residence halls on campus.

Bid specifications will be available April 20, 1998 from Sandra M. Schmitt, Purchasing Director, PO Box 5838, 205 Somsen Hall, Winona State University, Winona, MN 55987 or by calling 507/457-5067.

Sealed bids must be received by Sandra M. Schmitt, PO Box 5838 or Somsen 205C, Business Office, Winona State University, Winona, MN 55987 12:00 Noon on May 8, 1998.

Winona State University reserves the right to reject any or all bids or portions thereof, or to waive any irregularities or informalities in the bids received.

## Department of Economic Security

#### Retraction of Request for Proposals to Develop an Enterprise Data Warehouse

This is to retract the Notice of Request for Proposals to Develop and Enterprise Data Warehouse for the Minnesota Department of Economic Security which was published in the *State Register*, Monday, April 6th, 1998 (CITE 22 S.R. 1794).



## Department of Natural Resources

### Division of Fish and Wildlife

#### Notice of Request for Proposals for Fisheries Region 2 MinnAqua Educator

**NOTICE IS HEREBY GIVEN** that the Department of Natural Resources (DNR), through its Division of Fish and Wildlife, requests proposals to provide coordination and implementation of authorized MinnAqua programming in DNR Fisheries Region 2. This includes the counties of Koochiching, Itasca, St. Louis, Carlton, Lake, and Cook.

It is the goal of this project to increase the public's awareness of aquatic resource education and foster greater knowledge, appreciation, enjoyment, and utilization of Minnesota's lakes, ponds, streams, rivers, and wetlands.

Organizations involved in similar activities are encouraged to consider cost sharing an educational position focusing on aquatic resources.

The contractor will provide the following services on a yearly basis:

1. Coordinate, organize and implement 60 MinnAqua authorized programs in DNR Region 2.
2. Service requests for MinnAqua materials as needed.
3. Participate in MinnAqua and DNR Fisheries training sessions and meetings.
4. Coordinate with other educational agencies to promote joint programming opportunities.
5. Identify needs for program development and adaptation for use in Region 2.

The DNR has estimated that the cost of this contract should not exceed \$75,000. This proposal does not obligate the agency to spend the estimated dollar amount.

The contract will begin September 1, 1998, and will be completed August 31, 2003.

Call or write for the full Request for Proposal which will be sent free of charge to interested vendors. Please contact:

Linda Erickson-Eastwood, MinnAqua Coordinator  
Minnesota Department of Natural Resources  
500 Lafayette Road, Box 12  
St Paul, MN 55155 - 4012  
Phone (612) 297-4919  
FAX (612) 297-4916

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

In accordance with *Minnesota Rules*, part 1230.1810, subpart B, and *Minnesota Rules*, part 1230.1830, 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, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 4% preference in the evaluation of their proposal. For information regarding certification, contact the Materials Management Helpline at 612.296.2600 TTY 612.282.5799.

All proposals must be received or post-marked not later than 4:30 on Friday, May 8, 1998.

Dated: 30 March 1998

Gail Lewellan  
Asst. Commissioner/Human Relations and Legal Affairs  
Department of Natural Resources

## Professional, Technical & Consulting Contracts

---

---

### Peace Officers Standards and Training Board

#### Request for Proposals for Peace Officer Recruitment Video

The Peace Officer Standards and Training Board is seeking proposals to produce a 12 to 15 minute recruitment video to encourage high school and college students to pursue careers in law enforcement.

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

Contact: Claudia Ahrens  
Telephone: (612) 643-3064  
TTY: (612) 297-2100  
Address: Minnesota Board of Peace Officer Standards and Training  
1600 University Ave. Suite 200  
St. Paul, MN 55104-3825

Final date for submitting proposals is Friday, May 8, 1998 by 4:00 PM.

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 Public Safety

### Office of Traffic Safety

#### Request for Proposals for Conducting the Statewide Motorcycle Safety Program

The Minnesota Department of Public Safety is seeking proposals to conduct the Minnesota Motorcycle Safety Program. Contractors' responsibilities include, but are not limited to: administration of the project, supervision and training of course instructors, scheduling and providing basic and advanced rider courses, and providing evening skills testing in coordination with the Division of Driver and Vehicle Services. Details are contained in a Request for Proposals which may be obtained by calling or writing:

Bill Shaffer  
Office of Traffic Safety  
Department of Public Safety  
444 Cedar Street  
Suite 150, Town Square  
St. Paul, MN 55101  
(612) 282-6558

The estimated cost of the contract is \$400,000.00. The Department will retain an option to extend the contract for two additional one-year periods. Final date for submitting proposals is May 19, 1998, by 4:00 p.m.

