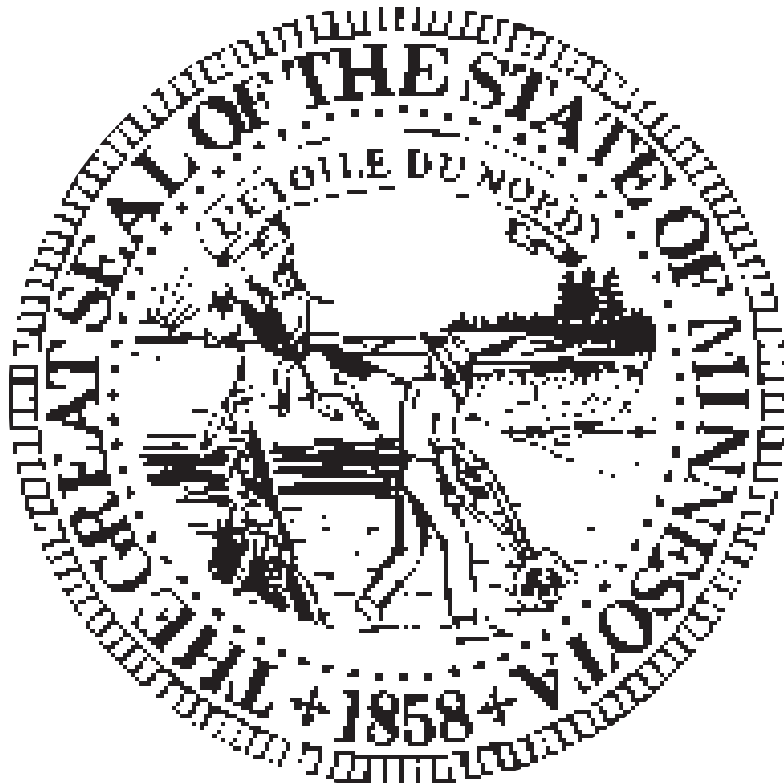


**The Minnesota**  
**State**  
**Register**

**Rules and Official Notices Edition**



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# 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. 23 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
#17	Monday 26 October	Noon Wednesday 14 October	Noon Tuesday 20 October
#18	Monday 2 November	Noon Wednesday 21 October	Noon Tuesday 27 October
#19	Monday 9 November	Noon Wednesday 28 October	Noon Tuesday 3 November
#20	Monday 16 November	Noon Wednesday 4 November	Noon Tuesday 10 November

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Room 231 State Capitol, St. Paul, MN 55155

Contact: House Information Office (651) 296-2146  
Room 175 State Office Building, St. Paul, MN 55155

<b>Minnesota Rules: Amendments &amp; Additions</b>	
Volume 23, issues #14-17 (issues #1-13 cumulative in #13).....	852
<b>Proposed Rules</b>	
<b>Health Department</b>	
Licensing of assisted living home care providers .....	854
<b>Human Services Department</b>	
Repealing certain Department of Human Services rules .....	875
<b>Minnesota Racing Commission</b>	
Pari-mutuel betting on horse racing.....	877
<b>Adopted Rules</b>	
<b>Animal Health Board</b>	
Animal Health.....	883
<b>Optometry Board</b>	
Continuing education and obsolete technical provisions.....	883
<b>Pollution Control Agency</b>	
Aboveground storage of liquid substances .....	883
<b>Expedited Emergency Rules</b>	
<b>Natural Resources Department</b>	
Adopted expedited emergency game and fish rules: Mud-Bardwell Waterfowl Refuge.....	894
<b>Executive Orders</b>	
<b>Governor's Office</b>	
Emergency executive order #98-13: Providing for assistance to the Faribault County Sheriff.....	895
<b>Revenue Notices</b>	
<b>Revenue Department</b>	
Revenue Notice #98-19: Sales and Use Tax - Federal excise taxes .....	895
<b>Official Notices</b>	
<b>Animal Health Board</b>	
Comment sought for planned amendment to rules on rabies...	896
<b>Minnesota Comprehensive Health Association</b>	
Meeting Wednesday 28 October 1998 of the Actuarial Committee .....	896
<b>Housing Finance Agency</b>	
<b>Children, Families and Learning Department</b>	
<b>Trade and Economic Development Department</b>	
Public comment period on the draft 1999 Minnesota Consolidated Housing and Community Development Plan and the 1998 Consolidated Plan Annual Performance Report.....	897
<b>Human Services Department</b>	
Calculating the food stamp cost of living adjustments for Minnesota Family Investment Program benefits.....	899
Comments sought on draft demonstration project for persons with disabilities federal waiver amendment request.....	899
<b>Labor and Industry Department</b>	
Prevailing wage determinations for commercial construction projects.....	899
<b>Pollution Control Agency</b>	
Rulemaking advisory committee participants.....	900
<b>Public Safety Department</b>	
Comment sought on planned rules and amendments to rules governing license plates.....	901
<b>State Grants &amp; Loans</b>	
<b>Agriculture Department</b>	
Proposals sought for the 1999 agricultural best management practices and countywide individual sewage treatment system loan programs allocations.....	902
Notice of availability of no interest loans to demonstrate farm anaerobic manure digestion/biogas technology .....	902
<b>Corrections Department</b>	
Funds available to provide sex offender-specific programming for juveniles and adults .....	903
<b>Health Department</b>	
Grant funds available for conference coordination services for people living with HIV .....	903
<b>Human Services Department</b>	
Funds available for sponsoring the retired and senior volunteer program in Chisago, Isanti, Kanabec, Mille Lacs and Pine Counties.....	904
<b>Public Safety Department</b>	
Auto theft prevention grants available to state, county, local police departments, governmental agencies, prosecutors, judiciary, businesses, community and neighborhood organizations .....	904
Small grants available from the Office of Pipeline Safety for FAX machine purchase to improve communication ...	905
<b>Professional, Technical &amp; Consulting Contracts</b>	
<b>Human Services Department</b>	
Proposals sought for professional services to provide comprehensive review and authorization of MMIS II (Medicaid Management Information Systems) developmental disability screening documents .....	905
<b>Minnesota House of Representatives Public Information Office</b>	
Bids sought for printing the <i>Session Weekly</i> .....	906
<b>Nursing Home Administrators Board of Examiners</b>	
Contract available for provision of expert medical opinion concerning development and implementation of plans to monitor the management of illnesses and conditions of regulated health care professionals in order to protect the public .....	906
<b>Public Service Department</b>	
Request for professional/technical consultant for E85 Project as part of the Clean Fuels Program.....	907
<b>Transportation Department</b>	
Contract available for highway related technical activity for cultural resource investigations and archaeological surveys of prehistoric and historic sites, inventory and evaluations of historical structures, and geomorphological studies.....	907
Proposals sought for final design services for renovation of the Ford Bridge spanning the Mississippi River between St. Paul and Minneapolis .....	908
<b>Non-State Public Bids, Contracts &amp; Grants</b>	
<b>Minnesota Historical Society</b>	
Proposals sought for web page design.....	909
<b>University of Minnesota</b>	
Bid Information Service available for all potential vendors ....	909
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 (651) 296-2600. Individual copies and subscriptions are available through Minnesota's Bookstore, (651) 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 1997 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 (651) 297-3000, or toll-free 1-800-657-3757.

## Volume 23, Issues #14-17

(issues #1-13 cumulative in issue #13)

### Animal Health Board

1700.0100; .0300; .0400; .0700; .0800; .1300; .1500; .2100; .0060; .1705.0120; .0150; .0160; .0170; .0180; .0210; .0220; .0260; .0270; .0310; .0390; .0420; .0530; .0840; .0930; .1040; .1086; .1087; .1088; 1715.0160; .0290; .0300; .0430; .0440; .0460; .0570; .0780; .1060; .1070; .1100; .1130; .1140; .1150; .1160; .1230; .1370; .1390; .1420; .1440 (adopted).....	883
1700.1400; .4800; 1705.0060 s.2a; .0400; .0430; .0460; .0510; .0640 s.4a, 8; .0670; .0728; .0731; .0735; .1081; .1082; .1083; .1084; .1085; 1715.0400; .0880; .0980; .0990; .1090; .1180 (repealed).....	883

### Chiropractic Examiners Board

2500.0710; .0720; .0730; .0740; .0750; .1000; (proposed).....	783
2500.1110; .1600; .1900 (proposed).....	785
2500.1200; .1225; .1500 (proposed).....	781

### Commerce Department

2752.0010; .0015; .0020; .0030; .0040 (adopted).....	806
--	-----

### Corrections Department

2940.0100; .0200; .0300; .0400; .0600; .0700; .0800; .0900; .1000; .1100; .1300; .1500; .1600; .1800; .2300; .2700; .2800; .3100; .3200; .3300; .3500; .3700; .3800; .3900; .4000; .4200; .4300; .4400; .4500 (adopted exempt).....	808
2940.0100 s.11, 15, 30; .4600; .4700; .4800; .4900; .5000; .5100; .5200; .5300; .5400; .5500; .5600 (repealed exempt).....	808
2965.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170 (proposed) ..	787

### Education Board

3512.5200 (proposed).....	705
---------------------------	-----

### Health Department

4668.0002; .0003; .0008; .0012; .0017; .0040; .0050; .0075; .0220; .0230; .0800; .0805; .0810; .0815; .0820; .0825; .0830; .0835; .0840; .0845; .0855; .0860; .0865; .0870 (proposed).....	854
4730.0100; .0300; .0310; .0340; .0360; .0380; .0400; .0600; .0700; .0900; .1120; .1130; .1140; .1210; .1310; .1510; .1520; .1530; .1600; .1610; .1630; .1665; .1670; .1675; .1680; .1690; .1691; .1693; .1695; .1850; .1950; .2150; .2250; .2350; .2450; .2475; .2510; .2520; .2530; .2570; .2600; .2710; .2750; .5500 (proposed).....	708
4730.0340 s.2; .1120 s. 1; .1130 s. 3; .1140 s. 1; .1400; .1691 s. 10; .1695 s.6; .2450 s. 18; .3000 (proposed repealer).....	708

### Labor and Industry Department

5205.0010 (adopted exempt/adopted by reference).....	813
--	-----

### Medical Practice Board

5600.2500 (adopted).....	807
--------------------------	-----

### Natural Resources Department

6100.0100; .0200; .0300; .0500; .0525; .0550; .0600; .0650; .0700; .0800; .0900; .1000; .1100; .1200; .1250; .1350; .1355; .1400; .1500; .1600; .1650; .1700; .1710; .1900; .1950; .2350; .2400 (proposed).....	751
6100.0400; .0500 s. 3a, 5c, 5d, 7c; .0800 s. 3, 4; .1300; .1610; .1905; .1910; .1920; .1930; .2000; .2100; .2300 (proposed repealer).....	751
6230.0400; 6240.1850 (adopted expedited emergency).....	894

### Optometry Board

6500.0100; .0150; .0900; .1000; .1100; .1200; .1300; .1400; .1500; .1600; .1700 (adopted).....	883
6500.0150 (renumbered to 6500.0950).....	883
6500.0200 (repealed).....	883

# Minnesota Rules: Amendments and Additions

## Pollution Control Agency

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 (adopted) .....	883
7100.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090 (repealed) .....	883

## Public Safety Department

7410.0100; .0200; .0300; .0400; .0425; .0500 (adopted) .....	832
7410.0100 s.6 (repealed) .....	832

## Gambling Control Board

7861.0010; .0060; .0070; .0080; .0090; .0100; .0110; .0120; 7863.0010; .0020; 7864.0010; .0030 (adopted) .....	831
7861.0100 s.17 (repealed) .....	831

## Minnesota Racing Commission

7869.0100; 7870.0050; .0640; 7871.0030; .0150; 7873.0186; .0190; .0191; .0198; 7874.0100; 7875.0200 (proposed) .....	877
7895.0125 (adopted) .....	832

## Revenue Department

8019.0500 (adopted) .....	807
---------------------------	-----

## Human Services Department

9500.4000; .4010; .4020; .4030; .4040; .4050; .4060; .4070; .4080; .4090; .4100; .4110; .4120; .4130; .4140; .4150; .4160; .4170; .4180; .4190; .4200; .4210; .4220; .4230; .4240; .4250; .4260; .4270; .4280; .4290; .4300; .4310; .4320; .4330; .4340; 9510.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0290; .0300; .0310; .0320; .0330; .0340; .0350; .0360; .0370; .0380; .0390; .0400; .0410; .0420; .0430; .0440; .0450; .0460; .0470; .0480; .0500; .0510; .0520; .0530; .0540; .0550; .0560; .0570; .0580; .0590; .0600; .0610; .0620; .0630; .0640; .0650; .0660; .0670; .0680; .0690; .0700; .0710; .0720; .0730; .0740; .0750; .0760; .0770; .0780; .0790; .0800; .0810; .0820; .0830; .0840; .0850; .0860; .0870; .0880; .0890; .1000; .1010 (proposed repealer) .....	875
---	-----

# 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*.

## Department of Health

### Proposed Permanent Rules Relating to Licensing of Assisted Living Home Care Providers

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

#### **Proposed Amendment to Rules Governing Assisted Living Home Care Providers, *Minnesota Rules*, Chapter 4668.**

**Introduction.** The Department of Health intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 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 November 25, 1998, a public hearing will be held in the Red River Room, Minnesota Department of Health, Snelling Office Park, 1645 Energy Park Drive, St. Paul, Minnesota, starting at 9:00 a.m. on Friday, December 11, 1998. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after November 25, 1998 and before December 11, 1998.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is:

Maggie Friend  
Minnesota Department of Health  
Facility and Provider Compliance Division  
P.O. Box 64900  
St. Paul, Minnesota 55164-0900  
telephone: 651/215-8726  
facsimile: 651/215-8710  
TTY: 1-800-627-3529 (Minnesota Relay Service)  
e-mail: [maggie.friend@state.mn.us](mailto:maggie.friend@state.mn.us)

If you are requesting a copy of the proposed rule and / or a copy of the Statement of Need and Reasonableness to be mailed, please contact Yvette Young at (phone) 651/215-8700, (FAX) 651/215-8710, or e-mail: [yvette.young@state.mn.us](mailto:yvette.young@state.mn.us).

**Subject of Rules and Statutory Authority.** The proposed rules are about the licensure requirements for assisted living home care providers. By statute, an assisted living home care provider may provide certain home care services only to residents of a housing with services establishment registered under *Minnesota Statutes*, Chapter 144D. There are currently five different home care licensure classes. The assisted living home care provider will be the sixth home care licensure class. The statutory authority to adopt the rules is set forth in *Minnesota Statutes*, section 144A.45, subdivision 1. A description of the assisted living home care licensure class is set forth in *Minnesota Statutes*, section 144A.4065.



A copy of the proposed rules is published in the *State Register*. A copy of the proposed rules has been attached to this notice as mailed to all registered Housing with Services Establishments, all Class A and Class E licensed home care providers, and to the discretionary mailing list for this rule promulgation project. If you received this notice in the mail and did not receive a copy of the proposed rules, you may contact Yvette Young at (phone) 651/215-8700 or (FAX) 651/215-8710 for a copy of the proposed rules and/or a copy of the Statement of Need and Reasonableness. The proposed rules are also available on the Internet at <http://www.health.state.mn.us/divs/fpc/news.html>.

**Comments.** You have until 4:30 p.m. on November 25, 1998, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 25, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

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

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

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

**Cancellation of Hearing.** The hearing scheduled for December 11, 1998, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at 651/215-8726 after November 25, 1998, to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Barbara L. Neilson is assigned to conduct the hearing. Judge Neilson can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone 612/341-7604, and FAX 612/349-2665.

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

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## Proposed Rules

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be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

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

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

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement 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.

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

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

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

Dated: 14 October 1998

Anne M. Barry, Commissioner

### 4668.0002 APPLICABILITY, AUTHORITY, AND SCOPE.

This chapter implements the licensing of home care providers and hospice programs under *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48, under the authority of *Minnesota Statutes*, sections 144A.45, subdivision 1, ~~144A.4605~~, and 144A.48, subdivision 4. Unless otherwise provided, all licensed home care providers must meet the requirements of this chapter. Provisions that apply only to specified classes of licensees are identified by those provisions. The commissioner may delegate any authority or responsibility to an agent of the department. This chapter must be read together with *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48.

### 4668.0003 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 4668.0002 to ~~4668.0240~~ 4668.0870, the terms in subparts 2 to 45 have the meanings given them.

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

Subp. 2a. **Assistance with self-administration of medication.** "Assistance with self-administration of medication" means performing a task to enable a client to self-administer medication, including:

- A. bringing the medication to the client;
- B. opening a container containing medications set up by a nurse;
- C. emptying the contents from the container into the client's hand; or
- D. providing liquids or nutrition to accompany medication that a client is self-administration.

Subp. 2b. **Assisted living home care provider.** "Assisted living home care provider" has the meaning given in *Minnesota Statutes*, section 144A.4605, subdivision 1.

Subp. 2c. **Assisted living home care service.** "Assisted living home care service" means a nursing service, delegated nursing service, other service performed by an unlicensed person, or central storage of medications provided solely for a resident of a housing with services establishment registered under *Minnesota Statutes*, chapter 144D.



Subp. 3. **Assisted living services.** “Assisted living services,” as provided under a class E home care license, means individualized home care aide tasks or home management tasks provided to clients of a residential center in their living units, and provided either by the management of the residential center or by providers under contract with the management. In this subpart, “individualized” means chosen and designed specifically for each client’s needs, rather than provided or offered to all clients regardless of their illnesses, disabilities, or physical conditions.

[For text of subps 4 to 15, see M.R.]

Subp. 16. **Hospital.** “Hospital” means a facility licensed as a hospital under chapter 4640 and Minnesota Statutes, sections 144.50 to 144.56; ~~and Minnesota Rules, chapter 4640.~~

Subp. 17. **Inpatient facility.** “Inpatient facility” means a hospital or nursing home.

Subp. 17a. **Legend drug.** “Legend drug” has the meaning given in Minnesota Statutes, section 151.01, subdivision 17.

Subp. 18. **Licensee.** “Licensee” means a home care provider that is licensed under parts 4668.0002 to 4668.0870 and Minnesota Statutes, sections 144A.43 to ~~144A.49, and parts 4668.0002 to 4668.0230~~ 144A.48.

[For text of subps 19 to 21, see M.R.]

Subp. 21a. **Medication administration.** “Medication administration” means performing a task to ensure a client takes a medication, and includes the following tasks, performed in the following order:

- A. checking the client’s medication record;
- B. preparing the medication for administration;
- C. administering the medication to the client;
- D. documenting after administration, or the reason for not administering the medication as ordered; and
- E. reporting information regarding medication administration to a nurse.

Subp. 21b. **Medication reminder.** “Medication reminder” means providing a verbal or visual reminder to a client to take medication.

[For text of subps 22 to 26, see M.R.]

Subp. 26a. **Oral hygiene.** “Oral hygiene” means care of teeth, gums, and oral prosthetic devices.

Subp. 26b. **Over-the-counter drug.** “Over-the-counter drug” means a drug that is not required by federal law to bear the statement “Caution: Federal law prohibits dispensing without prescription,” and as a result, may be sold without a prescription.

[For text of subps 27 to 34, see M.R.]

Subp. 35. **Residential center.** “Residential center” means a building or complex of contiguous or adjacent buildings in which clients rent or own distinct living units.

[For text of subps 36 to 40, see M.R.]

Subp. 41. **Survey.** “Survey” means an inspection of a licensee or applicant for licensure for compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48. Surveys include investigations of complaints.

[For text of subps 42 to 45, see M.R.]

#### **4668.0008 SERVICES INCLUDED IN AND EXCLUDED FROM LICENSURE.**

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

Subp. 3. **Contract services.** If a licensee contracts for a home care service with a business that is not subject to licensure under this chapter, it must require, in the contract, that the business comply with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48.

[For text of subps 4 to 8, see M.R.]

Subp. 9. **Exclusion of certain instructional and incidental services.** A business is not subject to *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48, and is not required to be licensed under this chapter if the business only provides services that are primarily instructional and not medical services or health-related support services.

