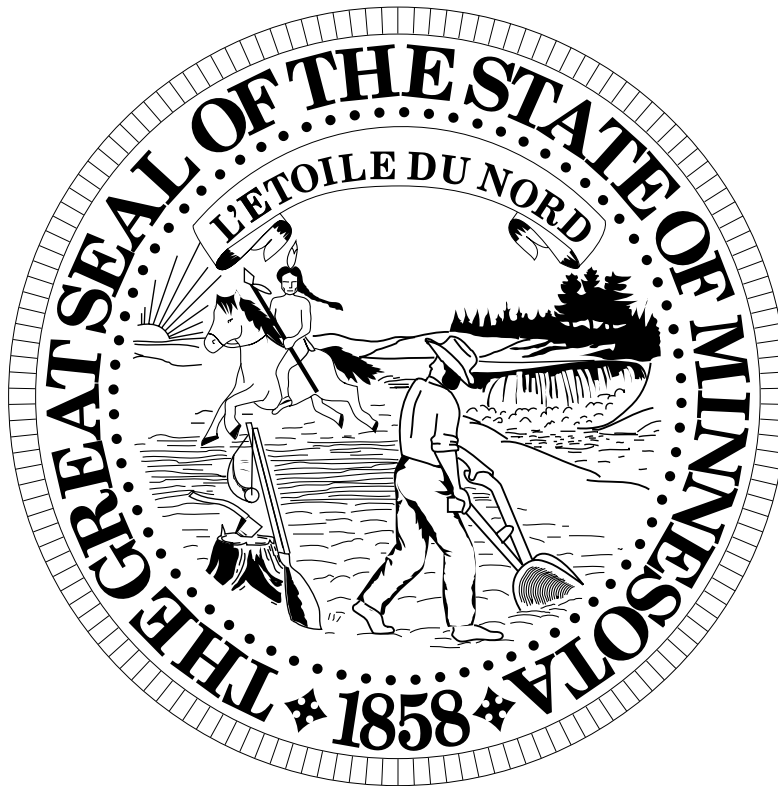


State of Minnesota

State Register

Rules and Official Notices Edition



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

Monday 31 July 2000
Volume 25, Number 5
Pages 133-206

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- proposed, adopted, exempt, expedited emergency and withdrawn rules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

Jesse Ventura, Governor (651) 296-3391

Mae Schunk, Lt. Governor (651) 296-3391

Department of Administration:

David F. Fisher, Commissioner (651) 296-1424

Kent Allin, Asst. Commissioner (651) 297-4261

Mike Hatch, Attorney General (651) 297-4272

Judi Dutcher, State Auditor (651) 297-3670

Communications.Media Division:

Mary Mikes, Director (651) 297-3979

Jan Preglo, Acting Manager (651) 296-8233

Mary Kiffmeyer, Secretary of State (651) 296-2079

Carol Johnson, State Treasurer (651) 296-7091

Robin PanLener, Editor (651) 297-7963

Jane Schmidley, Assistant Editor (651) 296-4273

Jessie Rahmeyer, Subscriptions (651) 297-8774

Printing Schedule and Submission Deadlines

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
#5	Monday 31 July	Noon Wednesday 19 July	Noon Tuesday 25 July
#6	Monday 7 August	Noon Wednesday 26 July	Noon Tuesday 1 August
#7	Monday 14 August	Noon Wednesday 2 August	Noon Tuesday 8 August
#8	Monday 21 August	Noon Wednesday 9 August	Noon Tuesday 15 August

Copyright © 2000 Communications.Media Division, Department of Administration, State of Minnesota.
Publication Number: 326630 (ISSN 0146-7751)

SUBSCRIPTION SERVICES: Copies are available at Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Order by phone: Metro area: (651) 297-3000 Toll free (800) 657-3757. TTY relay service phone number: (800) 627-3529. **NO REFUNDS.** Subscribers who do not receive a copy of an issue should notify the *State Register* Subscription Office immediately at (651) 297-8774. Copies of back issues may not be available more than two weeks after publication. Both editions are delivered postpaid to points in the United States, Periodicals Postage Paid for the *State Register* at St. Paul, MN, first class for the *Contracts Supplement*. See the *State Register* and the *Contracts Supplement* on our website: <http://www.comm.media.state.mn.us> Click on "Minnesota's Bookstore."

- *State Register* (published every Monday, or Tuesday if Monday is a holiday) One year, hard copy, paper subscription: \$160.00.
- *Contracts Supplement* (published every Tuesday and Friday) One year subscription: \$135.00 via first class mail, \$150.00 via fax or through our website. Users agree not to redistribute without authorization.
- **13-week trial subscription** which includes both the *State Register* and *Contracts Supplement*. \$65.00
- **Single issues** are available for a limited time: *State Register* \$5.00, *Contracts Supplement* \$1.00. Shipping is \$3.00 per order.

PUBLISHING NOTICES IN THE *State Register*: Submit TWO COPIES of your notice, typed double-spaced. State agency submissions must include a "State Register Printing Order" form, and a "Certification/Internal Contract Negotiation" form with contracts for professional, technical and consulting services. Non-State Agencies should submit TWO COPIES, with a letter on your letterhead stationery requesting publication and date to be published. FAXED submissions to (651) 297-8260 are received to meet deadline requirements, but must be followed by originals and applicable forms or letters to be accepted. The charge is \$115.00 per page, billed in tenths of a page (columns are seven inches wide). About 2-1/2 pages typed double-spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Contact the editor if you have questions.

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

The *State Register* is published by Communications.Media Division, Department of Administration, State of Minnesota, pursuant to *Minnesota Statutes* § 14.46 and is available at the main branch of county libraries in Minnesota and all "State Depository Libraries": State University and Community College libraries; the University of Minnesota libraries; St. Paul, Minneapolis and Duluth Public Libraries; the Legislative Reference Library; State Law Library; Minnesota Historical Society Library; and the Library Development Service at the State Department of Children, Families and Learning.

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media.

To be placed on the mailing list, write or call the offices listed below:

Contact: Senate Public Information Office (651) 296-0504
Room 231 State Capitol, St. Paul, MN 55155

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

Minnesota Rules: Amendments & Additions	
Volume 25, Issues # 1-5.....	136
Proposed Rules	
Health Department	
Maternal and child health.....	137
Teaching Board	
Teacher license examinations	139
Adopted Rules	
Health Department	
Loan forgiveness.....	142
Exempt Rules	
Natural Resources Department	
Public waters work permits.....	143
Water and Soil Resources Board	
Wetlands	152
Expedited Emergency Rules	
Natural Resources Department (DNR)	
Adopted expedited emergency game and fish rules on turkey hunting.....	183
Revenue Notices	
Department of Revenue	
Revenue Notice #00-08: Sales and Use Tax - Ready-mixed concrete and trucks	185
Official Notices	
Administration Department	
State Designer Selection Board meetings during August 2000.....	186
Agriculture Department	
Rural Finance Authority changes meeting place for Wednesday 2 August 2000	186
Health Department	
Request for comments and intent to adopt exempt rules on a manual for completion of the Health Care Financing Administration (HCFA) 1500 paper health insurance claim form.....	187
Higher Education Facilities Authority	
Public hearing on revenue obligations on behalf of Order of St. Benedict	187
UAW-Ford-MnSCU Training Center	
Meeting of the board of directors Tuesday 15 August 2000.....	188
State Grants & Loans	
Agriculture Department	
Authority to make market development grants.....	188
Authority to make value-added cooperative grants	188
Human Services Department	
Request for proposals to provide services to hard-to-employ families in the Minnesota Family Investment Program (MFIP) and to working participants in need of job retention and wage advancement services	189
Transportation Department	
Candidate projects sought for funding through the Transportation Revolving Loan Fund (TRLF)	190
Contracts: Professional, Technical, Consulting	
Administration Department	
Request for proposals to establish a contract for an automated sticker/title printing system for the Minnesota Dept. of Public Safety	191
State Designer Selection Board requests proposals for the academic addition to Fond du Lac Tribal and Community College.....	192
Minnesota State Colleges and Universities (MnSCU)	
Request for proposals for architectural and engineering consulting services for Anoka-Hennepin Technical College	196
Request for proposals for construction management services at Minneapolis Community and Technical College.....	197
Minnesota Historical Society	
Request for bids for construction of the Jeffers Petroglyphs Visitor Center addition and reroof	198
Request for bids for printing services	199
Human Services Department	
Request for proposals to evaluate concurrent permanency planning program	199
Legislative Coordinating Commission	
Request for bid for financial audit for fiscal year 2000.....	200
Military Affairs Department	
Request for proposals for Fort Ripley cultural resources investigation.....	200
Transportation Department	
Contract available for I-35W Segment 3 final design	201
Veterans Homes Board	
Request for proposals for physical therapy assistant services.....	202
Non-State Public Bids, Contracts & Grants	
Metropolitan Airports Commission	
Call for bids for a) three 4-drive, 4WD utility vehicles; b) two 1500 GVWR dump trucks; c) one 1-ton cab and chassis	202
Metropolitan Council	
Request for bids for:	
• Process chemicals for the Seneca Wastewater Treatment Plant	203
• Potassium permanganate for the Seneca Wastewater Treatment Plant.....	203
• Liquid aluminum sulfate for Stillwater Wastewater Treatment Plant.....	203
Invitation for bids for purchase of eight-passenger shelters ..	204
Request for proposals for conversion of Metro HRA file room	204
University of Minnesota	
Bid Information Service (BIS) available for all potential vendors.....	205

Minnesota Rules: Amendments and Additions

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

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

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

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

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

Volume 25, Issues # 1-5

Agriculture Department	
1562.0800 (adopted)	30
Chiropractic Examiners Board	
2500.1150; .2515 (proposed)	109
2500.2530 (proposed)	110
Children, Families and Learning Department	
3501.0320; .0330; .0370; .0400; .0420 (proposed)	5
3501.0360; .0370 s.1, 2, 4; .0420 s.4; .0430 (proposed repealer) ...	5
Health Department	
4617.0002 (proposed)	137
4615.0900; .1000; .1100; .1200; .1300; .1400; .1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200 s.1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26; .2300; .2400; .2500; .2600; .2700; .2800; .2900; .3000; .3100; .3200; .3300; .4617.0002 s.6, 13, 20, 33; .0035; .0044; .0045; .0049; .0050; .0052; .0054; .0056; .0058 (proposed repealer)	137
4670.1320; .2670; .2900; .2910; .2920; .2930; .3530; .4210; .4220; .4230 (adopted)	142
4670.2940; .3100; .4240 (repealed)	142
Housing Finance Agency	
4900.0010 (proposed)	59
Labor and Industry Department	
5208.1500 (adopted exempt)	31
5220.1900 (adopted)	81
Pharmacy Board	
6800.0400; .1150; .1300; .1400; .3850 (adopted)	81
Natural Resources Department	
6115.0150; .0160; .0170; .0190; .0200; .0210; .0211; .0221; .0230; .0231; .0240; .0250; .0255; .0260; .0270; .0271; .0280 (adopted exempt)	143
6236.0300; .700 (adopted expedited emergency)	183

