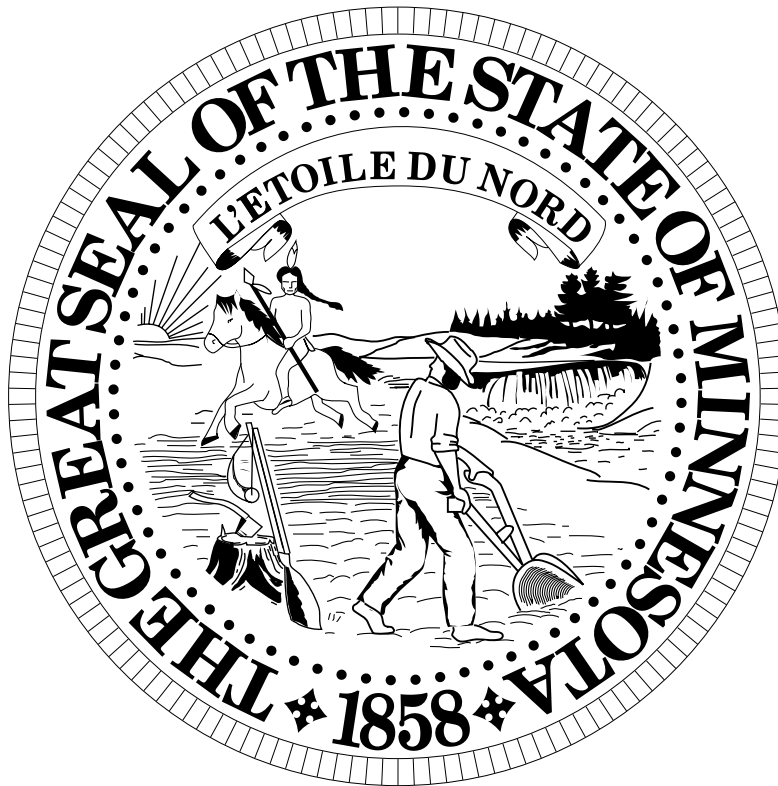


State of Minnesota

# State Register

Rules and Official Notices Edition



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

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

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
- certificates of assumed name, registration of insignia and marks

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Vol. 25 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
#45	Monday 7 May	Noon Wednesday 25 April	Noon Tuesday 1 May
#46	Monday 14 May	Noon Wednesday 2 May	Noon Tuesday 8 May
#47	Monday 21 May	Noon Wednesday 9 May	Noon Tuesday 15 May
#48	Tuesday 29 May	Noon Wednesday 16 May	Noon Tuesday 22 May

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

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## Legislative Information

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State Capitol, Room 231, St. Paul, MN 55155

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House Information Office (651) 296-2146

State Office Building, Room 175, 100 Constitution Ave., St. Paul, MN 55155

**Website:** [www.house.leg.state.mn.us/hinfo/hinfo.htm](http://www.house.leg.state.mn.us/hinfo/hinfo.htm)

## Minnesota State Court System

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Minnesota Judicial Center, Room 135, 25 Constitution Ave., St. Paul, MN 55155

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

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

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

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

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

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# Proposed Rules

## Comments on Planned Rules or Rule Amendments

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

## Rules to be Adopted After a Hearing

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

## Rules to be Adopted Without a Hearing

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

## Office of Administrative Hearings

### Proposed Permanent Rules Governing Rulemaking Procedure, Contested Case and Revenue Recapture Act Hearings, and Awards of Expenses and Attorneys Fees to Prevailing Parties

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

**Proposed Amendment to Rules Governing Rulemaking Procedure, *Minnesota Rules*, Parts 1400.2000 - 1400.2570; Contested Case Hearings, *Minnesota Rules*, Parts 1400.5010 - 1400.8400; Recovery of Expenses and Attorney Fees, *Minnesota Rules*, Part 1400.8401; and Revenue Recapture Act Hearings, *Minnesota Rules*, Parts 1400.8505 - 1400.8612.**

**Introduction.** The Office of Administrative Hearings intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 and 1400.2310. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until June 7, 2001.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to: Elizabeth Hayes, Staff Attorney, Office of Administrative Hearings, 100 Washington Avenue South, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138. **Phone:** (612) 341-7666, **fax:** (612) 349-2665. **TTY:** users may call the Office of Administrative Hearings at (612) 341-7346.

**Subject of Rules and Statutory Authority.** The proposed rules are about rulemaking procedure when agencies adopt, amend, or repeal rules, contested case hearings before the Office, the recovery of expenses and attorney fees, and revenue recapture act hearings before the Office. The proposed changes to the rulemaking procedure rules (1400.2000 - 1400.2570) are primarily for the purpose of clarifying and updating the rules. The changes to the rulemaking procedure rules also include proposed new rules governing the procedure when an agency adopts expedited rules under *Minnesota Statutes*, section 14.389. The proposed changes to the contested case hearing rules (1400.5010 - 1400.8400) are primarily for the purpose of clarifying and updating the rules. The Office also proposes to amend part 1400.8401, Expenses and Attorney Fees, so that the rule part conforms to statutory changes. Finally, changes to the revenue recapture act hearing rules (1400.8505 - 1400.8612) are proposed for the primary purpose of making these rules more generic and useful in a wider range of hearings.

*Minnesota Statutes*, section 14.51 authorizes the Chief Administrative Law Judge to adopt rules governing the procedural conduct of all rulemaking hearings, contested case hearings, and voluntary rulemaking and contested case mediation sessions. This statute

**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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also authorizes the Chief Administrative Law Judge to adopt rules governing the review of rules adopted without a public hearing. *Minnesota Statutes*, section 15.474, subdivision 1 authorizes the Chief Administrative Law Judge to adopt rules establishing "procedures for the submission and consideration of applications for an award of [attorney] fees and expenses in a contested case proceeding."

A copy of the proposed rules is published in the State Register and attached to this notice as mailed. A free copy of the proposed rules is available upon request from the agency contact person listed above. The rules are also posted on the agency's web page at: [www.oah.state.mn.us](http://www.oah.state.mn.us).

**Comments.** You have until 4:30 p.m., on June 7, 2001, to submit written comment in support of or in opposition to the proposed rules and any parts or subparts of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. 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 June 7, 2001. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire 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 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 notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format.** Upon request, 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 Michael Lewis at the Office of Administrative Hearings (same mailing address as listed above), or at **phone:** (612) 341-7610, or via **email:** [Michael.Lewis@state.mn.us](mailto:Michael.Lewis@state.mn.us)

**Modifications.** The proposed rules 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 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.

**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 rule, including a description of who will be affected by the proposed rules and an estimate of the possible cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules as modified after the end of the comment period. The rule and supporting documents will then be submitted to William J. Keppel, Esq., distinguished practitioner in residence at Hamline University School of Law for review for legality. You may ask to be notified of the date the rules are submitted to Mr. Keppel for review. If you want to be so notified, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 25 April 2001

Kenneth A. Nickolai  
Chief Administrative Law Judge,  
Office of Administrative Hearings

### 1400.2000 SCOPE.

Parts 1400.2010 to ~~1400.2560~~ 1400.2570 govern all proceedings by an agency for adopting any rule under *Minnesota Statutes*, chapter 14.

### 1400.2010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1400.2000 to ~~1400.2560~~ 1400.2570.

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

Subp. 5. [See repealer.]

[For text of subs 6 to 10, see M.R.]

**1400.2020 ASSIGNMENT AND DISQUALIFICATION OF JUDGE.**

Subpart 1. **Assignment.** The chief judge must promptly assign a judge to a rule proceeding after the chief judge receives a request to schedule a rule hearing, or a filing from an agency under parts 1400.2060, 1400.2300, 1400.2400, 1400.2410, or 1400.2450. A request to schedule a rule hearing must include the documents listed in part 1400.2080, subpart 5.

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

**1400.2030 COUNTING TIME AND FILING DOCUMENTS.**

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

Subp. 2. **Paper size.** All documents must be submitted to the office on standard size 8-1/2 inch by 11 inch paper, except:

- A. ~~the proposed or adopted rules prepared by the revisor;~~
- ~~B.~~ handwritten comments from the public; and
- ~~C.~~ B. exhibits.

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

**1400.2040 PETITION FOR RULEMAKING.**

Subpart 1. **Content of petition.** A petition to an agency requesting rulemaking under *Minnesota Statutes*, section 14.09, must be ~~in the format of, and~~ contain the following information required in, the form in part 1400.2500;

- A. the name of the person petitioning the agency;
- B. if applicable, the group of persons represented in the petition;
- C. the address of the petitioning person or group represented;
- D. whether the petitioning person or groups request an adoption, amendment, or repeal of an agency rule; and
- E. the need for the requested action.

Part 1400.2500 contains a recommended format for the petition.

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

**1400.2050 REQUEST FOR COMMENTS ON ~~PLANNED~~ POSSIBLE RULE.**

An agency must comply with *Minnesota Statutes*, section 14.101, before publishing a notice of intent to adopt rules or notice of hearing. Part 1400.2510 is a recommended form for the published request for comments.

**1400.2060 APPROVAL OF ADDITIONAL NOTICE PLAN.**

Subpart 1. **Optional prior approval.** An agency may ask the office for ~~prior~~ approval of its plan for giving additional notice of ~~planned~~ its request for comments on possible rulemaking under *Minnesota Statutes*, section 14.101, or of its plan for giving additional notice of proposed rules under *Minnesota Statutes*, sections 14.131, 14.14, 14.22, and 14.23. The agency must request approval of its additional notice plan before it publishes the request for comments or the notice of proposed rules.

Subp. 2. **Filing.** An agency asking the office for ~~prior~~ approval of ~~a~~ an additional notice plan must file with the office:

- A. For additional notice plans under *Minnesota Statutes*, section 14.101:

- (1) a description of its proposed additional notice ~~plans~~ plan;
- (2) the agency's proposed request for comments on ~~planned~~ its possible rule; and
- (3) an explanation of why the agency believes that its additional notice plan complies with *Minnesota Statutes*, section 14.101.

- B. For additional notice plans under *Minnesota Statutes*, sections 14.131, 14.14, 14.22, and 14.23:

- (1) a draft or certified copy of the proposed rule;

<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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(2) a draft ~~of~~ or a final copy of the statement of need and reasonableness under part 1400.2070, containing the agency's proposed notice plan;

(3) the agency's proposed notice of intent to adopt rules, notice of hearing, or dual notice under part 1400.2080; and

(4) an explanation of why the agency believes that its additional notice plan complies with *Minnesota Statutes*, section 14.14, subdivision 1a, or 14.22.

Subp. 3. **Review.** If a proposed additional notice plan is filed with the office, a judge must review, and approve or disapprove it within five working days after the office receives it. The judge must approve the notice plan if the judge finds that the notice plan meets the requirements of the applicable statute.

Subp. 4. **Approval or disapproval.** An approved additional notice plan is the office's final determination that the notice plan is adequate if the agency implements the additional notice plan. If the notice plan is disapproved, the judge must explain why and tell the agency what changes are necessary for approval. The agency may resubmit the notice plan for review after changing it. The judge must review and approve or disapprove the revised notice plan within five working days after the office receives it.

### 1400.2070 STATEMENT OF NEED AND REASONABLENESS.

Subpart 1. **General content.** The statement of need and reasonableness must summarize the evidence and argument that the agency is relying on to justify both the need for and the reasonableness of the proposed rules, and must state how the evidence rationally relates to the choice of action taken. The statement must explain the circumstances that created the need for the rulemaking and why the proposed rulemaking is a reasonable solution for meeting the need. The statement must be sufficiently specific so that interested persons will be able to fully prepare any testimony or evidence in favor of or in opposition to the proposed rules. A general description of the statute being implemented or restating the proposed rule is not sufficient. The statement must include:

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

C. if a hearing is scheduled, a list of any nonagency witnesses the agency anticipates asking to testify ~~if there is a hearing on the rule~~, and a summary or description of their testimony; ~~and~~

D. a citation to the agency's grant of statutory authority to adopt the rule and, if the grant of authority was made after January 1, 1996, the effective date of the agency's statutory authority to adopt the rule; and

E. the date the statement is made available for public review.

The statement need not contain evidence and argument in rebuttal of evidence and argument presented by the public. If an agency is amending existing rules, the agency need not demonstrate the need for and reasonableness of the existing rules not affected by the proposed amendments.

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

Subp. 3. **Timing.** The statement must be prepared before the agency orders publication of its notice of intent to adopt rules, notice of hearing, or dual notice. This subpart is satisfied if the statement and the notice are dated on the same day. The agency must send a copy of the statement to the Legislative ~~commission~~ Reference Library when it becomes available for public review.

### 1400.2080 NOTICE OF PROPOSED RULE.

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

Subp. 2. **Contents of all notices.** A notice of intent to adopt rules, notice of hearing, or dual notice must state:

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

I. the signature of the person authorized to give notice of intent to adopt rules, notice of hearing, or dual notice and the date the person signed the notice.

Subp. 3. **Additional contents for a notice of intent to adopt rules or dual notice.** A notice of intent to adopt rules without a public hearing or dual notice must state or include:

A. that the public ~~has 30 days to~~ may comment in support of or in opposition to the rule or any part of it, and that comment is encouraged;

B. the calendar date that the comment period ends, which must be at least 30 days after the date of publication;

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

G. how persons must submit their comments or requests for hearing, including whether the agency will accept e-mail comments or requests for hearing;



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

Subp. 4. **Additional contents for a notice of hearing or dual notice.** A notice of hearing or dual notice must state: For text of items A to E, see M.R.

~~F. that persons can obtain the statement of need and reasonableness from the office at the cost of copying;~~

~~G. that any person can ask to be notified of the date on which the judge's report will become available and that the request can be made at the hearing or in writing to the judge;~~

~~H. G. that any person can ask to be notified of the date on which the agency adopts the rule and files it with the secretary of state, and that the request can be made at the hearing or in writing to the agency;~~

~~I. H. that lobbyists must register with the Campaign Finance and Public Disclosure Board, that questions should be referred to the board, and the board's address and telephone number; and~~

~~I. I. that a hearing is ordered.~~

Subp. 5. **Scheduling of hearing, and approval of notice of hearing or dual notice.** The agency must request to schedule a rule hearing and obtain the judge's approval of any notice of hearing or dual notice prior to mailing it or publishing it in the *State Register*. The judge must also advise the agency as to when ~~and~~ where ~~the hearing~~, and ~~how many hearings~~ should be held in order to allow for participation by all affected interests. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached, and a draft of or a final copy of the statement of need and reasonableness must be filed with a notice submitted for approval. The judge must review the proposed notice within five working days of receiving it and must either approve the notice or advise the agency how the notice must be revised.

Subp. 6. **Timing.** A notice of hearing or notice of intent to adopt rules must be mailed at least 33 days before the end of the comment period or the start of the hearing, and must be published in the *State Register* at least 30 days before the end of the comment period or the start of the hearing. A dual notice must be mailed at least 33 days before the end of the comment period and must be published in the *State Register* at least 30 days before the end of the comment period. If a hearing is required after using a dual notice, there must be at least ten days between the end of the comment period and the start of the hearing. Depositing a mailing in the state of Minnesota's central mail system for United States mail satisfies the mailing requirement of this subpart.

Subp. 7. ~~Certificate~~ **Certificates of mailing and certificate accuracy of mailing list.** The agency must prepare a certificate of mailing the notice to the rulemaking mailing list and a certificate of ~~the accuracy of its~~ rulemaking mailing list. Part 1400.2550 contains a recommended format for this document.

#### **1400.2085 NOTICE OF PROPOSED EXPEDITED RULE.**

Subpart 1. General content. A notice of intent to adopt expedited rules under *Minnesota Statutes*, section 14.389, subdivisions 1 to 4, must contain the information in subpart 2. If an agency is accepting requests for a public hearing under *Minnesota Statutes*, section 14.389, subdivision 5, the notice must also contain the information in subpart 3. Part 1400.2570 contains recommended forms for these notices.

Subp. 2. Contents of expedited rule notices. All notices of intent to adopt expedited rules must state:

A. that the agency intends to adopt, amend, or repeal rules under the expedited process and identify the parts of this chapter and *Minnesota Statutes*, section 14.389;

B. a citation to the statutory authority for the rule and the statutory authority for the rule to be adopted under the expedited process;

C. that the proposed rule is attached to the notice or if the text of the proposed rule is not attached, a description of the nature and effect of the proposed rule and how to obtain a free copy from the agency;

D. if applicable, that an entire rule is being repealed and a citation to the rule;

E. that the public has 30 days to comment in support of or in opposition to the rule or any part of it, and that comment is encouraged;

F. how persons must submit their comments, including whether the agency will accept e-mail comments;

G. the calendar date that the comment period ends;

<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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H. that each comment should identify the part of the rule addressed, any change proposed, and the reason for the suggested change;

I. if no hearing is held, that the agency must, after adopting the rule, submit the rule to the office for review for legality;

J. that persons who wish to comment on the legality of the rule must do so during the 30-day comment period;

K. that persons may request to be notified of the date that the rule is submitted to the office for review and how to make that request;

L. that the proposed rule may be modified if the modifications do not make the rule substantially different as defined under *Minnesota Statutes*, section 14.05, subdivision 2, paragraphs (b) and (c);

M. that persons may request to be placed on the agency's mailing list to receive notice of future rule proceedings;

N. any other information required by law or rule to be included in the notice; and

O. the signature of the person authorized to give notice of intent to adopt rules.

Subp. 3. Additional notice contents when agency accepts requests for public hearing. If an agency publishes notice under *Minnesota Statutes*, section 14.389, subdivision 5, the notice must also state:

A. that if 100 or more persons submit a written request for hearing during the comment period, a public hearing must be held on the rules unless a sufficient number later withdraw their requests in writing;

B. that any person requesting a hearing must include that person's name and address, must identify the portion of the rule to which the person objects or a statement that the person objects to the entire rule, and that a request that does not provide this information is invalid and will not count when determining whether a public hearing must be held;

C. that any person requesting a hearing is encouraged to propose changes to the rule;

D. how persons must submit their request for hearing; and

E. that if a public hearing is held the agency must proceed under *Minnesota Statutes*, sections 14.131 to 14.20.

Subp. 4. Timing. All notices for expedited rules must be mailed at least 33 days before the end of the comment period, and must be published in the *State Register* at least 30 days before the end of the comment period.

Subp. 5. Certificates of mailing and accuracy of mailing list. The agency must prepare a certificate of mailing the notice to its rulemaking mailing list and a certificate of the accuracy of its mailing list.

Subp. 6. Procedure when public hearing is required. If a public hearing is required, the rule may be adopted by the agency only after complying with all of the requirements for rules adopted after a public hearing, *Minnesota Statutes*, sections 14.131 to 14.20. This includes preparing a statement of need and reasonableness and publishing and mailing a notice of rule hearing under *Minnesota Statutes*, section 14.14, subdivision 1a. In addition to the notice requirements in *Minnesota Statutes*, section 14.14, subdivision 1a, the agency must also send the notice of rule hearing to those persons who requested a public hearing.

### **1400.2110 PROCEDURE TO ADOPT SUBSTANTIALLY DIFFERENT RULES.**

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

Subp. 2. **Notice.** The agency must mail or deliver to each person or group that made a written or oral comment during the ~~rule proceeding~~ comment period or registered at the rule hearing, if the person's address is known to the agency:

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

[For text of subps 3 to 6, see M.R.]

### **1400.2210 CONDUCT OF HEARING.**

Subpart 1. **Registration of participants.** All persons who present evidence or ask questions must register with the judge before presenting evidence or asking questions at the hearing. Any person may register whether or not they speak at the hearing. Those who register must legibly print their names, addresses, telephone numbers, and the names of any individuals or associations that the persons represent at the hearing on a register provided by the judge. Persons may request on the register to be informed when the judge's report ~~will be~~ is available. Persons may also request on the register that the agency inform them when the agency adopts the rules and files them with the secretary of state.

[For text of subps 2 to 10, see M.R.]