[For text of subps 10 to 12, see M.R.]

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## Proposed Rules

### 4668.0012 LICENSURE.

Subpart 1. **License issued.** If a provider complies with the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48, the commissioner shall issue to the provider a certificate of licensure that will contain:

- A. the provider's name and address;
- B. the class of license as provided in subpart 3;
- C. the beginning and expiration dates; and
- D. a unique license number.

Subp. 2. **Multiple units.** Multiple units of a provider must share the same management that supervises and administers services provided by all units. Multiple units of a provider must be separately licensed if the commissioner determines that the units, ~~because of distinct organizational structures or the distance between them and the provider's main office,~~ cannot adequately share supervision and administration of services with the main office; ~~or do not share the same management because of distinct organizational structures.~~

Subp. 3. **Classes of licenses.** In issuing a license under this part, the commissioner shall assign a license classification according to items A and B. A provider performing only home management tasks ~~shall~~ must be registered ~~pursuant~~ according to *Minnesota Statutes*, section 144A.461, and need not obtain a home care license.

- A. A provider ~~shall~~ must apply for one of the classes of the home care license listed in subitems (1) to ~~(5)~~ (6).

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

(6) Assisted living home care provider license. Under this license, a provider may provide assisted living home care services solely for residents of one or more registered housing with services establishments, as provided by Minnesota Statutes, section 144A.4605.

B. If a provider meets the requirements of ~~both a more than one license class A and class D license,~~ the commissioner shall issue to the provider ~~both a class A license and a class D~~ a separate license for each applicable class of home care licensure.

Subp. 4. **Applicability of rules to classes.** ~~A licensee shall comply with all requirements of this chapter, except for those parts that apply only to classes for which the licensee is not licensed. The following parts apply only to the class of license listed in items A to E:~~

A. A class A licensee must comply with ~~part~~ parts 4668.0002 to 4668.0180, and 4668.0218 to 4668.0240, except that one certified for Medicare as a home health agency under *Code of Federal Regulations*, title 42, part 484, need not comply with the requirements listed in part 4668.0180, subpart 10.

B. A class B licensee must comply with ~~part~~ parts 4668.0002 to 4668.0080, 4668.0110 to 4668.0170, 4668.0190, and 4668.0218 to 4668.0240.

C. A class C licensee must comply with ~~part~~ parts 4668.0002 to 4668.0035, 4668.0050 to 4668.0065, 4668.0075 to 4668.0170, 4668.0200, and 4668.0218 to 4668.0240.

D. A class D licensee must comply with ~~part~~ parts 4668.0002 to 4668.0170, 4668.0210, and 4668.0218 to 4668.0240, except that one certified for Medicare as a hospice program under *Code of Federal Regulations*, title 42, part 418, need not comply with the requirements listed in part 4668.0210, subpart 22.

E. A class E licensee must comply with ~~part~~ parts 4668.0002 to 4668.0080, 4668.0110 to 4668.0170, 4668.0215, and 4668.0218 to 4668.0240.

F. An assisted living home care provider licensee must comply with parts 4668.0002 to 4668.0050, 4668.0065, 4668.0070, 4668.0170, 4668.0218 to 4668.0240, and 4668.0800 to 4668.0870.

Subp. 5. **New license.** A license shall be issued to an applicant that is not currently licensed if the applicant completes the application, pays the fee in full, and complies with ~~the requirements of this chapter and Minnesota Statutes, sections 144A.43 to 144A.49, and this chapter 144A.48.~~ A license is effective for one year after the date the license is issued.

Subp. 6. **License application.** To apply for a license under this chapter, an applicant must follow the procedures in items A and B.

- A. An applicant for a license under this chapter must provide the following information on forms provided by the commissioner:

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

(5) a statement that documentation of compliance with the background study requirements of Minnesota Statutes, section 144A.46, subdivision 5, for all persons involved in the management, operation, or control of a provider have not been convicted of a crime listed in part 4668.0020, subpart 14, or meet requirements for rehabilitation in part 4668.0020, subpart 15;

(6) release statements, if required by part 4668.0020, subpart 4;

~~(7)~~ evidence of workers' compensation coverage, as required by *Minnesota Statutes*, sections 176.181 and 176.182;

~~(8)~~ (7) in the case of class C applicants, proof that the applicant is not contagious with tuberculosis, as required by part 4668.0065, subparts 1 and 2;

~~(9)~~ (8) in the case of class C applicants, proof that the applicant has met any applicable training and supervision requirements for paraprofessionals, as provided by parts 4668.0100 and 4668.0110; and

~~(10)~~ (9) a list of those home care services listed in *Minnesota Statutes*, section 144A.43, subdivision 3, or 144A.4605, that will be made available to clients.

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

Subp. 7. **Agent.** Each application for a home care provider license or for renewal of a home care provider license shall designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner of health on all matters provided for in this chapter and Minnesota Statutes, sections 144A.43 to ~~144A.49~~, and this chapter 144A.48; and

B. upon whom all notices and orders shall be served, and who is authorized to accept service of notices and orders on behalf of the licensee, in proceedings under this chapter and Minnesota Statutes, sections 144A.43 to ~~144A.49~~, and this chapter 144A.48.

The designation of one or more persons under this subpart shall not affect the legal responsibility of any other owner or managerial official under this chapter and Minnesota Statutes, sections 144A.43 to ~~144A.49~~, and this chapter 144A.48.

Subp. 8. **Notification of changes in information.** The licensee shall notify the commissioner in writing within ten working days after any change in the information required to be provided by subparts 6 and 7, except for the information required by subpart 6, item A, subitem (4), which will be required at the time of license renewal, and except for services reported under subpart 6, item A, subitem ~~(10)~~ (9), that are discontinued for less than 90 days.

[For text of subp 9, see M.R.]

Subp. 10. **Prelicensing survey.** Before granting a license, other than a provisional license under *Minnesota Statutes*, section ~~144A.49~~ 144A.48, the commissioner may investigate the applicant for compliance with this chapter and Minnesota Statutes, sections 144A.43 to ~~144A.49~~, and this chapter 144A.48.

Subp. 11. **Denial of license.** A license shall be denied if:

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

B. the applicant is not in compliance with this chapter and Minnesota Statutes, sections 144A.43 to ~~144A.49~~, and this chapter 144A.48;

C. the applicant is disqualified under ~~part 4668.0020, subpart 2~~ Minnesota Statutes, section 144.057;

D. the applicant or an owner or managerial official has ~~refused to provide a release for access to criminal information, if required by part 4668.0020, subpart 4~~ been unsuccessful in having a disqualification under Minnesota Statutes, section 144.057, set aside; or

E. the commissioner determines that an owner or managerial official, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with this chapter and Minnesota Statutes, sections 144A.43 to ~~144A.49~~, and this chapter 144A.48.

[For text of subp 12, see M.R.]

Subp. 13. **License renewals.** Except as provided in subpart 14 or 15, a license will be renewed for a period of one year if the licensee satisfies items A to C. The licensee must:

A. submit an application for renewal on forms provided by the commissioner at least 30 days before expiration of the license; and

B. submit the renewal fee, in the amount provided by subpart 18; and

C. comply with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48.

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## Proposed Rules

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Subp. 14. **Conditional license.** If a licensee is not in full compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48, at the time of expiration of its license, and the violations do not warrant denial of renewal of the license, the commissioner shall issue a license for a limited period conditioned on the licensee achieving full compliance within the term of the license or the term of any correction orders.

Subp. 15. **Suspension, revocation, or denial of renewal of license.** The commissioner may deny renewal of a license, or may suspend, revoke, or make conditional a license, if the licensee, or an owner or managerial official of the licensee:

A. is in violation, or during the term of the license has violated, any of the requirements of this chapter or *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48;

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

H. interferes with or impedes a representative of the commissioner in the enforcement of this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ and this chapter 144A.48;

I. destroys or makes unavailable any records or other evidence relating to the licensee's compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ and this chapter 144A.48;

J. refuses to ~~provide a criminal record release, if required by part 4668.0020, subpart 4~~ complete a background study under *Minnesota Statutes*, section 144.057; or

K. has failed to timely pay any fines assessed under part 4668.0230 or 4668.0800, subpart 6.

[For text of subps 16 to 18, see M.R.]

### 4668.0017 HEARINGS.

Subpart 1. **Hearing rights.** An applicant for a license or a licensee that has been assessed a fine under part 4668.0230 or 4668.0800, subpart 6, that has had a waiver or variance denied or revoked under part 4668.0016, or that has a right to a hearing under *Minnesota Statutes*, section 144A.46, subdivision 3, may request a hearing to contest that action or decision according to the rights and procedures provided by *Minnesota Statutes*, chapter 14, and this part.

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

### 4668.0040 COMPLAINT PROCEDURE.

Subpart 1. **Complaint procedure.** ~~Every class A, class B, class D, and class E A~~ licensee that has more than one direct care staff person, ~~shall~~ must establish a system for receiving, investigating, and resolving complaints from its clients.

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

Subp. 3. **Prohibition against retaliation.** ~~No A~~ licensee ~~shall~~ must not take any action that negatively affects a client in retaliation for a complaint made by the client.

Subp. 4. **Scope.** This part applies to all licensees except class C licensees.

### 4668.0050 ACCEPTANCE, RETENTION, AND DISCHARGE OF CLIENTS.

Subpart 1. **Acceptance of clients.** No licensee may accept a person as a client unless the licensee has staff, sufficient in qualifications and numbers, to adequately provide the services agreed to in the service agreement, under part 4668.0140 for class A, B, C, D, and E licensees, or the service plan, under part 4668.0815, for assisted living home care provider licensees.

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

### 4668.0075 ORIENTATION TO HOME CARE REQUIREMENTS.

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

Subp. 2. **Content.** The orientation required by subpart 1 must contain the following topics:

A. an overview of ~~the home care statute, this chapter and *Minnesota Statutes*~~, sections 144A.43 to ~~144A.49~~ and this chapter 144A.48;

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

[For text of subps 3 to 5, see M.R.]

### 4668.0220 SURVEYS AND INVESTIGATIONS.

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

Subp. 3. **Biennial surveys.** A licensee that has been licensed for at least two consecutive years and that has been in substantial compliance with this chapter and *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48, and has had no serious violations in that period, may be surveyed every second license term rather than during each license term.

Subp. 4. **Complaint investigations.** Upon receiving information that a licensee may be violating or may have violated a requirement of this chapter or *Minnesota Statutes*, sections 144A.43 to ~~144A.49~~ 144A.48, the commissioner shall investigate the complaint.

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

**4668.0230 FINES FOR UNCORRECTED VIOLATIONS.**

Subpart 1. **Authority.** The fines provided under this part are under the authority of *Minnesota Statutes*, sections 144.653, subdivision 6, and 144A.45, subdivision 2, clause (4); ~~and 144.653, subdivision 6.~~

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

Subp. 5. **Schedule of fines for violations of rules.** For each violation of a rule provision subject to a fine under *Minnesota Statutes*, section 144.653, subdivision 6, the following fines shall be assessed for the respective rule that was violated:

- A. part 4668.0008, subpart 3, \$300;
- B. for providing false information required by part 4668.0012, subpart 6, \$500;
- C. part 4668.0012, subpart 8, \$100;
- D. part 4668.0012, subpart 17, \$50;
- E. a variance, under part 4668.0016, subpart 8, the fine shall be the amount of the fine established for the rule that was varied;
- F. part 4668.0019, \$250;
- G. ~~part 4668.0020, subpart 3, \$300;~~
- H. ~~part 4668.0020, subpart 8, \$300;~~
- I. ~~part 4668.0020, subpart 9, \$300;~~
- J. ~~part 4668.0020, subpart 10, \$300;~~
- K. ~~part 4668.0020, subpart 11, \$300;~~
- L. ~~part 4668.0020, subpart 13, \$300;~~
- M. ~~part 4668.0020, subpart 17, item A, \$300;~~
- N. ~~part 4668.0020, subpart 17, item B, \$100;~~
- O. part 4668.0030, subpart 2, \$250;
- P. ~~H.~~ part 4668.0030, subpart 3, \$50;
- Q. ~~I.~~ part 4668.0030, subpart 4, \$50;
- R. ~~J.~~ part 4668.0030, subpart 5, \$50;
- S. ~~K.~~ part 4668.0030, subpart 6, \$50;
- T. ~~L.~~ part 4668.0030, subpart 7, \$250;
- U. ~~M.~~ part 4668.0035, subpart 1, \$250;
- V. ~~N.~~ part 4668.0035, subpart 2, \$100;
- W. ~~O.~~ part 4668.0035, subpart 3, \$100;
- X. ~~P.~~ part 4668.0040, subpart 1, \$250;
- Y. ~~Q.~~ part 4668.0040, subpart 2, \$50;
- Z. ~~R.~~ part 4668.0040, subpart 3, \$250;
- AA. ~~S.~~ part 4668.0050, subpart 1, \$350;
- BB. ~~T.~~ part 4668.0050, subpart 2, \$100;
- CC. ~~U.~~ part 4668.0060, subpart 1, \$50;

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## Proposed Rules

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~~DD~~. V. part 4668.0060, subpart 3, \$350;  
~~EE~~. W. part 4668.0060, subpart 4, \$350;  
FF. X. part 4668.0060, subpart 5, \$500;  
GG. Y. part 4668.0060, subpart 6, \$300;  
~~HH~~. Z. part 4668.0065, subpart 1, \$500;  
~~H~~. AA. part 4668.0065, subpart 2, \$500;  
~~J~~. BB. part 4668.0065, subpart 3, \$300;  
~~KK~~. CC. part 4668.0070, subpart 2, \$50;  
~~LL~~. DD. part 4668.0070, subpart 3, \$50;  
~~MM~~. EE. part 4668.0070, subpart 4, \$50;  
~~NN~~. FF. part 4668.0075, subpart 1, \$300;  
~~OO~~. GG. part 4668.0075, subpart 2, \$100;  
~~PP~~. HH. part 4668.0075, subpart 4, \$50;  
~~QQ~~. II. part 4668.0080, subpart 1, \$300;  
~~RR~~. JJ. part 4668.0080, subpart 2, \$300;  
~~SS~~. KK. part 4668.0080, subpart 3, \$300;  
~~TT~~. LL. part 4668.0080, subpart 4, \$300;  
~~UU~~. MM. part 4668.0080, subpart 5, \$300;  
~~VV~~. NN. part 4668.0100, subpart 1, \$350;  
~~WW~~. OO. part 4668.0100, subpart 2, \$350;  
~~XX~~. PP. part 4668.0100, subpart 3, \$500;  
~~YY~~. QQ. part 4668.0100, subpart 4, \$350;  
~~ZZ~~. RR. part 4668.0100, subpart 5, \$300;  
~~AAA~~. SS. part 4668.0100, subpart 6, \$300;  
~~BBB~~. TT. part 4668.0100, subpart 7, \$50;  
~~CCC~~. UU. part 4668.0100, subpart 8, \$350;  
~~DDD~~. VV. part 4668.0100, subpart 9, \$350;  
~~EEE~~. WW. part 4668.0110, subpart 1, \$350;  
~~FFF~~. XX. part 4668.0110, subpart 2, \$300;  
~~GGG~~. YY. part 4668.0110, subpart 3, \$50;  
~~HHH~~. ZZ. part 4668.0110, subpart 4, \$300;  
~~H~~. AAA. part 4668.0110, subpart 5, \$350;  
~~J~~. BBB. part 4668.0110, subpart 6, \$350;  
~~KKK~~. CCC. part 4668.0120, subpart 2, \$50;  
~~LLL~~. DDD. part 4668.0130, subpart 1, \$300;  
~~MMM~~. EEE. part 4668.0130, subpart 2, \$300;  
~~NNN~~. FFF. part 4668.0130, subpart 3, \$300;  
~~OOO~~. GGG. part 4668.0130, subpart 4, \$50;  
~~PPP~~. HHH. part 4668.0140, subpart 1, \$250;  
~~QQQ~~. III. part 4668.0140, subpart 2, \$50;  
~~RRR~~. JJJ. part 4668.0150, subpart 2, \$350;  
~~SSS~~. KKK. part 4668.0150, subpart 3, \$350;

~~TTT~~: LLL. part 4668.0150, subpart 4, \$350;  
~~UUU~~: MMM. part 4668.0150, subpart 5, \$350;  
~~VVV~~: NNN. part 4668.0150, subpart 6, \$350;  
~~WWW~~: OOO. part 4668.0160, subpart 1, \$100;  
~~XXX~~: PPP. part 4668.0160, subpart 2, \$100;  
~~YYY~~: QQQ. part 4668.0160, subpart 3, \$50;  
~~ZZZ~~: RRR. part 4668.0160, subpart 4, \$100;  
~~AAAA~~: SSS. part 4668.0160, subpart 5, \$50;  
~~BBBB~~: TTT. part 4668.0160, subpart 6, \$100;  
~~CCCC~~: UUU. part 4668.0160, subpart 7, \$350;  
~~DDDD~~: VVV. part 4668.0170, subpart 1, \$500;  
~~EEEE~~: WWW. part 4668.0170, subpart 2, \$500;  
~~FFFF~~: XXX. part 4668.0180, subpart 3, \$500;  
~~GGGG~~: YYY. part 4668.0180, subpart 4, \$300;  
~~HHHH~~: ZZZ. part 4668.0180, subpart 5, \$300;  
~~HH~~: AAAA. part 4668.0180, subpart 6, \$300;  
~~JJJ~~: BBBB. part 4668.0180, subpart 8, \$200;  
~~KKKK~~: CCCC. part 4668.0180, subpart 9, \$100;  
~~LLLL~~: DDDD. part 4668.0190, \$500;  
~~MMMM~~: EEEE. part 4668.0200, subpart 2, \$500;  
~~NNNN~~: FFFF. part 4668.0200, subpart 4, \$100;  
~~OOOO~~: GGGG. part 4668.0200, subpart 5, \$50;  
~~PPPP~~: HHHH. part 4668.0200, subpart 6, \$500;  
~~QQQQ~~: IIII. part 4668.0210, subpart 3, \$100;  
~~RRRR~~: JJJJ. part 4668.0210, subpart 4, \$100;  
~~SSSS~~: KKKK. part 4668.0210, subpart 5, \$100;  
~~TTTT~~: LLLL. part 4668.0210, subpart 6, \$100;  
~~UUUU~~: MMMM. part 4668.0210, subpart 7, \$100;  
~~VVVV~~: NNNN. part 4668.0210, subpart 8, \$350;  
~~WWWW~~: OOOO. part 4668.0210, subpart 9, \$300;  
~~XXXX~~: PPPP. part 4668.0210, subpart 10, \$300;  
~~YYYY~~: QQQQ. part 4668.0210, subpart 11, \$300;  
~~ZZZZ~~: RRRR. part 4668.0210, subpart 12, \$350;  
~~AAAAA~~: SSSS. part 4668.0210, subpart 13, \$100;  
~~BBBBB~~: TTTT. part 4668.0210, subpart 15, \$350;  
~~CCCCC~~: UUUU. part 4668.0210, subpart 16, \$50;  
~~DDDDD~~: VVVV. part 4668.0210, subpart 17, \$300;

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## Proposed Rules

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- ~~EEEE~~. ~~WWWW~~. part 4668.0210, subpart 18, \$300;  
~~FFFF~~. ~~XXXX~~. part 4668.0210, subpart 20, \$350;  
~~GGGG~~. ~~YYYY~~. part 4668.0210, subpart 21, the first sentence, \$350;  
~~HHHH~~. ~~ZZZZ~~. part 4668.0210, subpart 21, the second sentence, \$50;  
~~IIII~~. ~~AAAA~~. part 4668.0220, subpart 6, \$500; and  
~~JJJJ~~. ~~BBBB~~. part 4668.0220, subpart 8, \$500.

### **4668.0800 ASSISTED LIVING HOME CARE PROVIDER.**

Subpart 1. Scope of license. An assisted living home care provider licensee may provide nursing services, delegated nursing services, other services performed by unlicensed personnel, or central storage of medications, solely for residents of one or more housing with services establishments registered under *Minnesota Statutes*, chapter 144D.