Secretary of State	
8240.0100; .0200; .0300; .1050; .1100; .1200; .1300; .1350; .1400; .1500; .1600; .1655; .1750; .1800; .1900; .1950; .2000; .2100; .2200; .2300; .2400; .2500; .2700; .2800; .2850; .2900 (adopted)	112
8240.1650; .1655 s.5; .1700 (repealed)	112
8280.0500; .0510 (adopted exempt)	114
Water and Soil Resources Board	
8420.0100; .0102; .0103; .0105; .0110; .0112; .0115; .0122; .0200; .0210; .0220; .0225; .0230; .0240; .0250; .0260; .0290; .0300; .0350; .0505; .0510; .0520; .0530; .0540; .0650; .0720; .0730; .0740; .0750; .1070 (adopted exempt)	152
8420.0730 s.3 (repealed)	152
Teaching Board	
8700.1100; .1300; .1400; .1600; .1700; .1800; .1900; .1910; .2100; .2200; .2300; 8710.7000; .7100; .7200 (proposed)	8
8700.0900; .1000; .1200; .2000; 8750.7000; .7100; .7200; .7300; .8000; .8100; .8200; .8300; .8400 (proposed repealer)	8
8710.0300; .0400; .0500; .0550; .0600; .0700; .0800; .0850; .0900; .1000; .1050; .1250; .1400; .3300; .6000; .6100; .6200; .6300; .6400 (proposed)	16
8710.0300 s.4; .0350; .1100; .1200; .1300; .6000 s.3; .6100 s.3; .6200 s. 3; .6300 s. 3; .6400 s. 4 (proposed repealer)	16
8710.0500 (proposed)	139
8710.0500 s.9 (proposed repealer)	139
Transportation Department	
8835.0110; .0210; .0220; .0230; .0240; .0265; .0270; .0320; .0710; .0720; .0820; .0830; .0840; .0850; .0860; .0870; .0910; .1500; .1700; .1720; .1730; .1760; .1900 (adopted)	61
8835.0110 s.2, 3, 4, 5, 8, 9, 11, 12, 13, 14; .0610; .0730; .0740; .1600; .1800; .2300; .2400; .2500; .2600; .2700; .5700; .5800 (repealed)	61

Proposed Rules

Comments on Planned Rules or Rule Amendments

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

Rules to be Adopted After a Hearing

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

Rules to be Adopted Without a Hearing

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

Department of Health Division of Family Health

Proposed Permanent Rules Relating to Maternal and Child Health

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Repeal of: (1) **Rules Governing Local Organizations That Seek Department of Health Funds to Distribute Nutritional Supplements to Mothers and Children, *Minnesota Rules*, parts 4615.2100 to 4615.3300;** (2) **Rules Governing Staff Qualifications of and the Nutrition Education Provided by Local Agencies in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program), *Minnesota Rules*, parts 4617.0002, subparts 6, 13, 20 and 33, 4617.0035, 4617.0044 to 4617.0058;** and (3) **Rules Establishing Minimum Standards and Procedures for Minnesota Department of Health Approval of Child Health Screening Programs, *Minnesota Rules*, parts 4615.0900 to 4615.2000.** **Proposed Amendment to WIC Program Rule Governing Definitions, *Minnesota Rules*, part 4617.0002, subparts 12 and 16.**

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

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Betty Hiller, WIC Program, Minnesota Department of Health, 85 East Seventh Place, Suite 400, P.O. Box 64882, St. Paul, Minnesota 55164-0882, **telephone:** (651) 281-9916, **fax:** (651) 215-8951, **e-mail:** betty.hiller@health.state.mn.us. TTY users may call the Department of Health at (612) 676-5522.

Subject of Rules and Statutory Authority. The rules proposed for repeal are *Minnesota Rules*, parts 4615.0900 to 4615.3300, 4617.0002, subparts 6, 13, 20 and 33, 4617.0035, and 4617.0044 to 4617.0058. These rules are about: (1) the procedures and criteria used before 1984 for local organizations that sought state funds from the Department of Health in order to distribute nutritional supplements to mothers and children (*Minnesota Rules*, parts 4615.2100 to 4615.3300); (2) staff qualifications of and the nutrition education provided by local agencies in the Minnesota WIC Program (*Minnesota Rules*, parts 4617.0002, subparts 6, 13, 20 and 33, 4617.0035, 4617.0044 to 4617.0058); and (3) minimum standards and procedures for Department of Health approval of child health screening programs (*Minnesota Rules*, parts 4615.0900 to 4615.2000). The rule proposed for amendment is the WIC Program rule defining “competent professional authority” and “home economist.” The statutory authority to adopt the rules is *Minnesota Statutes*, sections 144.11, 144.894(k), and 144.12, subdivision 1. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

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

Comments. You have until 4:30 p.m. on Wednesday, August 30, 2000, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the proposed 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 proposed 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 August 30, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written 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 the agency contact person at the address or telephone number listed above.

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 rules, including a description of who will be affected by the proposed rules and an estimate of the probable 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 after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 18 July 2000

Jan K. Malcolm
Commissioner of Health

4617.0002 DEFINITIONS.

[For text of subps 1 to 5, see M.R.]

Subp. 6. [See repealer.]

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

Subp. 12. **Competent professional authority.** “Competent professional authority” means a person who ~~meets the requirements of part 4617.0035, subpart 1, and who~~ is qualified to determine nutritional risk, assign priorities to program participant applicants, prescribe supplemental foods, and provide a nutrition education contact.

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

Subp. 13. [See repealer.]

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

Subp. 16. **Home economist.** “Home economist” means a person who has a bachelor’s or master’s degree in home economics from a college or university accredited by the Association of Colleges and Schools ~~and who meets the requirements of part 4617.0035, subpart 5.~~

[For text of subps 17 to 19a, see M.R.]

Subp. 20. [See repealer.]

[For text of subps 21 to 32, see M.R.]

Subp. 33. [See repealer.]

[For text of subps 34 to 45, see M.R.]

REPEALER. *Minnesota Rules*, parts 4615.0900; 4615.1000; 4615.1100; 4615.1200; 4615.1300; 4615.1400; 4615.1500; 4615.1600; 4615.1700; 4615.1800; 4615.1900; 4615.2000; 4615.2100; 4615.2200, subparts 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26; .2300; 4615.2400; 4615.2500; 4615.2600; 4615.2700; 4615.2800; 4615.2900; 4615.3000; 4615.3100; 4615.3200; 4615.3300; 4617.0002, subparts 6, 13, 20, and 33; 4617.0035; 4617.0044; 4617.0045; 4617.0049; 4617.0050; 4617.0052; 4617.0054; 4617.0056; and 4617.0058, are repealed.

Board of Teaching

Proposed Permanent Rules Relating to Teacher License Examinations

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

Proposed Rules Relating to Teacher License EXAMINATIONS, *Minnesota Rules* Part 8710.0500 [including the repeal of subpart 9].

Introduction. The Board of Teaching intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days, or by 4:00 P.M. on Thursday, September 7, 2000, a public hearing will be held in Conference Center Room 13/14, Department of Children, Families, and Learning Building, 1500 Highway 36 West, Roseville, Minnesota 55113, starting at 9:30 A.M. on Friday, September 29, 2000. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after September 7, 2000, and before September 29, 2000.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Michael Tillmann at The Minnesota Board of Teaching, 1500 Highway 36 West, Roseville, Minnesota 55113. His phone number is (651) 582-8835. TTY users may call the Board of Teaching at (651) 582-8201.

Subject of Rules and Statutory Authority. The proposed rules are about teacher licensure. The statutory authority to adopt the rules is *Minnesota Statutes*, 122A.09 and 122A.18. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:00 p.m. on Thursday, September 7, 2000, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:00 p.m. on Thursday, September 7, 2000. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

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

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Proposed Rules

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

Cancellation of Hearing. The hearing scheduled for September 29, 2000, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at [651] 582-8835 after September 7, 2000, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Steve M. Mihalchick is assigned to conduct the hearing. Judge Mihalchick can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone:** (612) 349-2544, and **fax:** (612) 349-2665.

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

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

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

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the State Campaign Finance and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, **telephone:** (651) 296-5148 or (800) 657-3889.

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

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

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

Dated: 18 July 2000

Michael L. Tillmann
Executive Director
Minnesota Board of Teaching

8710.0500 EXAMINATIONS FOR TEACHER LICENSES.

Subpart 1. Examination ~~requirements~~ requirements.

A. An applicant ~~described in *Minnesota Statutes*, section 125.03, subdivision 5, for an initial~~ a first professional teaching license; shall provide official evidence of having successfully completed examinations of skills in reading, writing, and mathematics before

being issued an initial Minnesota professional teaching license. The examinations must have been adopted by the Board of Teaching. An applicant who is deaf must fulfill the mathematics requirement of this part by successfully completing the mathematics examination, and must fulfill the reading and writing requirements of this part either by successfully completing the reading and writing examinations or by evaluation by board approved colleges and universities of demonstrated proficiency (Intermediate Plus) in the expressive and receptive use of alternative communication systems including sign language and finger spelling as measured by the Sign Communication Proficiency Inventory (SCPI). This inventory is published by the National Technical Institute for the Deaf in Rochester, New York, and is administered through the College of Education at the University of Minnesota on at least an annual basis. A description of this inventory is available through the Minitex interlibrary loan system in the Journal of Sign Language Studies and American Annals for the Deaf. The inventory is incorporated by reference. ~~Before the 1991 amendment to this part was adopted, the inventory was last published in 1989.~~ It may be periodically changed. An applicant who is blind shall be required to fulfill requirements of this part by successfully completing the examinations with an opportunity to select a reader, to use adaptive visual aids or technology aids, and to complete the testing under adaptive conditions.

B. On or after September 1, 2001, an applicant for a first professional teaching license in any field shall provide evidence of having successfully completed an examination of general teaching knowledge and the examination required for the teaching field for which licensure is applied under this chapter. The examinations must have been adopted by the Board of Teaching. Teachers applying to add teaching fields to existing licenses must successfully complete the examination required for each teaching field to be added, but are not required to complete an examination of general teaching knowledge.

Subp. 2. **Selection and adoption.** The Board of Teaching shall solicit proposals for the development, validation, and implementation of ~~a statewide examination system~~ teacher examinations under subpart 1. The Board of Teaching shall select the proposal of a party whose understanding of the project, statement of work to be performed, management plan, staffing, and related experience demonstrate the ability to develop, validate, and implement a statewide examination system and to conduct subsequent administrations of the adopted examinations. The Board of Teaching shall adopt examinations that have been validated by another state or reputable national testing organization and field tested in Minnesota.

Subp. 3. **Requirement.** ~~To meet the requirement of subpart 1,~~

A. An applicant shall must achieve a minimum passing score on each of the examinations adopted by the Board of Teaching examination required under subpart 1. The Board of Teaching shall determine establish a minimum passing scores score for each examination based on validation for use in Minnesota of the examinations adopted by the board.