### **1400.2220 AGENCY PRESENTATION AT HEARING.**

Subpart 1. **Rulemaking documents.** The agency must place into the hearing record the following documents:

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

E. a copy of the transmittal letter or a certificate showing that the agency sent a copy of the statement of need and reasonableness to the Legislative ~~commission~~ Reference Library;

F. the notice of hearing or dual notice as mailed and as published in the *State Register*;

G. the certificate of mailing the notice of hearing and certificate of accuracy of its mailing list. Part 1400.2550 is a recommended certificate form;

H. a certificate of additional notice if given or a copy of the transmittal letter;

I. any written comments on the proposed rule received by the agency during the comment period;

J. if the ~~legislative commission~~ chief judge has authorized the agency to omit from the notice of hearing published in the *State Register* the text of any proposed rule, a copy of the document authorizing the omission; and

K. any other document or evidence to show compliance with any other law or rule which the agency is required to follow in adopting this rule. Examples include Minnesota Statutes, section 3.9223, subdivision 4 (council of Chicano/Latino people), 14.111 (farming operations), or 14.116 (notice to legislators).

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

#### **1400.2240 ADMINISTRATIVE LAW JUDGE'S REPORT.**

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

Subp. 4. **Disapproval; review by chief judge.** If the judge disapproves the rule, the judge must submit the report and the hearing record to the chief judge for review. The chief judge must review the rule and the judge's report and prepare a report within ten days. If the chief judge disapproves the rule, the chief judge must explain why and tell the agency what changes or actions are necessary for approval. The chief judge must promptly send the chief judge's report, the judge's report, and the hearing record to the agency. The agency ~~may~~ must resubmit the rule to the chief judge for review after changing it. The agency may also request that the chief judge reconsider the disapproval. The chief judge must review and approve or disapprove the changed rule or a request for reconsideration within five working days after the office receives it.

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

Subp. 6. **Disapproval of need and reasonableness.** If the chief judge disapproves the rule because the agency has not shown it to be needed and reasonable, and if the agency chooses not to follow the chief judge's recommended corrections, the agency must submit the rule to the legislative coordinating commission and the house of representatives and senate policy committees with primary jurisdiction over state governmental operations, for review under *Minnesota Statutes*, section 14.15, subdivision 4.

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

Subp. 8. **Withdrawal of rule.** The agency may withdraw a rule by submitting a ~~request~~ notice of withdrawal to the chief judge signed by a person authorized to withdraw the rule. Withdrawing a rule is appropriate unless the withdrawal of a rule or a portion of the rule makes the remaining rules substantially different. The ~~request~~ notice must explain the person's authority to withdraw the rule. The office must return the agency's filing promptly after receiving this ~~request~~ notice.

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

Subp. 10. **Rule adoption.** Once the judge or chief judge approves the rule or the review period for the legislative coordinating commission ~~has~~ and the house of representatives and senate policy committees with primary jurisdiction over state governmental operations has passed, the agency may adopt the rule by executing an order adopting the rule. The agency must obtain the revisor's approval of the rule's form, file ~~two~~ three copies of the rule with the secretary of state, and publish a notice of rule adoption in the *State Register*.

#### **1400.2300 REVIEW OF RULES ADOPTED WITHOUT A PUBLIC HEARING.**

Subpart 1. **Applicability.** Parts 1400.2300 ~~to~~ and 1400.2310 apply to review of rules adopted by agencies under *Minnesota Statutes*, sections 14.22 to 14.28.

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

Subp. 4. **Withdrawal of rule.** The agency may withdraw a rule from review by submitting a request notice of withdrawal to the chief judge signed by a person authorized to withdraw the rule. Withdrawing a rule is appropriate unless the withdrawal of a rule or a portion of the rule makes the remaining rules substantially different. The request notice must explain the person's authority to withdraw the rule. The office must return the agency's filing promptly after receiving this request notice.

Subp. 5. **Approval.** If the rule is approved either on initial review or on resubmission, the agency may publish notice of adoption of the rule in the *State Register*. The office must file ~~two~~ three copies of the rule with the secretary of state, ~~and send a copy of its decision to persons who requested a copy of this decision, to the legislative commission, and to the attorney general.~~ The office must notify those persons who requested notification that the judge's decision is available. The office must also send a copy of the judge's decision to the legislative coordinating commission, the revisor, and the attorney general. The office must send the agency a copy of its decision and promptly return the agency's filing.

Subp. 6. **Disapproval.** If the rule is disapproved, the judge must state in writing the reasons for the disapproval and recommend what changes or actions are necessary for approval. The written reasons for disapproval must then be submitted to the chief judge for review. The chief judge shall approve or disapprove the judge's determination within five working days and shall state the reasons in writing and shall advise the agency what changes are required for approval. The office must notify those persons who requested notification that the chief judge's report is available. The office also must send a copy of the chief judge's decision to ~~persons who requested a copy of the decision, the office of the governor, the legislative coordinating commission, the revisor, and the attorney general, and the house of representatives and senate policy committees with primary jurisdiction over state governmental operations.~~ Minnesota Statutes, section 14.26, subdivision 3, governs the effect of any disapproval. The chief judge shall then promptly send the rule record to the agency.

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

Subp. 8. **Resubmission.** The agency ~~may~~ must resubmit the rule to the chief judge for review after changing it ~~and~~. The agency may also request that the chief judge reconsider the disapproval. When the agency resubmits the rule for review, it must file with the office:

- A. the agency's initial filing under subpart 2 rule as initially proposed;
- B. the rule with the agency's proposed changes; and
- C. the agency's amended order adopting rules. The order must include an explanation of the changes, why they solve the problems identified by the chief judge, and why they do not result in a substantially different rule.

The chief judge may request that the agency also return the hearing record. The chief judge must review the resubmitted rule and decide whether it meets the standards of part 1400.2100 within five working days of receiving it. *Minnesota Statutes*, section 14.26, subdivision 3, governs the effect of any disapproval.

Subp. 8a. New modifications to rule. If the agency wants to adopt the rule with modifications other than those recommended by the judge or chief judge, the agency must submit to the chief judge the filings under subpart 8.

The chief judge may request that the agency also return the hearing record. The chief judge must review the agency's modifications to decide if they make the rule substantially different than the proposed rule. The chief judge must make a written decision within five working days after the office receives the rule.

Subp. 9. **Disapproval of need and reasonableness.** If the chief judge disapproves the rule because the agency has not shown it to be needed and reasonable, and if the agency chooses not to follow the chief judge's recommended corrections, the agency must submit the rule to the legislative coordinating commission, and to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for review under *Minnesota Statutes*, section 14.26, subdivision 3, paragraph (c).

### 1400.2310 DOCUMENTS TO BE FILED.

The agency must file the following documents with the office:

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

- F. if the ~~legislative commission~~ chief judge authorized the agency to omit from the notice of intent to adopt rules published in the *State Register* the text of any proposed rule, a copy of the document authorizing the omission;
- G. the certificate of mailing the notice of intent to adopt rules and certificate of accuracy of its mailing list;
- H. a certificate of additional notice, if given, or a copy of the transmittal letter;
- I. a copy of the transmittal letter or certificate showing that the agency sent a copy of the statement of need and reasonableness to the Legislative ~~commission~~ Reference Library;

J. all written comments and submissions on the proposed rule received during the comment period, requests for hearing, and withdrawals of requests for hearing received by the agency, except those that only requested copies of documents;

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

L. ~~three copies~~ a copy of the adopted rule, showing any modifications to the proposed rule and the revisor's approval of them;

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

N. the order adopting the rule that complies with the requirements in part 1400.2090;

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

P. any other document or evidence to show compliance with any other law or rule which the agency is required to follow in adopting this rule. Examples include Minnesota Statutes, section 3.9223, subdivision 4 (council of Chicano/Latino people), 14.111 (farming operations), or 14.116 (notice to legislators).

Part 1400.2550 is a recommended certificate form. Part 1400.2560 is a recommended order adopting rules.

#### **1400.2400 REVIEW OF EXEMPT RULES.**

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

Subp. 4. **Approval and disapproval.** If the rule is approved, the agency may publish it in the *State Register*. If the rule is approved either on initial review or on resubmission, the office must file three copies of the rule with the secretary of state. The office must also send a copy of the judge's decision to the legislative coordinating commission, the revisor, and the attorney general. The office must send the agency a copy of the judge's decision and promptly return the agency's filing.

Subp. 4a. **Disapproval.** If the rule is disapproved, the judge must tell the agency why and what changes are necessary for approval or why the rule is not exempt from rulemaking procedures. The agency ~~may~~ must resubmit the rule to the judge for review after changing it. The judge must review and approve or disapprove the rule within five working days after receiving it. A rule does not take effect unless approved.

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

#### **1400.2410 REVIEW OF EXPEDITED RULES ADOPTED WITHOUT A PUBLIC HEARING.**

**Subpart 1. Applicability.** This part applies to review of expedited rules adopted by agencies under Minnesota Statutes, section 14.389, where no public hearing is held.

**Subp. 2. Filing.** The agency must file the following documents with the office:

A. the proposed rule, including the revisor's approval;

B. the notice of intent to adopt expedited rules as mailed and as published in the State Register;

C. the certificate of mailing the notice of intent to adopt expedited rules and certificate of the accuracy of its mailing list;

D. a certificate of additional notice, if given, or a copy of the transmittal letter;

E. all written comments and submissions on the proposed rule;

F. if required by Minnesota Statutes, section 14.25, subdivision 2, the notice of withdrawal of hearing request, evidence that the notice of withdrawal was sent to all persons who requested a hearing, and any responsive comments received;

G. one copy of the adopted rule, showing any modifications to the proposed rule and the revisor's approval of them;

H. if the agency adopts a substantially different rule using the procedure in part 1400.2110, a copy of the notice that was sent to persons or groups who commented during the comment period and evidence that the notice was sent to those persons or groups;

I. the order adopting the rule that complies with the requirements in part 1400.2090;

J. the notice of submission of the rule to the office, if anyone requested this notice, and a copy of the transmittal letter or certificate showing that the agency sent this notice; and

<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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K. any other document or evidence to show compliance with any other law or rule that the agency is required to follow in adopting this rule.

Subp. 3. Review. A judge must review the agency's filing and either approve or disapprove it within 14 days after the office receives it, unless it is withdrawn. In reviewing the filing, the judge must decide whether the rule meets the standards of part 1400.2100, items A and C to H.

Subp. 4. Withdrawal of rule. The agency may withdraw an expedited rule from review by submitting a notice of withdrawal signed by a person authorized to withdraw the rule unless the withdrawal of the rule or a portion of the rule makes the remaining rules substantially different. The notice of withdrawal must explain the person's authority to withdraw the rule. The office must return the agency's filing promptly after receiving this request.

Subp. 5. Approval. If the expedited rule is approved, either on initial review or on resubmission, the agency may publish the notice of adoption in the State Register. If the final expedited rule is different from the rule originally published in the State Register, the agency must publish a copy of the changes in the State Register. The agency must file one copy of the rule with the governor. The office must file three copies of the rule with the secretary of state. A rule does not take effect unless approved.

Subp. 6. Disapproval. If the rule is disapproved, the judge must state in writing the reasons for the disapproval and what changes or actions are necessary for approval. The agency must resubmit the rule to the judge for review after changing it. The judge must review and approve or disapprove the resubmitted rule within five working days after receiving it.

Subp. 7. Administrative law judge's decision. The office must notify those persons who requested notification that the judge's decision is available. The office must send a copy of the judge's decision to the legislative coordinating commission, the revisor, and the attorney general. The office must also send the agency a copy of the judge's decision and promptly return the agency's filing.

Subp. 8. Review by chief judge. An agency may ask the chief judge to review an expedited rule that has been disapproved by a judge. The agency must make this request within five working days of receiving the judge's decision. The chief judge must review the agency's filing and, within 14 days of receiving it, either approve or disapprove it under the standards of subpart 3.

### 1400.2450 MEDIATION.

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

Subp. 5. **Subsequent sessions.** If additional mediation sessions are needed, the date, time, and place must be determined by agreement of the participants or by the judge if the participants do not agree. The judge must give notice of future sessions ~~must be given~~ orally to the participants present and by mail to any persons who have indicated a desire to participate but who are not present.

[For text of subs 6 to 8, see M.R.]

### 1400.2510 RECOMMENDED REQUEST FOR COMMENTS ON ~~PLANNED~~ POSSIBLE RULE.

Minnesota Department of \_\_\_\_\_

#### REQUEST FOR COMMENTS

~~Planned~~ Possible (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_, *Minnesota Rules* \_\_\_\_\_

**Subject of Rule.** The \_\_\_\_\_ (name of department) requests comments on its ~~planned~~ possible (amendment to) (repeal of) rule governing \_\_\_\_\_. The department is considering (a rule) (rule amendments) (repealing its rule) that \_\_\_\_\_ (detailed description of subject matter of rule).

**Persons Affected.** The (amendment to) (repeal of) the rule would likely affect \_\_\_\_\_ (description of types of groups and individuals likely to be affected). (Optional): The department does (not) contemplate appointing an advisory committee to comment on the ~~planned~~ possible rule.

**Statutory Authority.** *Minnesota Statutes*, section \_\_\_\_\_ (section number), (authorizes) (requires) the department to adopt rules for \_\_\_\_\_ (brief description of statutory authority).

**Public Comment.** Interested persons or groups may submit comments or information on this ~~planned~~ possible rule in writing or orally until 4:30 p.m. on \_\_\_\_\_ (date). The department (insert either: (has) (has not yet) prepared a draft of the ~~planned~~ possible rule (amendment) (repeal) **OR** does not anticipate that a draft of the rule (amendment) (repeal) will be available before the publication of the proposed rule). Written or oral comments, questions (requests to receive a draft of the rule) (when it has been prepared), and requests for more information on this ~~planned~~ possible rule should be addressed to: \_\_\_\_\_ (name, address, ~~and~~ telephone number, and e-mail address [optional] of staff person).

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

\_\_\_\_\_  
Commissioner

**1400.2520 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.**

Minnesota Department of \_\_\_\_\_

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Proposed (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_, *Minnesota Rules* \_\_\_\_\_

**Introduction.** The (department name) intends to adopt a permanent rule without a public hearing following the procedures set forth in ~~the rules of the Office of Administrative Hearings, parts 1400.2300 and 1400.2310, and~~ the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You ~~have 30 days to~~ may submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule until \_\_\_\_\_ (date).

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to: \_\_\_\_\_ (name, agency, address, telephone number, and fax number optional). (You may submit e-mail comments, questions, or requests for a public hearing to: \_\_\_\_\_ (e-mail address)) [optional].

**Subject of Rule and Statutory Authority.** The proposed rule is about (subject of rule, and if applicable, that an entire rule is being repealed and a citation to the rule). The statutory authority to adopt this rule is (specific statutory citation). A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person listed above.)

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

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

**Modifications.** The proposed rule 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 rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**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 rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule.

**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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**Other notices required by law or chosen to be inserted in this notice.**

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

**1400.2530 RECOMMENDED NOTICE OF HEARING.**

Minnesota Department of \_\_\_\_\_

**NOTICE OF HEARING**

Proposed (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_, *Minnesota Rules* \_\_\_\_\_

**Public Hearing.** The (department name) intends to adopt a rule after a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20. The agency will hold a public hearing on the above-entitled rule at (place), starting at (time hearing starts) on \_\_\_\_\_, \_\_\_\_\_, and continuing until the hearing is completed. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

**Administrative Law Judge.** The hearing will be conducted by (name, address, telephone number, and fax number of judge). The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

**Subject of Rule, Statutory Authority, and Agency Contact Person.** ~~The subject of the hearing will be the proposed rules governing \_\_\_\_\_, *Minnesota Rules* \_\_\_\_\_.~~ The proposed rule is about (subject of rule and, if applicable, that an entire rule is being repealed and a citation to the rule). The proposed rules are authorized by *Minnesota Statutes*, section (specific section number). A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person.) The agency contact person is: (name, address, telephone number, ~~and~~ fax number [optional], and e-mail address [optional]).

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

**Other notices required by law or chosen to be inserted in this notice.**

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



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## Proposed Rules

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

**Accommodation.** 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 as a result of the rule hearing process. Modifications must be supported by data and views presented during the rule hearing process, and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate.

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

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the ~~Ethical Practices~~ Campaign Finance and Public Disclosure Board at: (address, telephone number).

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

### 1400.2540 RECOMMENDED DUAL NOTICE.

Minnesota Department of \_\_\_\_\_

DUAL NOTICE: NOTICE OF INTENT TO ADOPT A RULE 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) (Repeal of) Rule Governing \_\_\_\_\_, *Minnesota Rules* \_\_\_\_\_

**Introduction.** The (department name) intends to adopt a rule without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, parts 1400.2300 and 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rule ~~within 30 days~~ ~~or~~ by \_\_\_\_\_, \_\_\_\_\_, a public hearing will be held at (location), starting at (time) on \_\_\_\_\_, \_\_\_\_\_. (The date must be at least ten days after the end of the comment period.) To find out whether the rule will be adopted without a hearing ~~of~~ or if the hearing will be held, you should contact the agency contact person after (date comment period ends) and before (date of hearing).

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to: \_\_\_\_\_ (name, address, telephone number, and fax number [optional]). (You may submit e-mail comments, questions, or requests for a public hearing to: \_\_\_\_\_ (e-mail address)) [optional].

**Subject of Rule and Statutory Authority.** The proposed rule is about (subject of rule and, if applicable, that an entire rule is being repealed and a citation to the rule). The statutory authority to adopt the rule is (specific statutory citation). A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person listed above.)

**Comments.** You have until \_\_\_\_ p.m. on \_\_\_\_\_, \_\_\_\_\_, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by \_\_\_\_\_.

**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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the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule 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 rule 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 rule. Your request for a public hearing must be in writing and must be received by the agency contact person by \_\_\_\_ p.m. on \_\_\_\_\_, \_\_\_\_\_. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request 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.

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

**Cancellation of Hearing.** The hearing scheduled for \_\_\_\_\_, \_\_\_\_\_, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. 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 (telephone number) after (date comment period ends) to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections ~~14.14~~ 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at: (name, address, telephone number, and fax number).

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the 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 ~~14.14~~ 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 rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may ~~also~~ be reviewed and copies obtained at the cost of reproduction from ~~either the agency or the Office of Administrative Hearings.~~

**Other notices required by law or chosen to be inserted in this notice.**

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at (address and telephone number).

**Adoption Procedure if No Hearing.** If no hearing is required, the agency may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the 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 rule. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rule and files it 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: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

#### **1400.2550 RECOMMENDED CERTIFICATES.**

NOTE: This part contains the format of a certificate and language that: certifies the accuracy of the rulemaking mailing list, certifies the mailing of a notice or proposed rule, certifies the mailing of the statement of need and reasonableness to the Legislative ~~commission~~ Reference Library, ~~and~~ certifies the mailing of a notice of submission of a rule adopted without a public hearing to the office, and certifies the mailing of the notice and the statement to legislators. When making certificates using this part, use only the language that applies. If two or more people performed the various actions, create a separate certificate for each person that includes only the actions done by each individual.

#### ~~CERTIFICATE OF MAILING THE (DUAL) NOTICE (OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING) (OF HEARING) AND CERTIFICATE OF MAILING LIST~~

Proposed Rule Governing \_\_\_\_\_, *Minnesota Rules* \_\_\_\_\_

(Certificate of accuracy of the mailing list) I certify that the list of persons and associations who have requested under *Minnesota Statutes*, section 14.14, subdivision 1a, that their names be placed on the department of \_\_\_\_\_ rulemaking mailing list is accurate, complete, and current as of \_\_\_\_\_, \_\_\_\_.

(Certificate of mailing notice to rulemaking mailing list) I certify that on \_\_\_\_\_, \_\_\_\_\_, at least 33 days before the end of the comment period, at the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Minnesota, I mailed the \_\_\_\_\_ (state what was mailed, for example: (1) Notice of Intent to Adopt Rules, Dual Notice, or Notice for Hearing, and (2) the proposed rule) by depositing a copy thereof in [the State of Minnesota Central Mail System for] United States mail, with postage prepaid, to all persons and associations on the rulemaking mailing list established by *Minnesota Statutes*, section 14.14, subdivision 1a.