Subp. 2. Required services. An assisted living home care provider licensee must provide at least one of the following assisted living home care services directly:

- A. professional nursing services;
- B. delegated nursing services;
- C. other services performed by unlicensed personnel; or
- D. central storage of medications.

Subp. 3. Fulfillment of services. An assisted living home care provider licensee must provide all services required by a client's service plan under part 4668.0815.

Subp. 4. Referrals. If an assisted living home care provider licensee reasonably believes that a client is in need of another medical or health service, including that of a physician, osteopath, dentist, podiatrist, chiropractor, other health professional, or social service provider, the licensee must:

- A. inform the client of the possible need;
- B. determine the client's preferences with respect to obtaining the service; and
- C. if the client desires the service, inform the client about available providers or referral services.

Subp. 5. Availability of contact person. An assisted living home care provider licensee must have a contact person available for consultation whenever an unlicensed person employed by the licensee is performing assisted living home care services for a client. The contact person must be available to unlicensed personnel in person, by telephone, or by other means of direct communication.

Subp. 6. Violations of rules. For each violation of parts 4668.0800 to 4668.0870 subject to a fine under *Minnesota Statutes*, section 144.653, subdivisions 5 to 8, a fine shall be assessed according to the schedules established in parts 4668.0800 to 4668.0870.

Subp. 7. Failure to correct deficiency. If, upon subsequent reinspection after a fine has been imposed under subpart 6, the deficiency has still not been corrected, another fine must be assessed. This fine must be double the amount of the previous fine.

Subp. 8. Schedule of fines. For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 3, \$350;
- B. subpart 4, \$200; and
- C. subpart 5, \$300.

### **4668.0805 ORIENTATION TO HOME CARE REQUIREMENTS.**

Subpart 1. Orientation. An individual applicant for an assisted living home care provider license and a person who provides direct care, supervision of direct care, or management of services for a licensee must complete an orientation to home care requirements before providing home care services to clients. The orientation may be incorporated into the training of unlicensed personnel required under part 4668.0835, subpart 2. The orientation need only be completed once.

Subp. 2. Content. The orientation required under subpart 1 must contain the following topics:

- A. an overview of this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48;
- B. handling emergencies and using emergency services;
- C. reporting the maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557;
- D. the home care bill of rights, *Minnesota Statutes*, section 144A.44;

- E. handling clients' complaints and reporting complaints to the Office of Health Facility Complaints; and
- F. the services of the ombudsman for older Minnesotans.

Subp. 3. **Sources of orientation.** The orientation training required by this part may be provided by an assisted living home care provider licensee or may be obtained from other sources. The commissioner must provide a curriculum and materials that may be used to present the orientation.

Subp. 4. **Verification and documentation.** An assisted living home care provider licensee must retain evidence that each person has completed the orientation training required under this part.

Subp. 5. **Transferability.** An assisted living home care provider licensee may accept written verification from another provider that a person has completed the orientation required under this part.

Subp. 6. **Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$300;
- B. subpart 2, \$100; and
- C. subpart 4, \$50.

#### **4668.0810 CLIENT RECORDS.**

Subpart 1. **Maintenance of client record.** An assisted living home care provider licensee must maintain a record for each client at the housing with services establishment where the services are provided. The client record must be readily accessible to personnel authorized by the licensee to use the client record.

Subp. 2. **Security.** An assisted living home care provider licensee must establish and implement written procedures for security of client records, including:

- A. the use of client records;
- B. the removal of client records from the establishment; and
- C. the criteria for release of client information.

Subp. 3. **Retention.** An assisted living home care provider licensee must retain a client's record for at least five years following the client's discharge. Arrangements must be made for secure storage and retrieval of client records if the licensee ceases business.

Subp. 4. **Transfer of client.** If a client transfers to another home care provider or other health care practitioner or provider or is admitted to an inpatient facility, an assisted living home care provider licensee, upon request of the client, must send a copy or summary of the client's record to the new provider or facility or to the client.

Subp. 5. **Form of entries.** Except as required by subpart 6, items F and G, documentation of an assisted living home care service must be created and signed by the staff person providing the service no later than the end of the work period. The documentation must be entered into the client record no later than two weeks after the end of the day service was provided. All entries in the client record must be:

- A. legible, permanently recorded in ink, dated, and authenticated with the name and title of the person making the entry; or
- B. recorded in an electronic media in a manner that ensures the confidentiality and security of the electronic information, according to current standards of practice in health information management, and that allows for a printed copy to be created.

Subp. 6. **Content of client record.** The client record must be accurate, up to date, and available to all persons responsible for assessing, planning, and providing assisted living home care services. The record must contain:

- A. the following information about the client:
  - (1) name;
  - (2) address;
  - (3) telephone number;
  - (4) date of birth;

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## Proposed Rules

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- (5) dates of the beginning and end of services;
- (6) names, addresses, and telephone numbers of any responsible persons;
- (7) primary diagnosis and any other relevant current diagnoses;
- (8) allergies, if any; and
- (9) the client's advance directive, if any;

B. an evaluation and service plan as required under part 4668.0815;

C. a clinical assessment for nursing services, delegated nursing services, or central storage of medications, if any;

D. medication and treatment orders, if any;

E. the client's current tuberculosis infection status, if known;

F. at least a weekly summary of the client's status and home care services provided;

G. documentation of each instance of assistance with self-administration of medication and of medication administration, if any;

H. documentation on the day of occurrence of any significant change in the client's status or any significant incident, including a fall or a refusal to take medications, and any actions by staff in response to the change or incident;

I. the names, addresses, and telephone numbers of the client's medical services providers and other home care providers, if known;

J. a summary following the termination of services, which includes the reason for the initiation and termination of services and the client's condition at the termination of services; and

K. any other information necessary to provide care for each individual client.

**Subp. 7. Confidentiality.** An assisted living home care provider licensee must not disclose to any other person any personal, financial, medical, or other information about the client, except:

A. as may be required by law;

B. to staff, another home care provider, a health care practitioner or provider, or an inpatient facility that requires information to provide services to the client, but only the information that is necessary to provide services;

C. to persons authorized in writing by the client or the client's responsible person to receive the information, including third-party payers; or

D. to representatives of the commissioner authorized to survey or investigate home care providers.

**Subp. 8. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100;

B. subpart 2, \$100;

C. subpart 3, \$50;

D. subpart 4, \$100;

E. subpart 5, \$50;

F. subpart 6, \$100; and

G. subpart 7, \$350.

### **4668.0815 EVALUATION AND SERVICE PLAN.**

**Subpart 1. Evaluation; documentation.** No later than two weeks after the initiation of assisted living home care services to a client, a registered nurse must complete an individualized evaluation of the client's needs and must establish, with the client or the client's responsible person, a suitable and up-to-date service plan for providing assisted living home care services in accordance with accepted standards of practice for professional nursing. The service plan must be in writing and include a signature or other authentication by the assisted living home care provider licensee and by the client documenting agreement on the services to be provided.

**Subp. 2. Reevaluation.** A registered nurse must review and revise a client's evaluation and service plan at least annually or more frequently when there is a change in the client's condition that requires a change in services.

**Subp. 3. Modifications.** A modification of the service plan must be in writing and agreed to by the client or the client's responsible person before the modification is initiated. A modification must be authenticated by the client or the client's responsible person and must be entered into the client's record no later than two weeks after the modification is initiated.



**Subp. 4. Contents of service plan.** The service plan required under subpart 1 must include:

A. a description of the assisted living home care service or services to be provided and the frequency of each service, according to the individualized evaluation required under subpart 1;

B. the identification of the persons or categories of persons who are to provide the services;

C. the schedule or frequency of sessions of supervision or monitoring required by law, rule, or the client's condition for the services or the persons providing those services, if any;

D. the fees for each service; and

E. a plan for contingency action that includes:

(1) the action to be taken by the assisted living home care provider licensee, client, and responsible person if scheduled services cannot be provided;

(2) the method for a client or responsible person to contact a representative of the assisted living home care provider licensee whenever staff are providing services;

(3) the name and telephone number of the person to contact in case of an emergency or significant adverse change in the client's condition;

(4) the method for the assisted living home care provider licensee to contact a responsible person of the client, if any; and

(5) the circumstances in which emergency medical services are not to be summoned, consistent with the Minnesota Living Will Act, *Minnesota Statutes*, chapter 145B, and declarations made by the client under that act.

**Subp. 5. Scheduled appointments for nonessential services.** If an assisted living home care provider licensee or employee of a licensee is unable, for any reason, to keep a scheduled appointment for a service that is not essential for medical or safety reasons, the licensee must:

A. follow the procedure established in the service plan;

B. provide a replacement person; or

C. notify the client that the appointment will not be kept and schedule a new appointment or arrange for some other reasonable alternative.

**Subp. 6. Scheduled appointments for essential services.** If, for medical or safety reasons, a service to be provided must be completed at the scheduled time and the assisted living home care provider licensee or employee of a licensee is unable, for any reason, to keep the scheduled appointment, the licensee must make arrangements to complete the service through a contract with another provider or through other reasonable means.

**Subp. 7. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$250;

B. subpart 2, \$250;

C. subpart 3, \$250;

D. subpart 4, \$50;

E. subpart 5, \$350; and

F. subpart 6, \$500.

#### **4668.0820 NURSING SERVICES.**

**Subpart 1. Scope.** This part applies to an assisted living home care provider licensee that provides nursing services.

**Subp. 2. Compliance with Minnesota Nurse Practice Act.** Nursing services must be provided according to *Minnesota Statutes*, sections 148.171 to 148.285, and rules adopted thereunder.

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## Proposed Rules

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### **4668.0825 DELEGATED NURSING SERVICES.**

Subpart 1. Scope. This part applies to an assisted living home care provider licensee that provides nursing services delegated to unlicensed personnel.

Subp. 2. Clinical assessment and service plan. Before initiating delegated nursing services for a client, a registered nurse must conduct a clinical assessment of the client's functional status and need for nursing services and must develop a service plan for providing the services according to the client's needs and preferences. The service plan must include the frequency of supervision of the task and of the person providing the service for the client according to part 4668.0845. The service plan for delegated nursing services must be maintained as part of the service plan required under part 4668.0815.

Subp. 3. Nursing services delegated to unlicensed personnel. A registered nurse may delegate the nursing services specified in items A to I only to a person who satisfies the requirements of part 4668.0835. Nursing services that may be delegated are:

- A. performing assistance with self-administration of medication and medication administration according to part 4668.0855;
- B. performing routine delegated medical or nursing procedures, as provided under subpart 4;
- C. assisting with body positioning or transfer of a client;
- D. feeding a client who, because of the client's condition, is at risk of choking;
- E. assisting with bowel and bladder control, devices, and training programs;
- F. assisting with therapeutic or passive range of motion exercises;
- G. providing skin care, including full or partial bathing and foot soaks;
- H. during episodes of serious disease or acute illness, providing the following services or assisting a client to:
  - (1) maintain the hygiene of the client's body and immediate environment;
  - (2) satisfy nutritional needs;
  - (3) assist with the client's mobility, including movement, change of location, and positioning;
  - (4) bathe;
  - (5) maintain oral hygiene;
  - (6) dress;
  - (7) care for hair;
  - (8) use the toilet;
  - (9) change bedding;
  - (10) perform basic housekeeping; and
  - (11) prepare meals; and
- I. providing central storage of medications, according to part 4668.0865.

Subp. 4. Performance of routine procedures. A person who satisfies the requirements of part 4668.0835, subpart 2, may perform delegated nursing procedures if:

- A. before performing the procedures, the person is instructed by a registered nurse in the proper methods to perform the procedures with respect to each client;
- B. a registered nurse specifies in writing specific instructions for performing the procedures for each client;
- C. before performing the procedures, the person demonstrates to a registered nurse the person's ability to competently follow the procedures;
- D. the procedures for each client are documented in the client's record; and
- E. the assisted living home care provider licensee retains documentation by the registered nurse regarding the person's demonstrated competency.

Subp. 5. Schedule of fines. For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$250;
- B. subpart 3, \$350; and
- C. subpart 4, \$350.

**4668.0830 OTHER SERVICES PERFORMED BY UNLICENSED PERSONNEL.**

Subpart 1. Scope. This part applies to an assisted living home care provider licensee that provides other services performed by unlicensed personnel.

Subp. 2. Other services. A person who satisfies the requirements of part 4668.0835 may perform services in the registered housing with services establishment including:

- A. preparing modified diets, including diabetic or low sodium diets;
- B. providing medication reminders;
- C. performing household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;
- D. performing household chores when the client's care requires the prevention of exposure to infectious disease or containment of infectious disease;
- E. assisting with dressing, oral hygiene, hair care, grooming, and bathing; and
- F. performing home management tasks.

Subp. 3. Schedule of fines. A fine of \$350 shall be assessed for a violation of subpart 2.

**4668.0835 QUALIFICATIONS FOR UNLICENSED PERSONNEL WHO PERFORM ASSISTED LIVING HOME CARE SERVICES.**

Subpart 1. Scope. This part applies to an assisted living home care provider licensee that provides assisted living home care services using unlicensed personnel.

Subp. 2. Qualifications. An unlicensed person may offer to perform, or be employed to perform nursing services delegated to unlicensed personnel as provided under part 4668.0825, other services performed by unlicensed personnel as provided under part 4668.0830, or central storage of medications as provided under part 4668.0865, only if the person has:

- A. successfully completed the training and passed the competency evaluation according to part 4668.0840, subpart 2;
- B. successfully completed the training under part 4668.0840, subpart 3, and passed a competency evaluation according to part 4668.0840, subpart 4; or
- C. satisfied the requirements of part 4668.0100, subpart 5.

Subp. 3. In-service training and demonstration of competency. For each unlicensed person who performs assisted living home care services, an assisted living home care provider licensee must comply with items A to C.

A. For each 12 months of employment, a person who performs assisted living home care services must complete at least eight hours of in-service training in topics relevant to the provision of home care services, including training in infection control required under part 4668.0065, subpart 3, obtained from the licensee or another source.

B. If a person has not performed assisted living home care services for a continuous period of 24 consecutive months, the person must demonstrate to a registered nurse competence according to part 4668.0840, subpart 4, item C.

C. A licensee must retain documentation of satisfying this part and must provide documentation to a person who completes the in-service training.

Subp. 4. Documentation.

A. An unlicensed person who performs assisted living home care services must provide documentation to the employing licensee of satisfying this part.

B. An assisted living home care provider licensee must verify that unlicensed persons employed by the licensee to perform assisted living home care services have satisfied the requirements of this part, and must retain documentation in the personnel records.

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## Proposed Rules

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**Subp. 5. Initiation of services by unlicensed personnel.** Before initiating services by unlicensed personnel, a registered nurse must orient each person who is to perform assisted living home care services to each client and to the services to be performed. Based on the professional judgment of the registered nurse and on the individual needs of the client, the orientation may occur onsite, verbally, or in writing.

**Subp. 6. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$300;
- B. subpart 3, \$300;
- C. subpart 4, \$50; and
- D. subpart 5, \$350.

### **4668.0840 TRAINING AND COMPETENCY EVALUATION FOR UNLICENSED PERSONNEL.**

**Subpart 1. Scope.** This part applies to an assisted living home care provider licensee that provides assisted living home care services using unlicensed personnel.

**Subp. 2. Scope of training course and instructor.** The training required under part 4668.0835, subpart 2, must:

- A. include each assisted living home care service offered to clients that the unlicensed person will perform, taught by a registered nurse with experience or training in the subject being taught;
- B. include the core training requirements specified in subpart 3;
- C. include the competency evaluation required under subpart 4; and
- D. use a curriculum that meets the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48.

**Subp. 3. Core training of unlicensed personnel.**

A. An unlicensed person performing assisted living home care services must successfully complete training or demonstrate competency in the topics described in subitems (1) to (12). The required topics are:

- (1) an overview of this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48;
- (2) recognizing and handling emergencies and using emergency services;
- (3) reporting maltreatment of vulnerable minors or adults under *Minnesota Statutes*, sections 626.556 and 626.557;
- (4) the home care bill of rights, *Minnesota Statutes*, section 144A.44;
- (5) handling clients' complaints and reporting complaints to the Office of Health Facility Complaints;
- (6) the services of the ombudsman for older Minnesotans;
- (7) communication skills;
- (8) observing, reporting, and documenting client status and the care or services provided;
- (9) basic infection control;
- (10) maintaining a clean, safe, and healthy environment;
- (11) basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional; and
- (12) physical, emotional, and developmental needs of clients, and ways to work with clients who have problems in these areas, including respect for the client, the client's property, and the client's family.

B. The core training of unlicensed personnel must be taught by a registered nurse with experience or training in home care, except that item A, subitems (1) to (7), may be taught by another instructor under the direction of the registered nurse.

C. The core training curriculum must meet the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48.

**Subp. 4. Competency evaluation.**

A. The competency evaluation tests required under part 4668.0835, subpart 2, items A and B, must meet the requirements of this chapter and *Minnesota Statutes*, sections 144A.43 to 144A.48.

B. A registered nurse must complete and document each competency evaluation.

C. To qualify to perform assisted living home care services, a person must demonstrate competency by successfully completing:

- (1) a written, oral, or practical test of the topics in subpart 3; and
- (2) a written, oral, or practical test of all assisted living home care provider services that the person will perform.

**Subp. 5. Evidence of qualifications.** An assisted living home care provider licensee that provides the training and the competency evaluation required by this part must provide each person who successfully completes the training or passes the competency evaluation with written certification of satisfying this part.

**Subp. 6. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$300;
- B. subpart 3, \$300;
- C. subpart 4, \$300; and
- D. subpart 5, \$50.

#### **4668.0845 PERIODIC SUPERVISION OF UNLICENSED PERSONNEL.**

**Subpart 1. Scope.** This part applies to an assisted living home care provider licensee that provides assisted living home care services using unlicensed personnel.

**Subp. 2. Services that require supervision by a registered nurse.**

A. After the orientation required under part 4668.0835, subpart 5, a registered nurse must supervise, or a licensed practical nurse under the direction of a registered nurse must monitor, unlicensed persons who perform assisted living home care services that require supervision by a registered nurse at the housing with services establishment, to verify that the work is being performed adequately, identify problems, and assess the appropriateness of the care to the client's needs. Supervision or monitoring must be provided no less often than the following schedule:

- (1) within 14 days after initiation of assisted living home care services that require supervision by a registered nurse; and
- (2) at least every 62 days thereafter, or more frequently if indicated by a clinical assessment and the client's individualized service plan.

B. If the unlicensed person is monitored by a licensed practical nurse, the client must be supervised by a registered nurse at the housing with services establishment at least every other visit and the licensed practical nurse must be under the direction of a registered nurse, according to *Minnesota Statutes*, sections 148.171 to 148.285.

**Subp. 3. Services that do not require supervision by a registered nurse.** After the orientation required under part 4668.0835, subpart 5, unlicensed persons who perform services listed under part 4668.0830, subpart 2, or other assisted living home care services that do not require supervision by a registered nurse must be supervised at the housing with services establishment, to verify that the work is being performed adequately, identify problems, and assess the appropriateness of the care to the client's needs. The service plan developed under part 4668.0815 must address the frequency of the supervision of each service and the appropriate person to perform the supervision.

**Subp. 4. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$350; and
- B. subpart 3, \$300.

#### **4668.0855 MEDICATION ADMINISTRATION AND ASSISTANCE WITH SELF-ADMINISTRATION OF MEDICATION.**

**Subpart 1. Scope.** This part applies to an assisted living home care provider licensee that provides medication administration or assistance with self-administration of medication by unlicensed personnel.

**Subp. 2. Clinical assessment and service plan.** A registered nurse must conduct a clinical assessment of each client's functional status and need for assistance with self-administration of medication or medication administration, and develop a service plan for the provision of the services according to the client's needs and preferences. The service plan must include the frequency of supervision of the task and of the person providing the service for the client according to part 4668.0845, and must be maintained as part of the service plan required under part 4668.0815.