B. Notwithstanding item A, for applications submitted on or before August 31, 2002, examinations required under subpart 1, item B, shall have no minimum passing score. The Board of Teaching shall use test scores achieved by applicants on or before August 31, 2002, to establish minimum passing scores.

Subp. 4. **Notification.** Minimum passing scores applicants must achieve on the examinations and the identification of the examinations adopted shall be published in the State Register within 60 days of adoption by the Board of Teaching. Before July 2 of each calendar year, the Board of Teaching shall notify the colleges and universities approved by the board to prepare ~~persons~~ candidates for teacher licensure of the minimum passing score applicants must achieve on the examinations and which examinations are adopted under subpart 2.

Subp. 5. **Licensure recommendation.** In recommending candidates for licensure, Minnesota colleges and universities shall attest that license requirements have been met, including successful completion of ~~the requirement in subpart 3~~ all examinations required under this part.

Subp. 6. **Administration, scoring, and reporting.** Administration, scoring, and reporting of examinations shall be conducted by the party whose examinations have been adopted by the Board of Teaching. Applicants may take the examinations on any of the dates that are established by the party for national administration or on dates established by the Board of Teaching for special administration. Examinations shall be administered at least four times a year in Minnesota. It is the responsibility of the applicant to be informed about the dates and locations of the examinations and to apply for the appropriate examinations. Registration procedures are governed by the party whose examinations have been adopted. Examinees ~~must~~ shall authorize the forwarding of their scores to the institutions they attend and to the Board of Teaching. The scores as forwarded are the official evidence required in this part.

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

Subp. 8. **Admission to upper division or graduate coursework.** Candidates for an initial license shall provide official evidence to the institutions they attend of having taken the examinations adopted ~~in~~ under subpart ~~2~~ 1, item A, before enrolling in upper division coursework in the professional education sequence. Candidates for an initial license who have a baccalaureate degree shall provide official evidence to the institutions they attend of having taken the examinations adopted ~~in~~ under subpart ~~2~~ 1, item A, before enrolling in

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Proposed Rules

coursework in the professional education sequence. Candidates who fail to achieve the minimum passing score on one or more of the examinations may enroll in upper division or graduate coursework in the professional education sequence; however, candidates must achieve the passing scores established ~~in~~ under subpart 3 before recommendation for ~~an initial~~ a first professional teaching license. Colleges and universities must provide candidates who fail the examinations access to opportunities to enhance their skills.

Subp. 9. [See repealer.]

[For text of subp 10, see M.R.]

Subp. 11. **Applicants prepared in other states outside Minnesota.** Applicants for Minnesota licensure who ~~are prepared in other states complete teacher preparation outside Minnesota but who have not met the requirements under subpart 1 and who otherwise meet the applicable statutes and rules shall be granted a no more than three one-year nonrenewable provisional license, during which time the temporary licenses. An applicant must provide official who has not achieved a minimum passing score on the examinations required under subpart 1, may renew a temporary license under this subpart if the applicant provides evidence of successful completion of the requirements of this part having taken all required examinations under subpart 1 and having enrolled in programs designed to assist the applicant to achieve the minimum passing scores.~~ Applicants prepared ~~in other states outside Minnesota~~ who provide evidence of meeting all examination requirements for ~~initial~~ professional Minnesota licensure shall be granted ~~an entrance license~~ the professional teaching licenses for which they qualify.

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

REPEALER. Minnesota Rules, part 8710.0500, subpart 9, is repealed.

Adopted Rules

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

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

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

Exempt Rules

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

Emergency Expedited Rules

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

Department of Health

Adopted Permanent Rules Relating to Loan Forgiveness

The rules proposed and published at *State Register*, Volume 24, Number 45, pages 1602-1610, May 8, 2000 (24 SR 1602), are adopted as proposed.

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 Natural Resources

Adopted Exempt Rules Relating to Public Waters Work Permits

In the Matter of the Adoption of the Rules of the State of Minnesota, Department of Natural Resources, Relating to Standards and Criteria for Granting Permits to Change the Course, Current, or Cross-Section of Public Waters *Minnesota Rules*, parts 6115.0150 through 6115.0280

WHEREAS:

1. *Laws of Minnesota 2000*, Chapter 382, Section 20, directs the board of water and soil resources and the commissioner of natural resources to adopt rules that amend the rules previously adopted under *Minnesota Statutes*, sections 103G.2242, subdivision 1; 103B.3355; and 103G.315, subdivision 15, to:

(1) provide sequencing and standard of application rules for public waters wetlands and permanently and semipermanently flooded areas of type 3, 4, and 5 wetlands under the Wetland Conservation Act;

(2) incorporate changes to the statutes made by this law; and

(3) other provisions to improve consistency of wetland regulatory processes.

2. *Laws of Minnesota 2000*, Chapter 382, Section 20, provides that such rules adopted by the commissioner of natural resources are exempt from the rulemaking provisions of *Minnesota Statutes*, chapter 14, except that *Minnesota Statutes*, section 14.386 applies. Also, the proposed rules must be submitted to the members of the senate and house environment and natural resource and agricultural policy committees at least 30 days prior to being published in the *State Register*.

3. The revisions to the public waters permit rules incorporate the statutory changes and makes other changes to improve consistency of wetland regulatory processes, including:

(1) changes due to the repeal of *Minnesota Statutes*, chapter 105, and recodification in *Minnesota Statutes*, chapter 103G;

(2) changes from protected waters terminology to public waters and public waters wetlands;

(3) changes to make it clear that activities subject to aquatic plant management permits, water aeration system permits, watercraft and buoys, and water appropriation permits do not require separate public waters work permits;

(4) changes to reflect legislation granting the department authority to regulate boathouses;

(5) definition changes, including changing the definition of marinas to make it consistent with terminology in the shoreland

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.

Exempt Rules

management rules; changing the ordinary high water terminology to make it consistent with department practices; and adding definitions on permits, projects, public waters wetlands, and local government unit and projects;

(6) changes to reflect legislation granting the department authority to regulate permanent lake level controls;

(7) changes in the public waters permit processing, including general permit authority, sequencing, replacement, and waiver of public waters wetland permit requirements; and

(8) changes in enforcement authority.

4. All notice and procedural requirements in *Minnesota Statutes*, section 14.386, *Minnesota Rules*, part 1400.2400, *Laws of Minnesota 2000*, Chapter 382, Section 20, and other applicable laws have been complied with.

5. The rules are needed and reasonable.

NOW THEREFORE, IT IS ORDERED that the rules identified as:

Rules of the Department of Natural Resources relating to standards and criteria for granting permits to change the course, current, or cross-section of protected waters, in the form as set out in the Revisor's draft, file number RD3162, dated July 11, 2000,

are adopted this 12th day of July, 2000, pursuant to the authority vested in me by *Minnesota Statutes*, section 103G.315, subdivision 15, and *Laws of 2000*, Chapter 382, section 20. The rules will be effective for two years from the date of publication of the rules in the *State Register* unless they are superseded by permanent rules.

Allen Garber
Commissioner of Natural Resources

6115.0150 PURPOSE AND STATUTORY AUTHORITY.

The purpose of parts 6115.0150 to 6115.0280 is to provide for the orderly and consistent review of permit applications in order to conserve and utilize the water resources of the state in the best interest of its people. In deciding whether to issue permits, the department shall be guided by the policies and requirements declared in *Minnesota Statutes*, sections ~~104.01, 104.25, 104.32, 105.38, 105.42, 105.64, 103A.201, 103A.208, 103F.101, 103F.105, 103F.205, 103F.351, 103G.297, 103G.305, and 116D.04.~~

The proposed development must also be consistent with the goals and objectives of applicable federal, state, and local environmental quality programs and policies including but not limited to shoreland management, floodplain management, water surface use management, boat and water safety, wild and scenic rivers management, water quality management, recreational or wilderness management, critical areas management, scientific and natural areas management, and protected species management.

6115.0160 SCOPE.

To achieve the purpose declared in part 6115.0150 these rules set forth minimum standards and criteria for the review, issuance, and denial of permits for proposed projects affecting protected waters. Permits shall be required for any activity affecting the course, current, or cross-section of protected waters unless specifically exempted within these rules.

These standards and criteria apply to any and all work which will cause or result in the alteration of the course, current, or cross-section of protected waters except for the following:

A. utility crossings of protected waters which are regulated under *Minnesota Statutes*, section 84.415 and rules promulgated adopted thereunder; or

B. planting, destruction, and control of aquatic vegetation which that is regulated under *Minnesota Statutes*, section ~~84.092, subdivision 11~~ 103G.615 and rules promulgated adopted thereunder;

C. water aeration systems that are regulated under *Minnesota Statutes*, section 103G.611, and rules adopted thereunder;

D. watercraft, buoys, or other structures that are regulated under *Minnesota Statutes*, section 86B.111, 86B.211, or 86B.401, and rules adopted thereunder; or

E. water appropriations that are regulated under *Minnesota Statutes*, section 103G.271, and rules adopted thereunder.

6115.0170 DEFINITIONS.

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

Subp. 3. **Beds of protected waters.** "Beds of protected waters" means all portions of protected waters located below the ordinary high water ~~mark~~ level.

Subp. 3a. **Boathouse.** "Boathouse" means a floating structure that is moored by spuds, cables, ropes, anchors, or chains; may be intended for habitation; and has walls, a roof, and either an open well for boats or a floor from wall to wall. Boathouse does not include a houseboat.

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

Subp. 8. **Drainage.** “Drainage” means any method for removing or diverting waters from ~~protected waterbasins or public waters~~ or public waters wetlands. Such methods shall include, but are not limited to, excavation of an open ditch, installation of subsurface drainage tile, filling, diking, or pumping.

[For text of subs 9 to 16, see M.R.]

Subp. 16a. **Houseboat.** “Houseboat” means a motorboat that has either a pontoon or a flat-bottomed hull configuration and a permanent enclosed superstructure that houses, at a minimum, built-in sleeping, cooking, and toilet facilities.

[For text of subs 17 and 18, see M.R.]

Subp. 18a. **Local government unit.** “Local government unit” has the meaning given in part 8420.0110, subpart 30.

[For text of subp 19, see M.R.]

Subp. 20. **Marina.** “Marina” means either an inland or offshore structure for the concentrated mooring of ~~five~~ seven or more watercraft wherein facilities are provided for ancillary services such as boat mooring, storage, fueling, launching, mechanical repairs, sanitary pumpout, ~~and~~ or restaurant services.

[For text of subs 21 to 23, see M.R.]

Subp. 24. **Offshore.** “Offshore” means the area waterward of the ordinary high water ~~mark level~~ of a protected water.

Subp. 25. **Ordinary high water mark level.** “Ordinary high water ~~mark level~~” means the boundary of protected waters as defined in *Minnesota Statutes*, section ~~105.37~~ 103G.005, subdivision ~~14~~ 14.