(Certificate of giving additional notice) I certify that on \_\_\_\_\_, \_\_\_\_\_, the following additional notice was given by the agency:

(Certificate of mailing the statement of need and reasonableness to the Legislative ~~commission~~ Reference Library - change the title on the upper right of document) I certify that on \_\_\_\_\_, \_\_\_\_\_, when the statement of need and reasonableness became available to the public, I mailed a copy of the statement to the Legislative ~~Commission to Review Administrative Rules~~ Reference Library by depositing it in [the State of Minnesota Central Mail System for] United States mail, with postage prepaid.

(Certificate of mailing notice of submission of rule adopted without a public hearing to the Office of Administrative Hearings - change the title on the upper right document) I certify that on \_\_\_\_\_, \_\_\_\_\_, when the adopted rule was submitted to the Office of Administrative Hearings, I mailed the notice of submission of the rule to the office by depositing it in [the State of Minnesota Central Mail System for] United States mail, with postage prepaid, to all persons and groups who requested this notice.

**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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\_\_\_\_\_  
Name  
Title

(Certificate of mailing the notice and the statement of need and reasonableness to legislators) (An agency may submit a copy of the transmittal letter instead of this certificate.) I certify that on \_\_\_\_\_, \_\_\_\_\_, when the department mailed Notice of Intent to Adopt Rules under *Minnesota Statutes*, section 14.14 or 14.22, I mailed a copy of the Notice and the Statement of Need and Reasonableness to certain legislators by depositing it in the State of Minnesota Central Mail System for United States mail, with postage prepaid. The mailing was done to comply with *Minnesota Statutes*, section 14.116. (List the legislators contacted, or attach copy of cover letter sent to legislators.)

\_\_\_\_\_  
Name  
Title

## **1400.2570 RECOMMENDED NOTICE OF INTENT TO ADOPT EXPEDITED RULE WITHOUT A PUBLIC HEARING.**

Minnesota Department of \_\_\_\_\_

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

Proposed (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_ (topic), *Minnesota Rules* \_\_\_\_\_ (citation to rules)

**Introduction.** The \_\_\_\_\_ (agency name) intends to adopt rules under the expedited rulemaking process set forth in the Administrative Procedure Act, *Minnesota Statutes*, section 14.389. You may submit written comments on the proposed expedited rules until \_\_\_\_\_ (date).

**Agency Contact Person.** Comments or questions on the rule must be submitted to: \_\_\_\_\_ (name, agency, address, telephone number, and fax number optional). (You may submit e-mail comments, questions, or requests for a public hearing to: \_\_\_\_\_ (e-mail address)) optional.

**Subject of Expedited Rule and Statutory Authority.** The proposed expedited rule is about \_\_\_\_\_ (subject of rule and, if applicable, that an entire rule is being repealed and a citation to the repealed rule). The statutory authority to adopt this rule is (citation to specific statutory authority). The statutory authority to adopt this rule under the expedited rulemaking process is \_\_\_\_\_ (citation to statutory authority to adopt rules under *Minnesota Statutes*, section 14.389). A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed expedited rule and include the announcement that a free copy of the rule is available upon request from the agency contact person listed above.) The proposed expedited rule may be viewed at: \_\_\_\_\_ (applicable Web site address) optional.

**Comments.** You have until \_\_\_\_\_ (time) on \_\_\_\_\_ (date) to submit written comment in support of or in opposition to the proposed expedited rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed expedited rule addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

(If the agency is accepting requests for a public hearing, the following paragraph must be included.)

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

(If the agency is accepting requests for a public hearing, the following paragraph must be included.)

**Withdrawal of Requests.** If 100 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 100, 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 agency may modify the proposed expedited rule if the modifications do not make the rule substantially different as defined in *Minnesota Statutes*, section 14.05, subdivision 2, paragraphs (b) and (c). If the final rule is identical to the rule originally published in the *State Register*, the agency will publish a notice of adoption in the *State Register*. If the final rule is different from the rule originally published in the *State Register*, the agency must publish a copy of the changes in the *State Register*. If the proposed expedited rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Other notices required by law or chosen to be inserted in this notice.**

**Adoption and Review of Expedited Rule.** (If no hearing is required, the) or (The) agency may adopt the rules at 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.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

**1400.5010 SCOPE.**

The procedures in parts 1400.5010 to 1400.8400 govern all contested cases conducted by the office under *Minnesota Statutes*, chapter 14.

**1400.5100 DEFINITIONS.**

Subpart 1. **Administrative law judge or judge.** “Administrative law judge” or “judge” means the person or persons assigned by the chief administrative law judge pursuant to *Minnesota Statutes*, section 14.50, to hear the contested case.

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

Subp. 3a. **Filing.** “Filing” means transmission of a document to the Office of Administrative Hearings by mail, delivery, fax, or licensed overnight express mail service.

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

Subp. 8. **Person.** “Person” means any individual, ~~partnership, corporation, joint stock company, unincorporated business, non-profit association or society, municipal corporation, or any government~~ or governmental subdivision, unit, or agency other than a court of law entity.

Subp. 9. **Service; serve.** “Service” or “serve” means personal service or, unless otherwise provided by law, service by first class United States mail or a licensed overnight express mail service, ~~postage prepaid and addressed to the party at his or her last known address. An affidavit of service shall be made by the person making the service. Service by mail or licensed overnight express mail service is complete upon placing the item to be served in the mail or delivering it to the authorized agent of the express mail service. Personal service may be accomplished by either delivering a document to the person or by leaving a document at the person’s home or place of business with someone of suitable age and discretion who resides in the same house or who is located at the same business address of the person to be served.~~

If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

Postage shall be prepaid. Mail to a person other than a state agency shall be addressed to the last known address of the person. Agencies of the state of Minnesota may also deposit the document with the Central Mailing Section, Publications Division, Department of Administration, addressed as above.

Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. The person filing the document shall forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. A transmission which is commenced prior to 4:30 p.m. shall be deemed to have been timely filed. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

**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.

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### 1400.5300 REQUEST FOR ADMINISTRATIVE LAW JUDGE.

~~Any agency desiring to order a contested case hearing shall Before issuing a notice of and order for hearing, an agency must first file with the chief judge or designee docket coordinator a request for assignment of a an administrative law judge together with the notice of and order for hearing proposed to be issued which shall. The request must include, unless the agency requests the judge to set a hearing at a later date, a proposed time, date, and place for the hearing or prehearing conference.~~

In proposing a hearing location, the requesting agency must take into account the location of known parties, witnesses, and other participants so as to maximize convenience and minimize costs.

### 1400.5400 ASSIGNMENT OF ADMINISTRATIVE LAW JUDGE.

~~Within ten days of the receipt of a request pursuant to part 1400.5300, the chief judge shall assign a judge to hear the case. Unless the chief judge or designee has already agreed with the agency, the judge shall advise the agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected persons. In cases where the hearing is to be set at a later time, the judge shall advise the agency on the location and time for the hearing when appropriate. In offering this advice, the judge shall consider the location of known parties, witnesses, and other participants so as to maximize convenience and minimize costs. After reaching agreement with the chief judge or designee, or upon receiving advice from the judge, and set the time, date, and place for hearing or prehearing conference, taking into account the agency's request. The agency shall issue the notice of and order for hearing, unless the substantive law requires it to be issued otherwise.~~

### 1400.5500 DUTIES OF ADMINISTRATIVE LAW JUDGE.

Consistent with law, the judge shall perform the following duties:

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

H. examine witnesses ~~where deemed~~ as necessary to make a complete record;

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

M. grant or deny a request to substitute initials or numbers for proper names in the hearing record or in findings of fact, conclusions, and recommendations or order;

N. appoint an interpreter where necessary to provide a fair hearing;

O. set a reasonable limit on the time allowed for testimony after considering the requests of the parties;

P. change the location of the hearing based upon the request of a party where necessary to provide a fair hearing;

Q. do all things necessary and proper to the performance of the foregoing; and

~~R. in his or her discretion, perform such other duties as may be delegated by the agency ordering the hearing; and~~

~~O. grant or deny a request to substitute the use of initials for proper names in the hearing record or in findings of fact, conclusions, and recommendations or order.~~

### 1400.5550 SERVICE AND FILING PROCEDURE.

Subp. 1. Certificate of service. A certificate of service must be made by the person making the service. A certificate of service must bear the signature of the person certifying that service has been made, but need not be notarized.

Subp. 2. Service by mail. Service by mail or licensed overnight express mail service is complete upon placing the item to be served in the mail or delivering it to the authorized agent of the express mail service. Postage must be prepaid. Mail to a person other than a state agency shall be addressed to the last known address of the person. Agencies of the state of Minnesota may also deposit the document with the Central Mailing Section, Publications Division, Department of Administration.

Subp. 3. Personal service. Personal service may be accomplished by either delivering the document to the person or by leaving the document at the person's home or place of business with someone of suitable age and discretion who resides in the same house or who is located at the same business address as the person to be served.

Subp. 4. Service upon a confined person. If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

Subp. 5. Filing by facsimile. Any paper relating to hearings conducted by an administrative law judge under Minnesota Statutes, chapter 14, may be filed with the office by fax transmission. Filings are effective on the date that the office receives the fax transmission if the transmission is begun before 4:30 p.m. on that date. The filing of a fax has the same force and effect as the filing of the original document.

**1400.5600 NOTICE AND ORDER FOR HEARING.**

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

Subp. 2. **Contents of notice and order.** Unless otherwise provided by law, a notice of and order for hearing, which shall be a single document, shall be served upon all parties, shall be filed with the office and shall contain, among other things, the following:

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

F. A citation to parts 1400.5100 to 1400.8400, to any applicable procedural rules of the agency, and to the contested case provisions of *Minnesota Statutes*, chapter 14, and notification of how copies may be obtained in print or online;

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

L. A statement advising existing parties that failure to appear at a prehearing conference, settlement conference, or the hearing, or failure to comply with any order of the judge may result in the allegations of the notice of and order for hearing being taken as true, or the issues set out being deemed proved, and a statement ~~which that~~ explains the possible results of the allegations being taken as true or the issues proved; ~~and~~

M. A statement advising the parties that state agencies are required by law to keep some data not public, that parties are required to advise the judge if not public data is offered into the record, and that if not public data is admitted into evidence it may become public unless a party objects and asks for relief under Minnesota Statutes, sections 14.60, subdivision 2;

N. A statement advising the parties and counsel that the office conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association;

O. Notification that the agency will, upon request, make an accommodation so that the hearing is accessible and will appoint a qualified interpreter if necessary; and

P. A statement advising the parties that if an interpreter is needed the judge must be promptly notified.

Subp. 3. **Service.** Unless otherwise provided by law, the notice of and order for hearing shall be served and filed not less than 30 days prior to the hearing. Provided, however, that a shorter time may be allowed, where it can be shown to the chief judge that a shorter time is in the public interest and that interested persons are not likely to be prejudiced.

Subp. 4. [See repealer.]

Subp. 5. **Amendment.** At any time prior to the ~~close~~ start of the evidentiary hearing, the agency may file and serve an amended notice of and order for hearing, provided that, ~~should the amended notice and order raise new issues or allegations, the parties shall have a reasonable time to prepare to meet the new issues or allegations if requested.~~ Amendments sought after the start of the hearing must be approved by the judge.

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

**1400.5700 NOTICE OF APPEARANCE.**

Each party intending to appear at a contested case hearing shall file with the judge and serve upon all other known parties a notice of appearance which shall advise the judge of the party's intent to appear and shall indicate the title of the case, the agency ordering the hearing, the party's current address and telephone number, and the name, office address, and telephone number of the party's attorney or other representative. The notice of appearance shall be filed and served within 20 days of the date of service of the notice of and order for hearing, except that, where the hearing or prehearing conference date is less than 20 days from the commencement of the contested case, the notice of appearance shall ~~not be necessary~~ filed as soon as possible. The failure to file and serve a notice may, in the discretion of the judge, result in a continuance of the hearing if the party failing to file appears at the hearing. A notice of appearance form shall be included with the notice of and order for hearing for use by the party served. After an attorney has filed a notice of appearance, withdrawal is effective only if a notice of withdrawal is promptly served on all parties and filed with the judge. The notice of withdrawal must include the address and telephone number of the party. Withdrawal of counsel does not create any right to a continuance.

**1400.5800 RIGHT TO COUNSEL.**

Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. Persons appearing in contested case proceedings in a repre-

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sentative capacity must conform to the standards of professional conduct required of attorneys before the courts of Minnesota. If any representative fails to conform to these standards, the judge may exclude the person from the proceeding.

### **1400.5900 CONSENT ORDER, SETTLEMENT, OR STIPULATION.**

Informal disposition may be made of any contested case or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings. Parties may enter into these agreements on their own or may utilize the mediation procedures in part 1400.5950 or the settlement conference procedures in part 1400.6550. The parties must promptly notify the judge in writing of a settlement so that the office file can be closed.

### **1400.6200 INTERVENTION IN PROCEEDINGS AS PARTY.**

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

Subp. 3. **Order.** The judge shall allow intervention upon a proper showing pursuant to subpart 1 unless the judge finds that the petitioner's interest is adequately represented by one or more parties participating in the case. An order allowing intervention shall specify the extent of participation permitted the ~~intervenor~~ petitioner and shall state the judge's reasons. ~~An intervenor~~ A petitioner may be allowed to:

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

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

### **1400.6400 ADMINISTRATIVE LAW JUDGE DISQUALIFICATION.**

The judge shall withdraw from participation in a contested case at any time if he or she deems himself or herself disqualified for any reason. Upon the filing in good faith by a party of an affidavit of prejudice, the chief judge shall determine the matter as a part of the record provided the affidavit shall be filed no later than five days prior to the date set for hearing. A judge must be removed upon an affirmative showing of prejudice or bias. A judge may not be removed merely because of rulings on prior cases.

### **1400.6500 PREHEARING CONFERENCE.**

Subpart 1. **Purpose.** The purpose of the prehearing conference is to simplify the issues to be determined, to consider amendment of the agency's order if necessary, to obtain stipulations in regard to foundation for testimony or exhibits, to obtain stipulations of agreement on nondisputed facts or the application of particular laws, to consider the proposed witnesses for each party, to consider how the hearing will be recorded and whether a transcript will be prepared, to consider whether an interpreter or other accommodation is needed, to identify and exchange documentary evidence intended to be introduced at the hearing, to determine deadlines for the completion of any discovery, to consider a reasonable limit on the time allowed for presenting evidence, to establish hearing dates and locations if not previously set, to determine whether the issues in the case are susceptible to mediation, to consider such other matters that may be necessary or advisable and, if possible, to reach a settlement without the necessity for further hearing. ~~Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.~~

Subp. 2. **Procedure.** Upon the request of any party or upon his or her own motion, the judge may, in his or her discretion, hold a prehearing conference prior to each contested case hearing. A prehearing conference may be held by telephone. The judge may require the parties to file a prehearing statement prior to the prehearing conference which shall contain such items as the judge deems necessary to promote a useful prehearing conference. A prehearing conference shall be an informal proceeding conducted expeditiously by the judge. Agreements on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the judge.

### **1400.6600 MOTIONS.**

Any application to the judge for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Motions provided for in parts 1400.5100 to 1400.8400 shall be served on all parties, the agency, if it is not a party, and the judge. The written motion shall advise other parties that should they wish to contest the motion they must file a written response with the judge and serve copies on all parties, within ten working days after it is received. No memorandum of law may exceed 25 pages, except with the permission of the judge. If any party desires a hearing on the motion, they shall make a request for a hearing at the time of the submission of their motion or response. A response shall set forth the nonmoving party's objections. A hearing on a motion will be ordered by the judge only if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. Motions may be heard by telephone. All orders on such motions, other than those made during the course of the hearing, shall be in writing and shall be served upon all parties of record and the agency if it is not a party. In ruling on motions where parts 1400.5100 to 1400.8400 are silent, the judge shall apply the Rules of Civil Procedure for the District Court for Minnesota to the extent that it is determined appropriate in order to promote a fair and expeditious proceeding.



**1400.6700 DISCOVERY.**

Subpart 1. **Witnesses; statement by parties or witnesses.** Each party shall, within ten days of a written demand by another party, disclose the following:

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

C. All written exhibits to be introduced at the hearing. The exhibits need not be produced until one week before the hearing unless otherwise ordered.

D. Any party unreasonably failing upon demand to make the disclosure required by this subpart may, in the discretion of the judge, be foreclosed from presenting any evidence at the hearing through witnesses or exhibits not disclosed or through witnesses whose statements are not disclosed.

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

Subp. 4. **Protective orders.** The judge may issue a protective order as justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense due to a discovery request. When a party is asked to reveal material considered to be proprietary information or trade secrets, or not public data, that party ~~shall~~ may bring the matter to the attention of the judge, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

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

**1400.6950 EXCHANGE OF WITNESS LISTS AND EXHIBITS.**

Subpart 1. **Order.** Prior to the hearing the judge may, upon a party's request or at the judge's own motion, order the parties by a date certain to:

A. exchange a list of all witnesses to be called at the hearing. The list must include the witness' occupation and address; and

B. exchange all written exhibits to be offered at the hearing.

Subp. 2. **Objection to foundation.** Any party objecting to the foundation for any written exhibit received under subpart 1 must notify both the offering party and the judge in writing at least two working days before the hearing or the foundation objection is waived.

**1400.7100 RIGHTS AND RESPONSIBILITIES OF PARTIES.**

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

Subp. 4. **Copies.** The judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, subpoena request, or other document to the judge shall simultaneously send a copy to all other parties; ~~provided, however, that this requirement shall not apply to requests for subpoenas.~~

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

Subp. 6. **Communication with judge.** No party or attorney may communicate with the judge on the merits of the case unless all parties have the opportunity to participate.

**1400.7400 HEARING RECORD.**

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

Subp. 2. **Transcript.** The verbatim record shall be transcribed if requested by the agency, a party, or in the discretion of the chief judge. ~~If a transcription is made, the chief judge shall require the requesting person and other persons who request copies of the transcript to pay a reasonable charge. The charge shall be set by the chief judge, subject to the approval of the commissioner of finance, and all money received for transcripts shall be payable to the state treasurer and shall be deposited in the Office of Administrative Hearings' account in the state treasury. In cases where the transcript is prepared by nongovernmental sources, the charge to the parties and the agency shall be the same as the source charges the office. The agency or party requesting a transcript is responsible for the cost. The parties may agree to divide the cost. When the chief administrative law judge requests a transcript the agency is responsible for the cost.~~

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### 1400.7700 ADMINISTRATIVE LAW JUDGE'S CONDUCT.

Subpart 1. Communication with parties. The judge shall not communicate, directly or indirectly, in connection with any issue of fact or law with any person or party including the agency concerning any pending case, except upon notice and opportunity for all parties to participate. When these rules authorize communications contrary to this part, the communications shall be limited to only those matters permitted by these rules. The judge may respond to questions relating solely to procedures for the hearing without violating this part.

Subp. 2. Ex parte communication. Where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized, provided:

A. the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

B. the judge makes provisions promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

Subp. 3. Other communication. The administrative law judge may:

A. obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives prior notice to the parties of the person to be consulted and an opportunity to object. If the advice is obtained, the judge shall notify the parties of the substance of the advice and afford the parties a reasonable opportunity to respond;

B. consult with other judges and with office personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities;

C. if the parties consent, confer separately with the parties and/or their representatives in an effort to mediate or settle matters pending before the judge, subject to part 1400.5950, subpart 7; and

D. initiate or consider any ex parte communication when expressly authorized by law to do so.

Subp. 4. Code of conduct. Administrative law judges are subject to the provisions of the Code of Judicial Conduct.