**Subp. 3. Delegation by a registered nurse.** A registered nurse may delegate medication administration or assistance with self-administration of medication only to a person who satisfies the requirements of part 4668.0835, subpart 2, and only in accordance with *Minnesota Statutes*, sections 148.171 to 148.285.

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## Proposed Rules

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**Subp. 4. Training for assistance with self-administration of medication or medication administration.** Unlicensed personnel who provide assistance with self-administration of medication or medication administration to an assisted living home care client must have been instructed by a registered nurse on the following:

(1) the complete procedure for checking a client's medication record;

(2) preparation of the medication for administration;

(3) administration of the medication to the client;

(4) assistance with self-administration of medication;

(5) documentation, after assistance with self-administration of medication or medication administration, of the date, time, dosage, and method of administration of all medications, or the reason for not assisting with self-administration of medication or medication administration as ordered, and the signature of the nurse or authorized person who assisted or administered and observed the same; and

(6) the type of information regarding assistance with self-administration of medication and medication administration reportable to a nurse.

**Subp. 5. Administration of medications.** A person who satisfies the requirements of subpart 4 and has been delegated the responsibility by a registered nurse, may administer medications, whether oral, suppository, eye drops, ear drops, inhalant, topical, injectable, or administered through a gastrostomy tube, if:

A. the medications are regularly scheduled; and

B. in the case of pro re nata medications, the administration of the medication is reported to a registered nurse either:

(1) within 24 hours after its administration; or

(2) within a time period that is specified by a registered nurse prior to the administration.

**Subp. 6. Limitations on administering medications.** A person who administers medications under subpart 3 may not draw up injectables.

**Subp. 7. Performance of routine procedures.** A person who satisfies the training requirements of subpart 4 may perform assistance with self-administration of medication or medication administration if:

A. before performing the procedures, the person is instructed by a registered nurse in the proper methods to perform the procedures with respect to each client;

B. a registered nurse specifies in writing specific instructions for performing the procedures for each client;

C. before performing the procedures, the person demonstrates to a registered nurse the person's ability to competently follow the procedures;

D. the procedures for each client are documented in the client's records; and

E. the assisted living home care provider licensee retains documentation by the registered nurse regarding the person's demonstrated competency.

**Subp. 8. Documentation.** An assisted living home care provider licensee must retain documentation in the personnel records of the unlicensed personnel who have satisfied the training requirements of this part.

**Subp. 9. Medication records.** The name, date, time, quantity of dosage, and the method of administration of all prescribed legend and over-the-counter medications, and the signature and title of the authorized person who provided assistance with self-administration of medication or medication administration must be recorded in the client's record following the assistance with self-administration of medication or medication administration. If assistance with self-administration of medication or medication administration was not completed as prescribed, documentation must include the reason why it was not completed and any follow up procedures that were provided.

**Subp. 10. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$350;

B. subpart 3, \$350;

C. subpart 4, \$300;

D. subpart 5, \$350;

E. subpart 6, \$500;

F. subpart 7, \$350;

G. subpart 8, \$50; and

H. subpart 9, §300.

**4668.0860 MEDICATION AND TREATMENT ORDERS.**

Subpart 1. **Scope.** This part applies to an assisted living home care provider licensee when an authorized prescriber orders a medication or treatment to be administered by the licensee.

Subp. 2. **Prescriber's order required.** There must be a written prescriber's order for a drug for which an assisted living home care provider licensee provides assistance with self-administration of medication or medication administration, including an over-the-counter drug.

Subp. 3. **Medication and treatment orders.** A medication or treatment must be administered by a nurse qualified to implement the order or by an unlicensed person under the direction of a nurse and the supervision of a registered nurse, according to part 4668.0845.

Subp. 4. **Authorizations.** An order for medication or treatment must be dated and signed by the prescriber, except as provided by subparts 6 and 7, and must be current and consistent with the clinical assessment required under part 4668.0855, subpart 2.

Subp. 5. **Content of medication orders.** An order for medication must contain the name of the drug, dosage indication, and directions for use.

Subp. 6. **Verbal orders.** Upon receiving an order verbally from a prescriber, a nurse must:

A. record and sign the order; and

B. forward the written order to the prescriber for the prescriber's signature no later than seven days after receipt of the verbal order.

Subp. 7. **Electronically transmitted orders.**

A. An order received by telephone, facsimile machine, or other electronic means must be kept confidential according to Minnesota Statutes, sections 144.335 and 144A.44.

B. An order received by telephone, facsimile machine, or other electronic means must be communicated to the supervising registered nurse within one hour of receipt.

C. An order received by electronic means, not including facsimile machine, must be immediately recorded or placed in the client's record by a nurse and must be countersigned by the prescriber within 62 days.

D. An order received by facsimile machine must have been signed by the prescriber and must be immediately recorded or a durable copy placed in the client's record by a person authorized by the assisted living home care provider licensee.

Subp. 8. **Implementation of order.** When an order is received, the assisted living home care provider licensee or an employee of the licensee must take action to implement the order within 24 hours of receipt of the order.

Subp. 9. **Renewal of orders.** A medication or treatment order must be renewed at least every 12 months or more frequently as indicated by the clinical assessment required under part 4668.0855, subpart 2.

Subp. 10. **Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$350;

B. subpart 3, \$350;

C. subpart 4, \$350;

D. subpart 5, \$350;

E. subpart 6, \$350;

F. subpart 7, item A, \$250;

G. subpart 7, item B, \$300;

H. subpart 7, item C, \$300;

I. subpart 7, item D, \$300;

J. subpart 8, \$500 per day; and

K. subpart 9, \$100.

**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

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### **4668.0865 CENTRAL STORAGE OF MEDICATION.**

**Subpart 1. Scope.** This part applies to an assisted living home care provider licensee that provides central storage of medications.

**Subp. 2. Clinical assessment and service plan.** A registered nurse must conduct a clinical assessment of a client's functional status and need for central medication storage, and develop a service plan for the provision of that service according to the client's needs and preferences. The service plan must include the frequency of supervision of the task and of the person providing the service for the client according to part 4668.0845. The service plan for central storage of medication must be maintained as part of the service plan required under part 4668.0815.

**Subp. 3. Control of medications.**

**A.** A registered nurse must establish and maintain a system that addresses the control of medications, handling of medications, medication containers, medication records, and disposition of medications.

**B.** The system must contain at least the following provisions:

(1) a statement of whether the staff will provide medication reminders, assistance with self-administration of medication, medication administration, or a combination of those services;

(2) a description of how the distribution and storage of medications will be handled, including a description of suitable storage facilities;

(3) the procedures for recording medications that clients are taking;

(4) the procedures for storage of legend and over-the-counter drugs;

(5) a method of refrigeration of biological medications; and

(6) the procedures for notifying a registered nurse when a problem with administration, recordkeeping, or storage of medications is discovered.

**Subp. 4. Over-the-counter drugs.** An over-the-counter drug may be retained in general stock supply and must be kept in the original labeled container.

**Subp. 5. Legend drugs.** A legend drug must be kept in its original container bearing the original prescription label with legible information stating the prescription number, name of drug, strength and quantity of drug, expiration date of a time-dated drug, directions for use, client's name, prescriber's name, date of issue, and the name and address of the licensed pharmacy that issued the medications.

**Subp. 6. Medication samples.** A sample of medication provided to a client by an authorized prescriber may be used by that client, and must be kept in its original container bearing the original label with legible directions for use. If assistance with self-administration of medication or medication administration is provided by the assisted living home care provider licensee, a client's plan of care must address the use of a medication sample.

**Subp. 7. Prohibitions.** No legend drug supply for one client may be used or saved for the use of another client.

**Subp. 8. Storage of drugs.** An assisted living home care provider licensee providing central storage of medications must store all drugs in locked compartments under proper temperature controls and permit only authorized nursing personnel to have access to keys.

**Subp. 9. Storage of Schedule II drugs.** An assisted living home care provider licensee providing central storage of medications must provide separately locked compartments, permanently affixed to the physical plant or medication cart, for storage of controlled drugs listed in *Minnesota Statutes*, section 152.02, subdivision 3.

**Subp. 10. Schedule of fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$350;

B. subpart 3, \$300;

C. subpart 4, \$300;

D. subpart 5, \$300;

E. subpart 6, \$300;

F. subpart 7, \$300;

G. subpart 8, \$300; and

H. subpart 9, \$300.

**4668.0870 DISPOSITION OF MEDICATIONS.**

Subpart 1. Scope. This part applies to an assisted living home care provider licensee that provides central storage of medications.

Subp. 2. Drugs given to discharged clients. Current medications belonging to a client must be given to the client, or the client's responsible person, when the client is discharged or moves from the housing with services establishment. An assisted living home care provider licensee must document in the client's record to whom the medications were given.

Subp. 3. Disposition of medications.

A. Unused portions of a controlled substance remaining in a housing with services establishment after death or discharge of the client for whom the controlled substance was prescribed, or any controlled substance discontinued permanently, must be disposed of by contacting the Minnesota Board of Pharmacy, which shall furnish the necessary instructions and forms, a copy of which shall be kept on file by the assisted living home care provider licensee for two years.

B. Unused portions of a legend drug remaining in a housing with services establishment after the death or discharge of the client for whom the legend drug was prescribed, or any legend drug permanently discontinued, must be destroyed by the assisted living home care provider licensee or a designee of the licensee, in the presence of a pharmacist or nurse who shall witness the destruction. A notation of the destruction listing the date, quantity, name of drug, prescription number, signature of the person destroying the drugs, and signature of the witness to the destruction must be recorded in the client's record.

Subp. 4. Loss or spillage. When a loss or spillage of a Schedule II drug occurs, an explanatory notation must be made in the client's record. The notation must be signed by the person responsible for the loss or spillage and by one witness who must also observe the destruction of any remaining contaminated drug by flushing into the sewer system or wiping up the spill.

Subp. 5. Schedule of fines. For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$300;
- B. subpart 3, \$300; and
- C. subpart 4, \$300.

## Department of Human Services

### Proposed Permanent Rules Relating to Repealing Certain Department of Human Services Rules

#### Notice of Intent to Repeal Rules Without a Public Hearing

The Department of Human Services (DHS) intends to repeal four permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28 and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed repeals and may also submit a written request that a hearing be held on the proposed repeals.

Please note that the department originally identified an additional two rules for repeal as obsolete when it published a request for comments on the planned repeal of various obsolete rules in the *State Register* on March 23, 1998 (22 S.R. 1720). *Minnesota Rules*, parts 9500.2000 to 9500.2880, Administration of Aid to Families with Dependent Children (AFDC), is one of the rules included in the notice which will not be repealed at this time. The department decided to repeal the obsolete AFDC rules legislatively in 1999 when the AFDC statutes will be repealed. Repealing the obsolete rules with the related obsolete statutes will ensure closer coordination of the deletions and substitutions required to update the hundreds of references to AFDC in statutes and rules. The AFDC rules are obsolete because the AFDC program no longer exists. Some of the standards set in the obsolete rule parts, however, will be maintained and applied by the statewide Minnesota Family Investment Program (MFIP) and must be referenced accordingly. Statewide MFIP, which implements welfare reform in Minnesota, replaces both AFDC and the original MFIP pilot project.

<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>
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## Proposed Rules

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*Minnesota Rules*, parts 9520.0010 to 9520.0230, Community Mental Health Services, were also identified for repeal as obsolete. These parts will not be repealed at this time because the department is re-examining their applicability in response to a comment generated by the request for comments.

**Agency Contact Person.** Comments or questions on the proposed repeals and written requests for a public hearing on the proposed repeals must be submitted to: Alice Weck, Minnesota Department of Human Services, 444 Lafayette Rd., St. Paul, MN 55155-3816, telephone (651) 297-4302, fax number (651) 297-3173.

**Subject of Rules Being Repealed and Statutory Authority.** A copy of the proposed repealer is published in the *State Register* and attached to this notice as mailed. Because the repealer lists the rules proposed for repeal only by number, the descriptions below are included in this notice to help the public identify the rules proposed for repeal. Repealing rules is consistent with authority given the commissioner in *Minnesota Statutes*, section 256.01 and with the requirement in *Minnesota Statutes*, section 14.05, subdivision 5.

The rules proposed for repeal and the reasons:

**Parts 9500.4000 to 9500.4340, Minnesota Family Investment Program**, are obsolete because the rule parts are no longer needed. The rules originally governed the MFIP pilot program as it was piloted with a few counties. The pilot program is now complete and statewide MFIP is administered statutorily (See *Minnesota Statutes*, chapter 256J).

**Minnesota Rules, parts 9510.0010 to 9510.0480, Rates for Nursing Home Providers**, are obsolete because they have been superseded by parts 9549.0010 to 9549.0080, Nursing Facility Payment Rates.

**Parts 9510.0500 to 9510.0890, Rates for Providers of Residential Services for Mentally Retarded Persons**, are obsolete because they have been superseded by DHS rule parts 9553.0010 to 9553.0080, Determination of Payment Rates for Intermediate Care Facilities for Persons with Mental Retardation.

**Parts 9510.1000 to 9510.1010, Health Care Facility Reports**, are obsolete because they were superseded in 1984 by an update of *Minnesota Statutes*, section 256B.30, Health Care Facility Report, that remains current.

**Comments.** You have until 4:30 p.m. on Wednesday, November 25, 1998 to submit written comment in support of or in opposition to the proposed repeals. Your comment must be in writing and be received by the agency contact person by the due date. Comment is encouraged. Your comment should identify which one or ones of the rules proposed for repeal that you are addressing 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 repeals must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the proposed repeal action. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, November 25, 1998. Your written request for a public hearing must include your name and address. You must identify the rule or rules proposed for repeal that you object to repealing or state that you oppose the repeal of all the rules proposed for repeal. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed repealer.

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

**Modifications.** The proposed repeals may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency and the adopted repealer may not be substantially different from this proposed repealer except that a rule originally proposed for repeal could be removed from the repealer if warranted by comments and information received after publication of the repealer. If you believe the proposed repeal of rules affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed repeals, identifies the data and information relied upon to support the proposed repeals, and includes a description of who will be affected by the proposed repeal and an estimate of the probable cost of the proposed repeal.

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



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

Date: 25 September 1988

David S. Doth  
Commissioner

**REPEALER.** *Minnesota Rules*, parts 9500.4000; 9500.4010; 9500.4020; 9500.4030; 9500.4040; 9500.4050; 9500.4060; 9500.4070; 9500.4080; 9500.4090; 9500.4100; 9500.4110; 9500.4120; 9500.4130; 9500.4140; 9500.4150; 9500.4160; 9500.4170; 9500.4180; 9500.4190; 9500.4200; 9500.4210; 9500.4220; 9500.4230; 9500.4240; 9500.4250; 9500.4260; 9500.4270; 9500.4280; 9500.4290; 9500.4300; 9500.4310; 9500.4320; 9500.4330; 9500.4340; 9510.0010; 9510.0020; 9510.0030; 9510.0040; 9510.0050; 9510.0060; 9510.0070; 9510.0080; 9510.0090; 9510.0100; 9510.0110; 9510.0120; 9510.0130; 9510.0140; 9510.0150; 9510.0160; 9510.0170; 9510.0180; 9510.0190; 9510.0200; 9510.0210; 9510.0220; 9510.0230; 9510.0240; 9510.0250; 9510.0260; 9510.0270; 9510.0280; 9510.0290; 9510.0300; 9510.0310; 9510.0320; 9510.0330; 9510.0340; 9510.0350; 9510.0360; 9510.0370; 9510.0380; 9510.0390; 9510.0400; 9510.0410; 9510.0420; 9510.0430; 9510.0440; 9510.0450; 9510.0460; 9510.0470; 9510.0480; 9510.0500; 9510.0510; 9510.0520; 9510.0530; 9510.0540; 9510.0550; 9510.0560; 9510.0570; 9510.0580; 9510.0590; 9510.0600; 9510.0610; 9510.0620; 9510.0630; 9510.0640; 9510.0650; 9510.0660; 9510.0670; 9510.0680; 9510.0690; 9510.0700; 9510.0710; 9510.0720; 9510.0730; 9510.0740; 9510.0750; 9510.0760; 9510.0770; 9510.0780; 9510.0790; 9510.0800; 9510.0810; 9510.0820; 9510.0830; 9510.0840; 9510.0850; 9510.0860; 9510.0870; 9510.0880; 9510.0890; 9510.1000; and 9510.1010, are repealed.

## Minnesota Racing Commission

### Proposed Permanent Rules Governing Pari-mutuel Betting on Horse Racing

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

**Proposed Amendment to Rules Governing General Definitions, *Minnesota Rules* Chapter 7869.0100; Disclosure of Improvements and Equipment, *Minnesota Rules* Chapter 7870.0220, 7870.0050, 7870.0640; Pari-Mutuel Betting and Commingling of Funds, *Minnesota Rules* Chapter 7871.0030, subp. 2; Emergency Procedures for the Totalizator System, *Minnesota Rules* chapter 7871.0150, subps. 2, 4a and 5; Twin trifecta, *Minnesota Rules* Chapter 7873.0186; Pick Six, *Minnesota Rules* Chapter 7873.0190 subp. 1; Pick Three, *Minnesota Rules* Chapter 7873.0191 subp. 1; Pick Seven, *Minnesota Rules* Chapter 7873.0198 subp. 1; Direct Deposit, General Provisions, *Minnesota Rules* Chapter 7874.0100 subp. 5; Facilities and Equipment, *Minnesota Rules* Chapter 7875.0200 subps. 1 and 2.**

**Introduction.** The Racing Commission intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 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 November 25, 1998, a public hearing will be held in the Board Room, Canterbury Park, 1100 Canterbury Road, Shakopee, Minnesota 55379, starting at 9:00 AM on Monday, December 7, 1998. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after November 25, 1998 and before December 7, 1998.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Richard Krueger at the Minnesota Racing Commission, P.O. Box 630, Shakopee, Minnesota 55379, telephone (612) 496-7950, FAX (612) 496-7954. TTY users may call the Racing Commission at TTY phone (800) 627-3529.

**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

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**Subject of Rules and Statutory Authority.** The proposed rule amendments are about clarifications and additions to the current language to conform to current pari-mutuel data processing practices. These amendments will allow the Class A and B licensee the option of utilizing technical advances of a server based central processing unit, to record and calculate pari-mutuel data. This will also allow the unit to be housed at an alternative facility or at the Class A facility resulting in more cost effective methods of operation. The redefining the terms "totalizator and related equipment, guest track, host track, will also conform to the current technology client server operating practices within the industry. The statutory authority to adopt the rule is Statute 240.23, general rule-making authority. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m. on November 25, 1998, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on November 25, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency 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 rules.

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

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

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

**Cancellation of Hearing.** The hearing scheduled for December 7, 1998, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (612) 496-7950 after November 25, 1998 to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Allen E. Giles is assigned to conduct the hearing. Judge Giles can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 349-2543, and FAX (612) 349-2665.

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

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

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

**Other Notices.** The Commission published a Request for Comments in the *State Register* on June 8, 1998. The Commission will publish the proposed rule and a dual notice of adoption in the *State Register* on October 26, 1998. Three business days prior to publication, the Commission will mail a copy of the proposed rule and the notice to all persons who have registered their names with the Commission for the purpose of receiving rulemaking notices; there are 106 individuals on that mailing list. Three business days prior to publication, the Commission will mail a copy of the proposed rules and the notice to the heads of various horseperson's organizations in Minnesota. These include the Minnesota Thoroughbred Association, the Horsemen's Benevolent and Protective Association, Minnesota Quarterhorse Racing Association, Minnesota Arabian Racing Association, Minnesota Harness Racing, Inc., and the Traverse County Fairboard. In addition the Commission's Rules Committee Chairman will provide announcements as to the status of the rules during each monthly meeting of the full Commission and the Commission's rulemaking docket will be updated and posted as necessary to reflect the status of the proposed rules.