[For text of subp 26, see M.R.]

Subp. 26a. **Permit.** “Permit” means a public waters work permit required under *Minnesota Statutes*, section 103G.245.

[For text of subs 27 to 30, see M.R.]

Subp. 30a. **Project.** “Project” means a specific plan, contiguous activity, proposal, or design necessary to accomplish a goal. As used in parts 6115.0150 to 6115.0280, a project may not be split into components or phases for the sole purpose of gaining an exemption from permit requirements.

Subp. 31. **Protected waters.** “Protected waters” means those waters of the state identified as public waters or wetlands under *Minnesota Statutes*, section ~~105.37~~ 103G.005, subdivision ~~14 or 15 or 15a, or 105.391, subdivision 1~~ 103G.201.

Subp. 31a. **Public waters wetlands.** “Public waters wetlands” means those public waters of the state identified as public waters wetlands under *Minnesota Statutes*, section 103G.005, subdivision 15a, or 103G.201.

[For text of subs 32 to 36, see M.R.]

Subp. 37. **Structure.** “Structure” means any building, footing, foundation, slab, roof, boathouse, deck, wall, bridge, culvert, or any other object extending over, under, anchored, or permanently attached to the bed or bank of a protected water.

[For text of subs 38 to 43, see M.R.]

6115.0190 FILLING INTO PROTECTED WATERS.

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

Subp. 3. **Nonpermitted placement.** Placement shall not be permitted in the following cases:

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

E. to dispose of rock, sand, gravel, or any other solid material resulting from activities carried out above the ordinary high water ~~mark level~~;

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

Subp. 4. **No permit required.** No permit shall be required for the following activities unless prohibited under subpart 3:

A. To install a beach sand blanket provided the sand or gravel layer does not exceed six inches in thickness, 50 feet in width along the shoreline, or one-half the width of the lot, whichever is less, and does not extend more than ten feet waterward of the ordi-

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

ordinary high water ~~mark~~ level, provided local watershed district and local zoning officials are given at least seven days notice by the landowner.

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

C. To install riprap shore protection, except along the shores of Lake Superior and officially designated trout streams, provided the riprap materials consist of natural rock having an average size of 12 inches or larger in its smallest dimension, and conform with the natural alignment of the shoreline, with a minimum finished slope not steeper than 3:1 horizontal:vertical, no materials are placed more than five feet waterward of the ordinary high water ~~mark~~ level, and the material does not obstruct the flow of water.

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

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

6115.0200 EXCAVATION OF PROTECTED WATERS.

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

Subp. 2. **Scope.** Excavation as used in this rule includes any activity which results in the displacement or removal of bottom materials or the widening, deepening, straightening, realigning, or extending of protected waters. It may involve proposals for excavations landward or waterward from the ordinary high water ~~mark~~ level.

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

Subp. 4. **No permit required.** No permit for excavation shall be required for the following activities unless prohibited in subpart 3:

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

C. for repair of a public drainage system lawfully established pursuant to *Minnesota Statutes*, chapters ~~106A and 112~~ 103D and 103E, and sponsored by the public drainage authority consistent with the definition of "repair" set forth in *Minnesota Statutes*, section ~~106A.701~~ 103E.701, subdivision 1.

Subp. 5. **Permits required.** Permits shall be required for the excavation and removal of any materials from protected waters or any excavations extending into or out of protected waters, except as provided in subparts 3 and 4, and shall be subject to the following general criteria:

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

B. The disposal of excavated materials shall be subject to the following requirements:

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

(2) The most acceptable means of disposing of clean materials, free from pollutants, which are excavated from protected waters listed in order of preference are:

[For text of unit (a), see M.R.]

(b) Deposition in stable on-land disposal sites located above the ordinary high water ~~mark~~ level and outside of floodway districts established under local ordinance. Provisions must be included for sodding, seeding, or otherwise properly stabilizing these materials.

[For text of units (c) to (e), see M.R.]

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

6115.0210 STRUCTURES IN PROTECTED WATERS.

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

Subp. 4. **No permit required.** No permit shall be required for the following activities, unless prohibited under subpart 3:

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

C. To construct or reconstruct a boat launching ramp provided:

(1) Privately owned ramps shall not exceed 12 feet in width, and extend more than ten feet beyond the ordinary high water ~~mark~~ level or into water more than four feet in depth, whichever is less. Excavations five cubic yards or less, and placement of up to five cubic yards of crushed rock, gravel, clean sand, or small stone shall be allowed in order to provide a stable base or maintain use of the ramp.

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

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

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

6115.0211 SPECIFIC STANDARDS.

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

Subp. 5. **Retaining walls and erosion and sedimentation control structures.** A permit shall be required for the construction or reconstruction of all retaining walls and erosion and sedimentation control structures that do not impound water. The construction of retaining walls shall be discouraged because their appearance is generally not consistent with the natural environment and their construction and maintenance cost is generally greater than riprap.

The issuance of permits shall be contingent on the following conditions:

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

E. Encroachment below the ordinary high water ~~mark~~ level shall be held to the absolute minimum necessary for construction.

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

Subp. 6a. Boathouses. A permit shall be required for the construction, reconstruction, relocation, removal, or repair of all boathouses. These activities shall be permitted only if the following conditions are met:

A. The boathouse is located in an area of historic boathouse use. "Historic boathouse use" shall be determined by the commissioner and be based on a review of factual information such as photographs, local government comments, newspaper accounts, or other relevant information.

B. The boathouse is approved by the local unit of government by means of a resolution with supporting documentation that identifies the owner, length, width, height, number of rooms, and sanitary facilities of the boathouse.

C. The boathouse was in existence on public waters before January 1, 1997.

[For text of subps 7 and 8, see M.R.]

6115.0221 SPECIFIC STANDARDS.

In addition to the general standards in part 6115.0220, subparts 2 to 5, specific requirements for water level control structures shall be met as follows:

A. Permanent lake level control facilities shall be approved when the commissioner initiates proceedings for the purpose of conserving or utilizing the water resources of the state and assumes responsibility for operation and future maintenance, or when all of the following conditions are met:

(1) The ordinary high water ~~mark~~ level and runoff elevation of the water body have been determined by a detailed engineering survey, or by order of the commissioner following a public hearing;

(2) The proposed facilities shall be "reasonably consistent with natural conditions:"

[For text of unit (a), see M.R.]

(b) Where no natural or artificial outlet exists and the lake is for all practical purposes "landlocked," the control elevation shall not be more than 1-1/2 feet below the ordinary high water ~~mark~~ level unless the commissioner finds that:

i. the control is necessary to prevent adverse impacts to the lake or adjoining property;

ii. other reasonable or cost-effective alternatives are not available;

iii. natural resource or hydrologic conditions exist in the watershed that would limit the potential for continuous discharge of excess waters from the lake; and

iv. the outlet and discharge of excess waters is addressed in an approved water management plan under *Minnesota Statutes*, chapter 103B or 103D.

(c) In addition to the requirements of unit (b), if the proposed control elevation is more than 1-1/2 feet below the ordinary high water level, the permit applicant shall serve a copy of the application on each county and municipality within which any portion of the lake is located and the lake improvement district, if one exists.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

(d) The commissioner may not issue a permit to establish a control elevation more than 1-1/2 feet below the ordinary high water level of a lake if a county, municipality, watershed district, or lake improvement district required to be served under unit (c) or *Minnesota Statutes*, section 103G.301, subdivision 6, files a written objection to the issuance of the permit with the commissioner within 30 days after receiving a copy of the application.

[For text of subitems (3) to (5), see M.R.]

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

D. Permits for the construction, reconstruction, and abandonment of all other water level control structures shall be issued provided:

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

(2) The structural design shall be done by a professional engineer or by a qualified engineer of the ~~Soil~~ Natural Resources Conservation Service or the Corps of Engineers and must include the following considerations:

[For text of units (a) to (m), see M.R.]

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

6115.0230 BRIDGES AND CULVERTS, INTAKES AND OUTFALLS.

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

Subp. 2. **Scope.** The construction or reconstruction of any bridge, culvert, intake, outfall, or other crossing of protected waters shall be subject to the provisions of this part. Abandonment or removal of all crossings and structures governed by this part shall require a permit pursuant to part 6115.0211, subpart 8.

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

6115.0231 SPECIFIC STANDARDS.

In addition to the general standards in part 6115.0230, subparts 2 to 5, specific requirements for bridges, culverts, intakes, outfalls, and other crossings of protected waters shall be met as follows:

A. The construction, reconstruction, or relocation of all bridges, culverts, or other crossings over protected waters shall be permitted provided all of the following criteria are met:

[For text of subitems (1) to (3), see M.R.]

(4) The structure will not obstruct reasonable public navigation. For bridges over protected watercourses,

three feet above the calculated 50-year flood stage will ordinarily satisfy navigational clearance requirements. For bridges over protected waterbasins or wetlands, and all culverts, three feet of clearance above the ordinary high water ~~mark~~ level will ordinarily satisfy navigational requirements.

[For text of subitems (5) and (6), see M.R.]

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

6115.0240 APPLICATION FOR PROTECTED WATERS PERMITS.

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

Subp. 3. **Information required.** Pursuant to *Minnesota Statutes*, section ~~105.44, subdivision 4~~ 103G.305, an application shall be considered complete when:

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

[For text of subp 4, see M.R.]

6115.0250 PERMIT REVIEW.

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

Subp. 3. **Procedure upon decision.** The commissioner may grant permits, with or without conditions, or deny them. In all cases, the applicant, the managers of the watershed district, the board of supervisors of the soil and water conservation district, or the mayor of the city may demand a hearing in the manner specified in *Minnesota Statutes*, section ~~105.44, subdivision 3~~ 103G.311, within 30 days after receiving mailed notice outlining the reasons for denying or modifying an application. Any hearing shall be conducted as a contested case hearing before an administrative law judge from the independent Office of Administrative Hearings in accordance with *Minnesota Statutes*, chapter 14 and ~~sections 105.44 and 105.45~~ section 103G.301.

Subp. 4. General permits. The commissioner is authorized to issue general permits to a governmental subdivision or to the general public for classes of activities having minimal impact on public waters under which more than one activity may be conducted under a single permit.

Subp. 5. Public waters wetland permit processing.

A. Public waters work permit applications submitted to the commissioner for proposed projects in public waters wetlands shall be permitted if authorized by parts 6115.0190 to 6115.0232 or parts 6115.0270 to 6115.0280 and if the permit application complies with provisions for sequencing under part 8420.0520, replacement provisions under parts 8420.0540 to 8420.0630, and wetland banking under part 8420.0720, subpart 2.

B. The classification of lacustrine wetlands and deepwater habitats found in Classification of Wetlands and Deepwater Habitats of the United States, Lewis M. Cowardin et. al., United States Department of the Interior, Fish and Wildlife Service (1979) is incorporated by reference. The document is available through the Minitex interlibrary loan system and is not subject to frequent change.