### 1400.7800 CONDUCT OF HEARING.

In the absence of a specific provision mandating or permitting a closed hearing, all contested case hearings are open to the public. Unless the judge determines that the public interest will be equally served otherwise, the hearing shall be conducted substantially in the following manner:

~~A. The judge shall open the hearing by reading the title of the case, briefly stating the facts as alleged in the notice and order for hearing which give rise to the hearing, including, where applicable, the amount of any monetary claim made by any party asking the parties or counsel to note their appearances, and explaining the hearing procedure to unrepresented parties.~~

B. After opening the hearing, the judge shall, unless all parties are represented by counsel or are otherwise familiar with the procedures, state the procedural rules for the hearing including the following:

~~(1) All parties may present evidence and argument with respect to the issues and cross-examine witnesses. At the request of the party or the attorney for the party whose witness is being cross-examined, the judge may make such rulings as are necessary to prevent repetitive or irrelevant questioning and to expedite the cross-examination, to the extent consistent with disclosure of all relevant testimony and information.~~

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

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

H. When all parties and witnesses have been heard, opportunity shall be offered to present oral final argument, in a sequence determined by the judge. Final argument may, in the discretion of the judge, be in the form of written memoranda or oral argument, or both. Final argument need not be recorded, in the discretion of the judge. Written memoranda may, in the discretion of the judge, be submitted simultaneously or sequentially and within time periods as the judge may prescribe. The judge may limit the length of written memoranda.

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

### 1400.8401 EXPENSES AND ATTORNEY FEES.

Subpart 1. [See repealer.]

Subp. 2. [See repealer.]

Subp. 3. **Application.** A party seeking an award of expenses and attorney's fees shall submit to the judge an application that shows:

A. that the party is a prevailing party and is eligible to receive an award under this part. The applicant must show that it meets all conditions of eligibility set out in *Minnesota Statutes*, sections ~~3.764~~ 15.471 to ~~3.764~~ 15.474 and this part;

(1) In determining who is an eligible party, the judge shall consider the provisions of ~~subpart 2, item C~~ *Minnesota Statutes*, section 15.471, subdivision 6, and the following:

(a) The annual revenues shall mean the party's annual gross revenue.

~~(b) The annual revenue and the number of employees of the applicant and all of its affiliates shall be aggregated. Any person directly or indirectly controlling, controlled by, or under common control with the applicant shall be considered an affiliate of the applicant for purposes of this part. In addition, the judge may determine that financial relationships of the applicant other than those described in this part constitute special circumstances that would make an award unjust.~~

~~(c)~~ (e) The number of employees of an applicant includes all persons who regularly perform services for remuneration for the applicant under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

~~(d) An applicant who participates in a contested case on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.~~

~~(c)~~ (e) An applicant who appears pro se in a proceeding is ineligible for an award of attorney fees. However, eligibility for other expenses is not affected by pro se representation.

~~(d)~~ (d) An applicant who appears individually as a partner, officer, shareholder, member, or owner of an entity eligible under the provisions of *Minnesota Statutes*, section 3.761, subdivision 6, paragraph (a), clauses (1) and (2) may only assert a claim to the extent the entity which they own or control can assert such claim and may not assert a claim if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(2) In determining whether an applicant is a prevailing party, the following standards shall be applied:

(a) In order to be eligible for an award, the applicant need not have succeeded on every issue raised but must have at least been successful on the central issue or received substantially the relief requested.

~~(b) An applicant which has been penalized, fined, or enjoined by a final decision is not eligible for an award.~~

~~(c)~~ (e) No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

B. an itemization of the amount of fees and expenses sought. This shall include full documentation of fees and expenses, including ~~the cost of any study, engineering report, test, or project. The documentation shall include~~ an affidavit from each attorney, agent, or expert witness representing or appearing on behalf of the applicant stating the actual time expended and the rate at which fees have been computed and describing the specific services performed.

The affidavit shall itemize in detail the services performed by the date, number of hours per date, and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients for similar services during the relevant time periods;

The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

C. a statement that explains with specificity how or why the position of the state agency was not substantially justified. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

D. if the claim for attorney's fees exceeds ~~\$100~~ \$125 per hour, a statement of facts showing that the excess award qualifies under *Minnesota Statutes*, section ~~3.764~~ 15.471, subdivision 5, paragraph (c); and

E. a proof of service showing that the state agency and all other parties have been served, either personally or by first class mail, with a copy of the application.

The application must be signed and sworn to by the party and the attorney or other agent or representative submitting the application on behalf of the party, showing the addresses and phone numbers of all persons signing the application.

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Subp. 4. **Response or objection to application.** The state agency or any other party may respond or object to all or any part of the application for expenses and fees. A response or objection must be sworn to and filed with the judge within 14 days following the service of the application and must show:

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

B. in detail any objections to the award requested and identify the facts relied on to support the objection. If the response or objection is based on any alleged facts not already reflected in the record of the proceeding, the response or objection shall include either a supporting affidavit or affidavits or request for further proceedings under subpart ~~6 5b~~; and

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

Subp. 5a. **Settlement.** A prevailing party and the agency may agree on a proposed settlement of an award before final action on the application. If a settlement occurs, a stipulation for settlement shall be filed with the judge together with a proposed order which shall be prepared for the judge's signature. Upon receipt of a stipulation for settlement and proposed order, the judge shall ~~sign the issue an order~~, serve all parties and the chief administrative law judge with a copy, and send the original to the agency for inclusion with the record of the contested case which gave rise to the application.

Subp. 5b. **Extensions of time and further proceedings.**

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

C. In the event that an evidentiary hearing is required or permitted by the judge, the hearing and any related filings or other action required or permitted shall be conducted under parts ~~1400.8510~~ 1400.8505 to 1400.8612.

Subp. 6. [See repealer.]

Subp. 7. **Decision of the administrative law judge.** Within 30 days following the close of the record in the proceeding for the award of expenses and attorney's fees, the administrative law judge shall issue a written order which shall also contain findings and conclusions on each of the following which are relevant to the decision:

- A. the applicant's status as a prevailing party;
- B. the applicant's qualification as a party under *Minnesota Statutes*, section ~~3.761~~ 15.471, subdivision 6;
- C. whether the agency's position as a party to the proceeding was substantially justified;

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

### 1400.8505 SCOPE.

Parts 1400.8505 to 1400.8612 govern hearings based on the Revenue Recapture Act, *Minnesota Statutes*, sections 114C.23; 115.076; 116.072, subdivision 6; 144.991; and 270A.01 to 270A.12; and for other hearings as directed by statute. In addition, parts 1400.8505 to 1400.8612 may be used for any other hearings conducted by the state Office of Administrative Hearings if all parties to a particular hearing and the administrative law judge agree to use them.

### 1400.8510 DEFINITIONS.

Subpart 1. **Agency, claimant agency.** "Agency" or "claimant agency" means the state or public agency asserting a claim to a tax refund for whom the hearing is conducted.

Subp. 2. [See repealer.]

Subp. 3. **Party.** "Party" means ~~the claimant agency, the debtor, and each person named as a party by the agency in the notice of hearing~~ or any other persons granted permission to intervene pursuant to part 1400.8570. "Party" includes the agency except when the agency participates in the hearing in a neutral or quasi-judicial capacity only.

Subp. 3a. **Person.** "Person" means any individual, business, nonprofit association or society, or governmental entity.

Subp. 4. **Service; serve.** "Service" or "serve" ~~may be accomplished by either delivering a document to an individual in person, or by leaving a document at his or her home with some person of suitable age and discretion who resides in the same house, or by mailing the document to the person~~ means personal service or, unless otherwise provided by law, service by first class United States mail or a licensed express mail service.

~~If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.~~

~~Postage shall be prepaid. Mail to a person other than a state agency shall be addressed to the last known address of the person. Agencies of the state of Minnesota may also deposit the document with the Central Mailing Section, Publications Division, Department of Administration, addressed as above.~~

~~Any paper relating to hearings conducted by an administrative law judge under *Minnesota Statutes*, chapter 14, may be filed with or served on the office by facsimile transmission. A transmission which is commenced prior to 4:30 p.m. shall be deemed to have been timely filed. The person filing the document shall forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.~~

**1400.8530 WAIVER.**

Upon request of all parties, the administrative law judge shall waive or modify any of ~~these rules~~ the procedures in parts 1400.8505 to 1400.8612, provided that ~~such~~ the waiver or modification does not conflict with any provision of *Minnesota Statutes* ~~1980~~, sections 14.48 to ~~14.70~~ 14.69, or ~~270A.01 to 270A.12~~ statutes conferring jurisdiction on the Office of Administrative Hearings.

**1400.8540 ADMINISTRATIVE LAW JUDGE ASSIGNMENT.**

Subpart 1. **Request for assignment.** Any agency ~~desiring to may~~ order a Revenue Recapture Act hearing ~~shall first contact the chief administrative law judge or designee and by filing with the docket coordinator a request~~ the for assignment of an administrative law judge. The request ~~shall~~ must include a proposed date, time, and place for the hearing or prehearing conference.

In proposing a hearing location, the requesting agency must take into account the location of known parties, witnesses, and other participants so as to maximize convenience and minimize costs.

If requested by the chief administrative law judge or designee, the agency shall file a copy of the notice of hearing proposed to be issued.

Subp. 2. **Assignment.** Within ten days of the receipt of a request, the chief administrative law judge or designee shall assign an administrative law judge to hear the case. ~~Unless the chief administrative law judge or designee has already agreed with the agency, the administrative law judge shall advise the agency as to the location, date, and time for the hearing. In offering such advice, the administrative law judge shall consider the location of known parties, witnesses, and other participants so as to maximize convenience and minimize cost. After reaching agreement with the chief administrative law judge or designee or upon receiving advice from the administrative law judge, the agency shall issue the notice of hearing, and set the time, date, and place for hearing or prehearing conference, taking into account the agency's request.~~

**1400.8545 SERVICE AND FILING PROCEDURE.**

Subpart 1. **Service by mail.** Service by mail or licensed overnight express mail service is complete upon placing the item to be served in the mail or delivering it to the authorized agent of the express mail service. Postage must be prepaid. Mail to a person other than a state agency shall be addressed to the last known address of the person. Agencies of the state of Minnesota may also deposit the document with the Central Mailing Section, Publications Division, Department of Administration.

Subp. 2. **Personal service.** Personal service may be accomplished by either delivering the document to the person or by leaving the document at the person's home or place of business with someone of suitable age and discretion who resides in the same house or who is located at the same business address as the person to be served.

Subp. 3. **Service upon a confined person.** If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

Subp. 4. **Filing by facsimile.** Any paper relating to hearings conducted by an administrative law judge under these rules may be filed with the office by fax transmission. Filings are effective on the date that the office receives the fax transmission if the transmission is begun before 4:30 p.m. on that date. The filing of a fax has the same force and effect as the filing of the original document.

**1400.8550 NOTICE OF HEARING.**

The agency shall issue the notice of hearing. The notice of hearing shall be served at least 20 days before the hearing. The notice of hearing shall be served upon all parties. The notice shall be worded in clear, nontechnical language and shall contain, at a minimum, the following:

- A. the time, date, and place for the hearing or prehearing conference;

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B. the name, address, and telephone number of the administrative law judge;

C. a statement of the allegations or issues to be determined at the hearing, together with a citation to any relevant statutes and rules. ~~If the debt arises from more than one event or transaction, Each event or transaction~~ alleged violation of statute or rule shall be noted;

D. a citation to the statutory authority to hold the hearing and to take the action proposed;

E. a citation to these rules, and notification of how copies may be obtained in print or online;

F. a brief description of the procedure to be followed at the hearing;

G. the name, address, and telephone number of the agency representative to be contacted to discuss informal disposition of the dispute, along with an explanation of the types of informal disposition ~~which that~~ the agency might consider;

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

I. notification that the agency will, upon request, make an accommodation so that the hearing location is accessible and will appoint a qualified interpreter if necessary;

J. a statement advising the parties to bring to the hearing all documents, records, and witnesses they need to present their position; in addition, a statement that subpoenas may be available to compel the attendance of witnesses or the production of documents and a reference to part 1400.8601 relating to subpoenas; and

~~J. K.~~ a statement advising parties that failure to appear at the hearing or prehearing conference will result in the allegations of the notice being taken as true, and a statement which explains the possible results if the allegations are taken as true; and

L. a statement advising the parties that state agencies are required by law to keep some data not public, that parties are required to advise the judge if not public data is offered into the record, and that if not public data is admitted into evidence it may become public unless a party objects and asks for relief under Minnesota Statutes, section 14.60, subdivision 2.

### 1400.8560 DEFAULT.

A default occurs when a party fails to appear without the prior consent of the judge at a prehearing conference, settlement conference, or a hearing. If the ~~claimant~~ agency appears at a hearing but the ~~debtor~~ party against whom the agency intends to take action does not, the allegations in the notice of hearing shall be taken as true and deemed proved without further evidence. If the ~~debtor~~ party against whom the agency intends to take action appears at a hearing, but the ~~claimant~~ agency fails to appear, the administrative law judge shall recommend that the hearing be dismissed with prejudice. If neither the ~~claimant party agency~~ nor the ~~debtor any other party~~ appear at a hearing, the administrative law judge shall recommend that the case be dismissed with prejudice.

### 1400.8580 PREHEARING CONFERENCE.

~~Upon the request of any party or upon his/her own motion,~~ The administrative law judge shall hold a prehearing conference prior to the hearing, ~~if the amount in controversy in any case exceeds \$1,000~~ upon request of any party or if the judge determines that a prehearing conference is necessary.

The purpose of the prehearing conference is to simplify the issues to be determined at the hearing; to consider amendment of the agency's notice if necessary; to obtain agreements ~~in regard to~~ about uncontested facts or admissibility of testimony or exhibits; to determine the identity and number of proposed witnesses for each party; to consider such other matters that may be necessary or advisable; to set the time, date, and place for hearing if not previously set; to identify and exchange documentary evidence; to consider whether an interpreter or other accommodation is needed; and, if possible, to reach a settlement without the necessity for further hearing.

A prehearing conference shall be an informal proceeding conducted expeditiously by the administrative law judge. It may be conducted by telephone. Agreements on the simplification of issues, uncontested facts, admissibility of evidence, or other matters shall be either entered on the record at the hearing or ~~be made the subject of a~~ included in a written order by the administrative law judge.

### 1400.8590 PREHEARING MOTIONS.

~~If~~ A party ~~desires~~ desiring the administrative law judge to issue an order before the hearing or during a continuance in the hearing, (other than a request for a continuance or a subpoena), ~~he/she~~ shall make a request to the administrative law judge in writing. The request shall state, in detail, the need for the order and what is being requested. A copy of the request shall be served upon all ~~known~~ parties. A party who ~~is opposed to~~ opposes the granting of a motion, should notify the administrative law judge as soon as possible. ~~Orders on motions may be either oral or written but~~ The administrative law judge shall notify all parties ~~of record~~ of the order orally or in writing.

**1400.8600 PREHEARING DISCOVERY.**

A party may demand that any other party disclose the names and addresses of all witnesses that the other party intends to have testify at the hearing. The demand shall be in writing and shall be directed to the party or ~~his/her~~ the party's attorney. Responses to the demand shall be served within ten days of receipt of the demand. Any witnesses unknown at the time of the disclosure shall be disclosed as soon as they become known. Any party that ~~unreasonably failing, upon demand, fails~~ to make such a requested disclosure shall ~~be foreclosed from presenting any evidence at the hearing through an undisclosed witness~~ not be allowed to call the witness at hearing.

**1400.8601 SUBPOENAS.**

Subpart 1. **Requests.** A party ~~desiring may obtain a subpoena~~ to compel the attendance of a witness or the production of documents ~~shall file with~~ by submitting a written request to the administrative law judge ~~a written request for a subpoena.~~ The request shall indicate the name and address of the person upon whom the subpoena will be served; a brief statement of the potential relevance of the testimony or documents sought; and, if the subpoena request is for the production of documents, the requested documents sought should be identified with specificity.

Subp. 2. **Service.** Subpoenas shall be served personally in the manner provided in part ~~1400.8510, subpart 4, item A~~ 1400.8545. They shall not be served by mail. The witness fees applicable in the district courts pursuant to *Minnesota Statutes*, section 357.22 shall apply and shall be paid to the potential witness at the time of service.

Subp. 3. **Objection to a subpoena.** Any person served with a subpoena ~~who has an objection to it~~ may file an objection to the subpoena with the administrative law judge. The objection shall be filed promptly, and in any event at or before the time specified in the subpoena for compliance. The administrative law judge shall cancel or modify ~~the a~~ a subpoena ~~if he/she finds that it is unreasonable or oppressive, taking into account the issues or amounts in controversy, the costs or other burdens of compliance when compared with to the value of the testimony or evidence sought for the presentation of to a party's case, and whether or not there are any alternative methods of obtaining the desired testimony or evidence.~~ Modification may include requiring the party requesting the subpoena to pay reasonable costs of producing documents, books, papers, or other tangible things.

**1400.8603 CONDUCT OF HEARING.**

The hearing shall be conducted substantially in the following manner:

A. The administrative law judge shall open the hearing by reading the title of the case, ~~stating the amount claimed by the claimant agency, and briefly stating the facts as alleged in the notice of hearing which give rise to the claim asking the parties or counsel to note their appearances, and explaining the hearing procedure to unrepresented parties.~~

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

C. The ~~claimant agency shall have party with~~ the burden of proof and shall begin the presentation of evidence unless ordered otherwise. It shall be followed by the other parties in a sequence determined by the administrative law judge.

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

G. A party may question an adverse party or any witness identified with an adverse party by leading questions and contradict and impeach ~~him/her~~ that witness on material matters.

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

**1400.8604 RESPONSIBILITIES AND RIGHTS OF PARTIES.**

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

Subp. 3. **Copies.** The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties, provided, however, that this requirement shall not apply to requests for subpoenas, unless the subpoena requests documents or other discovery.

Subp. 4. **Representation by counsel.** A party need not be represented by an attorney. ~~He/she may represent himself/herself, or may be represented by an attorney or any other person of his/her choice but may choose to be represented by an attorney or by any~~

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## Proposed Rules

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other person. If a party has notified other parties that he/she will be represented by an attorney, all communications shall be directed to that attorney.

### 1400.8605 RESPONSIBILITIES AND RIGHTS OF NONPARTIES.

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

Subp. 2. **Questioning witnesses.** Generally, nonparties shall not be allowed to question witnesses, provided, however, that the administrative law judge may allow such questioning ~~if he/she deems it as is~~ necessary for the development of a full and complete record.

### 1400.8606 ADMINISTRATIVE LAW JUDGES.

Subpart 1. **Impartiality.** An administrative law judge ~~assigned to a case shall be free of any personal, political, or economic association that would impair his/her ability to function in a fair and objective manner. Should an administrative law judge believe that he/she cannot comply with this rule, he/she shall withdraw from the case.~~ impartial, objective, and even-handed. If at any time the administrative law judge is unable to conduct any proceeding in an impartial manner, the administrative law judge shall withdraw. Upon the filing in good faith by a party of an affidavit of prejudice, the chief judge shall determine the matter as a part of the record provided the affidavit shall be filed no later than five days prior to the date set for hearing. A judge must be removed upon an affirmative showing of prejudice or bias. A judge may not be removed merely because of rulings on prior cases.

Subp. 2. **Communications.** The administrative law judge shall not communicate, directly or indirectly, with any person or party concerning any issue of fact or law relevant to a pending case except upon notice to all parties and opportunity for them to participate. ~~When these rules authorize communications contrary to this prohibition, such communications shall be limited to only those matters permitted by these rules, except that:~~

A. ex parte communication for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized;

B. a judge may consult with other judges and with office personnel in carrying out the judge's adjudicative responsibilities;  
and

C. communication expressly authorized by law is permitted.

Subp. 3. **Duties.** Consistent with law and these rules, the administrative law judge shall perform the following duties:

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

F. examine witnesses ~~where deemed~~ as necessary to make a complete record;

G. prepare findings of fact, conclusions, and recommendations;

H. make preliminary, interlocutory, or other orders as ~~deemed~~ necessary to assure a fair hearing;

I. recommend a summary disposition of the case or ~~any part thereof~~ a portion of it where there is no genuine issue as to any material fact or recommend dismissal where the case or ~~any part thereof~~ a portion of it has become moot or for other reasons; and

J. do all things necessary and proper to the performance of the foregoing.

### 1400.8607 RULES OF EVIDENCE.

Subpart 1. **Admissibility.** The administrative law judge shall admit all evidence ~~which that~~ logically tends to prove or disprove an important fact, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. The administrative law judge shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious shall be excluded.