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

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

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

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

Richard G. Krueger, Executive Director  
Minnesota Racing Commission

## **7869.0100 DEFINITIONS.**

[For text of subs 1 to 6, see M.R.]

Subp. 6a. **Alternative facility.** "Alternative facility" means a facility licensed by a state or provincial racing regulatory agency that utilizes a pari-mutuel central processing unit that is electronically linked to a Minnesota class A facility for the purposes of facilitating pari-mutuel wagering.

[For text of subs 7 to 30, see M.R.]

Subp. 30a. **Guest racetrack.** "Guest racetrack" means a ~~class B~~ licensed racetrack ~~within the state~~ which receives broadcasts of races by television from a another licensed racetrack ~~outside of this state~~.

[For text of subs 31 and 32, see M.R.]

Subp. 32a. **Host racetrack.** "Host racetrack" means a licensed racetrack ~~located outside of this state~~ which broadcasts its races by television to a another licensed racetrack ~~within this state~~.

[For text of subp 33, see M.R.]

Subp. 33a. **Licensed racetrack.** "Licensed racetrack" means a facility licensed by a state or provincial racing regulatory agency and which conducts live horse racing.

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## Proposed Rules

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Subp. 33b. Live racing day. “Live racing day” means a racing day assigned by the commission on which pari-mutuel betting is conducted on horse races run at a licensed racetrack including approved simulcasts.

[For text of subs 34 to 42, see M.R.]

Subp. 42a. Pari-mutuel central processing unit. “Pari-mutuel central processing unit” means the computer system by which all pari-mutuel wagers are recorded and the calculation of odds and payoffs is accomplished. The pari-mutuel central processing unit must be located at a licensed racetrack or alternative facility.

[For text of subs 43 to 65, see M.R.]

Subp. 65a. Televised racing day. “Televised racing day” means a racing day assigned by the commission on which pari-mutuel betting is conducted on separate pool and/or commingled pool wagering and only on horse races run at racetracks outside of the state which are broadcast by television ~~at~~ to a licensed racetrack.

Subp. 66. Totalizator. “Totalizator” means the system by which ~~all~~ pari-mutuel activity including selling and cashing of tickets, ~~calculation of odds and payoffs~~ compiling of wagers, and displaying of pari-mutuel information is accomplished. The totalizator must be electronically linked with a pari-mutuel central processing unit.

[For text of subs 67 to 69, see M.R.]

### **7870.0050 DISCLOSURE OF IMPROVEMENTS AND EQUIPMENT.**

An application for a Class A license must disclose with respect to the pari-mutuel horse racing facility it will own and operate:

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

J. A description of the pari-mutuel ~~totalizator~~ totalizator and related pari-mutuel equipment, giving approximate location of bettors’ windows and cash security areas, and a description of ~~the~~ related pari-mutuel equipment, including the provider if known.

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

### **7870.0220 DISCLOSURE OF IMPROVEMENTS AND EQUIPMENT.**

An application for a Class B license must disclose with respect to the facility at which it will sponsor and manage pari-mutuel horse racing:

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

J. A description of the pari-mutuel ~~totalizator~~ totalizator and related pari-mutuel equipment, giving approximate location of bettors’ windows and cash security areas; and a description of related pari-mutuel equipment, including the provider if known.

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

### **7870.0640 DISCLOSURE OF IMPROVEMENTS AND EQUIPMENT.**

An application for a Class D license must disclose with respect to the facility at which it will sponsor and manage pari-mutuel horse racing:

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

J. A description of the pari-mutuel totalizator ~~system~~ and related pari-mutuel equipment, giving approximate location of bettors’ windows and cash security areas; and a description of related pari-mutuel equipment, including the provider, if known.

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

### **7871.0030 PARI-MUTUEL BETTING.**

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

Subp. 2. Commingling of funds. With the prior approval of the commission, the licensee may commingle the amounts bet at the licensed racetrack on a televised racing day with the pari-mutuel pools at the host racetrack. If the pari-mutuel pools are commingled, the wagering at the licensed racetrack must be on ~~tabulating~~ pari-mutuel equipment capable of issuing pari-mutuel tickets and be electronically linked with the equipment at the host racetrack or alternative facility.

### **7871.0150 EMERGENCY PROCEDURES FOR THE TOTALIZATOR SYSTEMS WHEN POOLS ARE COMMINGLED AT THE CLASS A FACILITY OR AT AN ALTERNATIVE FACILITY.**

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

Subp. 2. Computer Wagering interface interruption.

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

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

Subp. 4a. Disruption of communication between class A facility and alternative facility. In the event that the communications between the class A facility and the alternative facility fails, the class B licensee must:

A. notify the alternative facility operator, the designated racing commission representative, and the wagering patrons that an interruption in communication has occurred; and

B. immediately begin to execute back-up procedures to reestablish communication between the class A and alternative facility.

Subp. 5. **Notification and reporting.** In the event of ~~an emergency system disruption~~ in connection with the pari-mutuels ~~and/or tote system or audio/visual satellite signal~~ covered in subparts 1 to 4 ~~4a~~ or in any situation not covered in subparts 1 to 4 ~~4a~~, the pari-mutuel representative from the association will notify the stewards or designated commission representative of the interruption as soon as possible and render a written report to the commission within 48 hours.

### **7873.0186 TWIN TRIFECTA.**

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

Subp. 3. **Procedures.** The twin trifecta pools shall be calculated according to one of the two following methods as approved by the commission.

A. (1) Each bettor purchasing twin trifecta tickets shall designate selections as the first three horses to finish in exact order in the first race of the two designated races.

(2) After wagering closes for the first race of the twin trifecta, the net pool will be divided with 25 percent of the net pool going to the first race of the twin trifecta and 75 percent of the net pool going to the second race of the twin trifecta.

(3) After the official declaration of the first race of the twin trifecta, 25 percent of the net pool will be distributed to the holders of the twin trifecta tickets selecting the first three horses in exact order, on the first designated twin trifecta race. Further, each bettor holding a ticket correctly selecting the first three horses in the exact order of finish must, before the running of the second twin trifecta race, exchange the winning tickets for both the calculated monetary value ~~as calculated by the totalisator equipment~~ and twin trifecta exchange tickets and at such time shall select three horses to finish in the second race of the twin trifecta in the exact order as officially posted. No further money shall be required of the holders of the winning tickets in order to make the exchange.

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

B. (1) Each bettor purchasing twin trifecta tickets shall designate selections as the first three horses to finish in exact order in the first race of the two designated races.

(2) After wagering closes for the first race of the twin trifecta, the net pool will be divided with 50 percent of the net pool going to the first race of the twin trifecta and 50 percent of the net pool going to the second race of the twin trifecta.

(3) After the official declaration of the first race of the twin trifecta, 50 percent of the net pool will be distributed to the holders of the twin trifecta tickets selecting the first three horses in exact order, on the first designated twin trifecta race. Further, each bettor holding a ticket correctly selecting the first three horses in the exact order of finish must, before the running of the second twin trifecta race, exchange the winning tickets for both the calculated monetary value ~~as calculated by the totalisator equipment~~ and twin trifecta exchange tickets and at such time shall select three horses to finish in the second race of the twin trifecta in the exact order as officially posted. No further money shall be required of the holders of the winning tickets in order to make the exchange.

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

[For text of subs 4 to 10, see M.R.]

### **7873.0190 PICK SIX.**

Subpart 1. **Scope.** The pick six pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association; ~~nor to any win, place, and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.~~

[For text of subs 2 to 11, see M.R.]

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## Proposed Rules

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### 7873.0191 PICK THREE.

Subpart 1. **Scope.** The pick three pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association; ~~nor to any win, place, and show pool shown on the totalizator board; nor to the rules governing the distribution of such other pools.~~

[For text of subps 2 to 11, see M.R.]

### 7873.0198 PICK SEVEN.

Subpart 1. **Scope.** The pick seven pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association; ~~nor to any win, place, and show pool shown on the totalisator; nor to the rules governing the distribution of such other pools.~~

[For text of subps 2 to 11, see M.R.]

### 7874.0100 GENERAL PROVISIONS.

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

Subp. 5. Wagering recapitulation. The class B licensee and pari-mutuel central processing provider shall provide electronically within 24 hours, a summary of pari-mutuel operations in a format prescribed by the commission.

### 7875.0200 EQUIPMENT.

Subpart 1. **Equipment.** Each association must include equipment, devices, or apparatus necessary to start, time, film or tape, and photograph the finish of every race. Equipment necessary to view photographs, films, and tapes of each race must be provided. Each association must include pari-mutuel equipment, devices, or apparatus necessary to sell and cash tickets ~~and calculate, compile pari-mutuel data,~~ and display odds. An association also must include adequate internal communications equipment. The facilities must be in compliance with the requirements of the ADA insofar as offering special accommodations or alternative equipment to disabled individuals. An association shall provide the commission office with a pari-mutuel console for purposes of displaying and viewing current racing information.

Subp. 2. ~~Totalizator~~ **Pari-mutuel central processing unit.** ~~Totalizator equipment~~ The pari-mutuel central processing unit must be designed to calculate, at intervals of not more than 60 seconds between each complete change, the total amounts wagered on each betting interest as wagering progresses. Approximate odds on each betting interest in the win pool shall be updated on the totalizator board at intervals of not more than 60 seconds. Approximate odds or approximate payoffs on all multiple pari-mutuel pools, except the pick six, shall be displayed on television monitors at regular intervals. The ~~totalizator equipment~~ pari-mutuel central processing unit shall provide a record of total amount wagered and amount wagered on each betting interest.

[For text of subps 3 to 9, see M.R.]



## 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.

## Board of Animal Health

### Adopted Permanent Rules Relating to Animal Health

The rules proposed and published at *State Register*, Volume 23, Number 1, pages 5-14, July 6, 1998 (23 SR 5), are adopted as proposed.

## Board of Optometry

### Adopted Permanent Rules Relating to Continuing Education and Obsolete Technical Provisions

The rules proposed and published at *State Register*, Volume 22, Number 48, pages 2113-2116, June 1, 1998 (22 SR 2113), are adopted as proposed.

## Pollution Control Agency

### Adopted Permanent Rules Relating to Aboveground Storage of Liquid Substances

The rules proposed and published at *State Register*, Volume 22, Number 41, pages 1813-1835, April 13, 1998 (22 SR 1813), are adopted with the following modifications:

#### 7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

J. An agency permit required for the construction or operation of a liquid substance storage facility which:

- (1) is a major facility as defined in part ~~7001.4010~~ 7001.4205;
- (2) stores:
  - (a) a substance as defined in part ~~7001.4010~~ 7001.4205;

**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.



## Adopted Rules

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### MAJOR FACILITY ~~LIQUID~~ SUBSTANCE STORAGE PERMITS

#### 7001.4200 SCOPE.

Parts 7001.0010 to 7001.0210 and 7001.4200 to 7001.4250 govern the application procedures, issuance, and conditions of major facility ~~liquid~~ substance storage permits. Chapter 7000 shall be construed to supplement parts 7001.0010 to 7001.0210 and 7001.4200 to 7001.4250.

#### 7001.4201 PURPOSE.

The purpose of parts 7001.4200 to 7001.4250 is to establish a major facility permit for aboveground storage of substances that reasonably ensures proper retention of those substances and detection of entry into any waters of the state in a manner that would be likely to pollute any waters of the state.

Safeguards established in the permit shall reflect:

- A. the nature, toxicity, viscosity, and quantity of the substance being stored;
- B. the potential for a storage tank system to fail;
- C. the potential for the failure of a storage tank system to have an adverse impact on the waters of the state;
- D. the hydrogeologic setting of the facility, including the thickness of and permeability of soils present between the tank system and groundwater;
- E. factors that influence the quality and mobility of the stored substance and the potential for it to migrate to surface water or groundwater; and
- F. any other factors necessary to prevent, control, or abate water pollution.

#### 7001.4205 DEFINITIONS.

Subp. 2. **Major facility.** “Major facility” means an assemblage of one or more aboveground storage tanks, including any indoor tanks, together with any associated secondary containment areas, appurtenances, and substance transfer areas, that are located in a single area and used in part of a single business operation at a single property or multiple contiguous properties and where the total ~~liquid~~ substance design storage capacity of all such tanks at the site is 1,000,000 gallons or greater.

Subp. 3. **Major facility permit.** “Major facility permit” means a permit issued by the agency to a major facility pursuant to this chapter. Any tank meeting the definition of indoor tank is excluded from regulation under the terms and conditions of a major facility permit.

Subp. 4. **Substance.** “Substance” means any liquid material which is not gaseous or solid at ~~standard atmospheric ambient~~ temperature and pressure that is capable of polluting the would be likely to pollute any waters of the state.

#### 7001.4215 PERMIT APPLICATION AND PUBLIC COMMENT.

Subpart 1. **Public notice and comment.** If the permit applicant requests or the agency determines that issuance, reissuance, or modification of a permit ~~involve~~ involves issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed permit or related issues, the procedures in items A to C, prior to issuance, reissuance, or modification of the permit, apply.

#### 7001.4220 PERMIT APPLICATION.

If the applicant is requesting the issuance, modification, revocation and reissuance, or reissuance of a major facility ~~liquid~~ substance storage permit, the applicant shall submit the following information to the commissioner:

- B. for each outdoor tank system:
  - (7) method of tank fabrication for (field-erected ~~and or~~ shop-fabricated ~~tanks~~);
  - (10) ~~liquid~~ substance level gauging mechanism;
  - (17) secondary containment area information including:
    - (b) tank number of each tank within the ~~tank~~ containment area;
- E. any additional information ~~the commissioner determines~~ necessary to process the major facility permit application.

**7001.4230 RETENTION OF TANK AND SUBSTANCE TRANSMISSION LINE RECORDS.**

If a ~~liquid substance~~ storage facility is required to obtain a major facility permit under this chapter, the permittee shall retain, if explicitly required by the terms and conditions of the permit, the following data on file at the facility for the retention times specified:

C. ~~facility wide~~ for each secondary containment area: records of daily visual inspections, for one year.

Unless otherwise addressed in the terms and conditions of the permit, the major facility permittee shall retain all data specified in this part. The permittee shall, upon agency request, make the data available to the agency for viewing and copying.

**7001.4240 REDUCTION OR INCREASE OF ~~LIQUID~~ SUBSTANCE STORAGE CAPACITY.**

Subpart 1. **Major facilities which reduce ~~liquid substance~~ storage capacity.** Any major facility operating pursuant to a major facility permit under this part, which reduces ~~liquid substance~~ storage capacity so as to no longer meet the definition of a major facility under part 7001.4205, subpart 2, shall continue to comply with all terms and conditions of the major facility permit until the expiration of the permit.

Subp. 2. **Facilities which increase ~~liquid substance~~ storage capacity.** Any ~~liquid substance~~ storage facility which does not meet the definition of a major facility under part 7001.4205, subpart 2, on the effective date of this part, which proposes to increase ~~liquid substance~~ storage capacity so as to meet the definition of a major facility, shall apply for and obtain a major facility permit under this part prior to increasing storage of ~~liquid~~ substances at the facility.

**7001.4250 NOTIFICATION REQUIREMENTS FOR FIELD-ERECTED TANKS.**

The notification required for field-erected tanks is as described in items A to C.

A. Except as provided in item B, the permittee shall notify the commissioner, in writing, at least ~~30~~ 60 days prior to implementation of any of the following:

(1) construction or installation of any of the following:

(b) a new underground substance transmission line appurtenant to an aboveground storage tank;

(4) deviations from American Petroleum Institute standards 650, 651, 652, and 653, if applicable;

C. The permittee shall obtain the commissioner's written approval prior to placing any new field-erected tank or underground transmission line into service, returning to service any field-erected tank closed at the time of issuance of the permit, or deviating from schedules contained in the permit. The commissioner shall respond, in writing, within 30 days of receipt of the permittee's written request.

**7001.4300 VARIANCES.**

Any person who applies for a variance from any requirement of parts 7001.4200 to 7001.4250 shall comply with part 7000.7000. An application for a variance must be acted on by the agency pursuant to part 7000.7000 and Minnesota Statutes, section 116.07, subdivision 5. However, no variance may be granted that would result in noncompliance with applicable federal rules and regulations for aboveground storage tanks.

**7151.1200 DEFINITIONS.**

Subp. 4. **Appurtenances.** "Appurtenances" means any aboveground or underground lines connected to an aboveground storage tank that are two inches or greater inside diameter, together with any associated valves and manifolds, to the point where the piping is located indoors.

Subp. 5. **Capacity.** "Capacity" means the maximum volume of ~~liquid~~ a substance in gallons that may be contained by an aboveground storage tank pursuant to the tank's design.

Subp. 8. **Class 2 surface water.** "Class 2 surface water," as defined in part 7050.0200, means all waters of the state that are or may be used for fishing, fish culture, bathing, or any other recreational purpose, and for which quality control is or may be necessary to protect aquatic or terrestrial life, or the public health, safety, or welfare.

Subp. 11. **Dike.** "Dike" means an embankment, ridge, or wall capable of preventing the movement of stored substances out of a secondary containment area following a release from a tank which is impermeable to stored substances and which forms the perimeter of the secondary containment area.

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## Adopted Rules

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Subp. ~~12.~~ **Discharge into a secondary containment area.** “Discharge into a secondary containment area” means a spill, leak, or discharge of a substance from a tank or its appurtenances into a structure specifically designed and constructed to prevent a spill, leak, or discharge from spreading vertically or horizontally and contaminating the land or water outside the containment area.

Subp. ~~12.~~ **13. Double-walled tank.** “Double-walled tank” means an aboveground storage tank designed and built with an outer and inner shell and an interstitial space between the shells that allows for monitoring.

Subp. ~~13.~~ **14. Electrical equipment.** “Electrical equipment” means equipment such as transformers which contain dielectric fluid necessary for operation.

Subp. ~~14.~~ **15. Farm.** “Farm” means a tract of land devoted to the production of crops or raising of animals.

Subp. ~~15.~~ **16. Field-erected tank.** “Field-erected tank” means an aboveground storage tank that is constructed by final assembly on site at a facility.

Subp. ~~16.~~ **17. Hazardous material.** “Hazardous material” means any substance listed as a hazardous material or hazardous substance in *Code of Federal Regulations*, title 49, section 172.101.

Subp. ~~17.~~ **18. Heating and cooling equipment.** “Heating and cooling equipment” means equipment intended or installed for the purpose of heating, cooling, and/or conditioning air, water, and/or fluid by mechanical means for environmental, process, or other purposes.

Subp. ~~18.~~ **19. Hydraulic lift tank.** “Hydraulic lift tank” means an aboveground storage tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

Subp. ~~19.~~ **20. Impermeable.** “Impermeable” means the ability to prevent a substance or combination of compatible substances from penetrating through a secondary containment area for a minimum of 72 hours.

Subp. ~~20.~~ **21. Indoor tank.** “Indoor tank” means an aboveground storage tank located inside a building or other type of enclosed structure, resting on or elevated above an impermeable floor surface, from which a release would:

Subp. ~~21.~~ **22. Major facility.** “Major facility” means an assemblage of one or more aboveground storage tanks, including any indoor tanks, together with any associated secondary containment areas, appurtenances, and substance transfer areas, that are located in a single area and used in part of a single business operation at a single property or multiple contiguous properties and where the total liquid substance design storage capacity of all such tanks at the site is 1,000,000 gallons or greater.

Subp. ~~22.~~ **23. Major facility permit.** “Major facility permit” means a permit issued by the agency to a major facility under part 7001.4200. Any tank meeting the definition of indoor tank is excluded from regulation under the terms and conditions of a major facility permit.

Subp. ~~23.~~ **24. Operator.** “Operator” means a person in control of or having responsibility for the daily operation of an aboveground storage tank or tank system, or a person who was in control of or had responsibility for the daily operation of a tank or tank system immediately before discontinuation of its use.

Operator also means a person who is responsible under *Minnesota Statutes*, section 115C.021, for a release from an aboveground storage tank containing petroleum or a person who is responsible under *Minnesota Statutes*, section 115B.03, for a release from an aboveground storage tank containing a hazardous material.