C. The authority of the commissioner to require a permit for activities in, on, or over public waters wetlands not assigned a shoreland classification or not classified as lacustrine wetlands or deepwater habitats according to the document under item B is waived for all activities authorized by the local government unit having jurisdiction under chapter 8420 except for:

- (1) placement of fill to achieve aquatic vegetation control;
- (2) placement of fill in excess of 400 square feet to create upland areas for private development, except:
 - (a) for placement of fill to construct a roadway or pathway;
 - (b) to create or improve land access from peripheral shorelands to islands; or
 - (c) to facilitate land transportation across public waters wetlands;
- (3) partial or permanent drainage;
- (4) construction, modification, or removal of a water level control structure;
- (5) activities allowed under part 8420.0122, subparts 1 to 8 and 10; or
- (6) projects affecting lands owned and administered by the state.

D. The authority of the commissioner to require a permit for activities in, on, or over public waters wetlands not assigned a shoreland classification or not classified as lacustrine wetlands or deepwater habitats according to the document under item B is waived for all activities authorized by the local government unit having jurisdiction under chapter 8420 when the commissioner has received notice or application from the landowner or project sponsor and when the commissioner has notified the applicant or project sponsor and the local unit of government within 15 working days of receipt of the notice or application.

E. The authority of the commissioner to require a permit for public road activities in, on, or over public waters wetlands not assigned a shoreland classification or not classified as lacustrine wetlands or deepwater habitats according to the document under item B is waived upon receipt of a copy of the state, city, county, or town public road authority report that is submitted to the Board of Water and Soil Resources in compliance with part 8420.0540, subpart 5, item D.

6115.0255 PUBLIC WATERS ENFORCEMENT PROCEDURES.

Subpart 1. Enforcement options. Parts 6115.0150 to 6115.0280 may be enforced through one or any combination of the following authorities:

- A. criminal proceedings under Minnesota Statutes, section 103G.141, subdivision 1;
- B. orders of the commissioner under Minnesota Statutes, sections 103G.251 and 103G.315; and
- C. cease and desist orders, restoration orders, and replacement orders under Minnesota Statutes, section 103G.2372.

The choice of enforcement authorities is dependent on the scope of the activity conducted without a public waters work permit.

Subp. 2. Enforcement authorities. The commissioner, conservation officers, and other peace officers may issue cease and desist orders and restoration and replacement orders according to Minnesota Statutes, section 103G.2372.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

Subp. 3. Cease and desist orders.

A. Cease and desist orders may be issued when the enforcement authority has probable cause that any activity is being or has been conducted in public waters or public waters wetlands without a valid permit from the commissioner.

B. A cease and desist order must not be issued if a landowner has documentation of a valid public waters work permit from the commissioner authorizing the work that was done or if a landowner has documentation proving that no permit is required.

C. The cease and desist order shall direct a landowner to:

(1) stop all work, conduct no further work, and take immediate corrective action to stabilize the site from imminent erosion or restore water flow if ordered by the enforcement authority; and

(2) immediately submit a written project notification form to the area hydrologist.

D. The enforcement authority issuing a cease and desist order shall promptly submit copies of the order to the Department of Natural Resources.

E. The commissioner or agent shall review the evidence produced by a landowner, inspect the site if necessary, and determine:

(1) if the area in question is a public water or public waters wetland;

(2) if a public waters work permit is not required; and

(3) if a public waters work permit application should be submitted or if a restoration order should be issued immediately.

F. Pending a resolution of any criminal proceedings, if it is determined that the activity does not require a permit or if a permit is issued, the commissioner or agent shall request that the enforcement authority rescind the cease and desist order, pending the outcome of any decision that is appealed, and notify the soil and water conservation district, the Department of Natural Resources, and the landowner. If the application is denied, the commissioner shall immediately notify the soil and water conservation district, the enforcement authority, and the landowner.

G. A cease and desist order shall advise the landowner that violation of the order is a misdemeanor.

Subp. 4. Restoration and replacement orders.

A. If the commissioner or agent, with the concurrence of the enforcement authority, determines that restoration will not restore all the loss caused by the drain, excavate, structure, or fill activity, the enforcement authority may order a combination of restoration and replacement or may order replacement rather than restoration.

B. The enforcement authority shall issue a restoration order or replacement order after a cease and desist order has been issued and:

(1) the landowner has not submitted a written project notification form to the area hydrologist within three weeks; or

(2) the commissioner has denied a permit application.

C. Promptly upon being informed of the need, the commissioner or agent shall inspect the site and prepare a plan for restoring the site to its prealtered condition. Restoration shall be ordered unless the commissioner or agent, with the concurrence of the enforcement authority, concludes that restoration would cause additional impairment or further degradation of the public water. The commissioner or agent shall incorporate the restoration plan into a restoration order and send it to the enforcement authority for service in person or by certified mail to the landowner.

D. A restoration order must specify a date by which the landowner must restore the public waters or public waters wetlands according to the commissioner's plan and obtain a certificate of satisfactory restoration from the commissioner or agent.

E. A replacement order must specify a date by which the landowner must submit a replacement plan to the commissioner and a subsequent date by which the landowner must replace the public waters and obtain a certificate of satisfactory replacement from the commissioner or agent.

F. A restoration or replacement order shall advise the landowner that violation of the order is a misdemeanor.

G. If, as part of a misdemeanor proceeding, the court orders restoration or replacement, the commissioner or agent, with the concurrence of the enforcement authority, shall determine which is appropriate, and if it is restoration, the method of restoration. If the court orders replacement, the landowner must follow the replacement plan ordered by the commissioner or agent.

H. If a landowner seeks approval of a public waters work permit after the proposed project has already impacted the public water or public waters wetland, the commissioner may require the landowner to replace the impacted public water or public waters wetland at a ratio not to exceed twice the replacement ratio otherwise required.

Subp. 5. Appeals of replacement and restoration orders.

A. A landowner may appeal the terms and conditions of a restoration or replacement order issued pursuant to subparts 2 to 4 to the commissioner, within 30 days of receipt of written notice by filing a written request for review. If the written request is not submitted within 30 days, the restoration or replacement order becomes final. The commissioner shall review the request and supporting evidence and render a decision within 60 days of the request for review.

B. If a landowner wishes to appeal the decision of the commissioner after review under item A, the landowner must file a written request within 30 days for a contested case hearing under *Minnesota Statutes*, chapter 14.

6115.0260 STATUTORY REQUIREMENTS.

Further provisions for the administration of these rules are found in *Minnesota Statutes*, chapter ~~405~~ 103G, including, but not limited to sections ~~105.44 to 105.463, 105.541, and 105.55~~ 103G.135, 103G.141, 103G.241, 103G.251, 103G.295, 103G.301, 103G.305, 103G.311, and 103G.315.

6115.0270 DRAINAGE OF PROTECTED WATERS.

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

Subp. 3. **Nonpermitted activity.** ~~Except as provided in *Minnesota Statutes*, section 105.391, subdivision 3,~~ The permanent or total drainage of protected waterbasins and wetlands shall not be permitted.

Subp. 4. **Permits required.** A permit shall be required for the partial drainage or temporary drawdown of protected waterbasins and wetlands and shall be granted provided all of the following conditions are met:

A. The proposed project is intended to achieve one or more of the following purposes:

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

(5) allow the mining of iron ore, taconite, copper, copper-nickel, or nickel under the provisions of *Minnesota Statutes*, section ~~105.64~~ 103G.297.

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

6115.0271 SPECIFIC STANDARDS.

In addition to compliance with the general standards in 6115.0270, subparts 2 to 4, specific requirements for drainage or draw-down activities shall be met as follows:

A. The drainage or diversion of protected waters for mining iron ore, taconite, copper, copper-nickel, or nickel shall be permitted only where all of the provisions of *Minnesota Statutes*, section ~~105.64~~ 103G.297 and part 6115.0280 have been met.

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

6115.0280 ALTERATIONS OF PROTECTED WATERS FOR MINING.

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

Subp. 3. **Permits required for alterations of protected waters.** Permits shall be required for any alterations of protected waters to facilitate mining of iron ore, taconite, copper, copper-nickel, or nickel minerals or reclamation of mining areas provided that:

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

B. Permits for alterations in protected waters shall be granted in accordance with provisions of *Minnesota Statutes*, Section ~~105.64~~ 103G.297. Applications for permits for alterations in protected waters shall include an analysis showing why underground mining without drainage, diversion, or control of protected waters is not feasible or economical.

Subp. 4. **Permit required for mining of certain minerals and peat.** Permits shall be required for mining of nonmetallic minerals, peat, and other metallic minerals not regulated in *Minnesota Statutes*, section ~~105.64~~ 103G.297, or reclamation of mining areas provided that the applicant provides evidence that:

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

H. whenever protected waterbasins are allowed to be drained to facilitate mining, and such drainage is justified and legally permitted, compensation for the loss of the basin must be provided for by either:

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

- (1) immediate replacement of the ~~protected public~~ basin with waters of equal or greater value; or
- (2) submission of acceptable plans for the eventual replacement of the ~~protected public~~ basin with waters of equal or greater value upon cessation of mining activities; and

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

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

TERM CHANGES. The term “protected water” or “protected waters” shall be changed to “public water” or “public waters” wherever it appears in *Minnesota Rules*, parts 6115.0150 to 6115.0280. The term “protected watercourse” shall be changed to “public watercourse” wherever it appears in *Minnesota Rules*, parts 6115.0150 to 6115.0280. The term “protected waterbasin” shall be changed to “public waterbasin” wherever it appears in *Minnesota Rules*, parts 6115.0150 to 6115.0280. The term “wetland,” but not “natural wetland” or “wetland banking,” shall be changed to “public waters wetland” wherever it appears in *Minnesota Rules*, parts 6115.0150 to 6115.0280.

Board of Water and Soil Resources

Adopted Exempt Rules Relating to Wetlands

8420.0100 PURPOSE.

This chapter implements the Wetland Conservation Act of 1991, *Laws 1991*, chapter 354, as amended by *Laws 1993*, chapter 175; *Laws 1994*, chapter 627; and *Laws 1996*, chapter 462; and *Laws 2000*, chapter 382. This chapter shall be interpreted to implement the purpose of the act, which is to:

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

8420.0102 INTRODUCTION.

The Wetland Conservation Act achieves the purpose in part 8420.0100 by requiring persons proposing to impact a wetland by draining, excavating, or filling to first, attempt to avoid the impact; second, attempt to minimize the impact; and finally, replace any impacted area with another wetland of equal function and value. The provisions of the Wetland Conservation Act related to excavation only apply in the permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands. As specified in greater detail in part 8420.0122, certain projects are exempt from the requirement for a replacement plan under the Wetland Conservation Act.