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

### 1400.8608 BURDEN OF PROOF.

~~The claimant agency party with the burden of proof shall have the burden of proving the amount and existence of the debt and its right to collect the debt supporting its proposed action by a preponderance of the evidence. If the debtor another party asserts any affirmative defenses, the debtor that party shall have the burden of proving the existence of any such defense by a preponderance of the evidence.~~

### 1400.8609 HEARING RECORD.

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

Subp. 3. **Closing hearing record.** The hearing record of the contested case proceeding shall be closed upon the completion of the testimony, or receipt of the final written memorandum or transcript, if any, or late-filed exhibits which the parties and the administrative law judge have agreed should be received into the record, whichever occurs latest.



Subp. 4. **Transcript.** The audiomagnetic recording of the hearing shall be transcribed if requested by a party or if ordered by the chief administrative law judge. ~~If a transcription is made, the chief administrative law judge shall require the requesting person and other persons who request copies of the transcript to pay a reasonable charge therefor. The charge shall be set by the chief administrative law judge and all moneys received for transcripts shall be payable to the state treasurer and shall be deposited in the state Office of Administrative Hearings' account in the state treasury. The party requesting a transcript is responsible for the cost. The parties may agree to divide the cost. When the chief administrative law judge requests a transcript, the agency is responsible for the cost.~~

**1400.8610 ADMINISTRATIVE LAW JUDGE'S REPORT.**

Following the close of the hearing record, the administrative law judge shall make ~~his~~<sup>his/her</sup> a report pursuant to *Minnesota Statutes*, section 14.50, and, upon completion, a copy of ~~said~~ the report shall be served upon all parties.

**1400.8611 DISRUPTION OF HEARING.**

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

Subp. 2. **Recordings.** The official audiomagnetic recording of the hearing shall be made by the administrative law judge. Any party may also record all or part of the proceedings. Nonparties may record all or part of the proceedings unless the administrative law judge determines that such recording is disrupting the hearing. In the event of failure of the official recording equipment, the administrative law judge may direct any person or party to provide the administrative law judge with ~~the original~~ its original recording or a copy of any recording of the proceeding upon payment of the cost of the recording medium.

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

**1400.8612 REHEARING.**

Any agency notice of and order for rehearing shall be served on all parties in the same manner prescribed for the notice of and order for hearing, provided that the administrative law judge shall permit service of the notice of and order for rehearing less than 20 days prior to rehearing if the parties agree to such earlier service. The rehearing shall be conducted in the same manner prescribed for a hearing.

**REPEALER.** *Minnesota Rules*, parts 1400.2010, subpart 5; 1400.5200; 1400.5600, subpart 4; 1400.8401, subparts 1, 2, and 6; 1400.8510, subpart 2; and 1400.8520, are repealed.

**RENUMBERER.** The references to the contested case procedures, *Minnesota Rules*, parts 1400.5200 to 1400.8500, shall be changed to parts 1400.5010 to 1400.8400 in the following *Minnesota Rules*, parts: ~~1525.2360; 4405.0100, subpart 5; 5800.0100, subpart 3; 5800.0110, subpart 7; 6301.0800, subpart 3; 7000.1750, subpart 1; 7620.0320, subpart 2; 7851.0200, subpart 5; 8052.0400, subpart 4; 9200.5200; 9205.0540, subpart 3; and 9575.1150, subpart 7.~~

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## Exempt Rules

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

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

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

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only.

The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

## Department of Human Services

### Adopted Exempt Permanent Rules Relating to Protective Services for Children

The following amendments to *Minnesota Rules*, parts 9560.0210 to 9560.0234 governing the administration and provision of protective services for children by local social service agencies are adopted under the good cause exemption provided by *Minnesota Statutes*, section 14.388 (3). The adopted amendments bring the language of the rule parts into conformance with statutory amendments enacted over the past seven legislative sessions to *Minnesota Statutes*, section 626.556 governing protective services for children.

#### 9560.0214 DEFINITIONS.

[For text of subs 1 to 8, see M.R.]

Subp. 10. **Facility.** "Facility" means a facility or program for the care of children required to be licensed by ~~the Department of Health under *Minnesota Statutes*, sections 144.50 to 144.58,~~ the Department of Corrections under *Minnesota Statutes*, section 241.021, or the Department of Human Services under *Minnesota Statutes*, chapter 245A.

[For text of subs 11 to 21, see M.R.]

#### 9560.0216 BASIC REQUIREMENTS.

Subpart 1. **Response to reports of maltreatment.** The local agency shall accept and screen or forward according to subpart 3 every report of maltreatment received from any source. Upon request, the local agency shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation.

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

#### Subp. 3. Screening reports.

A. The local agency shall screen reports of maltreatment to determine the need for assessment or investigation.

Except for those reports described in item B, the local agency shall conduct an assessment or investigation if a report meets the criteria in ~~items A to C~~ subitems (1) to (3):

~~A.~~ (1) the allegations in the report constitute maltreatment as defined under part 9560.0214, subpart 18;

~~B.~~ (2) sufficient identifying information to locate the child or at least one member of the family unit exists to permit an assessment; and

~~C.~~ (3) the report contains information that has not previously been received and assessed by the local agency.

B. If a report alleges maltreatment in a facility licensed by the commissioner, other than a foster care or family day care facility, the local agency shall immediately forward the report to the commissioner for investigation.

#### Subp. 3a. Report alleging maltreatment of a child of a facility license holder.

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

B. If the report of maltreatment alleges maltreatment of a child in a facility during business hours of the facility and if the child is related by blood, marriage, or adoption to the license holder, facility staff, or volunteer of the facility, the ~~local~~ investigating agency shall follow the procedures under part 9560.0222.

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

**Subp. 5a. Conflict of interest.** A person who conducts an assessment or investigation under this part or under *Minnesota Statutes*, section 626.5561, may not have:

(1) any direct or shared financial interest or referral relationship resulting in a direct or shared financial gain with a provider of treatment for child abuse and neglect; or

(2) a personal or family relationship with a party in the investigation. If an independent assessor or investigator is not available, the person responsible for making the maltreatment determination may use the services of an assessor or investigator with a financial interest, referral relationship, or personal or family relationship.

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

**Subp. 7. Notice to persons being interviewed.** The ~~local~~ agency conducting an assessment or investigation:

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

### **9560.0220 RESPONSE TO REPORTS OF MALTREATMENT WITHIN THE FAMILY UNIT.**

**Subpart 1. Basic procedures.** The local agency shall follow the basic requirements in part 9560.0216 when a report alleges maltreatment by a person within the family unit who is responsible for the child's care. The local agency shall also collect available and relevant information to determine whether maltreatment occurred and whether protective services are needed as specified in *Minnesota Statutes*, section 626.556, subdivision 10, paragraph (h). Relevant information includes information on the existence of substance abuse as specified in *Minnesota Statutes*, section 626.556, subdivision 10, paragraph (a).

**Subp. 2. Coordination with law enforcement.** The local agency shall:

A. ask a representative from a law enforcement agency to accompany the child protection worker to interview the child when a report of maltreatment:

(1) indicates there is imminent danger to a child or danger to the child protection worker; or

(2) alleges ~~occurrence~~ violation of a criminal statute involving sexual abuse, physical abuse, or malicious punishment of a child, or neglect or endangerment under *Minnesota Statutes*, section 609.378;

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

**Subp. 3. Child interviews.** When a local agency and a law enforcement agency that ~~coordinates~~ coordinate assessments and investigations, jointly ~~determines~~ determine that an interview by one person with the child who is reported to be maltreated is in the best interests of the child, and the interview is conducted by the law enforcement agency, the interview can be substituted for the procedures in items A to F.

When necessary to make the determinations in subpart 6, the local agency shall interview any other minors within the family unit. When interviewing children, the local agency shall follow the procedures in items A to F.

A. The local agency shall interview the child in a face-to-face meeting in a manner appropriate to the child's age, development, and ability to understand and verbalize. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. In the initial stages of an assessment or investigation, the local agency must conduct a face-to-face observation of the child reported to be maltreated.

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

E. The local agency shall make a record of every interview according to subitems (1) and (2):

(1) interviews must be ~~videotaped, audiotaped, or recorded in writing~~ whenever possible and, in cases of alleged sexual abuse, interviews with alleged victims and child witnesses must be audio-videotaped; and

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## Exempt Rules

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

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

Subp. 4. **Parent interviews.** The local agency shall interview parents and persons responsible for the child's care within the family unit. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. These interviews must take place within 72 hours of interviewing the child unless postponement is necessary to prevent risk to a child or interference with law enforcement's investigation. If, after reasonable effort, the local agency is unable to locate a parent, this requirement is waived. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Subp. 4a. **Interview of alleged offender.** In the initial stages of an assessment or investigation, the agency must conduct a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it jeopardizes an active law enforcement investigation. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The local agency must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation. The interviews must be audiotaped whenever possible.

Subp. 5. **Other interviews.** When necessary to make the determinations in subpart 6, the local agency shall interview other persons whom the agency believes may have knowledge of the alleged maltreatment. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

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

Subp. 6a. **Early determination of maltreatment allegations.** If the collected information shows no basis for a full assessment or investigation, the local agency may make a determination of no maltreatment early in an assessment, close the case, and retain immunity.

[For text of subps 7 to 9, see M.R.]

### 9560.0221 CRITERIA FOR SEEKING CHILD'S REMOVAL FROM HOME.

Subpart 1. **Agency evaluation before seeking removal.** Before seeking removal of a child from the child's home, the local agency must evaluate whether:

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

B. the agency has made reasonable efforts except as specified in Minnesota Statutes, section 260.012, paragraph (a), to provide services that are:

[For text of subitems (1) to (6), see M.R.]

C. in the case of child maltreatment, the alleged ~~perpetrator~~ offender can be removed from the child's home;

D. a caregiver is willing and able to protect the child if the alleged ~~perpetrator~~ offender cannot be removed from the child's home; or

E. the child and child's caregiver are informed of the services and accept the services the agency offers.

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

### 9560.0222 INVESTIGATION OF REPORTS OF MALTREATMENT IN A FACILITY.

Subpart 1. **Screening Responsibility for investigation.** The local agency shall screen reports of maltreatment to determine the need for investigation. If a report of maltreatment alleges maltreatment of a child in a facility and if the child is related by blood, marriage, or adoption to the license holder, facility staff, or volunteer of the facility, the local agency shall follow the basic requirements in part 9560.0216. ~~Reports meeting the criteria in items A to C must be investigated by~~ The local agency: must investigate a report of maltreatment in a foster care or family child care facility and in facilities licensed by the Department of Corrections when the report meets the criteria in items A to C. The commissioner has primary responsibility for investigating reports of maltreatment in facilities licensed by the commissioner, except for foster care and family day care, and must follow the procedures outlined in Minnesota Statutes, section 626.556. The commissioner may request assistance from the local agency. When the local agency assists the commissioner, it must follow the procedures outlined in parts 9560.0216 to 9560.0234.

A report of maltreatment must be investigated when the conditions in items A to C apply:

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

The investigating agency must collect available information relevant to the investigation or assessment to ascertain whether maltreatment occurred and whether protective services are needed. Relevant information includes the information specified in Minnesota Statutes, section 626.556, subdivision 10, paragraphs (a) and (h).

Subp. 1a. **Report to licensing agency.** A report that does not meet the criteria for investigation in subpart 1, items A to C, must be reported by the local agency as a possible licensing violation to the responsible licensing agency listed in items A to E within 48 hours after the report is received, excluding weekends and holidays.

A. ~~The local agency shall receive reports concerning family day care~~ Reports involving family day care must be referred to the local agency and the commissioner must also be notified.

B. ~~If the local agency licenses the child foster care provider, the local agency shall receive reports concerning child foster care. Otherwise, the private licensing agency shall receive the report~~ Reports involving a child foster care provider whose licensure is supervised by the local agency must be referred to the local agency and the commissioner must also be notified.

C. ~~The department shall receive reports concerning facilities it directly licenses~~ Reports involving a child foster care provider whose licensure is supervised by a private agency licensed under parts 9545.0755 to 9545.0845 must be referred to the private agency and the commissioner must also be notified.

D. ~~The Department of Corrections shall receive reports concerning facilities it licenses~~ Reports about facilities that the commissioner licenses directly without delegating any licensing function to the county or a private agency must be sent to the commissioner.

E. ~~The Department of Health shall receive reports concerning facilities it licenses~~ Reports concerning facilities licensed by the Department of Corrections or the Department of Health must be sent to the department that licenses the facility.

Subp. 2. **Coordination with law enforcement.** ~~The local~~ investigating agency shall:

A. ask a representative from a law enforcement agency to accompany the ~~child protection worker~~ investigator to interview the child when a report of maltreatment:

(1) indicates there is imminent danger to a child or danger to the ~~child protection worker~~ investigator; or

(2) alleges ~~occurrence~~ violation of a criminal statute involving sexual abuse, physical abuse, or malicious punishment of a child, or neglect or endangerment under Minnesota Statutes, section 609.378;

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

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

Subp. 4. **Notice to ombudsman for mental health and mental retardation.** ~~The local~~ investigating agency shall provide the notice in subpart 3, item A, to the ombudsman for mental health and mental retardation when a report of maltreatment involves a child receiving residential treatment services for mental health, mental retardation, chemical dependency, or emotional disturbance.

Subp. 5. **Notice to parents, guardians, or legal custodians.** ~~The local~~ investigating agency shall provide the following notice when reports of maltreatment within a facility have been received.

A. ~~The local~~ investigating agency shall provide the following information to the parents, guardians, or legal custodians, including agencies responsible for placement, of any child who is reported to be maltreated by a person within a facility who is responsible for the child's care:

[For text of subitems (1) to (6), see M.R.]

B. The notice required in item A must be provided before the ~~local~~ investigating agency interviews any child who is reported to be maltreated unless:

(1) the interview is necessary to protect children within the facility; and

(2) the ~~local~~ investigating agency is unable, after reasonable effort, to locate the parents.

C. The ~~local~~ investigating agency may provide the notice required in item A to the parents, guardians, or custodians of children who are in the care of the facility who are not the subjects of the report. In making the decision to provide this notice, the ~~local~~ investigating agency shall consider:

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## Exempt Rules

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

Subp. 6. **Interviewing children.** When necessary to make the determination in subpart 10, the ~~local~~ investigating agency in the course of the investigation shall interview any child alleged to be maltreated who is in the care of the facility and may interview any other child who is or has been in the care of the facility, or any child related by blood, marriage, or adoption to the alleged offender, or any child who resides or has resided with the alleged offender. Interviews shall be conducted and recorded according to part 9560.0220, subpart 3.

Subp. 7. **Interviewing facility staff.** The ~~local~~ investigating agency shall begin to interview the following facility staff within 24 hours after interviewing children: the alleged offender, in a face-to-face interview, but the interview may be postponed if it jeopardizes an active law enforcement investigation; other staff members who may have knowledge of the maltreatment; supervisors of the alleged offender; and the director of the facility. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Staff interviews may be postponed beyond 24 hours to prevent interference with an investigation by law enforcement authorities.

Subp. 8. **Interviewing persons outside the facility.** The ~~local~~ investigating agency shall interview the parents, guardians, or legal custodians of children who are in the care of the facility and children no longer in the care of the facility if there is reason to believe they may have knowledge of maltreatment. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Subp. 8a. **Other interviews.** When necessary to make the determinations in subpart 10, the ~~local~~ investigating agency shall interview other persons who the agency believes may have knowledge of the alleged maltreatment. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Subp. 10. **Local agency Maltreatment determinations.** The ~~local~~ investigating agency shall determine that maltreatment has occurred within the facility on the basis of the criteria in items A and B:

- A. there is a preponderance of evidence that a child is a victim of maltreatment; and
- B. the maltreatment is caused by the act or failure to act of a license holder, facility staff, or a volunteer.

In determining whether the facility or individual is the responsible party for the maltreatment, the investigating agency shall consider the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

Subp. 11. **Protective intervention action.** If there is a determination that maltreatment has occurred or that child protective services are needed, the ~~local~~ investigating agency shall ~~intervene~~ take the following action to provide for the safety of the children within the facility.

A. The ~~local~~ investigating agency shall provide a written report to the parents, guardians, or legal custodians, including agencies responsible for placement, of every child who is in the care of the facility or was in the care of the facility from the time of the maltreatment until the investigation is completed or the alleged offender is no longer present in the facility, whichever comes first. The report must not disclose the names of the children who were maltreated, the reporter, the offender, or the persons interviewed during the investigation. The report must include:

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

- (5) the ~~local~~ investigating agency's determination; and
- (6) remedial measures being provided.

B. The ~~local~~ investigating agency shall inform parents, guardians, and legal custodians ~~of~~ about alternative facilities.

C. When the investigation is conducted by a local agency, the local agency shall provide the ~~responsible applicable~~ responsible applicable licensing agency or agencies listed in subpart 1a with an oral report immediately after the investigation is completed, and a written report ~~must be provided~~ within one week after the investigation is completed ~~to the responsible licensing agencies listed in subpart 1a and to the ombudsman notified under subpart 4.~~

D. For all cases in which the ombudsman received notice under subpart 4, the investigating agency must provide a written report to the ombudsman within one week after completing the investigation.

Subp. 12. **No determination of maltreatment or a need for child protective services.** If there is no determination of either maltreatment or a need for child protective services, the ~~local~~ investigating agency shall provide, within ten working days after the investigation is completed, the notice in subpart 11, item A, subitems (1) and (3) to (5), to:

A. parents, guardians, or legal custodians notified under subpart 5;

B. the ~~responsible applicable~~ responsible applicable licensing agencies ~~notified listed~~ notified listed under subpart 1a; ~~and if the investigation was conducted by a local agency;~~

C. the ombudsman notified under subpart 4;

D. the alleged offender; and

E. the facility director.

Subp. 12a. **Early determination of maltreatment allegations.** The investigating agency may make a determination of no maltreatment early in an assessment or investigation, close the case, and retain immunity if the collected information shows no basis for a full assessment or investigation.

Subp. 13. **Removal procedures.** Child placement by the local agency shall be made according to part 9560.0223.

#### **9560.0223 PLACEMENT ~~PREFERENCE~~ CONSIDERATIONS.**

Items A to ~~E~~ D must be followed when a local agency temporarily removes a child from the home in accordance with part 9560.0220, subpart 9, or from a facility in accordance with part 9560.0222, subpart 13:

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

D. ~~Under Minnesota Statutes, section 257.071, subdivision 1a:~~

(1) ~~due consideration must be given to a child's race or ethnic heritage in making family foster care placement; and~~

(2) ~~The placement preferences considerations of Minnesota Statutes, section 260.181 260C.193, subdivision 3, must be followed.~~

E. ~~If a child is placed outside the home in a family foster home of a different racial or ethnic background, the local agency shall review the placement after 30 days and each 30 days thereafter for the first six months to determine whether there is another available placement that would best meet the requirements in Minnesota Statutes, section 257.071, subdivision 1a.~~

#### **9560.0225 APPEALS OF MALTREATMENT DETERMINATIONS.**

Subpart 1. **Notice of right to appeal.** The investigating agency must notify the designee of a child who is the subject of a report, and any persons or facilities determined to have maltreated a child, of their appeal and reconsideration rights under Minnesota Statutes, section 626.556, subdivision 10i.

Subp. 2. **Notice after reconsideration.** If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency must notify the parties specified in Minnesota Statutes, section 626.556, subdivisions 10b, 10d, and 10f.

#### **9560.0226 INFORMATION PROVIDED REPORTERS UPON COMPLETION OF ASSESSMENT OR INVESTIGATION.**

Subpart 1. **Voluntary reporters.** Upon request, the ~~local~~ investigating agency that conducted the assessment or investigation of a report of maltreatment shall provide a voluntary reporter a concise summary after the assessment or investigation ~~of a report of maltreatment~~ has been completed. A concise summary is limited to:

<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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## Exempt Rules

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- A. the ~~local~~ agency's classification of the report under part 9560.0230; and
- B. a statement whether child protective services are being provided.