Subp. ~~24.~~ **25. Other regulated substances.** “Other regulated substances” means any substance, including a food-based product intended for human or animal consumption, which is capable of polluting the waters of the state and is not:

Subp. ~~25.~~ **26. Owner.** “Owner” means a person who holds title to, controls, or owns an interest in an aboveground storage tank or tank system, or a person who held title to, controlled, or possessed an interest in the tank or tank system immediately before discontinuation of its use.

Owner also means a person who is responsible under *Minnesota Statutes*, section 115C.021, for a release from an aboveground storage tank containing petroleum or a person who is responsible under *Minnesota Statutes*, section 115B.03, for a release from an aboveground storage tank containing a hazardous material.

Owner does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of and operated the tank.

Subp. ~~26.~~ **27. Person.** “Person” means an individual, partnership, association, corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Minnesota Pollution Control Agency.

Subp. ~~27.~~ **28. Piping or lines.** “Piping” or “lines” means a hollow cylinder or tubular conduit, that is two inches or greater inside diameter, that is constructed for conveying a substance from one point to another within an aboveground storage tank system.

Subp. ~~28-29~~. **Release.** “Release” means a spill, leak, or discharge of a substance from a tank or its appurtenances to the environment, including a spill, leak, or discharge into ~~a secondary containment area, into~~ the ground underneath a tank; or into a substance transfer area. For purposes of this chapter, release does not include intentional venting or fugitive air emissions from a tank allowed under agency rules.

Subp. ~~29-30~~. **Safeguard.** “Safeguard” means a device, system, or combination of devices or systems designed to detect or prevent the escape or movement of a substance from the place of storage under such conditions that might cause pollution of the waters of the state.

Subp. ~~30-31~~. **Secondary containment.** “Secondary containment” means a safeguard specifically designed to ~~prevent~~ be impermeable to stored substances and which will contain a release from an aboveground storage tank or tank system and prevent the release from spreading vertically or horizontally and contaminating the land or water outside the containment area.

Subp. ~~31-32~~. **Shop-fabricated tank.** “Shop-fabricated tank” means an aboveground storage tank that is constructed at a tank manufacturer’s plant and transported to a facility for installation.

Subp. ~~32-33~~. **Substance.** “Substance” means any material which is liquid at ambient pressures and temperatures ~~and which is capable of polluting that would be likely to pollute any~~ waters of the state.

Subp. ~~33-34~~. **Substance transfer area.** “Substance transfer area” means the area where a truck or rail car makes its connection to or from an aboveground storage tank system for the purpose of unloading or receiving a substance.

Subp. ~~34-35~~. **Tank or aboveground storage tank.** “Tank” or “aboveground storage tank” means a container, vessel, or enclosure designed to contain substances and is constructed of materials such as concrete, steel, plastic, or fiberglass reinforced plastic, provides structural support, and is located aboveground. A tank includes bladders, rail cars, and trucks.

Subp. ~~35~~. **Tank service project.** “Tank service project” ~~means the installation, erection, repair, withdrawal from service, or removal of an aboveground storage tank. Each tank service project addresses discrete tank work and is separated in time and space from another tank service project.~~

#### **7151.1300 APPLICABILITY.**

Subpart 1. **Scope.** ~~Except as otherwise provided in subpart 2, this chapter applies to any owner or operator of an aboveground storage tank system which is not required to obtain a permit under chapter 7001. Any major facility must obtain a major facility liquid substance storage permit under part 7001.4200. This chapter applies to owners or operators of aboveground storage tank systems except for:~~

- A. major facilities required to obtain a permit under chapter 7001; and
- B. aboveground storage tank systems exempt under subpart 2.

Subp. 2. **Exclusions.** The following aboveground storage tank systems are excluded from the requirements of this chapter:

A. ~~wastewater treatment equipment including a wastewater clarifier or other type of, wastewater treatment basin located at a permitted municipal or industrial wastewater treatment facility, and tanks which are regulated under the National Pollutant Discharge Elimination System, the Sewage Disposal System, or other pretreatment permits;~~

J. an aboveground storage tank containing drinking water, filtered surface water, demineralized water, noncontact cooling water, or water stored for fire or emergency purposes and other waters which meet the standards defined in chapter 7050 or 7052;

M. an aboveground storage tank of 1,100 gallons or less capacity used for storing heating oil for consumption on the premises where stored; and

N. any aboveground storage tank of 1,100 gallons or less capacity, not otherwise exempt under items A to M, unless that tank is greater than 500 gallons capacity and is located within 500 feet of a Class 2 surface water;

- O. stormwater collection systems; and
- P. septic tanks.

<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>
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## Adopted Rules

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### 7151.2100 INCORPORATIONS BY REFERENCE.

Subp. 2. **Referenced standards.** The documents incorporated by reference in this chapter are listed in this subpart.

~~A. American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018:~~

~~(1) B31.3, Process Piping (1996);~~

~~(2) B31.4, Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols (1992);~~

~~(3) B16, Standards for Valves; and~~

~~(4) B36, Pipe Material Standards.~~

~~B. A. American Petroleum Institute (API), 1220 L Street Northwest, Washington, DC 20005:~~

~~(1) 570, Piping Inspection Code: Inspection, Repair, Alteration, and Retrating of In-Service Piping Systems (1997);~~

~~(+) (2) 620, Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Ninth Edition (1996);~~

~~(2) (3) 650, Welded Steel Tanks for Oil Storage, Ninth Edition (1993);~~

~~(3) (4) 651, Cathodic Protection of Aboveground Petroleum Storage Tanks, First Edition (1991);~~

~~(4) (5) 652, Lining of Aboveground Petroleum Storage Tank Bottoms, First Edition (1991);~~

~~(5) (6) 653, Tank Inspection, Repair, Alteration, and Reconstruction, Second Edition (1995);~~

~~(6) (7) 1631, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, Third Edition (1992);~~

~~(7) (8) 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, Third Edition (1996); and~~

~~(8) (9) 2015, Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning Through Recommissioning, Fifth Edition (1994).~~

~~C. B. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19429-2959:~~

~~(1) D1785-96, Specifications for Poly (Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120 (1997); and~~

~~(2) ES40-94, Alternative Procedures for the Assessment of Buried Steel Tanks Prior to the Addition of Cathodic Protection (1997); and~~

~~(3) (2) Applicable Standard Practices and Test Methods for Evaluating Soil Permeability Analysis and Sampling.~~

~~D. C. Code of Federal Regulations, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954: title 49, part 172.101, Transportation (1997).~~

~~E. D. National Association of Corrosion Engineers (NACE), Publication Department, P.O. Box 218340, Houston, Texas 77218:~~

~~F. E. National Leak Prevention Association (NLPA), 7685 Fields Ertel Road, Cincinnati, OH 45241: (+) 631, Spill Prevention, Minimum 10-year Life Extension of Existing Steel Underground Storage Tanks by Lining Without the Addition of Cathodic Protection, Second Addition (1988); Edition and Appendices (1991).~~

~~(2) 632, Internal Inspection of Steel Tanks for Upgrading With Cathodic Protection Without Internal Lining (1989).~~

~~G. F. Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047:~~

~~H. G. Underwriters Laboratory, Inc. (UL), 333 Pfingsten Road, Northbrook, Illinois 60062:~~

~~(5) 2085, Insulated Protected Aboveground Tanks for Flammable and Combustible Liquids (1994).~~

### 7151.3100 TANK SERVICE PROJECTS PROVIDERS.

~~Subpart 1. **Notification.** An owner or operator of an aboveground storage tank system shall notify the agency before beginning a tank service project.~~

~~Subp. 2. **Tank service providers.** Owners and operators shall ensure that tank service providers utilize methods in accordance with guidance specified in applicable industry standards. After the effective date of this part aboveground storage tank contractor rules adopted pursuant to *Minnesota Statutes*, section 116.491, owners and operators shall ensure that tank service providers are certified.~~



**7151.4100 TEMPORARY STORAGE.**

Subpart 1. **Scope.** This part applies to storage of a substance in an aboveground storage tank at a site for a period of more than 30 days but less than one year. Temporary storage tanks regulated under this part are exempt from all other requirements except as provided in subpart 4.

**7151.5100 REQUIREMENT.**

Subpart 1. **Application and definition.** Except as otherwise provided in subparts 2 and 3, parts 7151.5100 to 7151.5700 apply to the design and installation of all aboveground storage tanks or tank systems installed on or after the effective date of this chapter. ~~For the purposes of parts 7151.5100 to 7151.5700, a new tank or tank system is one installed on or after the effective date of this chapter.~~

Subp. 2. **Small tanks near surface water.** Owners and operators of new tanks ~~less than~~ 1,100 gallons or less but greater than 500 gallons, located within 500 feet of a Class 2 surface water, need not comply with ~~part parts~~ 7151.5500, 7151.5600, ~~or and~~ 7151.5700.

**7151.5200 TANK AND PIPING STANDARDS.****Subp. 3. Used aboveground storage tanks.**

A. Except as provided in item C, an aboveground storage tank that has been removed from a site must not be reinstalled at a second site for the purpose of ~~liquid~~ substance storage unless:

(2) the area of secondary containment at the new location which is directly under the tank is designed and constructed to provide for the detection of a release of a stored substance before the release permeates through the containment. Methods of leak detection include:

(a) visual monitoring of elevated tanks as specified in part 7151.7200, subpart 4;

(b) interstitial monitoring between the tank's inner and outer shell or the tank's shell and the containment area; ~~and or~~

B. Except as provided in item C, a tank that has been lifted or moved within a site must not be reinstalled for the purpose of ~~liquid~~ substance storage unless:

(2) the area of secondary containment which is directly under a tank is designed and constructed to provide for the detection of a release of a stored substance ~~before the release permeates through the containment.~~

C. The following are exempt from the requirements of this subpart:

(1) portable tanks which are mounted on wheel carriages ~~or~~, which have legs cast into the construction, or which are mounted on forklift skids; and

**7151.5400 SECONDARY CONTAINMENT.**

Subp. 3. **Materials.** A secondary containment area must be constructed with materials that are impermeable to and compatible with the substance being stored and that will prevent a release to the environment. Materials for secondary containment include:

A. compacted clay as defined in subpart 5;

C. ~~treated~~ concrete for Type B and Type C substances. Concrete for Type A substances must be treated with a material that is impermeable to the substance being stored;

F. the lower bottom of a double-bottomed tank; ~~or~~

G. fabricated steel;

H. fiberglass; or

~~G. I. any other approved materials pursuant to part 7151.9300~~ material having an impermeability equivalent to the stored substance's primary container, pursuant to the alternative design or operating practice procedure of part 7151.9400.

Owners and operators shall install and maintain secondary containment areas constructed of synthetic or manufactured materials according to the manufacturer's recommendations.

**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.



## Adopted Rules

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Subp. 4. **Design.** The area of secondary containment which is directly under a tank must be designed and constructed to provide for the detection of a release of a substance ~~before the release permeates through the containment.~~ Methods of leak detection are as follows:

A. visual monitoring of ~~elevated tanks;~~

(1) ~~elevated tanks;~~

(2) ~~tanks on continuous concrete slabs for Type B and Type C substances;~~

(3) ~~tanks on a continuous concrete slab treated with material that is impermeable to the substance being stored for Type A substances;~~

(4) ~~tanks on containment constructed of fabricated steel; or~~

(5) ~~tanks on containment constructed of fiberglass;~~

B. interstitial monitoring between the tank's inner and outer shell or the tank's shell and the containment area; ~~and~~ or

### 7151.5600 CORROSION PROTECTION.

Subpart 1. **Tanks.** The floor of a steel aboveground storage tank must be protected from corrosion using one of the following methods:

B. the tank rests on a continuous, ~~impermeable concrete pad that is constructed with grooves which slope away from the center of the tank floor~~ concrete slab that is designed to prevent water from accumulating under the tank floor;

Subp. 3. **Design criteria.** Cathodic protection of new field-erected steel tanks and lines must meet the following design criteria:

### 7151.5700 OVERFILL PROTECTION.

Subpart 1. **Requirement.** A tank which is filled by transfers of more than ~~25~~ 55 gallons at one time must have one of the following systems for overfill protection:

C. a permanently mounted site sight glass or gauge, visible to the person controlling the substance transfer, that accurately shows the level of substance in the tank; or

Subp. 3. **Volumetric conversion.** If any level stick, site sight glass, or gauge does not read in volumetric measurements and requires conversion, a clearly labeled conversion chart indicating maximum working capacity of the tank must be mounted on the tank or the tank's delivery manifold and visible to the person controlling the substance transfer.

### 7151.6100 REQUIREMENT.

Subp. 2. **Small tanks near surface water.** Owners and operators of tanks ~~less than~~ 1,100 gallons or less, but greater than 500 gallons and located within 500 feet of a Class 2 surface water, need not comply with ~~part parts~~ 7151.6500, 7151.6600, or and 7151.6700.

### 7151.6200 TANK AND PIPING STANDARDS.

Subpart 1. **Tank and piping standards.** Owners and operators of aboveground storage tank systems shall ensure that existing systems used to store regulated substances will not structurally fail or corrode.

Tank owners and operators shall conduct, pursuant to part 7151.7200, subpart 6, an internal inspection on all field-erected steel tanks within ten years of the effective date of this chapter.

### 7151.6400 SECONDARY CONTAINMENT.

Subpart 1. **Requirement.** Owners and operators must provide secondary containment for the storage of all substances in tanks. If more than one type of substance is stored within a single secondary containment area, the substances shall be compatible with each other and with the secondary containment area.

A. Secondary containment areas for existing aboveground storage tanks must have a continuous dike surrounding the tanks which will prevent releases from contaminating surface waters.

Subp. 3. **Materials.** All secondary containment systems for existing aboveground storage tanks must meet the materials requirements of part 7151.5400, subpart 3 or 5.

Subp. 5. **Soils.** A secondary containment area constructed of soils must:

B. show, through testing, a permeability rate to water equal to or less than the following:

Substance Classification	Groundwater or Bedrock < 10 Feet from Grade or Class 2 Surface Water within 100 Feet of Aboveground Storage Tank	Groundwater and Bedrock ≥ 10 Feet from Grade and Class 2 Surface Water not within 100 Feet of Aboveground Storage Tank
Type A	Minimum of three feet of soil at $1 \times 10^{-5}$ cm/sec	Minimum of three feet of soil at $1 \times 10^{-4}$ cm/sec
Type B	Minimum of three feet of soil at $1 \times 10^{-4}$ cm/sec	Minimum of three feet of soil at $1 \times 10^{-3}$ cm/sec
Type C	Minimum of three feet of soil at $1 \times 10^{-3}$ cm/sec	No minimum permeability standard

**7151.6500 SUBSTANCE TRANSFER AREAS.**

Subp. 2. **Exclusions.** A substance transfer area is not required for:

A. a tank that is filled with a hand-held nozzle;

B. a transfer of the substance through a continuous pipeline between tanks at one site; or

C. a barge transfer facility regulated under United States Coast Guard regulations, *Code of Federal Regulations*, title 33, parts 126, 154, and 156.

Subp. ~~2~~ 3. **Timing of compliance.** Owners and operators shall comply with subpart 1 after one year following the effective date of this chapter.

**7151.6600 CORROSION PROTECTION.**

Subpart 1. **General.** Owners and operators shall apply corrosion protection to all steel tanks and tank systems except as otherwise provided in subpart 5.

Subp. 2. **Tanks.** The floor of an existing steel aboveground storage tank must be protected from external corrosion using one or more of the following methods:

B. the tank rests on a continuous concrete ~~pad that is constructed with grooves which slope away from the center of the tank floor~~ slab that is designed to prevent water from accumulating under the tank floor;

D. the tank is double floored with:

(1) a vacuum pulled on the interstitial space; or

(2) an installed cathodic protection system;

Subp. 3. **Lines.** An existing steel line must be protected from external corrosion using one or more of the following methods:

B. the underground line is: cathodically protected; or

~~(1) cathodically protected; and~~

~~(2) tested for leaks unless the line is less than one year old on the effective date of this chapter; or~~

C. the underground line is double walled.

Subp. 5. **Exclusions.** Tanks or tank systems within a secondary containment area which comply with the requirements of part 7151.5400, subparts 1, 2, 3, items B to ~~G~~ I, and 4, are excluded from the requirements of this part.

**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.

## Adopted Rules

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### 7151.7100 REQUIREMENT.

Subpart 1. **Application.** Parts 7151.7100 to ~~7151.7600~~ 7151.7500 apply to all aboveground storage tank systems in use on or after the effective date of this chapter except as otherwise provided in subpart 2.

Subp. 2. **Exclusions.** The following aboveground storage tanks are excluded from the requirements of parts 7151.7100 to ~~7151.7600~~ 7151.7500:

- A. tanks ~~less than~~ 1,100 gallons or less but greater than 500 gallons and located within 500 feet of Class 2 surface water; and

### 7151.7200 MONITORING.

Subp. 2. **Weekly monitoring.** Owners or operators of tanks shall conduct visual monitoring as described in items A to C to verify that no releases have occurred from the tank system.

B. If the secondary containment area ~~complies~~ does not comply with the standard established in part ~~7151.6400~~ 7151.5400, the owner or operator shall visually monitor an aboveground storage tank site at least every 72 hours.

C. Owners and operators of double-walled tanks need not conduct ~~visual~~ weekly monitoring of the ~~tank~~ containment area around the double-walled tanks.

Subp. 4. **Leak detection.** The owner or operator shall monitor tank systems for leaks ~~at least monthly~~ as described in items A to ~~D~~ C. Any suspected releases shall be investigated and resolved.

- A. If a tank is designed pursuant to part 7151.5400, subpart 4, leak detection must be conducted at least monthly as follows:

(1) visual monitoring of ~~elevated tanks~~;

(a) elevated tanks;

(b) tanks on continuous concrete slabs for Type B and Type C substances;

(c) tanks on a continuous concrete slab treated with material that is impermeable to the substance being stored for Type A substances;

(d) tanks on containment constructed of fabricated steel; or

(e) tanks on containment constructed of fiberglass;

B. If a tank is not designed pursuant to part 7151.5400, subpart 4, leak detection must be conducted at least monthly using one or more of the following:

(1) monthly reconciliation of ~~daily~~ substance measurements taken pursuant to the interval established in subpart 2, with dispenser meter readings, shipments, deliveries, and internal transfers; any difference of 2.0 percent or more of monthly throughput shall be investigated and resolved; or

~~C. Owners and operators need not conduct leak detection on elevated tanks.~~

~~D. C.~~ All underground lines must be tested for leaks at least annually using one or more of the following methods:

(2) hydrostatic; ~~or~~

(3) lockdown pressure;

(4) double-walled piping with a sump sensor connected to an audible alarm; or

(5) other approved methods pursuant to part 7151.9400.

Subp. 6. **Tank inspection.** All field-erected steel tanks must be internally and externally inspected by a certified tank inspector pursuant to American Petroleum Institute standard 653.

Subp. 7. **Corrosion protection monitoring.**

- A. A qualified cathodic protection tester shall inspect all cathodic protection systems on steel tanks and piping as follows:

### 7151.7400 RECORDS.

Subp. 2. **Tank system design.**

A. Except as specified in item C, the owner and operator shall retain, for the life of the tank system, the following records which are available as of the effective date of this chapter:

Subp. 4. **Monitoring.**

C. Owners and operators shall retain, for three years after the tank has been taken out of service, records demonstrating compliance with out-of-service tank requirements under parts ~~7151.8000~~ 7151.8100 to 7151.8500. Records must be retained in one of the following ways:

**7151.7500 RELEASES AND DISCHARGES TO A SECONDARY CONTAINMENT AREA.**

Subpart 1. **Release investigation.** An owner or operator shall immediately investigate a suspected release or discharge to a secondary containment area.

Subp. 3. **Reporting.** An owner or operator shall notify the agency immediately of discharges to a secondary containment area, including those associated with substance transfer areas, in conformance with the requirements of Minnesota Statutes, section 115.061.