The Wetland Conservation Act is administered by local government units with oversight provided by the Board of Water and Soil Resources. Enforcement of the act is provided by Department of Natural Resources conservation officers and other peace officers. The Wetland Conservation Act became effective on January 1, 1992, and this chapter and portions of *Minnesota Statutes*, chapters 103A, 103B, 103E, 103F, and 103G, govern its implementation. The public is encouraged to contact their local government unit or soil and water conservation district for general information on wetlands and the interpretation of this chapter. This part is for general introductory information only. The other parts of this chapter shall control over this part.

8420.0103 WETLAND FUNCTIONS FOR DETERMINING PUBLIC VALUES.

The public values of wetlands must be based upon the functions of wetlands ~~for~~ including:

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

8420.0105 SCOPE.

Wetlands must not be drained, excavated, or filled wholly or partially unless replaced by restoring or creating wetland areas of at least equal public value.

This chapter does not prevent the use of the bed of wetlands for pasture or cropland during dry periods if dikes, ditches, tile lines, or buildings are not constructed and the agricultural use does not result in the drainage of the wetlands. This chapter does not prevent filling a wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage. This chapter does not prevent control of noxious weeds if the control does not drain or fill the wetland. This chapter ~~does not prevent~~ regulates excavation in the permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands if done in a manner such that the wetlands are not or if excavation results in wholly or partially ~~drained~~ draining or ~~filled~~ filling wetlands.

This chapter does not apply to the public waters and public waters wetlands as defined in *Minnesota Statutes*, section 103G.005, subdivisions 15 and 15a, which have been inventoried by the commissioner of natural resources according to *Minnesota Statutes*, section 103G.201-, except that:

A. for projects affecting public waters wetlands, when the commissioner waives the requirement for a public waters work permit consistent with chapter 6115, the local government unit shall make replacement, banking, wetland boundary, wetland type, no-loss, public road project notification, or exemption determinations; or

B. for projects affecting both public waters and wetlands, the local government unit may, by written agreement with the commissioner, waive the requirement for a replacement plan, no-loss or exemption determination if a public waters work permit is required and the commissioner includes the provisions of chapter 8420 in the public waters work permit.

This chapter is in addition to other regulations including those of the United States Army Corps of Engineers, United States Department of Agriculture, Minnesota state agencies, watershed districts, and local governments.

This chapter does not apply to peat mining as defined in *Minnesota Statutes*, section 93.461, which is subject to the permit to mine and reclamation requirements of *Minnesota Statutes*, sections 93.44 to 93.51, and the rules of the commissioner adopted under those sections.

This chapter does not require state agencies to obtain local government unit approvals. However, state agencies shall coordinate with local government units when conducting activities in wetlands within the jurisdiction of the local government unit. The state agencies shall follow the same sequencing and replacement requirements as prescribed by this chapter.

In addition to the provisions of this chapter, governmental decisions on draining, excavating, and filling of wetlands are subject to *Minnesota Statutes*, chapters 116B and 116D, which provide that an action which is likely to have material adverse effects on natural resources must not be allowed if there is a feasible and prudent alternative consistent with the requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its natural resources. Economic considerations alone do not justify adversely effective actions.

8420.0110 DEFINITIONS

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

Subp. 2. **Act.** "Act," when not used in reference to a specific state or federal act, means the Wetland Conservation of 1991, *Laws 1991*, chapter 354, as amended by *Laws 1993*, chapter 175; *Laws 1994*, chapter 627; ~~and *Laws 1996*, chapter 462;~~ and *Laws 2000*, chapter 382.

Subp. 3. **Activity.** "Activity" means draining or filling a wetland wholly or partially, or excavating in permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands.

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

Subp. 10a. **Contractor.** "Contractor" means an individual, business, or other organization providing a product or service to a landowner or the landowner's agent.

[For text of subp 11, see M.R.]

Subp. 12. **Day or days.** "Day" or "days" means working days when used in a time period of 15 days or less and calendar days when used in a time period greater than 15 days. The day of the event shall not be used in counting any period of time.

Subp. 13a. **Degraded wetland.** "Degraded wetland" means a wetland that provides minimal wetland function and value due to human activities such as drainage, diversion of watershed, filling, excavating, pollutant runoff, and vegetative or adjacent upland manipulation.

[For text of subs 14 to 16, see M.R.]

Subp. 17. **Excavation.** "Excavation" means the displacement or removal of ~~the~~ substrate, sediment, or other materials by any method.

[For text of subs 18 to 22, see M.R.]

Subp. 23. **Impact.** "Impact" means a loss in the quantity, quality, or biological diversity of a wetland caused by draining or filling or by excavating in permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands.

Subp. 24. **Impacted wetland.** "Impacted wetland" means a wetland that has been drained, excavated, or filled, partially or wholly, and is subject to replacement.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

[For text of subps 25 and 28, see M.R.]

Subp. 29. **Landowner.** “Landowner” means a person or entity having the rights necessary to drain, excavate, or fill a wetland, or to establish and maintain a replacement or banked wetland. Typically, the landowner is a fee title owner or a holder of an easement, license, lease, or rental agreement providing the necessary rights. The right must not be limited by a lien or other encumbrance that could override the obligations assumed with the replacement or banking of a wetland.

[For text of subps 29a to 31, see M.R.]

Subp. 31a. **Minor watershed.** “Minor watershed” means one of the 5,600 minor watersheds established by the Minnesota Department of Natural Resources for the “1979 Watershed Mapping Project” pursuant to *Laws 1977*, chapter 455, section 33, subdivision 7, paragraph (a), and updated in 1995. This data is available on the Internet at <http://deli.dnr.state.mn.us>.

Subp. ~~31a~~ 31b. **New wetland credit or NWC.** “New wetland credit” or “NWC” means wetland replacement credit that can be used for any portion of wetland replacement.

Subp. 31c. **Native vegetation.** “Native vegetation” means plant species that are indigenous to Minnesota, or that expand their range into Minnesota without being intentionally or unintentionally introduced by human activity.

Subp. 32. **Nondegraded wetland.** “Nondegraded wetland” means a wetland that has not been ~~partially drained or filled by human activities~~ degraded.

Subp. 32a. **Noninvasive vegetation.** “Noninvasive vegetation” means plant species that do not typically invade or rapidly colonize existing, stable plant communities.

Subp. 32b. **On-site.** “On-site” means within or directly adjacent to a project.

[For text of subps 33 to 37, see M.R.]

Subp. 37a. **Public value credit or PVC.** “Public value credit” or “PVC” means wetland replacement credit that can only be used for the portion of wetland replacement ~~requiring greater than~~ required above a 1:1 ratio.

[For text of subp 38, see M.R.]

Subp. 39. **Public waters wetlands.** “Public waters wetlands” means ~~all~~ types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), that were inventoried by the Department of Natural Resources as public waters under Minnesota Statutes, section 103G.201 part 6115.0170 as adopted at .. SR

Subp. 39a. **Public waters.** “Public waters” means public waters of the state as defined in part 6115.0170 as adopted at ..SR

[For text of subp 40, see M.R.]

Subp. 41. **Restoration.** “Restoration” means reestablishment of an area that was historically wetlands ~~but currently provides no or minimal wetland functions due to manmade alteration such as filling or drainage or remains as a degraded wetland.~~

[For text of subps 42 to 46, see M.R.]

Subp. 47a. **State wetland banking system, wetland bank, or bank.** “State wetland banking system,” “wetland bank,” or “bank” means a system of identifying wetlands restored or created for replacement credit, providing for, and facilitating and tracking the exchange of wetland banking credits for projects that require replacement plans or wetland mitigation required by other local, state, or federal authorities.

[For text of subps 48 and 49, see M.R.]

Subp. 50. **Watershed.** “Watershed” means the 81 major watershed units delineated by the map “State of Minnesota Watershed Boundaries - 1979” as produced by the Minnesota Department of Natural Resources, Office of Planning and Research, Water Policy Planning Program, with funding from the Legislative Commission on Minnesota Resources. This map is available on the Internet at <http://www.dnr.state.mn.us/waters>.

[For text of subp 51, see M.R.]

Subp. 51a. **Wetland banking credits.** “Wetland banking credits” means acres or parts of acres of restored or created wetland or adjacent upland buffer described by type and topographic setting, or areas as described in part 8420.0540, subpart 2, that have been approved for deposit in the wetland bank.

Subp. 52. **Wetlands, a wetland, the wetland, or wetland area.**

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

C. Wetlands does not include public waters wetlands and public waters ~~that are designated on the public waters inventory maps prepared~~ unless reclassified as wetlands by the commissioner under Minnesota Statutes, section 103G.201.

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

[For text of subs 53 to 54a, see M.R.]

8420.0112 INCORPORATION BY REFERENCE.

This chapter incorporates by reference the following documents:

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

B. *United States Army Corps of Engineers Wetland Delineation Manual* (January 1987) including updates, supplementary guidance, and replacements, if any.

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

F. *Minnesota Routine Assessment Methodology for Evaluating Wetland Functions* (Board of Water and Soil Resources, Version ~~1.0 2.0~~ - ~~May 1996~~ September 1998).

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

L. ~~Anderson and Craig, 1984,~~ *Growing Energy Crops on Minnesota Wetlands: The Land Use Perspective*, Anderson and Craig, 1984.

M. *Wetland Restoration Guide*, Minnesota Board of Water and Soil Resources (December 1982).

N. *Native Vegetation in Restored and Created Wetlands*, Minnesota Board of Water and Soil Resources (draft version July 2000).

O. *1979 Watershed Mapping Project*, Minnesota Department of Natural Resources pursuant to *Laws 1977, chapter 455, section 33, subdivision 7, paragraph (a)*, and updated in 1995. This data is available in electronic form on the Internet from the Minnesota Department of Natural Resources at <http://deli.dnr.state.mn.us>.

These documents are available through the state law library, except the National Wetland Inventory maps, which are available at Minnesota soil and water conservation district offices. None of the documents are subject to frequent change.

8420.0115 SCOPE OF EXEMPTION STANDARDS.

When considering if a drain, excavation, or fill activity qualifies for an exemption listed in a specified clause of *Minnesota Statutes*, section 103G.2241, the exemption standards in part 8420.0122 apply.

Persons proposing to conduct an exempt activity are encouraged to contact the local government unit or the local government unit's designee for advice on minimizing wetland impacts.

An activity is exempt if it qualifies for any one of the exemptions, even though it may be indicated as not exempt under another exemption.

These exemptions do not apply to calcareous fens as identified by the commissioner.

No exemptions apply to wetlands that have been previously restored or created as a result of an approved replacement plan. All such wetlands are subject to replacement on subsequent drainage, excavation, or filling.

~~Nonexempt~~ Wetlands cannot be partially drained, excavated, or filled in order to claim an exemption or no-loss determination on the remainder. Therefore, no exemptions or no-loss determinations can be applied to the remaining wetland that would not have been applicable before the impact. Exemptions may not be combined on a wetland that is impacted by a project.