---

---

## Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

---

### Anoka County

#### Notice of Request for Proposals for Household Hazardous Waste Facility and Operations and Optional Bid for Purchase of Anoka County's Paint Bulking Unit

Anoka County is soliciting the proposals of parties interested in the siting and operation of a household hazardous waste (HHW) facility that will serve Anoka County. The County intends to use the responses to the Request for Proposals (RFP) to identify qualified vendors capable of operating a year-round HHW facility to serve Anoka County. The County may negotiate long-term contracts with one or more vendors for any or all of the services.

This RFP also contains an optional bid for purchase of the County's paint bulking unit.

To request a copy of the full Request for Proposals, or to arrange a time to inspect the paint bulking unit, contact Amy Roering, (612) 323-5733.

Responses to this RFP or bid are due no later than 4:30 p.m. on May 20, 1998 at the Anoka County Integrated Waste Department, Room 340, Anoka County Government Center, 2100 3rd Avenue, Anoka, MN 55303-2265.

The right is reserved to reject or waive any irregularities of any or all proposals or bid, or reject any or all proposals or bids.

If you need an accommodation because of a disability, such as an interpreter or printed material in an alternate format (i.e., braille or large print), please contact the Anoka County Administration Office 323-5700 (TTYD for hearing impaired is 323-5289).

P. Colleen Herrmann  
Assistant County Attorney

John "Jay" McLinden  
Anoka County Administrator

### Minnesota Historical Society

#### Request for Bids for Printing Six Issues of Minnesota Historical Society's *Member News*

The Minnesota Historical Society is seeking bids from qualified firms to provide all labor, materials and equipment to print six issues of Minnesota Historical Society's *Member News*.

All bids must be received by Jenna E. Gruen, Contracting Officer for the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102 or an authorized agent no later than 2:00 p.m. Central Time, Friday, May 1, 1998. Bids must be submitted in a sealed envelope with the project name clearly written on the envelope. Late bids will not be considered.

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

The Request for Bid is available by calling or writing Jenna Gruen, Contracting Officer, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102. Telephone is (612) 297-5863 (jenna.gruen@mnhs.org).

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

## Non-State Public Bids, Contracts & Grants

---

---

### Metropolitan Council

#### Invitation for Bid for Air Circuit Breakers

Sealed bids will be received at the offices of the Metropolitan Council, Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101, no later than 2:00 P.M., on May 6, 1998, at which time and place they will be publicly read, for the acquisition of Air Circuit Breakers for use at the Metropolitan Wastewater Treatment Plant, 2400 Childs Road, St. Paul, Minnesota 55106.

Copies of the specifications and bid instructions may be obtained from the offices of the Metropolitan Council or by calling 612-602-1499 or via Fax request at 612-602-1083. All bids to be considered must be submitted on Council approved bid forms and must include a 5% bid bond.

Interested bidders are required to attend a *mandatory* pre-bid information meeting, which includes a project walk through, to be held at the Metro Plant on Tuesday, April 28, 1998, at 10:00 A.M. Reservations and additional information is available by calling 612-602-1499.

Award(s) will be based upon, but not necessarily limited to, factors of price, lead time, agreement to the Metropolitan Council's terms and conditions and past experience with the Metropolitan Council.

The Metropolitan Council reserves the right to accept or reject any and all bids, or any part of any bid, to issue multiple awards, to waive any minor irregularities and deviations from requirements outlined in the technical specifications, and to solicit new bids as deemed in their best interest.

### University of Minnesota

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

The University of Minnesota offers 24 hour/day, 7 day/week access to all Requests for Bids/Proposals through its fax back Bid Information Service (BIS). Subscriptions to BIS are \$75/per fiscal year (not prorated). Call 612-625-5534 for information or visit our web site at <http://purchserv.finop.umn.edu>. Choose BID Information Service.

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