Subp. 2. **Mandated reporters.** ~~Upon request, The local agency that conducted the assessment or investigation shall provide a mandated reporter a summary consisting of:~~

- A. a concise summary under subpart 1;
- B. the name of the child protection worker ~~conducting or investigator that conducted~~ the assessment or investigation;
- C. the nature of the maltreatment, if the ~~local~~ agency determined maltreatment occurred; and
- D. ~~a description of services being provided whether the case has been opened for child protection or other services, or if a referral has been made to a community organization.~~

Subp. 3. **Refusal to disclose information.** The ~~local~~ agency shall refuse to provide a concise summary to voluntary reporters and a summary to mandated reporters if the local agency determines disclosure would be detrimental to the best interests of the child.

### 9560.0230 OFFICIAL RECORDS.

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

Subp. 3. **Disclosure of report records.** The ~~local~~ investigating agency may disclose report records to:

- A. members of the case consultation committee of a multidisciplinary child protection team established under *Minnesota Statutes*, section 626.558; ~~and~~
- B. a family court services agency in accordance with *Minnesota Statutes*, section 626.556, subdivision 10h; ~~and~~
- C. any other person or entity authorized by state or federal law to receive the reports.

Subp. 4. **Nondisclosure of reporter's identity.** ~~Neither the local agency nor the investigating agency, if different, shall not disclose the identity of the person making the report of maltreatment while the assessment or investigation is being conducted. After the assessment or investigation is completed, the local neither agency shall not disclose the identity of the person reporting the maltreatment without:~~

- A. the reporter's written consent to disclosure; or
- B. a written court finding that the report is false and that there is evidence the report was made in bad faith.

Subp. 5. **Notice of determinations.** Within ten working days after the assessment or investigation is completed, the ~~local~~ agency that conducted the assessment or investigation shall notify the parent or guardian of the child reported to be maltreated, the alleged offender, and, in facility investigations, the director of the facility in writing of the following:

- A. the agency's determinations; and
- B. the period of time report records will be maintained before being destroyed under subpart 6 ~~including any right of the alleged offender to have the records destroyed.~~

The notice must include a certification that information collection procedures under *Minnesota Statutes*, section 626.556, subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of data subjects to obtain access to other private data collected, created, and maintained as a result of the assessment or investigation.

Subp. 6. **Retention of report records.** The ~~local~~ investigating agency's records relating to reports of maltreatment must be retained or destroyed according to items A to C.

A. If the ~~local~~ investigating agency has made ~~determinations~~ a determination that maltreatment has not occurred and that child protective services are not needed, the ~~local~~ investigating agency ~~may~~ must retain the records of the report ~~up to~~ for four years. ~~However, if the alleged offender requests the destruction of the records, the local agency must destroy the records within 30 days of the request.~~

B. If the ~~local~~ investigating agency has made a determination either that maltreatment has occurred or that child protective services are needed, the ~~local~~ investigating agency shall ~~destroy~~ maintain the records ~~of relating to~~ the report ~~seven~~ for at least ten years after the date of the final entry in the case record.

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

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



**9560.0234 TRAINING REQUIREMENTS.**

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

Subp. 2. [See repealer.]

Subp. 3. **Individual training plan.** The local agency shall develop and approve an individual training plan for each child protection worker that meets the criteria in items A to C:

A. the training is relevant to providing child protective services. Relevant training topics include:

(1) the training areas specified in *Minnesota Statutes*, section 626.559, subdivision 2;

(2) permanency planning for children; and

(3) other subject areas related to protecting children from maltreatment and providing child protective services;

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

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

**REPEALER.** *Minnesota Rules*, part 9560.0234, subpart 2, is repealed.

## Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to 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. Specific *Minnesota Statutes* citations accompanying these emergency expedited rules detail the agency's rulemaking authority.

## Department of Natural Resources

### Adopted Expedited Emergency Game and Fish Rules; Waters Closed or Restricted for Taking Fish and Designated Special Management Waters

**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.045, subdivision 2, and 97C.005.

Dated: 24 April 2001

Allen Garber  
Commissioner of Natural Resources

**6262.0500 WATERS CLOSED TO TAKING FISH.**

Subpart 1. **Waters permanently closed to taking fish.** The following waters or designated portions are closed to the taking of all fish at all times, except by permit according to part 6260.0300, subpart 1, and *Minnesota Statutes*, section 97C.041:

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

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

## Expedited Emergency Rules

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W. Brown county: Lake Hanska, T.108N, R.32W, S.13,14,15,16,23,24; T.108N, R.31W, S.19,20,28,29,30,32,33,34.

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

### 6262.0550 WATERS WITH RESTRICTIONS ON TAKING FISH.

Subpart 1. [Expired.]

Subp. 2. Treaty lakes. The following waters have restrictions on the possession of fish.

A. Walleye 16 inch minimum size limits. All walleye in possession while on or fishing in the following waters must be 16 inches in length or greater. All walleye less than 16 inches in length must be immediately returned to the water.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>North Big Pine Lake</u>	<u>T.43, R.22, S.13,14</u>	<u>Aitkin, Pine</u>
<u>South Big Pine Lake</u>	<u>T.43, R.22, S.23-26</u>	<u>Aitkin</u>

B. Walleye 17 inch minimum size limits. All walleye in possession while on or fishing in the following waters must be 17 inches in length or greater. All walleye less than 17 inches in length must be immediately returned to the water.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>Goose Lake</u>	<u>T.36,37, R.22, S.Various</u>	<u>Chisago</u>
<u>Green Lake</u>	<u>T.33, R.20,21, S.12,13,23,24</u>	<u>Chisago</u>

C. Northern pike 26 to 36 inch protected slot limit. All northern pike in possession while on or fishing in the following waters must be less than 26 inches in length or greater than 36 inches in length. All northern pike that are 26 to 36 inches in length, inclusive, must be immediately returned to the water. A person's possession limit may not include more than one northern pike over 36 inches in length.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>Ogechie Lake</u>	<u>T.42, R.27, S.4,5,7,8; T.43, R.27, S.3</u>	<u>Mille Lacs</u>

D. Walleye 15 inch minimum size limits. All walleye in possession while on or fishing in the following waters must be 15 inches in length or greater. All walleye less than 15 inches in length must be immediately returned to the water.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>East Rush Lake</u>	<u>T.37, R.22, S.11,14,15,22,23,24,25</u>	<u>Chisago</u>
<u>West Rush Lake</u>	<u>T.37, R.22, S.9,10,15,16,20,21,22,27,28</u>	<u>Chisago</u>

E. Walleye 16 to 20 inch protected slot. All walleye in possession while on or fishing in the following waters must be less than 16 inches in length or greater than 20 inches in length. All walleye that are 16 to 20 inches in length, inclusive, must be immediately returned to the water.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>Chisago Lake</u>	<u>T.33, R.20, S.5,6,7,8</u>	<u>Chisago</u>
<u>South Lindstrom Lake</u>	<u>T.33, R.20, S.4,5; T.34, R.20, S.32,33</u>	<u>Chisago</u>

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## Expedited Emergency Rules

F. Walleye 18 to 23 inch protected slot. All walleye in possession while on or fishing in the following waters must be less than 18 inches in length or greater than 23 inches in length. All walleye that are 18 to 23 inches in length, inclusive, must be immediately returned to the water.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>Cross Lake</u>	<u>T.39, R.21, S.11,14,15;</u> <u>T.38, R.21,</u> <u>S.22,23,27,28,33,34</u>	<u>Pine</u>
<u>Pokegama</u> <u>Lake</u> <u>Snake River</u> <u>(between</u> <u>Cross Lake</u> <u>and</u> <u>Pokegama</u> <u>Lake)</u>	<u>T.39, R.22,</u> <u>S.13,14,23,24,25,26,35,36</u>  <u>T.39, R.22, S. Various</u>	<u>Pine</u>  <u>Pine</u>  <u>Pine</u>

[For text of subp 3, see 24 SR 1154, February 14, 2000]

Subp. 4. Walleye 18 to 24 inch protected slot limit. All walleye in possession while on or fishing in the following waters must be less than 18 inches in length or greater than 24 inches in length. All walleye that are 18 to 24 inches in length, inclusive, must be immediately returned to the water.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>Knife Lake</u>	<u>T.40,41, R.23,24, S. Various</u>	<u>Kanabec</u>

### **6264.0400 DESIGNATED SPECIAL MANAGEMENT WATERS.**

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

#### **Subp. 4. Mille Lacs Lake special management regulations.**

A. Except as provided in item B, all walleye in possession while on or fishing in Mille Lacs Lake must be from ~~14~~ 16 inches to 20 inches in length, inclusive. All walleye that are less than ~~14~~ 16 inches or greater than 20 inches in length must be immediately returned to the water. If the following harvest and kill estimates for winter and open water fishing are exceeded, the regulation shall change to all walleye in possession while on or fishing in Mille Lacs Lake must be from 16 inches to 18 inches in length, inclusive: May 31 - 135,000 pounds of walleye; June 15 - 185,000 pounds; June 30 - 225,000 pounds; and July 15 - 245,000 pounds. If the harvest and kill estimates for winter and open water fishing do not exceed 185,000 pounds on July 15, the regulation shall change to all walleye in possession while on or fishing in Mille Lacs Lake must be from 14 inches to 20 inches in length, inclusive. Any new regulation shall be implemented five days after the estimates are calculated.

B. Notwithstanding item A, a person's possession limit may include one walleye over ~~26~~ 28 inches in length. If walleye harvest and kill estimates for winter and open water fishing are exceeded, a person's possession limit may not include one walleye over 28 inches in length.

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

F. The commissioner may modify seasons and limits under *Minnesota Statutes*, section 84.027, subdivision 13, or sections 97A.0451 to 97A.0459, to accommodate tribal declarations for fish harvest in the 1837 Ceded Territory in compliance with the court ruling in *Mille Lacs Band of Chippewa v. Minnesota*, 119 S.Ct. 1187 (1999). Changes shall be posted at water access sites and the Department of Natural Resources Web site.

<u>Name</u>	<u>Location</u>	<u>County</u>
<u>Mille Lacs</u>	<u>T.42-45, R.25-28,</u> <u>S. Various</u>	<u>Aitkin,</u> <u>Crow Wing,</u> <u>Mille Lacs</u>

[For text of subps 5 to 16, see M.R.]

**REPEALER.** The expedited emergency amendments to *Minnesota Rules*, parts 6262.0550, subparts 2 and 4, and 6264.0400, subpart 4, published in the *State Register*, volume 24, page 1580, May 1, 2000, are repealed.

## Executive Orders

The governor has the authority to issue written statements of orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the *Constitution of the State of Minnesota*, Article V, and in *Minnesota Statutes* 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

### Office of the Governor

#### Emergency Executive Order 01-05 Providing for Assistance to the Minnesota Department of Natural Resources

I, **JESSE VENTURA, 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**, due to high-risk conditions and gusting winds, numerous wildfires are burning throughout northern Minnesota; and

**WHEREAS**, the wildfires are in an area extending from Anoka County to Bemidji; and;

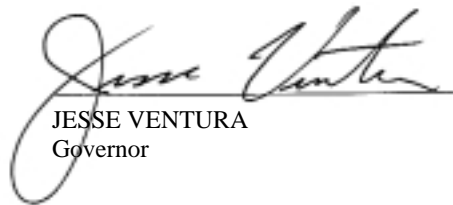
**WHEREAS**, the Minnesota Department of Natural Resources has requested aviation support from the Minnesota National Guard.

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

1. The Adjutant General of Minnesota order to state active duty on or about April 28, 2001, 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 assist and support wildfire suppression throughout northern Minnesota.
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* 2000, Sections 192.49, subd. 1; 192.51 and 192.52.

Pursuant to *Minnesota Statutes* 2000, 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 thirtieth day of April, 2001.



JESSE VENTURA  
Governor

Filed According to Law:



MARY KIFFMEYER  
Secretary of State

# Official Notices

Pursuant to Minnesota Statutes §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Department of Human Services Family and Children's Services Division

### Public Comments Sought on Proposed State Plan for Federal Fiscal Years 2001 - 2004

**NOTICE IS HEREBY GIVEN** that the Family and Children's Services Division seeks public comment on its proposed Federal Fiscal Year 2001 -2004 Chafee Foster Care Independence Program State Plan to address the requirements of Public Law 106-169, the Chafee Foster Care Independence Act of 1999. Public Law 106-169 provides states with increased funding and greater flexibility in carrying out programs designed to help youth make the transition from foster care to self-sufficiency.

Copies of the State Plan may be obtained by telephoning our office at (651) 296-4471. Copies of the application will also be available for review at the Information Desk at the Department of Human Services Building, 444 Lafayette Road, St. Paul, Minnesota.

Comments may be made in writing, by email, or by telephone, through June 15, 2001 at 4:30 p.m., and should be forwarded to:

Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55155-3832  
Attn: Claire Hill, Program Consultant  
**Phone:** (651) 296-4471  
**Email:** [claire.d.hill@state.mn.us](mailto:claire.d.hill@state.mn.us)

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### State Board of Investment

#### Administrative Committee Meeting Notice

The State Board of Investment Administrative Committee will meet on Tuesday, May 15, 2001 in the SBI Conference Room, Capitol Professional Office Building, Suite 10, (Main Floor), 590 Park Street, St. Paul, MN from 11:30 a.m., to 12:30 p.m.

### Minnesota State Retirement System (MSRS)

#### Board of Directors, Regular Meeting

The Board of Directors of the Minnesota State Retirement System will be meeting on Thursday, May 10, 2001, at 9:00 a.m., in the office of the System, 175 W. Lafayette Frontage Road, Suite 300, St. Paul, Minnesota 55107.

### Minnesota State Retirement System (MSRS)

#### Request for Comments on Planned Amendment to Rules Governing the Minnesota State Retirement System's Biennial Election of Board of Directors, *Minnesota Rules*, chapter 7900.022 through 7900.0410

Currently, the rules are drafted to only allow for a mail-in balloting process. The ballot materials are either mailed directly to members or forwarded to agency or department heads who cause the ballots to be delivered to each employee who receives salary or wages from which deductions are made for the retirement system on the payroll abstract covering the last full pay period ending in December of the preceding years. Department or agency heads are also responsible for mailing election materials to their employees on approved leave of absence or seasonal layoff during the last full pay period in December. The department or agency heads are then required by rule to certify to the Minnesota State Retirement System (hereinafter referred to as "MSRS") executive director the names of the employees to whom ballots were mailed.

Eligible voters mark their ballots, put them in a secret ballot envelope, insert them into a postage-paid envelope and mail them to MSRS. Incoming ballots are verified against payroll abstracts and sorted into "eligible" and "not eligible" categories. All incoming ballots are manually sorted, marked, opened and tabulated.

During the 2000 election process, MSRS mailed out approximately 43,099 ballots to active employees, 20,514 ballots to annuitants, and 2,852 ballots to participants in the correctional plan. Coordinating the process with MSRS staff, agency and department heads is a monumental task.

In its ongoing effort to streamline administrative processes and take advantage of advances in technology, MSRS is proposing to amend its election rules to allow the use of other board approved methods of ballot casting (i.e., voting by phone, voting on-line, and scannable paper ballots). The rule amendments would give MSRS the flexibility to seek advice from or contract with any one of a number of survey and balloting companies in an effort to set up a cost-effective, accurate and impartial election process. The amendment would also allow MSRS to defer to the MSRS database to flag eligible voters rather than defer that responsibility to agency and department heads. MSRS maintains current address information eliminating the need to work with agency and department heads to identify eligible voters.

It is MSRS' goal to increase the response rate of active employees by offering one or more simple and convenient balloting options. In the 2000 election only 13% of the 43,099 eligible active employees voted after receiving their mail in ballot.

**Subject of Rules.** The Minnesota State Retirement System requests comments on its planned amendment to the rules governing the MSRS board of directors biennial election process. MSRS is considering rule amendments that would allow for more than one method by which to cast a vote during the election process.

**Persons Affected.** The amendment of these rules will likely affect state employee members, state patrol fund members, retired state employee members, correctional employee plan members, MSRS staff members, and agency and department heads.

**Statutory Authority.** *Minnesota Statutes*, section 352.03, subdivisions 4 and 6 authorizes the agency to adopt rules to administer chapters 352, 3A, 352B, 352C, 352D, and 490 and transact the business of the system, subject to the limitations of law.

**Public Comment.** Interested persons or groups may submit comments or information on these planned amendments in writing until 4:00 p.m., on July 6, 2001. MSRS does not contemplate appointing an advisory committee to comment on the planned amendments.

**Rules Drafts.** MSRS has prepared a draft of the planned rules amendments.

**Agency Contact Person.** Written or oral comments, questions, and requests for more information on these planned amendments should be directed to: Paige Purcell, MSRS, Affinity Plus Building, Suite 300, 175 W. Lafayette Frontage Rd., St. Paul, Minnesota 55107, **phone:** (651) 284-3219, **email:** [paige.purcell@state.mn.us](mailto:paige.purcell@state.mn.us), **fax:** (651) 297-5238. **TTY:** (800) 627-3529.

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

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

Dated: 7 May 2001

David Bergstrom, Executive Director  
Minnesota State Retirement System

## Department of Natural Resources

### Division of Fish and Wildlife

#### Notice of Waters Identified and Designated as Infested Waters

**NOTICE IS HEREBY GIVEN** by the Minnesota Department of Natural Resources that until further notice, the following waters in the state have been identified and designated as infested waters in *Minnesota Rules*, part 6216.0350. Activities at these waters are subject to *Minnesota Rules*, parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

#### Waters identified as infested with Eurasian water milfoil.

The following water bodies are identified and designated by the commissioner as infested with Eurasian water milfoil (*Myriophyllum spicatum*).

Name	DNR Protected Waters Inventory Number
<b>Anoka County</b>	
Cenaiko Lake	02-0654
Centerville Lake	02-0006
Crooked Lake	02-0084
Lake George	02-0091
Otter Lake	02-0003
Lake Peltier	02-0003
Unnamed lake (in Springbrook Nature Center)	02-0688
<b>Carver County</b>	
Lake Ann	10-0012
Auburn Lake	10-0044
Bavaria Lake	10-0019
Firemen's Lake	10-0226
Lotus Lake	10-0006
Lake Minnewashta	10-0009
Pierson Lake	10-0053

## Official Notices

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Riley Lake	10-0002
Schutz Lake	10-0018
Stone Lake	10-0056
Lake Virginia	10-0015
Lake Waconia	10-0059
Lake Zumbra	10-0041
<b>Chisago County</b>	
Ellen Lake	13-0047
Green Lake	13-0041
Rush Lake	13-0069
<b>Crow Wing County</b>	
Bay Lake	18-0034
Ripple River, between Bay Lake and Tame Fish Lake	18-0000
Ruth Lake	18-0212
<b>Dakota County</b>	
Crystal Lake	19-0027
Lac Lavon	19-0347
Lake Marion	19-0026
Schultz Lake	19-0075
Twin Lakes	19-0028
<b>Douglas County</b>	
Oscar Lake	21-0257
<b>Hennepin County</b>	
Arrowhead Lake	27-0045
Bass Lake	27-0098
Brownie Lake	27-0038
Bryant Lake	27-0067
Bush Lake	27-0047
Lake Calhoun	27-0031
Cedar Lake	27-0039
Christmas Lake	27-0137
Dutch Lake	27-0181
Eagle Lake	27-0111
Fish Lake	27-0118
Forest Lake	27-0139
Gleason Lake	27-0095
Lake Harriet	27-0016
Hiawatha Lake	27-0018
Lake Independence	27-0176
Lake of the Isles	27-0040
Libbs Lake	27-0085
Little Long Lake	27-0179
Long Lake	27-0160
Medicine Lake	27-0104
Minnehaha Creek	27-0000
Lake Minnetonka	27-0133
Niccum's Pond	private
Lake Nokomis	27-0019
Parker's Lake	27-0107
Peavy Lake	27-0138
Lake Rebecca	27-0192
Rice Lake	27-0116
Round Lake	27-0071
Lake Sarah	27-0191



Schmidt Lake	27-0102
Swan Lake	27-0000
Tanager Lake	27-0141
unnamed wetland	27-0900
Whaletail Lake	27-0184
Wirth Lake	27-0037
<b>Isanti County</b>	
Green Lake	30-0136
<b>Itasca County</b>	
Ice Lake	31-0372
McKinney Lake	31-0370
North Twin	31-0190
<b>Kanabec County</b>	
Knife Lake	33-0028
Kandiyohi County	
Green	34-0079
<b>Kandiyohi County</b>	
Green	34-0079
<b>Meeker County</b>	
Stella Lake	47-0068
Lake Washington	47-0046
<b>Mille Lacs County</b>	
Lake Mille Lacs, and from the mouths of each tributary to Lake Mille Lacs upstream to the first public road	48-0002
	48-0000
<b>Olmsted County</b>	
George Lake	55-0008
<b>Pope County</b>	
Gilchrist Lake	61-0072
Lake Minnewaska	61-0130
<b>Ramsey County</b>	
Bald Eagle Lake	62-0002
Lake Gervais	62-0007
Island Lake	62-0075
Keller Lake	62-0010
Kohlmans Lake	62-0006
McCarron Lake	62-0054
Lake Owasso	62-0056
Phalen Lake	62-0013
Round Lake	62-0012
Silver Lake	62-0001
Snail Lake	62-0073
Spoon Creek (between Keller and Phalen lakes)	62-0000
Sucker Lake	62-0028
Turtle Lake	62-0061
Lake Vadnais	62-0038
Lake Wabasso	62-0082
White Bear Lake	82-0167
<b>St. Louis County</b>	
Gilbert Pit Lake	69-1306
Horseshoe Lake	69-0503

## Official Notices

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### Scott County

Lower Prior Lake	70-0026
Upper Prior Lake	70-0072

### Stearns and Todd County

Sauk Lake	77-0150
unnamed wetland along the Clearwater River	73-0312

### Washington County

Powers Lake	82-0092
White Bear Lake	82-0167
St. Croix River	82-0001

### Wright County

Augusta Lake	86-0284
Beebe Lake	86-0023
Buffalo Lake	86-0090
Clearwater Lake	86-0252
Clearwater River (downstream of Clearwater L.)	86-0000
Deer Lake	86-0107
Goose Lake	86-0108
Lake Mary	86-0156
Little Waverly Lake	86-0106
Lake Pulaski	86-0053
Rock Lake	86-0182
Sugar Lake	86-0233
Waverly Lake	86-0114
Weigand Lake	86-0242

### Multiple Counties

Mississippi River (downstream of St. Anthony Falls)

### Waters identified as infested with round goby.

The following water bodies are identified and designated by the commissioner as infested with round goby (*Neogobius melanostromus*).