Present and future owners of wetlands drained or filled without replacement under an exemption in part 8420.0122, subparts 1 and 2, item B, can make no use of the wetland area after it is drained, excavated, or filled, other than as agricultural land, for ten years after the draining or filling, unless it is first replaced under the requirements of *Minnesota Statutes*, section 103G.222. Also, for ten years the wetland may not be restored for replacement credit. At the time of draining or filling, the landowner shall record a notice of these restrictions in the office of the county recorder for the county in which the project is located. At a minimum, the recorded document must contain the name or names of the landowners, a legal description of the property to which the restrictions apply, a statement of the restrictions, the date on which the ten-year period expires, the name of the local government which certified the exemption, if such occurred, the signatures of all owners, and an acknowledgment.

A person conducting an activity in a wetland under an exemption in part 8420.0122 shall ensure that:

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

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

8420.0122 EXEMPTION STANDARDS.

Subpart 1. **Agricultural activities.**

A replacement plan for wetlands is not required for:

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

H. agricultural activities in a wetland that is on agricultural land annually enrolled in the federal ~~Food, Agricultural, Conservation, and Trade Act of 1990, *United States Code*, title 16, section 3821, subsection (a), clauses (1) to (3), as amended Agriculture Improvement and Reform Act of 1996, and is subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991, except that *United States Code*, title 16, sections 3821 to 3823, or subject to subsequent federal farm program restrictions that meet minimum state standards under this chapter and *Minnesota Statutes*, sections 103A.202 and 103B.3355, and that have been approved by the Board of Water and Soil Resources, the commissioners of natural resources and agriculture, and the Pollution Control Agency.~~ Land enrolled in a federal farm program is eligible for easement participation for those acres not already compensated under a federal program. ~~The federal Food, Agricultural, Conservation, and Trade Act of 1990 has been replaced with the federal Agriculture Improvement and Reform Act of 1996.~~ This exemption may be applied to agricultural land annually enrolled in the federal Agriculture Improvement and Reform Act of 1996 as long as wetlands are not drained, excavated, or filled beyond what ~~would have been allowed under the federal Food, Agricultural, Conservation, and Trade Act of 1990, *United States Code*, title 16, section 3281, subsection (a), clauses (1) to (3), as amended, subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991~~ is:

(1) allowed under the other exemptions in this part;

(2) necessary to replace, maintain, or repair existing private drainage infrastructure with a capacity not to exceed that which was originally constructed; or

(3) replaced at a ratio of 1:1 or greater under United States Department of Agriculture provisions. Documentation from the United States Department of Agriculture ~~may~~ must be used as evidence to support this exemption. If the activity would result in loss of eligibility, the landowner cannot qualify for the exemption ~~by withdrawing from the program.~~

Subp. 2. **Drainage.**

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

C. A replacement plan is not required for draining, excavating, or filling of wetlands, except for draining types 3, 4, and 5 wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing public drainage systems by a public drainage authority pursuant to *Minnesota Statutes*, chapter 103E.

D. A replacement plan is not required for draining, excavating, or filling of wetlands, except for draining wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing drainage systems other than public drainage systems.

For items C and D, the landowner must provide documentation that the wetlands which will be partially or completely drained by the maintenance have not existed for more than 25 years. Documentation may include, but is not limited to: aerial photographs, climatological records, soil borings, vegetative analysis, elevation surveys, or sworn affidavits.

E. A replacement plan is not required for draining, excavating, or filling of wetlands resulting from activities conducted as part of a public drainage system improvement project that received final approval from the drainage authority before July 1, 1991, and after July 1, 1986, if:

[For text of subitems (1) to (3), see M.R.]

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

G. Wetlands of all types that would be drained as a part of a public drainage repair project are eligible for the permanent wetlands preserve program established under *Minnesota Statutes*, section 103F.516. The board shall give priority to acquisition of easements on types 3, 4, and 5 wetlands that have been in existence for more than 25 years on public drainage systems and other wetlands that have the greatest risk of drainage from a public drainage repair project.

Subp. 3. **Federal approvals.** A replacement plan for wetlands is not required for: activities described in items A and B.

A. Activities exempted from federal regulation under *United States Code*, title 33, section 1344(f), as in effect on January 1, 1991.

The local government unit may certify the exemption only if the landowner furnishes proof of qualification for one of the exemptions from the United States Army Corps of Engineers.

This exemption does not apply to a project with the purpose of converting a wetland to a nonwetland, either immediately or gradually, or converting the wetland to another use, or when the fill will result in significant discernible change to the flow or circulation of water in the wetland, or partly draining it, or reducing the wetland area;

~~B. activities authorized under, and conducted in accordance with, an applicable general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, *United States Code*, title 33, section 1344, except the nationwide permit in *Code of Federal Regulations*, title 33, section 330.5, paragraph (a), clauses (14), limited to when a new road crosses a wetland, and (26), as in effect on January 1, 1991.~~

~~This exemption is for the following nationwide permits as they existed on January 1, 1991, and includes the associated regional conditions: 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, and 25, issued under *Code of Federal Regulations*, title 33, section 330.5. The local government unit may certify such an exemption only if the applicant furnishes proof of qualification for one of these nationwide permits from the United States Army Corps of Engineers. Nationwide permit 14 for a new road does not qualify for this exemption, nor do nationwide permits under numbers not listed in this exemption.~~

~~To qualify for a nationwide permit, the applicant for a United States Army Corps of Engineers permit must meet any regional conditions imposed by the United States Army Corps of Engineers, and must obtain from the Minnesota Pollution Control Agency an individual section 401 certification when required.~~

B. Activities authorized under the federal Clean Water Act, section 404, or the Rivers and Harbors Act, section 10, regulations that meet minimum state standards under this chapter and that have been approved by the Board of Water and Soil Resources, the Department of Agriculture, and the Pollution Control Agency.

[For text of subp 4, see M.R.]

Subp. 5. **Incidental wetlands.** A replacement plan for wetlands is not required for activities in a wetland areas created or reestablished solely as a result of:

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

D. any combination of items A to C.

Wetland areas created by beaver activities may be drained by removing those materials placed by beaver. Drainage is permitted by removing or moving materials blocking installed roadway culverts and drainage structures. Additional excavation or removal of other materials is not permitted unless it can be shown by aerial photographs that the proposed activity will not drain or fill wetland that was there before the beaver dam was built or before the culvert became plugged.

~~Wetlands~~ Wetland areas may be drained, excavated, or filled if the landowner can show that the wetland was created or reestablished solely by actions, the purpose of which was not to create or reestablished the wetland.

Impoundments or excavations constructed in nonwetlands solely for the purpose of effluent treatment, storm water retention, soil and water conservation practices, and water quality improvements, and not as part of a compensatory wetland mitigation process that may, over time, take on wetland characteristics, are also exempt.

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

Subp. 9. **De minimis.**

A. Except as provided in items ~~B to D~~ and C, a replacement plan for wetlands is not required for draining or filling the following amounts of wetlands ~~as part of a project, regardless of the total amount of wetlands filled as part of a project:~~

(1) 10,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, outside of the shoreland wetland protection zone and that are not fringe areas of type 3, 4, or 5 wetlands in a greater than 80 percent area;

(2) 5,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, outside of the shoreland wetland protection zone and that are not fringe areas of type 3, 4, or 5 wetlands in a 50 to 80 percent area;

(3) 2,000 square feet of type 1, 2, or 6 wetland, outside of the shoreland wetland protection zone and that are not fringe areas of type 3, 4, or 5 wetlands in a less than 50 percent area;

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

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

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

~~D. Persons proposing to conduct an activity under this subpart shall contact the board at a toll-free telephone number to be provided for information on minimizing wetland impacts. Failure of the person to call does not constitute a violation of this subpart.~~

~~E.~~ This exemption may not be combined with another exemption on a project in this part.

Subp. 10. **Wildlife habitat.** A replacement plan for wetlands is not required for:

A. excavation or the associated deposition of spoil ~~resulting from excavation~~ within a wetland for a wildlife habitat improvement project, if:

(1) the area of deposition, and excavation if within the permanently and semipermanently flooded areas of type 3, 4, or 5 wetlands, does not exceed five percent of the wetland area or one-half acre, whichever is less, and the spoil is stabilized and permanently seeded to prevent erosion;

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

B. duck blinds.

8420.0200 DETERMINING LOCAL GOVERNMENT UNIT.

The local government unit responsible for making exemption, wetland type, wetland boundary, and no-loss determinations and approving replacement and wetland banking plans shall be determined according to items A to ~~E~~.

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

~~D. In those cases where an activity will occur on state land, the local government unit shall be the state agency with administrative responsibility for that land.~~

E. A local government unit must provide knowledgeable and trained staff to manage the program or secure a qualified delegate. Otherwise, the board may declare a moratorium as prescribed in part 8420.0260, or take other appropriate legal action to assure compliance.

The board will resolve all questions as to which government entity is the responsible authority, applying the guidelines in items A to ~~E~~.

Notwithstanding items A to ~~E~~, the Department of Natural Resources shall be the approving authority for activities associated with projects requiring permits to mine under *Minnesota Statutes*, section 93.481, and for projects affecting calcareous fens.

8420.0210 EXEMPTION DETERMINATIONS.

A landowner intending to drain or fill a wetland without replacement, claiming exemption under part 8420.0122, may contact the local government unit before beginning draining or filling activities for determination whether or not the activity is exempt. A landowner who does not request a determination may be subject to the enforcement provisions in part 8420.0290 and *Minnesota Statutes*, section 103G.2372. The local government unit must keep on file all documentation and findings of fact concerning exemption determinations for a period of ten years.

~~Local government units may offer exemption certificates as part of the wetland program within their jurisdiction. An exemption applies may apply whether or not the local government unit chooses to issue certificates of~~ has made an exemption determination. If ~~the wetland qualifies for an exemption, and the landowner requests a certificate of an exemption determination~~, then the local government unit must issue make one.

The landowner applying for exemption is responsible for submitting the proof necessary to show qualification for the particular exemption claimed. The local government unit may evaluate evidence for an exemption without making a determination.

The local government unit may place the decision authority for exemption ~~applications~~ determinations with the zoning administrator, or establish other procedures it considers appropriate.

The local government unit decision shall be based on the exemptions standards in part 8420.0122. If the decision requires a finding of wetland size or type, the local government unit should seek the advice of the technical panel as described in part 8420.0240. The local government unit decision must be made in compliance with *Minnesota Statutes*, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit decision must be mailed to the landowner, members of the technical evaluation panel, the watershed district or water management organization if there is one, the commissioner of natural resources, and individual members of the public who request a copy within ten days of the decision.

8420.0220 NO-LOSS DETERMINATIONS.

A landowner unsure if proposed work will result in a loss of wetland may apply to the local government unit for a determination. A landowner who does not request a determination may be subject to the enforcement provisions in part 8420.0290 and *Minnesota*

Statutes, section 103G.2372. The local government unit must keep on file all documentation and findings of fact concerning no-loss determinations for a period of ten years.

The landowner applying for a no-loss determination is responsible for submitting the proof necessary to show qualification for the claim. The local government unit may evaluate evidence for a no-loss claim without making a determination.