**7151.8200 OUT-OF-SERVICE ABOVEGROUND STORAGE TANK SYSTEMS.**

Subpart 1. **Application.** ~~Except as otherwise provided in subpart 3,~~ If a substance is not introduced to or removed from an aboveground storage tank system for one year or more, the owner or operator shall:

- A. maintain the operation and maintenance requirements of parts 7151.7100 to ~~7151.7600~~ 7151.7500; or

**7151.8400 CONTAMINATION DETERMINATION.**

Subp. 2. **Exclusions.** The following aboveground storage tank systems are excluded from the requirements of this part:

- A. a tank storing other regulated substances; ~~and~~  
B. a tank, which has been removed, that exclusively contained number 6 grade fuel oil; ~~and~~  
C. a tank with containment under the tank floor meeting part 7151.5400, subpart 3, item C, D, E, G, H, or I where:  
(1) there is no evidence of a release through visual evidence, odor, operating history; and  
(2) there is no compromise of the integrity of the containment.

**7151.8500 CONTAMINATION DETERMINATION FOR PREVIOUSLY CLOSED ABOVEGROUND STORAGE TANK SYSTEMS.**

~~If the commissioner determines~~ a release from an aboveground storage tank system taken out of service before the effective date of this chapter poses a current or potential threat to human health or the environment, the commissioner shall direct the owner and operator to assess the extent of the contamination and close the aboveground storage tank system pursuant to this part.

**7151.9400 ALTERNATIVE DESIGN OR OPERATING PRACTICE.**

Subp. 3. **Procedure for petition review.** The commissioner's determination to approve or deny an alternative design or operating practice petition shall be based on a demonstration by the petitioner that the alternative design or operating practice, together with location characteristics, will prevent migration of stored ~~liquid~~ substances into surface water and groundwater as effectively as the requirements of this chapter and will not endanger human health or the environment.

- A. In approving or denying the petition, the commissioner shall consider:

(4) factors that would influence the quality and mobility of the stored ~~liquid~~ substance and the potential for it to migrate to surface water or groundwater; and

**7151.9600 ~~PREEMPTION OTHER REGULATIONS.~~**

Subpart 1. **General.** This chapter shall be in addition to the standards imposed by any other regulations applying to aboveground storage tanks ~~and shall supersede any conflicting provisions.~~

<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>
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# Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to adopt expedited emergency 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. Expedited emergency rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Expedited emergency rules are effective for the period stated or up to 18 months. Specific *Minnesota Statute* citations accompanying these Expedited emergency rules detail the agency's rulemaking authority.

## Department of Natural Resources

### Adopted Expedited Emergency Game and Fish Rules: Mud-Bardwell Waterfowl Refuge

**NOTICE IS HEREBY GIVEN** that the above entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, section 84.027, subdivision 13 (b). The statutory authority for the contents of these rules is *Minnesota Statutes*, sections 97A.091 and 97B.803.

Dated: 13 October 1998

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

#### 6230.0400 SPECIAL PROVISIONS FOR STATE GAME REFUGES.

[For text of subps 1 to 29, see M.R.]

[For text of subp 30, see 22 SR 316]

[For text of subp 31, see 23 SR 406]

[For text of subps 32 to 49, see M.R.]

[For text of subp 50, see 22 SR 317]

[For text of subps 51 and 52, see M.R.]

[For text of subp 53, see 22 SR 317]

Subp. 54. **Mud-Bardwell ~~Game~~ Waterfowl Refuge, Martin county.** The Mud-Bardwell ~~Game~~ Waterfowl Refuge in Martin county is open to special goose hunts.

[For text of subps 55 and 56, see 23 SR 406]

#### 6240.1850 GAME REFUGES OPEN TO THE TAKING OF GEESE.

The following refuges are open to the taking of geese, as specified:

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

B. The Fox Lake Game Refuge in Martin County and the Saint James Game Refuge in Watonwan County are open to goose hunting during the first three days of the regular goose season in the respective zones in which they are located. The Fox Lake Game Refuge is also open to goose hunting from the Saturday on or nearest November 20 to the end of the goose season in the zone in which it is located, except there is no goose hunting within 100 yards of Fox and Temperence Lakes. The Mud-Bardwell ~~Game~~ Waterfowl Refuge in Martin County is open to Canada goose hunting from November 1 to the end of the regular goose season, except there is no goose hunting within 100 yards of Mud and Bardwell Lakes.

[For text of item C, see 23 SR 406]

**EFFECTIVE DATES.** The emergency amendments to *Minnesota Rules*, parts 6230.0400 and 6240.1850, expire December 31, 1998. After the emergency amendments expire, the permanent rules as they read prior to those amendments again take effect, except as they may be amended by permanent rule.

## Office of the Governor

### Emergency Executive Order #98-13: Providing for Assistance to the Faribault County Sheriff

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**, since October 11, 1998, Sherryl Lynn Osborn has been missing from the town of Winnebago; and

**WHEREAS**, law enforcement officials believe her to be the victim of a homicide; and

**WHEREAS**, local, county and state law enforcement officials have performed both an air and ground search, but the State Patrol helicopter is restricted to three hours of flight time a day; and

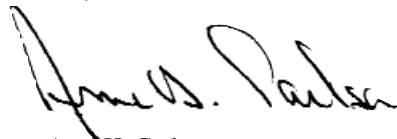
**WHEREAS**, the Faribault County Sheriff's Department does not have adequate local resources for an extensive aerial search or a close-order ground search;

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

1. The Adjutant General of Minnesota order to active duty on, or about, October 15, 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 conduct a search in and around Faribault County.
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 nineteenth day of October, 1998.



Arne H. Carlson  
Governor

Filed According to Law:



Joan Anderson Grove  
Secretary of State

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## Revenue Notices

The Department of Revenue began issuing revenue notices in July of 1991. Revenue notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue revenue notices is found in *Minnesota Statutes* §270.0604.

## Department of Revenue

### Revenue Notice # 98-19: Sales and Use Tax - Federal Excise Taxes

On May 21, 1998, the Minnesota Supreme Court, in the case of *U.S. Sprint Communications Company, Ltd. , v. Commissioner of Revenue*, 578 NW2d 752 (Minn. 1998), held that the federal excise tax on telephone service is not part of the consideration that customers pay for telephone service and, therefore, is not includable in the sale price for purposes of computing the Minnesota sales tax. This decision applies to all federal excise taxes that are imposed and collected from the purchaser at the retail level. The case has implications for all open tax years and refund claims may be filed for the sales tax previously paid on federal excise taxes provided that the tax periods are still open and provided that the refund will be returned to the purchaser by the seller.

Dated: 26 October 1998

Terese Koenig, Director  
Appeals, Legal Services and Criminal Investigation Division



# Official Notices

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

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

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## Board of Animal Health

### Request for Comments on Planned Amendment to Rules Governing Rabies, *Minnesota Rules*, 1705.1090-1705.1210

**Subject of Rules.** The Minnesota Board of Animal Health requests comments on its planned amendment to rules governing Rabies. The Department is considering rule amendments that would regulate animals that bite humans and animals exposed to a rabid animal, regulate vaccine and vaccination certificates, and would establish ferrets as equal to dogs and cats as stated in the Compendium of Animal Rabies Control, 1998.

**Persons Affected.** The amendment to the rules would likely affect animal control officers, county sheriffs, veterinarians, and county health officials.

**Statutory Authority.** *Minnesota Statutes*, section 35.03, authorizes the Board to adopt rules necessary to protect the health of domestic animals.

**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 December 30, 1998. The Department does not contemplate appointing an advisory committee to comment on the planned rules.

**Rules Drafts.** The Department has not yet prepared a draft of the planned rules amendments.

**Agency Contact Person.** Written or oral comments, questions, and requests for more information on these planned rules should be address to: Dr. Keith Friendshuh, Minnesota Board of Animal Health, 90 W. Plato Blvd., St. Paul, MN 55107 Phone: (651) 296-2942, ext. 18. TTY users may call the Department at 1-800-627-3569.

**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.

Dated: 30 September 1998

T.J. Hagerty, DVM  
Executive Secretary  
Minnesota Board of Animal Health

## Minnesota Comprehensive Health Association

### Notice of Meeting of the Actuarial Committee

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Actuarial Committee will be held at 1:00 p.m. on Wednesday, October 28, 1998. The meeting will take place at Blue Cross Blue Shield of MN, Main Building, 6th floor meeting room, 3535 Blue Cross Road, Eagan, MN.

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

**Housing Finance Agency  
Department of Children, Families and Learning  
Department of Trade and Economic Development**

**Notice of Public Comment Period on the Draft 1999 Minnesota Consolidated Housing and  
Community Development Plan and the 1998 Consolidated Plan Annual Performance Report**

The Minnesota Housing Finance Agency (MHFA), the Department of Children, Families and Learning (CFL) and the Department of Trade and Economic Development (DTED) announce the availability of the 1999 Minnesota Consolidated Housing and Community Development Plan, and 1998 Consolidated Plan Annual Performance Report for review and public comment from November 9, 1998, through December 8, 1998, at 4 PM.

The Consolidated Plan is a condition of funding under several programs administered by the Department of Housing and Urban Development (HUD).

The following formula grant programs are covered by the Consolidated Plan:

- The Community Development Block Grant (CDBG) programs;
- The Emergency Shelter Grants (ESG) program; and
- The HOME Investment Partnerships (HOME) program.

The 1999 Consolidated Plan is the annual Action Plan, which identifies resources that will be available to help the State address its housing and community development needs and describes how the State will administer the three HUD grants.

The Consolidated Plan Annual Performance Report provides information on housing and community development assistance activity in Minnesota that occurred in the 1998 program year (10/1/97 through 9/30/98). Information is provided on funds (state and federal) that were disbursed through state agencies during that time.

A *limited* number of the draft documents are available through MHFA, which may be requested by calling (651) 296-7608, 1/800/657-3769, or teletypewriter (TTY): (651) 297-2361.

Copies of the Consolidated Plan or the Consolidated Plan Annual Performance Report may also be found at the following locations:

The annual Minnesota draft citizen participation plan and consolidated plan are sent to the following locations during public comment periods. Interested citizens may access either plan at these locations.

**LIBRARIES**

Arrowhead Library System, 701 11th Street North, Virginia  
Bemidji Public Library, 6th & Beltrami, Bemidji  
Duluth Public Library, 520 West Superior Street, Duluth  
East Central Regional Library, 244 South Birch, Cambridge  
Grand Marais Public Library, Post Office Box 280, Grand Marais  
Great River Regional Library, 405 St. Germain, St. Cloud  
Lake Agassiz Regional Library, Post Office Box 699, Moorhead  
Marshall-Lyon County Library, 301 West Lyon Street, Marshall  
Minneapolis Public Library, 300 Nicollet Mall, Minneapolis  
Minnesota Valley Regional Library, 100 E. Main Street, Mankato  
Nobles County Library, Post Office Box 99, Worthington  
Northwest Regional Library, 101 East First Street, Thief River Falls  
Owatonna/Steele County Library, Post Office Box 387, Owatonna  
Pioneerland Public Library System, 401 W. 5th Street, Willmar  
Red Wing Public Library, 225 East Avenue, Red Wing  
Rochester Public Library, 101 Second Street SE, Rochester  
St. Paul Public Library, 90 West 4th Street, St. Paul  
Winona Public Library, Post Office Box 1247, Winona

## Official Notices

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### REGIONAL DEVELOPMENT COMMISSIONS

Arrowhead RDC, 221 West First Street, Duluth  
Headwaters RDC, P.O. Box 906, Bemidji  
Metro Council, 230 East Fifth Street, St. Paul  
Mid-Minnesota, 333 West Sixth Street, Willmar  
Northwest RDC, 115 S. Main, Ste 1, Warren  
Region Five, 611 Iowa Avenue, Staples  
Region Nine, P.O. 3367, Mankato  
Southwest RDC, 2401 Broadway Avenue, Ste. 1, Slayton  
Upper Minnesota Valley RDC, 323 West Schlieman, Appleton

### HOUSING PARTNERSHIP'S REGIONAL NETWORK PROJECT OFFICES

Central Minnesota Housing Partnership, P.O. Box 642, St. Cloud  
Southeast Minnesota Housing Network, 1414 NorthStar Drive, Zumbrota  
Southwestern MN Housing Partnership, 2501 Broadway Avenue, Ste. 4, Slayton  
Tri-Valley Opportunity Council, P.O. Box 607, Crookston  
West Central Minnesota Housing Partnership, 220 West Washington Avenue, Ste. B3, Fergus Falls

### MINNESOTA INITIATIVE OFFICES

Central MN Initiative Fund, 70 SE First Avenue, Little Falls  
Northland Foundation, 202 West Superior Street, Ste 610, Duluth  
Northwest MN Initiative Fund, 722 Paul Bunyan Dr. NW, Bemidji  
Southeast MN Initiative Fund, 540 West Hills Circle, Box 570, Owatonna  
Southwest MN Foundation, PO Box 428, Hutchinson  
West Central MN Initiative Fund, 220 West Washington Avenue, Ste 205, Fergus Falls

### COUNCILS, ASSOCIATIONS, AND OTHER LOCATIONS

American Indian Housing Corporation, 2020 Bloomington Ave. South, Minneapolis  
Asian Pacific Minnesotans, 100 Meridian Bank, 205 Aurora Ave., St. Paul  
Centro Cultural Chicano, 2201 Nicollet Ave. S., Minneapolis  
CLUES, 220 S. Robert Street., Ste 103, St. Paul  
Council on Black Minnesotans, 2233 University Ave., 426 Wright Building, St. Paul  
MHFA, 400 Sibley Street, Ste. 300, St. Paul  
Minnesota Coalition for the Homeless, 122 West Franklin, Ste 520, Minneapolis  
Spanish Speaking Affairs Council, 50 Sherburne Avenue, Room G-4, St. Paul  
Upper Midwest American Indian Center, 1113 W. Broadway, Minneapolis

Written or oral comments on the proposed Consolidated Plan and the Consolidated Plan Annual Performance Report will be taken by MHFA from November 9, 1998, through December 8, 1998, at 4 PM. Comments should be directed to: Kirby Pitman, MHFA, 400 Sibley Street, Ste. 300, St. Paul, MN 55101, phone: (651) 296-8147, FAX: (651) 296-8139, or teletypewriter (TTY): (651) 297-2361.

If an alternative format is necessary for persons with special needs, please contact, Kirby Pitman at (651) 296-8147, 1/800/657-3769, or TTY (612) 297-2361.

## Department of Human Services

### Calculating the Food Stamp Cost of Living Adjustments (COLA) for MFIP Benefits

The 1998 Legislature instructed the Commissioner of Human Services to adjust the food portion of the MFIP (Minnesota Family Investment Program) Transitional Standard by October 1 of each year beginning in 1998. This adjustment is based on the federal Food Stamp COLA. The 1998 Legislature further instructed the Commissioner to annually publish the Transitional Standard for unit sizes 1 to 10 in the *State Register*. (256J.24, Subd. 5a.) The information below complies with the instructions of the 1998 Legislature. This information was calculated by the Department of Human Services Reports and Forecasts Division.

The October 1, 1998 Transitional Standard with the Food Stamp COLA is listed below.

<b>Family Size</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>over 10</b>
Transitional Std w/COLA	\$356	626	\$783	928	\$1052	\$1198	\$1308	\$1442	\$1574	\$1700	\$125

## Department of Human Services

### Health Care Division

### Medicaid Program

### Request for Comments on Draft Demonstration Project for Persons with Disabilities Federal Waiver Amendment Request

The Minnesota Department of Human Services (DHS) is announcing a 30-day comment period on its draft Demonstration Project for Persons with Disabilities Waiver Request. The Demonstration Project for Persons with Disabilities is being developed cooperatively by DHS and counties in response to 1997 legislation enabling designated project sites to demonstrate a coordinated service delivery system in which the full Medicaid Assistance (MA) benefit set for disabled persons eligible for MA is provided and funded on a capitated basis. The waiver request describes the Demonstration Project for Persons with Disabilities and the waivers from Federal law and regulation that will be necessary to implement the project.

Copies of the Draft Waiver Request are available to any interested parties. Comments must be received by 4:00 on November 24, 1998.

To request a copy of the Draft Waiver Request, please contact Chris Wasielewski at (651) 296-3882. Please direct comments or questions about the Draft Waiver Request to:

Holly Branch  
Community Supports for Minnesotans with Disabilities  
444 Lafayette Road  
St. Paul, MN 55155-38  
Telephone: (651) 297-4668  
FAX: (651) 282-9922  
E-mail: [holly.branch@state.mn.us](mailto:holly.branch@state.mn.us)

## Department of Labor and Industry

### Labor Standards Division

### Notice of Prevailing Wage Determinations for Commercial Construction Projects

On October 26, 1998, the commissioner determined and certified prevailing wage rates for commercial construction in each county statewide.

Copies 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 (651) 296-6452. The charges for the cost of copying and mailing are \$1.00 for the first page and \$.50 for any additional pages. Please note that the cost per county varies according to the number of pages per county.

Gretchen Maglich  
Commissioner

## Pollution Control Agency

### Policy and Planning Division

#### Rulemaking Advisory Committee Participants

The publication of this list is made to comply with *Minnesota Statutes* section 14.101, subdivision 2, which requires the publication of the membership of any rulemaking advisory committees once each year.

#### **Minnesota Rules Chapter 7011 Governing Concrete Manufacturing Facilities**

##### **Concrete Initiative Regulatory Work Group Members**

- Gene Wright, Aggregate and Ready Mix Association, Minneapolis, MN.
- Jay Battenberg, Zenith Products, Osseo, MN.
- Dean Howarth, The Cretex Companies, Elk River, MN.
- Joe Carrano, CAMAS, Inc., Eagan, MN.
- Laurie Siefert-Kissner and Phil Bailey, Bauerly Bros./Bremix, Sauk Rapids, MN.
- Tim Becken and Scott Stodola, Cemstone, Inc., Mendota Heights, MN.
- Keith Burghahn, Croell Ready Mix, La Crosse, WI.
- Larry Treptow, Wells Concrete Products, Wells, MN.
- Robert Berg, Compliance/Enforcement Section, MPCA
- Jeff Peltola, Permit Section, MPCA
- Jim Strudell, Point Source Section, MPCA
- Kathy Holland-Hanson, Solid Waste Section, MPCA

#### **Minnesota Rules Chapters 7007, 7011, 7017, 7019 and 7021, Governing Continuous Monitoring Systems**

##### **Monitoring Rule Workgroup**

- Joseph Hensel, Rochester Public Utilities, Rochester, MN.
- Jeff Johnson, Koch Refining, St. Paul, MN.
- Rich Karpinske, Northern States Power Co., Minneapolis, MN.
- Larry C. Salmela, U.S. Steel Group, Inc., Mountain Iron, MN.
- Bruce Randall, Braun Intertec, Mendota Heights, MN.
- Bob Bohlken, Cambell-Sevey, Minnetonka, MN.
- Mark Kayser, Boise Cascade, International Falls, MN.
- Robert Irelan, Olmsted County, Rochester, MN.
- Russ Edmonds, Koch Refining, St. Paul, MN.

## Department of Public Safety

### Driver and Vehicle Services Division

#### Request for Comments on Planned Rules and Amendments to Rules Governing License Plates

**Subject of Rules.** The Minnesota Department of Public Safety requests comments on planned rules and amendments to rules governing fees for license plates, validation and registration stickers, International Fuel Tax decals, and the issuance, replacement and transfer of license plates, stickers and decals. Existing fees for plates and stickers are contained in *Minnesota Rules*, part 7403.1300. These rules specify the charge for the manufacture and issuance of license plates, stickers and decals. The fees in Chapter 7403 were last amended in 1993.

The purpose of the planned rulemaking is to ensure that the fees charged cover the cost of the manufacture and issuance of plates, stickers, and decals. Costs include manufacture, materials, overhead and handling. Affected are various plates, stickers and decals issued by the state where fees or taxes are not set in statute. These include not only regular sequentially numbered plates, both single and double, but also personalized plates and those issued to radio and citizen band operators. Plates are issued for passenger cars, motorcycles, mopeds and motorized bicycles, limousines, vans, buses, trucks, trailers, and to vehicle dealers and transporters.