Name	DNR Protected Waters Inventory Number
<b>Multiple Counties</b>	
Lake Superior	16-0001
St. Louis River (downstream of the Fond du Lac dam)	

### Waters identified as infested with ruffe.

The following water bodies are designated by the commissioner as infested with ruffe (*Gymnocephalus cernuus*).

Name	DNR Protected Waters Inventory Number
<b>Multiple Counties</b>	
Lake Superior	16-0001
St. Louis River (downstream of the Fond du Lac dam)	

### Waters identified as infested with spiny water flea.

The following water bodies are designated by the commissioner as infested with spiny water flea (*Bythotrephes cederstroemi*).

Name	DNR Protected Waters Inventory Number
<b>St. Louis</b>	
Fish Lake	69-0491
Island Lake	69-0372

**Multiple Counties**

Lake Superior	16-0001
Cloquet River (from Island Lake to the St. Louis River)	
St. Louis River (downstream of the Cloquet River)	

**Waters identified as infested with white perch.**

The following water bodies are designated by the commissioner as infested with white perch (*Morone americana*).

Name	DNR Protected Waters Inventory Number
<b>Multiple Counties</b>	
Lake Superior	16-0001
St. Louis River (downstream of the Fond du Lac dam)	

**Waters identified as infested with zebra mussels.**

The following water bodies are designated by the commissioner as infested with zebra mussel (*Dreissena sp.*).

Name	DNR Protected Waters Inventory Number
<b>Olmstead County</b>	
Lake Zumbro	55-0400
<b>Washington County</b>	
St. Croix River (downstream of the St. Croix Boomsite Recreation Area, managed by Minnesota Department of Transportation, at river mile 25.4.)	
<b>Multiple Counties</b>	
Lake Superior	16-0001
Mississippi River (downstream of St. Anthony Falls)	
St. Louis River (downstream of the Fond du Lac dam)	
Zumbro River (downstream of Lake Zumbro)	

Dated: 1 May 2001

Department of Natural Resources  
Exotic Species Program  
William J. Rendall  
Program Coordinator

**Pollution Control Agency**  
**Policy and Planning Division**  
**Minnesota Department of Agriculture**  
**Agronomy & Plant Protection Division**

**Notice of Proposed Update of the Permanent List of Priorities Among Releases or Threatened Releases of Hazardous Substances or Pollutants or Contaminants**

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA), and the Minnesota Department of Agriculture (MDA), are publishing for public comment proposed additions to and deletions from the Permanent List of Priorities (PLP) which lists releases or threatened releases of hazardous substances, pollutants, or contaminants for which the MPCA or MDA may take removal or remedial actions under the Minnesota Environmental Response and Liability Act (MERLA), *Minnesota Statutes* ch. 115B.

Pursuant to *Minnesota Statutes* § 115B.17 (2000) and *Minnesota Rules* 7044.0950 (1999), the MPCA is proposing the following changes to the PLP.

## Official Notices

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The MPCA is proposing to add the following site to the PLP (Hazard Ranking Score assigned pursuant to *Minnesota Rules* 7044.0350 follows the site): Sargent Creek Dump, Gary/New Duluth, St. Louis County (13). This site has been assigned to Response Action Classes C and D (see *Minnesota Rules* 7044.0450). The four response action classes are defined as follows: Class A - Declared Emergency; Class B - Response Actions Completed and Operation and Maintenance/Long-Term Monitoring Ongoing; Class C - Response Actions Necessary or in Progress or First Year Operation and Maintenance at a Site; and Class D - Remedial Investigations and Feasibility Studies (RI/FS) Necessary or in Progress.

The MDA is not proposing to add any MDA site to the PLP, at this time.

The MPCA is proposing to delete the following four sites from the PLP: Elysian Former City Dump, LeSueur County; General Fabrication, Forest Lake; Docs Auto Salvage, Minneapolis, and the Ashland Oil Co.- Pine County Site.

The MPCA has determined that either all MERLA Response Actions have been completed at these sites or that the sites do not pose a threat to public health or the environment.

The MPCA is also proposing to delete from the PLP the following closed landfills: Ironwood Sanitary Landfill, Fillmore County; Pine Lane Sanitary Landfill, Chisago County; Killian Sanitary Landfill, Todd County; and Winona County Sanitary Landfill, Winona County. These landfills are "qualified facilities" under the Landfill Cleanup Act of 1994, as amended (Act). Under authority of the Act, the state of Minnesota, through the MPCA, will assume responsibility for any necessary response actions at these sites, and will be responsible for long-term maintenance of the facility. The MPCA will assume this responsibility after issuance of a Notice of Compliance (NOC) by the Commissioner of the MPCA. Once a NOC is issued, MERLA funded response actions would no longer be necessary at a particular site, and deletion of that site from the PLP would be appropriate. The MPCA anticipates issuance of a NOC to each of these qualified facilities and therefore the proposed deletion of these sites is appropriate. Deletion of each of these sites from the PLP will not occur until after issuance of a NOC to the respective qualified facility.

The MDA is not proposing to delete any MDA site from the PLP, at this time.

The MPCA and MDA invite members of the public to submit written comments on these proposed changes to the PLP. All written comments with regard to these proposed additions and deletions must be received no later than 4:30 p.m., June 7, 2001.

Written comments regarding these proposed MPCA additions and deletions should be submitted to: Gary L. Krueger, Regular Facilities and Site Remediation Section, Policy and Planning Division, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155-4194.

Any questions regarding PLP sites where MDA is the lead state agency should be directed to Roger Mackedanz, Incident Response Unit, Agronomy & Plant Protection Division, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107-2094.

An interested person may submit a petition to the Commissioner of the MPCA requesting that the MPCA Board make the decision on whether to adopt the additions to or deletions from the PLP that have been proposed by the MPCA. To be considered timely, the petition must be received by the MPCA contact person, Gary L. Krueger, by **4:30 p.m., on June 7, 2001**. The decision whether to adopt the proposed additions to or deletions from the PLP will be made by the MPCA Board if: (1) the Commissioner grants the petition requesting the matter to be presented to the MPCA Board; or (2) a MPCA Board member requests to hear the matter prior to the time the Commissioner makes a final decision on the proposed additions to or deletions from the PLP.

Requests for a complete updated PLP or information on a specific site currently listed on the PLP can be directed to the MPCA's Public Information Office at the above address, or **phone:** (651) 296-6300 or toll free at (800) 657-3864.

All written comments received by the above deadline will be considered by the MPCA and the MDA in establishing the updated PLP.

Karen Studders, Commissioner  
Minnesota Pollution Control Agency  
Gene Hugoson, Commissioner  
Minnesota Department of Agriculture

## Public Employees Retirement Association (PERA)

### Notice of Meeting of Board of Trustees

A regular meeting of the Board of Trustees of the Public Employees Retirement Association (PERA) will be held on Thursday, May 10, 2001, at 9:30 a.m., in the PERA offices, 514 St. Peter St., Suite 200 – Skyway Level, St. Paul, Minnesota.

**Department of Public Safety**  
**Bureau of Criminal Apprehension**

**Request for Comments on Planned Amendments to Rules Governing Intoxication Testing,  
*Minnesota Rules, Chapters 7501 and 7502***

**Subject of Rules.** The Minnesota Department of Public Safety requests comments on its planned amendments to rules governing instruments used to analyze alcohol levels in breath samples. The Department is considering amending the current rules to update and clarify the types of instruments that are approved by the Department for this type of analysis.

**Persons Affected.** The amendment to the rules will affect persons who must give breath samples when there is reason to believe they are driving while impaired. Law enforcement officials will also be affected because they must administer the tests authorized by law including breath-testing devices.

**Statutory Authority.** *Minnesota Statutes*, section 169A.75 authorizes the Commissioner of Public Safety to adopt rules to implement the provisions found in *Minnesota Statutes*, Chapter 169A, governing laws regarding alcohol-related driving incidents. Pursuant to *Minnesota Statutes*, section 169A.41, the Commissioner is authorized to approve devices used to screen a breath sample for levels of alcohol when a peace officer has reason to believe that a driver may be violating sections of Chapter 169A. Additionally, following the screening test, additional chemical tests for intoxication may be required including the use of infrared breath-testing instruments. *Minnesota Statutes*, section 169A.51, subd. 5.

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

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

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these planned rules should be addressed to: Kristine M. H. Pierce, Commissioner's Office, Department of Public Safety, 445 Minnesota Street, Suite 1000, St. Paul, Minnesota 55101; **email:** *kristine.hernandez.pierce@state.mn.us*. **TTY:** (651) 282-6555.

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

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

Dated: 30 April 2001

Charles R. Weaver, Jr.  
Commissioner, MN Department of Public Safety

## State Grants & Loans

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

## Department of Agriculture

### Farm Advocate Program

#### Notice of Availability of Contracts for Minnesota Farm Advocates

The Minnesota Department of Agriculture announces the availability of contracts for farm advocates for the period of July 1, 2001 through June 30, 2002. Applicants must be farmers or former farmers; be familiar with or experienced in farm financial planning (cash flows through financial statements); be knowledgeable of farmers' borrowers rights and responsibilities with the ability to comprehend state and federal rules and regulations governing agricultural credit; have good communication skills (written, oral and listening); and have compassion for and interest in helping other farmers. Resumes will be accepted through June 15, 2001.

For more information contact:

Bruce Lubitz  
Farm Advocate Program  
52168 450th St.  
Perham, MN 56573  
**Phone:** (218) 334-3276

## State 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 \$25,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: agency name and address, name of agency contact person, description of project and tasks, cost estimate and final submission date and time of completed proposal. Certain quasi-state agencies and MnSCU institutions are exempted from these provisions. In accordance with *Minnesota Rules* 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. Certified Economically Disadvantaged Businesses and individuals shall receive the equivalent of a 4% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (651) 296-2600 or [TTY (651) 282-5799.]

## Department of Administration

### Division of State Building Construction

#### Request for Qualifications (RFQ) for Professional Services of Minnesota Registered Architects, Engineers, Land Surveyors, Landscape Architects, and Geoscientists

##### Project Overview

The Minnesota Department of Administration, Division of State Building Construction ("State"), requests qualifications of Minnesota registered architects, engineers, land surveyors, landscape architects, and geoscientists ("Consultant") to assist the State in providing pre-design, design through construction documents, construction administration, including land surveying and geoscientist services. These projects will be varied in nature and scope and will involve new construction and remodeling, which includes but is not limited to buildings, commissioning, bridges, roadways, and land development.

Each construction project will have an estimated cost of construction of no greater than \$750,000.00. Each study or report fee will have a Consultant estimated fee no greater than \$60,000.00. Primary designers for projects with estimated costs or fees in excess of these amounts will be selected by the State Designer Selection Board in accordance with *Minnesota Statutes* §16B.33.

**Goal**

It is the goal of this RFQ to establish a Master Roster of qualified Consultants who are available to assist the State with predesign, design through construction documents, construction administration, landscape architecture, land surveying and geoscientist services as needed during the state fiscal year commencing July 1, 2001, and ending June 30, 2002.

**Sample Tasks****A. Predesign–Tasks include but are not limited to the following:**

- Review how project meets state agency’s strategic plan, facility’s master plan, and operational program.
- Prepare analysis of facility needs and planning cost estimates in accordance with Revision standards and preferences.
- Prepare predesign document in accordance with the Predesign Manual for Capital Budget Projects. A copy of the Manual is available on web site [www.dsbc.admin.state.mn.us](http://www.dsbc.admin.state.mn.us).

**B. Design through Construction Documents and Construction Administration–Tasks include but are not limited to all or a portion of the following phases and tasks:****1. Schematic Design Phase:**

- Review, analyze and evaluate program, budget and schedule.
- Prepare schematic design instruments of service.
- Prepare preliminary estimate of cost of construction, to midpoint of construction.
- Provide soil investigations/analysis.
- Provide structural analysis.

**2. Design Development Phase:**

- Review responses to schematic design and prepare detailed design development documents.
- Prepare drawings.
- Monitor and update estimate of cost of construction and project schedule.

**3. Construction Documents Phase:**

- Prepare final construction documents, conditions of the contract and bidding requirements based on state approval of design development.
- Coordinate all sub-consultants involvement.
- Update final estimated cost of construction and project schedule.
- Review and approve or disapprove shop drawings.
- Review and approve or disapprove contractor’s payment applications.
- Develop construction contract supplemental agreements.
- Provide record “as built” drawings.

**4. Bidding Phase:**

- Assist State with obtaining and evaluating bid proposals.
- Prepare bidding instruments of service.
- Prepare and issue addenda with approval of State.

**5. Construction Administration Phase:**

- Administer contract for construction.
- Observe construction.
- Review for compliance with specifications.
- Conduct inspections to determine dates of substantial and final completion.

**C. Landscape Architecture–Tasks include but are not limited to determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic value settings, approaches or environment for structures or other improvements and the consideration of the land relating to erosion, wear and tear, blight and hazards.**

## State Contracts

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- D. Land Surveying—Tasks include but are not limited to the following:
- Establish all size metes and bounds, easements and infrastructure.
  - Establish water retention during construction and after.
  - Assist in an environmental assessment of a property.
- E. Geoscientist—Tasks include but are not limited to consultation, investigation, evaluation, planning, mapping, and inspection of geoscientific work and its responsible supervision.

### Legal Requirements and Notices

- A. The basic services agreement or professional and technical services contract will be executed on a project-by-project basis. A boilerplate basic services agreement and professional and technical services contract is available at **website:** [www.dsb.admin.state.mn.us](http://www.dsb.admin.state.mn.us). The State reserves the right to modify the boilerplate language prior to execution of a contract.
- B. The State is not obligated to complete this RFQ and the State reserves the right to cancel this solicitation if it is considered to be in its best interest. This request for qualifications does not obligate the State to award any contracts. The State reserves the right to not use the Master Roster if it is considered to be in its best interest.
- C. Insurance Requirements—The following insurance requirements will be required for services provided under a basic services agreement and professional and technical services contract:
1. Consultant will be required to file with the State's authorized agent a certificate of insurance for each type of insurance within 30 days of execution of a Contract and prior to commencement of any work under a contract. Consultant's policy(ies) should be primary insurance to any claims arising out of a contract. Each policy must contain a 30-day notice of cancellation, nonrenewal, or material change to all named and additional insured.
  2. The Consultant will be required to maintain and furnish satisfactory evidence of the following insurance policies:
    - a. Loss by any means, of all data furnished to the Consultant by the State, and for partially completed data for which State has made payment.
    - b. Workers' Compensation Insurance: The Consultant must provide Workers' Compensation insurance for all its employees and, in case any work is subconsultant, the Consultant will require the subconsultant to provide Workers' Compensation insurance in accordance with the statutory requirements of the state of Minnesota, including Coverage B, Employer's Liability, at limits not less than \$100,000.00 bodily injury by disease per employee; \$500,000.00 bodily injury by disease aggregate; and \$100,000.00 bodily injury by accident.
    - c. Commercial General Liability: The Consultant will be required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage including loss of use which may arise from operations under the contract whether the operations are by the contractor or by a subconsultant or by anyone directly or indirectly employed under the contract. Insurance minimum amounts will be as follows:
      - \$1,000,000.00 - per occurrence
      - \$2,000,000.00 - annual aggregateIn addition, the following coverages should be included:
      - Bodily Injury and Property Damage
      - Personal Injury
      - Products and Completed Operations Liability
      - Blanket Contractual Liability
      - Name the state as an Additional Insured
    - d. Commercial Automobile Liability: The Consultant will be required to maintain insurance protecting the Consultant from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services, as well as from claims for property damage including loss of use which may arise from operations under the contract whether such operations were by the Consultant or by subconsultant or by anyone directly or indirectly employed under the contract. Insurance minimum amounts will be as follows:
      - \$1,000,000.00 - per occurrence Combined Single limit for Bodily Injury and Property DamageIn addition, the following coverages should be included:



Owned, Hired, and Non-owned

Name the state as an Additional Insured

- e. Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance:

The Consultant will be required to carry the following minimum amounts:

\$1,000,000.00 - per claim

\$2,000,000.00 - annual aggregate

The Consultant may be required to submit a certified financial statement which provides evidence that the Consultant has adequate assets to cover any deductible which applies to this policy.

This policy will provide coverage for all claims the Consultant may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to the contractor's professional services required under the contract.

Consultant will be required to:

- Include legal defense fees in addition to its liability policy limits, with the exception of b.5. above; and
  - Obtain insurance policies from an insurance company having an "AM BEST" rating of A-V or better and be authorized to do business in the state of Minnesota.
3. The State reserves the right to revise insurance requirements prior to execution of a contract.
  4. The State will reserve the right to immediately terminate the contract if the Consultant is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Consultant. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to State's authorized agent upon written request.

- D. All successful responders will be required to obtain approval of the State or the individual state agency prior to entering into a contract for services under this RFQ. All contracts will be subject to the requirements of this RFQ. The successful responder will be responsible for the performance of all subcontractors it obtains.

### **RFQ Requirements**

An individual or firm ("Responder") wishing to be considered for these projects is required to submit via U.S. Mail or courier the information requested in items A through H below and in the same order as presented below. Information must be submitted on 8 1/2" x 11" sheets, printing on one side only, and stapled. Do not use other methods of binding. Do not include promotional materials.

**A. Cover Page**—Submit on a single, one-sided page (letterhead paper is okay) the following information:

1. A subject line of "RFQ for Professional services of architects, engineers, land surveyors, landscape architects, and geoscientists";
2. A one sentence statement of interest to perform the RFQ services for the State; and
3. The following information **in the order presented below**:
  - a. Complete legal name, mailing address, including 9-digit zip code, and county name;
  - b. Legal status; such as corporation, partnership, sole proprietor;
  - c. Federal ID Number or Social Security Number (not required for Web-based response);
  - d. State ID Number (not required for Web-based response);
  - e. State Vendor Number (required for Web-based response and also for typewritten response if Responder is registered with the Minnesota Department of Administration, Materials Management Division, as a targeted group or economically disadvantaged vendor pursuant to *Minnesota Statutes* § 16C.16. **Responder may find its state vendor number or apply for one on Department of Administration, Materials Management Division, Web Site <https://www.mmd.admin.state.mn.us/webven> (a secured site) or phone: (651) 296-2600 for assistance.**
  - f. Point of Contact (identify a single individual to whom the State may direct questions or send a request for proposal as needed on a project-by-project basis during the term of the Master Roster):
    - Contact Person Name and Title
    - Contact Person Phone Number
    - Contact Person Fax Number
    - Contact Person's E-mail Address (if available)

## State Contracts

4. **The cover page must be signed in ink by an authorized member of the firm as described in a corporate resolution or partnership document. Please provide the following information on the authorized signer:**

- Authorized Signer's Name and Title
- Authorized Signer's Phone Number
- Authorized Signer's Fax Number
- Authorized Signer's E-mail Address (if available)

**B. Firm Information:** Please provide following information. Include only staff licensed pursuant to *Minnesota Statutes* 326.02-326.15 (do not include subconsultants):

Firm Information	Quantity
Architects	
Engineers–Civil	
Engineers–Electrical	
Engineers–Environmental	
Engineers–Mechanical	
Engineers–Structural	
Geoscientists	
Interior Designers	
Landscape Architects	
Land Surveyors	
Largest Building Project (construction dollars)	(\$)
Date Firm Established	(Date):

**C. Expertise Categories:** Responder must identify its areas of expertise from the category list below. Provide firm expertise and project information in the same order as listed below. For each category of expertise provide two projects completed during the period of May 1, 1998 through April 30, 2001 evidenced by an executed Certificate of Substantial Completion. Include the following information on each project:

1. A description of the project,
2. Scope of responsibility:
  - a. Predesign
  - b. Schematic design

- c. Design development
  - d. Construction documents
  - e. Bidding
  - f. Construction administration
  - g. Construction inspection
  - h. Land survey
  - i. Geoscientific
4. Consultant fee
  5. Construction cost if scope includes responsibilities 2.a. through 2.f. above.
  6. Date completed

1	<b>Acoustical</b> . . . means preparing reports, studies, plans and specification for control and transmittance of sound.
2	<b>Arts and Performing Arts Facilities</b> . . . means schools that educate people in the areas of but not limited to dance, music and other artforms.
3	<b>Audio Visual/Media</b> . . . means preparation of plans and specifications for sound, video and other media type systems.
4	<b>Building Restoration</b> . . . means refurbishing buildings to near original condition according to Minnesota Historical Society guidelines, rules and regulations.
5	<b>Commissioning</b> . . . means testing systems and equipment performance to verify compliance with design intent.
6	<b>Correctional Facilities</b> . . .means facilities of incarceration.
7	<b>Educational Facilities.</b> . . means schools, classrooms, school laboratories and places of an educational nature
8	<b>Energy Supply and Distribution</b> . . . means all systems that convey power in various forms from generation of the power to end users of the power both on site and in buildings.
9	<b>Food Service</b> . . . means preparing plans and specifications to construct or remodel spaces used in the preparation and serving of food.
10	<b>Hazardous Substance Disposition</b> . . . means containing, preventing or removing pollutants as identified by the Minnesota Pollution Control Agency from sites and buildings.
11	<b>Health and Medical Facilities</b> . . .means hospitals, nursing homes and infirmaries.
12	<b>Intertechnologies and Telecommunications</b> . . . means network and low voltage telecommunication infrastructures.
13	<b>Office and Administration Facilities</b> . . . means buildings that are used for general office workers.
14	<b>Predesign</b> . . . means the stage in the development of a project, prior to the design stage, during which the purpose, scope, cost, and schedule of the complete project are defined and instructions to design professionals are produced.
15	<b>Project Administration</b> . . . means doing selected functions as they relate to projects under construction.

## State Contracts

16	<b>Recreational Facilities</b> . . . means facilities that provide services to all citizens to conduct leisure and entertaining activities.
17	<b>Roads and Bridges</b> . . . means horizontal construction that is used to convey people and goods.
18	<b>Roofing</b> . . . means all systems and devices used to cover and protect the tops of buildings and appurtenances.
19	<b>Security Systems</b> . . . means systems to monitor spaces, secure passage ways, doors, entrances and exits from buildings and spaces.
20	<b>Service and Industrial Facilities</b> . . . means facilities that provide manufactured goods and services to authorized clients.
21	<b>Signage</b> . . . means all way finding or information conveying devices both in buildings and outdoors.
22	<b>Temperature Control</b> . . . means design and application of systems that control all aspects of HVAC and mechanical systems in building.
23	<b>Water and Waste Systems</b> . . . means water towers and septic systems.
24	<b>Other Categories?</b> Explain

If Responder submits a typewritten RFQ response, present the information requested in item C by first stating the category name and then following it with completed project information. List expertise categories in numerical order shown above. You do not need to list a category if it is not one of your areas of expertise. Two completed projects are required to support an area of expertise.

- D. References**—Provide three project references. If possible include at least one political subdivision (federal, state, county, or city) project. Provide following information for each reference:
- Project title, scope and date completed;
  - Client’s company name, mailing address; and
  - Client’s contact person name, position title, telephone number and fax number.
- E. Licensing Requirements and Obligations**—Provide a statement that services will be provided in compliance with *Minnesota Statutes* §§ 326.02-326.1515 (laws regarding licensure or certification of architects, engineers, land surveyors, landscape architects, and geoscientists).
- F. Compliance with Policies and Procedures**—Provide a statement that responder has read and will provide services in compliance with the current edition of the following policies and procedures which are available on the DSBC Web Site [www.dsbc.admin.state.mn.us](http://www.dsbc.admin.state.mn.us):
- State’s Consultant Designer Procedures Manual;
  - State’s Predesign Manual for Capital Budget Projects;
  - State’s Computer Aided Drafting (CAD) Guidelines; and
  - State’s Indoor Air Quality Guidelines.
- G. Contract Terms and Conditions**—Provide a statement of acceptance of the terms and conditions in the State’s Basic Services Agreement and Professional and Technical Services Contract. The terms of the Basic Services Agreement and Professional and Technical Services Contract are non-negotiable. Responses that take exception to contract boilerplate language may be considered non-compliant responses and rejected from further consideration for placement on the Master Roster. The State reserves the right to change the contract boilerplate language before execution of a contract.
- H. Insurance Requirements**—Provide a statement of understanding of the insurance requirements in item C of the Legal Requirements and Notices section and a statement that it is able to meet those requirements if a contract is offered to the Responder.

### Responder's With Multiple Office Locations

If responder has multiple office locations, please provide all information requested in sections A (cover page) and B (Firm Information) of RFQ Requirements section. Cover page for each location must be signed in ink by an authorized person and placed at the back of the corporate office RFQ response.

### RFQ Response Options

- A. **Web-based RFQ Response Form**—Responder may elect to complete an electronic RFQ Response Form on DSBC Web Site <http://www.dsbc.admin.state.mn.us> by completing the form titled “Response to RFQ for Professional Services of Minnesota Licensed Architects, Engineers, Land Surveyors, Landscape Architects and Geoscientists.” All information requested in this RFQ must be provided in the response. **In addition to completing and transmitting the RFQ Response Form, an original copy must be printed, signed and mailed or delivered in accordance with the Deadline for Submission section of this RFQ.** Also see Late Responses section. It is anticipated that the electronic copy will match the signed original received by deadline.
- B. **Typewritten Proposal**—Responder may prepare a typewritten response. All information requested in this RFQ must be provided in the response. Responder may fax a copy of the original response if it is unable to meet the May 29, 2001 deadline by U.S. Mail or courier. **In addition to faxing a copy, the original response, signed in ink, must be mailed or delivered in accordance with the Deadline for Submission section of this RFQ.** Also see Late Responses section. It is anticipated that the faxed copy will match the original received by the deadline.

### Copies of Responses

Individuals and firms wishing to be considered for the RFQ services must submit via U.S. Mail or courier one original copy, signed in ink, of a response to items A through H sealed in an envelope with the Responder's name and address and the following comment marked clearly in the lower left-hand corner of the envelope “Professional Services of Architects, Engineers, Land Surveyors, Landscape Architects and Geoscientists.”

### Deadline for Submission

All responses must be received **no later than 2:00 p.m., CDT on May 29, 2001**, unless otherwise provided below. All responses must be addressed to:

Attn: Contracts Officer  
**Fax:** (651) 215-1952  
Department of Administration  
Division of State Building Construction  
50 Sherburne Avenue, Rm G-10  
St. Paul, MN 55155-1402

**NOTE: Deadline for the original copy of the Web-based RFQ response or a Faxed RFQ response is no later than 2:00 p.m. on June 1, 2001. Web-based RFQ responses and Fax responses will not be considered if the complete original document is not received as required in this paragraph.**

If Responder requires acknowledgement of receipt of response, Responder must fax a request for acknowledgment to attention of Contracts Officer at **fax:** (651) 215-1952. Include a return fax number. Only requests for acknowledgement received by fax will be answered; they will be answered by return fax.

### Late Responses

**Late responses will not be considered.** The State will not be responsible for web site and fax malfunctions or overloads, postal or courier deliveries not received by deadline, or delays caused by weather conditions. All costs incurred in responding to this request for qualifications shall be borne by the Responder. **Email responses will not be considered.**

### Selection Process

All responses received by the deadline will be evaluated by representatives of the Minnesota Department of Administration, Division of State Building Construction - Division. Responders meeting the following requirements will qualify to be added to the Master Roster:

- Responder submitted a statement that services will be provided in compliance with the requirements in *Minnesota Statutes* §§ 326.02-.15-see items B and E in RFQ Requirements section.
- Responder submitted information demonstrating it has completed two projects during May 1, 1998 through April 30, 2001 in each designated area of expertise-see item C in RFQ Requirements section.

## State Contracts

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- Responder has submitted three project references demonstrating satisfactory performance of predesign, design through construction documents, construction administration, land surveying, and/or geoscientist services—see item D in RFQ Requirements section.
- Responder submitted a statement that it will perform services in compliance with State policies and procedures—see item F in RFQ Requirements section.
- Responder submitted a statement of acceptance of the State's basic services agreement and professional and technical services contract terms and conditions—see item A in the Legal Requirements and Notices section and item G in RFQ Requirements section.
- Responder submitted a statement that it is able to meet the insurance requirements—see item C of the Legal Requirements and Notices section and item H of RFQ Requirements section.

It is anticipated the evaluation will be completed by July 1, 2001.

Responders will be notified of their status. A Master Roster of qualified Consultants will be prepared. It is anticipated that the following process will be used to select a Consultant for a project:

Up to \$25,000	State will choose a qualified Consultant from the Master Roster. Rotation of work, by geographic location, and project requirements, will be strong considerations in Consultant selection.
Greater than \$25,000	State will send a written Request for Proposal to multiple Consultants on the Master Roster. Consultant may be required to interview for a project.

The Minnesota Department of Administration, State Building Construction Division, will retain the Master Roster of qualified Consultants. The Master Roster will be retained on file until June 30, 2001. The Master Roster will also be made available to:

- State agencies, boards and commissions identified in *Minnesota Statutes* 16C.02, subd. 2,
- The Minnesota state colleges and universities, and
- Current members of the state of Minnesota Cooperative Purchasing Venture (CPV) program.

### Questions Regarding RFQ

Questions may be faxed to attention of Sharon Schmidt, Contracts Officer at **phone:** (651) 215-1952 or **email:** [sharon.schmidt@state.mn.us](mailto:sharon.schmidt@state.mn.us). Questions must be received no later than noon on Thursday, May 24, 2001 to ensure a response by May 25, 2001. This is the only person authorized to respond to questions.

## Hennepin Technical College

### Request for Proposals for Banking Services

**NOTICE IS HEREBY GIVEN** that Hennepin Technical College is seeking proposals for banking services to include daily processing of deposits and disbursements, interest bearing accounts, online reporting, furnishing ATM machines and other related financial services.

An information meeting will be held for companies interested in submitting a proposal on May 15, 2001, at 2:00 p.m., in room B-110 at Hennepin Technical College, 9000 Brooklyn Blvd., Brooklyn Park, MN.

Deadline for receipt for proposals is **3:00 p.m., on Wednesday, May 23, 2001**. Late bids will not be considered. Copies of the complete Request for Proposals are available from:

Larry McAtee, Purchasing Manager  
Hennepin Technical College  
1820 North Xenium Lane  
Plymouth, MN 55441  
**Phone:** (763) 550-7143  
**Email:** [lgmcaatee@int287.k12.mn.us](mailto:lgmcaatee@int287.k12.mn.us)

This request for proposals does not obligate the state/college to complete the proposed project, and the state/college reserves the right to cancel the solicitation if it is considered to be in its best interest.

## Minnesota Historical Society

### Request for Bids for Rehabilitation of the Hypolite Dupuis House and Surrounding Site S.P. 94-080-02 Minn. Proj. No. TEAX 1998 (050)

The Minnesota Historical Society (Society) is seeking bids from qualified firms and individuals for Dupuis House improvements including new accessible restrooms, air conditioning, roof insulation, and water service hookup. Site work will include a concrete sidewalk, stairs, ornamental fencing, signage, and lighting.

A **PRE-BID MEETING** will be held at the Sibley House Historic Site, at 1:00 p.m., Local Time, on Monday, May 14, 2001. The Request for Bids, including attachments, is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102, **phone:** (651) 297-5863, **email:** [chris.bonnell@mnhs.org](mailto:chris.bonnell@mnhs.org)

Bids must be submitted in the format that will be described in the Request for Bids. Sealed bids must be received by Chris M. Bonnell, Contracting Officer, or an authorized agent, at the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102 by **Monday, June 4, 2001 at 2:00 p.m., Local Time.** Late bids will not be accepted.

Minimum wage rates to be paid by the Contractors have been predetermined and are subject to the Work Hours Act of 1962, P.L. 87-581 and implementing regulations.

#### READ CAREFULLY THE WAGE SCALES AND DIVISION A OF THE SPECIAL PROVISIONS AS THEY AFFECT THIS/THESE PROJECT/PROJECTS

The Minnesota Department of Transportation hereby notifies all bidders:

in accordance with Title VI of the Civil Rights Act of 1964 (Act), as amended and Title 49, *Code of Federal Regulations*, Subtitle A Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded maximum opportunity to participate and/or to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color, disability, age, religion, sex or national origin in consideration for an award;

in accordance with Title VI of the Civil Rights Act of 1964 as amended, and Title 23, *Code of Federal Regulations*, Part 230 Subpart A-Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (including supportive services), it will affirmatively assure increased participation of minority groups and disadvantaged persons and women in all phases of the highway construction industry, and that on any project constructed pursuant to this advertisement equal employment opportunity will be provided to all persons without regard to their race, color, disability, age, religion, sex or national origin;

in accordance with the Minnesota Human Rights Act, *Minnesota Statute* 363.03 Unfair discriminatory Practices, it will affirmatively assure that on any project constructed pursuant to this advertisement equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age;

in accordance with the Minnesota Human Rights Act, *Minnesota Statute* 363.073 Certificates of Compliance for Public Contracts, and 363.074 Rules for Certificates of Compliance, it will assure that appropriate parties to any contract entered into pursuant to this advertisement possess valid Certificates of Compliance.

If you are not a current holder of a compliance certificate issued by the Minnesota Department of Human Rights and intend to bid on any job in this advertisement you must contact the Department of Human Rights immediately for assistance in obtaining a certificate.

The following notice from the Minnesota Department of Human Rights applies to all contractors:

“It is hereby agreed between the parties that *Minnesota Statute*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 are incorporated into any contract between these parties based on this specification or any modification of it. A copy of *Minnesota Statute* 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 is available upon request from the contracting agency.”

“It is hereby agreed between the parties that this agency will require affirmative action requirements be met by contractors in relation to *Minnesota Statute* 363.073 and *Minnesota Rules* 5000.3600. Failure by a contractor to implement an affirmative action plan or make a good faith effort shall result in revocation of its certificate or revocation of the contract (*Minnesota Statute* 363.073, Subd. 2 and 3).”

## Non-State Contracts & Grants

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

### Anoka County Regional Rail Authority

#### Request for Proposals on Public Information and Marketing Services for the Northstar Commuter Bus Service Demonstration Project

The Anoka County Regional Rail Authority (ACRRA) is soliciting proposals for qualified consultants to conduct public information and marketing services for the Northstar Commuter Bus Demonstration Project (Project). Proposals will be received until **4:00 p.m., CST, Friday, May 25, 2001**, at the following address:

Tim Yantos, Executive Director  
Anoka County Regional Rail Authority  
2100 3rd Avenue, 7th Floor  
Anoka, MN 55303-2265  
**Phone:** (763) 323-5692  
**Fax:** (763) 323-5682

The Project will be a commuter bus operation originating in Elk River, Minnesota, and terminating in downtown Minneapolis, Minnesota, with approximately two or three intermediate stops. The proposed route is approximately 32 miles in length. Service will be provided Monday through Friday and include approximately eight daily inbound trips leaving at approximately 6:00 a.m., and concluding at approximately 9:00 a.m., and eight daily outbound trips commencing at approximately 3:00 p.m., and concluding at approximately 6:00 p.m.

The maximum contract amount involved in this RFP is \$300,000. This RFP does not obligate the ACRRA and Mn/DOT to spend the estimated dollar amount.

A preproposal conference is scheduled for 2:00 - 4:00 p.m., CST, Tuesday, May 15, 2001, at the Anoka County Government Center, 2100 3rd Avenue, Room 772, Anoka, MN 55303.

All questions regarding this proposal must be in writing and addressed to Tim Yantos at the above address and received by Thursday, May 17, 2001, at 4:00 p.m., (CST), or at the Pre-Proposal Conference.

It is the intent of the ACRRA to award a contract for the term of June 12, 2001, to September 30, 2003.

Proposal documents may be obtained from Tim Yantos at the above address. Anoka County Regional Rail Authority reserves the right to accept or reject any and all proposals and to waive informalities or irregularities in the proposal process.

If you need an accommodation such as an interpreter or printed materials in an alternate format (i.e., braille or large print) because of a disability, please contact Tim Yantos, Executive Director, ACRRA, **phone:** (763) 323-5692, **TDD/TTY:** (763) 323-5289.

### Metropolitan Council

#### Purchase of Allsteel, Steelcase, and Miscellaneous Furniture

The Metropolitan Council is soliciting sealed bids for the Purchase of Allsteel, Steelcase, and Miscellaneous Furniture. **Bids are due at 2:00 p.m., on May 29, 2001.**

Bids must be submitted in accordance with the Invitation for Bids documents available from the office below. Please identify which of the three bid packages (Allsteel, Steelcase, Miscellaneous) you are requesting.

Metropolitan Council  
Metro Transit Purchasing Department  
515 N. Cleveland Avenue  
St. Paul, MN 55114  
**Phone:** (612) 349-5070



## Metropolitan Council

### Notice of Request for Proposals (RFP) for Sale, Posting and Maintenance of Exterior Bus Advertising Contract Number 01P050/Project Number 44401

The Metropolitan Council is requesting proposals for the sale, posting and maintenance of exterior bus advertising.

<i>Issue Request for Proposals</i>	May 4, 2001
<i>Receive Proposals</i>	June 1, 2001
<i>Metropolitan Council authorization</i>	July 11, 2001
<i>Contract Negotiated, executed, NTP</i>	July 16, 2001

All firms interested being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Amanda Petersen, Administrative Assistant, Contracts and Procurement Unit  
Metropolitan Council Environmental Services  
230 East Fifth Street  
Mears Park Centre  
St. Paul, MN 55101  
**Phone:** (651) 602-1585  
**Fax:** (651) 602-1138  
**Email:** [amanda.petersen@metc.state.mn.us](mailto:amanda.petersen@metc.state.mn.us)

Inquiries regarding technical aspects of the project should be directed to Gordon Backlund, **phone:** (651) 602-1801.

*Minnesota Statutes*, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modification to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

## 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 Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at [bidinfo.umn.edu](http://bidinfo.umn.edu) or call the BIS Coordinator at (612) 625-5534.

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



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