**Persons Affected.** These rules affect persons who must procure a plate, sticker or decal, or replace or obtain a duplicate.

**Statutory Authority.** The Department's statutory authority and responsibility to adopt the proposed rules is contained in *Minnesota Statutes*, sections 14.06 REQUIRED RULES; 168.12 LICENSE PLATES; 168.126 COMMUTER VANS; REGISTRATION, LICENSE PLATES; 168.127 FLEET VEHICLES; REGISTRATION, FEES; 168.128 LIMOUSINE REGISTRATION, LICENSE PLATES, 168.1281 PERSONAL TRANSPORTATION SERVICE PLATES; 168.29 REPLACEMENT PLATES; 296.171 FUEL TAX COMPACTS; AND 16A.1285, subdivision 4, Rulemaking.

**Public Comment.** Interested persons or groups may submit comments or information on these planned rules in writing or orally until further notice is published in the *State Register* that the Department intends to adopt or withdraw the rules. The Department does not contemplate appointing an advisory committee to comment on the planned rules.

**Rule Drafts.** The Department has not yet prepared a draft of the planned rules and amendments and does not anticipate that a draft will be available before publication of the proposed rules.

**Agency Contact Person.** Written or oral comments, questions, requests to receive a copy of the rules when they are proposed, and requests for more information on these planned rules should be addressed to: Gary Belisle, 445 Minnesota Street, Suite 196, (651) 282-2409, FAX (651) 282-2462; TTY (hearing impaired) (651) 282-6555.

**Alternate Format.** Upon request, this Request for Comment can be made available in an alternate 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: 19 October 1998

Donald E. Davis, Commissioner  
Department of Public Safety



# State Grants & Loans

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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.

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## Department of Agriculture

### Agricultural Marketing and Development Division

#### AgBMP Loan Program

### Notice of Request for Proposals for the 1999 AgBMP and Countywide ISTS Loan Programs Allocations

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Agriculture will accept applications for its 1999 Agricultural Best Management Practices (*Minnesota Statutes* § 17.117) and Countywide Individual Sewage Treatment System (*Minnesota Statutes* § 115.57 and chapter 246 section 6, 1997 session) Loan Programs.

Counties, Soil and Water Conservation Districts and authorized Joint Power Organizations may submit applications to participate in the department's loan programs. Funds may be used to provide loans to farmers, rural landowners or farm supply businesses for projects that implement local comprehensive water plans. Approximately \$3.8 million has been tentatively earmarked for this year's program, however, the final amount allocated may be different.

Applications must be postmarked or received by the department by 4:00 p.m. December 4, 1998 to be considered during this application period.

To obtain copies of the complete application packets contact:

Dwight Wilcox  
AgBMP Loan Program  
Minnesota Department of Agriculture  
90 W Plato Blvd.  
St. Paul, MN 55107  
phone: (651) 215-1018  
FAX: (651) 297-7678  
e-mail: [dwight.wilcox@state.mn.us](mailto:dwight.wilcox@state.mn.us)

## Department of Agriculture

### Agricultural Marketing & Development

### Notice of Availability of No Interest Loans to Demonstrate Farm Anaerobic Manure Digestion/Biogas Technology

The Minnesota Department of Agriculture has announced the availability of \$200,000 for zero-interest loans to farmers or other individuals demonstrating farm anaerobic manure digestion/biogas technology. This technology involves adapting manure storage and treatment practices to collect biogas, which may either be burned off or used as a source of heat and electrical cogeneration. The process has the additional benefits of reducing odor and biologically stabilizing the digestion byproducts for such uses as fertilizer, feed, or bedding. These competitive loans are available in amounts of up to \$200,000.

Applications will be accepted until December 1, 1998. Projects must be implemented in Minnesota by Minnesota residents and must meet additional eligibility criteria. An independent panel of farmers and agricultural specialists will review applications. For more information or an application, please contact:

Robert Iwan  
Minnesota Department of Agriculture  
90 West Plato Boulevard  
Saint Paul, MN 55107-2094  
[robert.iwan@state.mn.us](mailto:robert.iwan@state.mn.us)  
(651) 296-3820

## Department of Corrections

### Sex Offender/Chemical Dependency Services Unit

#### Notice of Availability of Funds for Grants to Provide Sex Offender-Specific Programming for Juveniles and Adults

Contingent upon legislative approval, the Minnesota Department of Corrections, Sex Offender/Chemical Dependency Services Unit, announces the availability of grant funds for the provision of sex offender-specific programming across the state. Sex offenders eligible for funding under these grants are: (1) juvenile offenders who have been found delinquent or received a stay of adjudication, for whom the juvenile court has ordered treatment; and (2) adult offenders for whom treatment is required by the court as a condition of probation.

The grant period will be for the 24 month period from July 1, 1999 to June 30, 2001. It is anticipated that the maximum award per grant will be approximately \$90,000.00 for the term of the grant (\$45,000.00 per year). It is anticipated that 30 grants will be awarded. Proposals for less than the anticipated maximum award are encouraged.

This funding is authorized under *Minnesota Statutes* 241.67, subd. 1.

Private, for profit 501(c)(3) organizations, public human services agencies, community corrections agencies, and other governmental agencies are eligible to apply for these funds.

A request for proposals is available that contains detailed requirements and instructions for applying for this funding. The deadline for the submission of completed proposals is 4:30 p.m., January 15, 1999. To receive a copy of the request for proposals, contact:

Mary Popp  
Minnesota Department of Corrections  
Sex Offender/Chemical Dependency Services Unit  
1450 Energy Park Drive, Suite 200  
St. Paul, Minnesota 55108-5219  
Phone: (651) 643-3443  
TTY: (651) 643-3589

## Department of Health

### Disease Prevention and Control Division

#### AIDS/STD Section

#### Grant Funds Available for Conference Coordination Services for People Living With HIV

The AIDS/STD Services Section of the Minnesota Department of Health (MDH) requests proposals from agencies interested in competing for one contract for conference coordination services to plan, schedule, administer, and evaluate a conference for approximately 300 people living with HIV. Retreat goals established by the Minnesota HIV Services Planning Council include: An event to provide time and space for PLWH to network with each other. An event to provide information to PLWH about HIV resources & services. An event to provide emotional support to PLWH from other PLWH and care providers. An opportunity to provide a resource or exhibit area for HIV services and care providers. An opportunity to obtain information from PLWH about HIV services through needs assessments and/or program evaluations. Fifty Thousand dollars (\$50,000) is available for January 1998 through March 31, 1999. The conference must be held before March 31, 1999. Full proposals are due at MDH no later than 4:00 p.m., Wednesday, November 18, 1998.

Call or write for the full RFP which will be sent free of charge to interested vendors.

For more information contact:

Lore Malone  
Minnesota Department of Health, AIDS/STD Section  
717 Delaware Street, P.O. Box 9441  
Minneapolis, MN 55440-9441  
(612) 676-5106

### Department of Human Services

#### Aging and Adult Services

#### **Notice of Funds Availability: Opportunity to Sponsor the Retired and Senior Volunteer Program in Chisago, Isanti, Kanabec, Mille Lacs and Pine Counties**

The Minnesota office of the Corporation for National Service, a federal agency, in collaboration with the Minnesota Board on Aging (MBA), a state agency, seek a qualifying non-profit public or private organization to assume sponsorship of the Retired and Senior Volunteer Program (RSVP) currently operating in the counties of Chisago, Isanti, Kanabec, Mille Lacs and Pine.

The Corporation for National Service is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community based service. RSVP, one of three programs of the Corporation's National Senior Service Corps, (the Senior Companion and Foster Grandparent programs are the other two) facilitates the engagement of people 55 and older in volunteer opportunities in local communities. A project sponsor administers the recruitment, placement, and support of RSVP volunteers at community locations in the project area. Examples of current sponsors for the twenty one RSVP projects operating in Minnesota include non-profit organizations and city and county governmental units.

RSVP operating procedures and policy are governed by federal legislation contained in the Domestic Volunteer Service Act of 1973 as amended. RSVP, as well as the Senior Companion and Foster Grandparent programs, operate in Minnesota with additional state support provided through the MBA. The selection of a new sponsor for the five affected counties will be made by the Corporation for National Service in consultation with the MBA.

Currently there are approximately 450 active RSVP volunteers serving at 80 different locations or sites in the five county area. The sponsor selected to assume operations will be expected to keep those Retired Senior Volunteers (RSVs) and stations enrolled in the program while seeking new volunteers and assignments in the future. A total of \$53,796 of federal and state funds is available to support this program in the five county area in 1999. The sponsor should plan to provide some matching funds, cash and/or in-kind.

A complete application and further instructions is available from the Corporation for National Service, Room 2480, 431 S. Seventh Street, Minneapolis, MN 55415; telephone (612) 334-4083. A public meeting for all prospective sponsors will be held Monday, November 2, 1998 in Cambridge at the East Central Regional Library, 224 S. Birch Street, from 1:00 to 3:00 p.m. Further information will be provided as will the opportunity for questions. Notification of intent to attend this meeting will be appreciated. Please call this office to indicate your interest.

### Department of Public Safety

#### Minnesota Auto Theft Prevention Program

#### **Auto Theft Prevention Grants Available to State, County, Local Police Departments, Governmental Agencies, Prosecutors, Judiciary, Businesses, Community and Neighborhood Organizations**

The Board of the Minnesota Auto Theft Prevention Program announces the availability of over \$1,865,000.00 in grant funds accessible for the July 1, 1999 through June 30, 2000 grant period. Applications will be accepted from State, County, Local Police Departments, Governmental Agencies, Prosecutors, Judiciary, Businesses, Community and Neighborhood Organizations. This reimbursement grant program must be for projects dedicated to the area of auto theft. Grant application packets may be obtained by contacting Dennis Roske at the Auto Theft Prevention Program Office at (612) 405-6153 or 405-6155. To be considered, applications must be received in the MATPP office in Mendota Heights by 4:30 p.m. on December 31, 1998.

## Department of Public Safety

### Office of Pipeline Safety

#### Small Grants Available for FAX Machine Purchase to Improve Communication

Minnesota Office of Pipeline Safety offers small grants to municipalities for FAX machine purchase to improve communication with the One-Call Center.

Counties and municipalities are encouraged to apply for a small grant to purchase a FAX machine to enhance communication with the One-Call Center. The Minnesota Office of Pipeline Safety has received a grant from the Federal Office to assist in improving communications with municipalities.

Deadline for applying for this grant is December 1, 1998. Contact MnOPS for more information and an application.

#### GRANT APPLICATION - FAX MACHINE

Minnesota Office of Pipeline Safety  
444 Cedar Street - Suite 147  
St. Paul, MN 55101-5147  
(651) 296-5450

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## 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].

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## Department of Human Services

### Community Supports for Minnesotans with Disabilities Division

#### Program Operations Unit

#### Request for Proposals for Professional Services to Provide Comprehensive Review and Authorization of MMIS II (Medicaid Management Information Systems) Developmental Disability Screening Documents

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Human Services (DHS), Division for Community Supports for Minnesotans with Disabilities (CSMD), Program Operations Unit is seeking via a Request for Proposals (RFP) the professional services from qualified parties to provide comprehensive review and authorization of MMIS II developmental disability (DD) screening documents requesting MA programs and services and MA nursing facility admissions for persons with developmental disabilities. The contractor will assure that all developmental disability screening documents are compliant with State OBRA-PAS/ARR requirements, federal OBRA-PAS/ARR regulations, State MA-MR/RC Waiver Plans, federal HCFA Medicaid Waiver regulations, State MA Policy, ICF/MR regulations and federal Medicaid laws. The term of the contract shall be from December 1, 1998 to November 30, 1999. It is estimated that this one year contract will not exceed \$31,200.00.

A complete copy of the RFP can be obtained by contacting:

Sharyl Helgeson, Program Operations Unit Supervisor  
Minnesota Department of Human Services  
Community Supports for Minnesotans with Disabilities  
Program Operations Unit  
444 Lafayette Road  
St. Paul, MN 55155-3825  
(651) 215-6290

All proposal responses must be sent and received no later than 4:00 p.m. Monday, November 16, 1998. Late proposals will not be considered. Submit two copies of proposals. Proposals must be delivered in a sealed envelope or package with the responder's name and address clearly written on the outside of the parcel. Fax, e-mail or other electronically transmitted copies will not be considered. It is anticipated that the selection process will be completed by November 23, 1998.

## Minnesota House of Representatives Public Information Office

### Public Notice of Request for Bid for Printing the *Session Weekly*

**NOTICE IS HEREBY GIVEN** that the Minnesota House of Representatives Public Information Office is seeking bids from qualified printers to provide printing services for the *Session Weekly*.

The size of the publication is 8-1/2" x 11", with a minimum of 20 pages plus cover.

All work must be done in-house - unless specifically approved by us.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to Room 175, State Office Building, no later than **Monday, November 9, 1998, at 2 p.m.** Bid submittals will be opened publicly on that date and time.

A copy of the Request for Bid packet can be obtained by calling: Paul Battaglia, 175 State Office Building, St. Paul, Minnesota 55155-1298, (651) 296-8904.

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

## Board of Examiners for Nursing Home Administrators

### Health Professional Services Program

### Notice of Availability of Contract for Provision of Expert Medical Opinion Concerning Development and Implementation of Plans to Monitor the Management of Illnesses and Conditions of Regulated Health Care Professionals in Order to Protect the Public

The Board of Examiners for Nursing Home Administrators as administering board for the Health Professionals Services Program operated on behalf of participating health-related licensing boards requires expert medical opinion and occupational advice concerning the development and implementation of plans to effectively monitor the management of illnesses or conditions of persons regulated by the health licensing boards who may be unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals or other materials or as a result of mental physical or psychological conditions. The services to be performed will include: reviewing client medical records and charts, providing staff a written report on each case referred within thirty days, discussing case problems with staff to advise them, providing expert testimony in contested case hearings, and preparing briefings for staff and committees on topics related to monitoring treatment plan adherence by health care professionals.

In compliance with *Minnesota Statutes* 16B.167, the availability of this contracting opportunity is being offered to state employees. The responses of any state employee will be evaluated along with other responses to this Request for Proposals.

If you are interested in receiving the full Request for Proposal please contact Megan Thompson at (651) 643-2120.

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

Tom Barrett, Program Manager  
Health Professionals Services Program  
Suite 229, Iris Park Place  
1885 University Ave. W  
St. Paul, MN 55104  
Telephone: (651) 643-2123

All proposals must be sent to Tom Barrett, Program Manager at the address above.

All proposals must be received no later than 4:00 p.m. on November 9, 1998. Late Proposals will not be considered.

## Department of Public Service

### Energy Division

#### Notice of Request for Professional/Technical Consultant for E85 Project

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Public Service is requesting proposals for an E85 Project to coordinate E85 activities throughout the state of Minnesota as part of the department's Clean Fuels Program. This RFP does not obligate the department to complete this project, and the department reserves the right to negotiate duties with the respondents, to award more than one contract, or to cancel the solicitation if that is considered to be in the best interests of the department.

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 (651) 296-2600 TTY (651) 282-5799.

The deadline for receipt of proposals is 4:00 p.m. Monday, November 16, 1998. Copies of the complete RFP are available from:

Office of Deputy Commissioner  
Minnesota Department of Public Service  
121 - 7th Place East, Suite 200  
St. Paul, MN 55101-2145  
(651) 296-7977  
(651) 297-3067 (TTY)

## Department of Transportation

### Engineering Services Division

#### Notice of Availability of Contract for Highway Related Technical Activity for Cultural Resource Investigations and Archaeological Surveys of Prehistoric and Historic Sites, Inventory and Evaluations of Historical Structures, and Geomorphological Studies

Responses to this advertisement become public information under the Freedom of Information Act. This request does not obligate the State of Minnesota Department of Transportation to complete the work contemplated in this notice, and the department reserves the right to cancel this solicitation. All expenses incurred in responding to this notice shall be borne by the responder.

The Minnesota Department of Transportation (Mn/DOT) is soliciting expressions of interest and statements of qualifications for Cultural Resource Investigations. This includes archaeological surveys of prehistoric and historic sites, inventory and evaluations of historical structures, and geomorphological studies. Surveys will identify and evaluate properties for the National Register of Historic Places that are known or suspected to be impacted by current or future Trunk Highway and County/Municipal projects eligible for federal aid. This work will assist in assessments of the most advantageous location of highways and associated transportation facilities and corridors in the State of Minnesota. This will be a certified short list of qualified vendors who will receive Requests for Proposals on a project or multiple project basis.

Request for Qualification and Interest Proposals (RFQ&IP) is available by mail or fax. Please submit, in writing, a request for the RFQ&IP. Requests must be received before 2:00 p.m. on November 11, 1998. Requests made after that date must be in person.

Request for the RFQ&IP may be mailed or faxed to:

Dawn D. Thompson, Associate Agreement Administrator  
Consultant Services Unit  
Transportation Building  
Seventh Floor, Mail Stop 680  
395 John Ireland Boulevard  
St. Paul, MN 55155  
FAX: (651) 282-5127

Note: PROPOSALS WILL BE DUE ON NOVEMBER 18, 1998 BY 2:00 P.M.



# Professional, Technical & Consulting Contracts

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## Department of Transportation

### Engineering Services Division

#### Request for Proposals for Final Design Services for Renovation of the Ford Bridge Spanning the Mississippi River Between St. Paul and Minneapolis

The Minnesota Department of Transportation (Mn/DOT) is soliciting Proposals from Contractors qualified to provide final design services for the renovation of the Ford Bridge. The Ford Bridge is a 1523 foot long concrete arch structure (main spans about 327 feet) spanning the Mississippi River between St. Paul and Minneapolis, Minnesota.

These services require that the Contractor be experienced in the design and/or renovation of concrete arch bridges.

All contracted activities are scheduled to start by February 1999 with a completion date in October 1999.

Requests for Proposal will be available by mail from the address indicated below through November 9, 1998. A written request (direct mail or FAX) is required to receive the Request for Proposal. Please identify if you are a Targeted Group Business TGB at the time you request a proposal. After November 9, 1998, the Requests for Proposal must be picked up in person from our office located at the address listed below.

Requests for Proposal can be obtained from:

Final Design Ford Bridge RFP  
Minnesota Department of Transportation  
Consultant Services Unit  
Mail Stop 680, 7th Floor North  
395 John Ireland Boulevard  
St. Paul, MN 55155-1899  
FAX: (651) 282-5127  
Attention: Linda Moline

The proposal must be received in writing at the above address no later than two o'clock in the afternoon (2:00 PM) on November 16, 1998. **Late Submittals will not be considered.**

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

In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting as prime contractors will receive the equivalent of a 6% preference in the evaluation.

This request does not obligate the Minnesota Department of Transportation to complete the work contemplated in this notice, and the Department reserves the right to cancel this solicitation at any time. All expenses incurred by submitting contractors responding to this notice will be borne by the responder.

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# 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.

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## Minnesota Historical Society

### Request for Proposals for Web Page Design

The Minnesota Historical Society seeks a vendor to create web pages for an online curriculum project. This project includes the design of a new educational web site to be accessed from the MHS home page. It requires the coding of templates for major sections and content pages, and the creation of graphic images for navigation. The designs and templates will become the property of the Society and be used by Society staff to create web pages. The designs should be easy to navigate; be visually interesting and engaging; be consistent with the Society's look (fonts, colors, etc.); contain images of historic photographs, manuscripts, and artifacts of MHS collection material, and may contain QuickTime movies and QTVR's (all provided by the Society).

The Request for Proposal is available by calling or writing Jenna Gruen, Contracting Officer, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102. Telephone is (651) 297-5863 ([jenna.gruen@mnhs.org](mailto:jenna.gruen@mnhs.org)).

All proposals must be received by Jenna E. Gruen, Contracting Officer, or an authorized agent, at the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102 by Tuesday, November 17, 2:00pm central time. A bid opening will be conducted at that time. Late proposals 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.

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

## 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.