The local government unit may place the decision authority for no-loss ~~applications~~ determinations with the zoning administrator, or establish other procedures it considers appropriate. The local government unit decision must be made in compliance with *Minnesota Statutes*, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit decision must be mailed to the landowner, members of the technical evaluation panel, the watershed district or water management organization if there is one, the commissioner of natural resources, and individual members of the public who request a copy within ten days of the decision.

The local government unit shall ~~issue~~ make a no-loss ~~certificate~~ determination if the landowner requests ~~and, if the project is consistent with part 8420.0520, subpart 5, or if either:~~

A. the work will not drain, excavate, or fill a wetland, except for removal of debris such as trees, logs, stumps, recently eroded materials, and trash provided such removal does not alter the original cross-section of the wetland;

B. water level management activities will not result in the conversion of a wetland to another land use;

C. the activities are in a surface impoundment for containment of fossil fuel combustion waste or water retention, and are not part of a compensatory wetland mitigation program; ~~or~~

D. the activity is being conducted as part of an approved replacement or banking plan or is conducted or authorized by public agencies for the purpose of wetland restoration and the activity is restricted to placing fill in a previously excavated drainage system to restore a wetland to its original condition, fish and wildlife habitat restoration, or repair and maintenance of earthen containment structures; or

E. the activity is limited to excavation and removal of deposited sediment in constructed stormwater management basins or to excavation and removal of contaminated substrate, the excavated area is stabilized so as to prevent water quality degradation, and the excavation is limited to the minimum dimensions necessary for achieving the desired purpose.

8420.0225 WETLAND BOUNDARY OR TYPE DETERMINATIONS.

A. A landowner may apply for a wetland boundary or type determination from the local government unit. The landowner applying for the determination is responsible for submitting proof necessary to make the determination, including, but not limited to, wetland delineation field data, observation well data, topographic mapping, survey mapping, and information regarding soils, vegetation, hydrology, and groundwater both within and outside of the proposed wetland boundary.

B. A local government unit that receives an application under item A may seek the advice of the technical evaluation panel and, if necessary, expand the technical evaluation panel. The local government unit may delegate the decision authority for wetland boundary or type determinations with the zoning administrator, or establish other procedures it considers appropriate.

C. The local government unit decision must be made in compliance with *Minnesota Statutes*, section 15.99. Within ten calendar days of the decision, the local government unit decision must be mailed to the landowner, members of the technical evaluation panel, the watershed district or watershed management organization if there is one, the commissioner of natural resources, and individual members of the public who request a copy.

D. The local government unit decision is valid for three years unless the technical evaluation panel determines that natural or artificial changes to the hydrology, vegetation, or soils of the area have been sufficient to alter the wetland boundary or type.

8420.0230 REPLACEMENT PLAN DETERMINATIONS.

Subpart 1. **Application.** A landowner intending to drain or fill a wetland who does not qualify for an exemption or no-loss determination shall obtain approval of a replacement plan from the local government unit before beginning draining or filling. A person who does not do so is subject to the enforcement provisions in this chapter and *Minnesota Statutes*, section 103G.2372.

Within ten days of receipt of an application for an activity affecting less than 10,000 square feet of wetland, the local government unit must mail a summary of the application, which includes information to identify the applicant and the location and scope of the

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

project, to members of the technical evaluation panel, the commissioner of natural resources, and individual members of the public who have requested a copy. The project notification must state when the comment period ends.

Within ten days of receipt of an application for approval of a replacement plan for an activity affecting 10,000 square feet or more of wetland, the local government unit must mail a copy of the application and an invitation to submit comments to members of the technical evaluation panel; the watershed district or water management organization, if there is one; the commissioner of natural resources and individual members of the public who request a copy. Individual members of the public who request a copy must be sent a summary of the application that includes information to identify the applicant and the location and scope of the project. The project notification must state when the comment period ends.

An application for approval of a replacement plan includes a revised application for replacement plan approval and an application for a revision to an approved replacement plan if:

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

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

8420.0240 TECHNICAL EVALUATION PANEL PROCEDURES.

For each local government unit, there is a technical evaluation panel of three persons: a technical professional employee of the board, a technical professional employee of the soil and water conservation district of the county in which the activity is occurring, and a technical professional with expertise in water resources management appointed by the local government unit. For projects affecting public waters or public waters wetlands or affecting wetlands adjacent to the public waters or public waters wetlands, the technical evaluation panel shall also include a technical professional employee of the Department of Natural Resources. For purposes of this part, "adjacent" means within the shoreland wetland protection zone or 1,000 feet, whichever is less. One member selected by the local government unit shall act as the contact person and coordinator for the panel. Two members of the panel must be knowledgeable and trained in applying methodologies of the "United States Army Corps of Engineers Wetland Delineation Manual" (January 1987), "Wetlands of the United States" (United States Fish and Wildlife Service Circular 39, 1971 edition), and "Classification of Wetlands and Deepwater Habitats of the United States" (Cowardin, et al., 1979 edition), ~~and~~ including updates, supplementary guidance or replacements of these methods provided by the board. The panel shall also be knowledgeable and trained in evaluation of wetland functions and the resulting public values. The technical evaluation panel may invite additional wetland experts to help the panel in its work.

The panel shall make ~~technical determinations~~ findings and recommendations on questions of wetland functions and the resulting public values, location, size, and type for replacement plans, exemption ~~and~~ no-loss requests, and wetland boundary or type determinations avoidance and minimization requests, and for comprehensive wetland protection and management plans if requested to do so by the local government unit, the landowner, or a member of the technical evaluation panel. The panel may review replacement plans exemption, no-loss, wetland banking, and wetland boundary and type proposals and recommend to the local government unit either approval, approval with changes or conditions, or rejection. The local government unit must consider and include the recommendation of the technical evaluation panel in its approval or denial of a plan or determination. The panel shall make ~~no determinations~~ findings or recommendations without at least one member having made an on-site inspection. Panel ~~determinations~~ findings and recommendations must be documented and endorsed by ~~at least two a majority of the three~~ members.

Applicants for exemption, no-loss, wetland boundary, wetland type, replacement plan, and banking determinations must reasonably cooperate in providing technical evaluation panels and local government units and agents and employees with access to proposed project sites for investigation, testing, and monitoring. If an applicant refuses to allow access, the local government unit may deny an application.

If the local government unit has a comprehensive wetland protection and management plan that delineates location, size, and type for all wetlands, approved by the technical evaluation panel, and subsequently incorporated into local ordinance, then the local government unit can make determinations ~~in place of~~ without calling the technical evaluation panel.

~~The panel, or one of its members when so authorized by all of the members, may assist the local government unit in making wetland size and type determinations when asked to do so by the local government unit as part of making an exemption or no-loss determination.~~

If requested by the local government unit, the landowner, or a member of the technical evaluation panel, the panel shall answer technical questions or participate in the monitoring of replacement wetlands according to parts 8420.0600 to 8420.0630, and shall similarly participate in the monitoring of banked wetlands according to parts 8420.0700 to 8420.0760.

8420.0250 APPEALS.

Subpart 1. **Appeal of replacement plan, public road project notifications, banking plan, exemption, ~~and~~ no-loss, and wetland boundary or type decisions.** The decision of a local government unit to approve, approve with conditions, or reject a replacement plan, banking plan, exemption, ~~or~~ no-loss, or wetland boundary or type request becomes final if not appealed to the

board within 15 days after the date on which the decision is mailed to those required to receive notice of the decision. This subpart applies to these determinations which are made for public road project notifications and for comprehensive wetland protection and management plans.

Appeal may be made by the landowner, by any of those required to receive notice of the decision, or by 100 residents of the county in which a majority of the wetland is located.

Appeal is effective upon mailing of the petition and payment of a nonrefundable filing fee of \$200 to the board with evidence that a copy of the petition has been mailed to the local government unit. The nonrefundable filing fee is not required for appeals petitioned by state agencies. Subsequent to receipt of a petition, the local government unit may require the petitioner to post a letter of credit, cashier's check, or cash in an amount not to exceed \$500 per appeal. The amount posted must be returned to the petitioner unless there is a finding under subpart 3 that the appeal is meritless, trivial, or brought solely for the purposes of delay. The local government unit shall then mail a copy of the petition to all those to whom it was required by part 8420.0230 to mail a copy of the notice of decision.

Subp. 3. **Board appeal procedures.** Within 30 days after receiving the petition, the board or its dispute resolution committee or executive director shall decide whether to grant the petition and hear the appeal. The board or its dispute resolution committee or executive director shall grant the petition unless the appeal is deemed meritless, trivial, or brought solely for the purposes of delay; that the petitioner has not exhausted all local administrative remedies; or that the petitioner has not posted a letter of credit, cashier's check, or cash if required by the local government unit. The board, its dispute resolution committee, or its executive director may remand the appealed decision back to the local government if the petitioner has not exhausted all local administrative remedies such as a local government unit public hearing, if expanded technical review is needed, or if the local government unit's record is not adequate.

The appeal will be heard by the dispute resolution committee and decided by the board within 60 days after granting the petition. Parties to the appeal are the appellant, the landowner, the local government unit, and in the case of replacement plan appeals, all those required to receive notice of the local government unit decision.

The board or its dispute resolution committee or its executive director may elect to combine related appeals and process as one decision, either multiple appeals on the same project or appeals of different local government unit decisions on the same project.

Upon appeal, the local government unit shall forward to the board the record on which it based its decision. The board will make its decision on the appeal after hearing. Thirty days' notice of the hearing shall be given by the board to the parties. The parties may present written and oral argument. When the local government unit has made formal findings contemporaneously with its decision and there is an accurate verbatim transcript of the proceedings and the proceedings were fairly conducted, the board will base its review on the record. Otherwise it may take additional evidence, or remand the matter.

The board or its dispute resolution committee will affirm the local government unit's decision if the local government unit's findings of fact are not clearly erroneous; if the local government unit correctly applied the law to the facts, including this chapter; and if the local government unit made no procedural errors prejudicial to a party. Otherwise, the board or its dispute resolution committee will reverse the decision, amend it, or remand it with instructions for further proceedings.

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

8420.0260 PENALTY FOR LOCAL GOVERNMENT UNIT FAILURE TO APPLY LAW.

A. By January 1, 1994, each local government unit of the state, except tribal lands, shall acknowledge, in writing, to the board that it is assuming its responsibilities under this chapter and the act. Local government units from which an affirmative response is not received will be given written notice by the board that there is a 60-day moratorium in the local government unit's jurisdiction on exemption, wetland boundary, wetland type, no-loss, replacement plan, and banking determinations. The board will end the moratorium within the 60 days upon written agreement by the local government unit that it will assume its duties under this chapter and the act. If at the end of the initial 60-day moratorium ~~an~~ a written agreement has not been made for the local government unit to apply the law, the board can extend the moratorium until the local government unit agrees to apply the law.

B. If the board has information that a local government unit is not following this chapter or the act in making exemption, no-loss, replacement plan, public road project notice reviews, wetland boundary, wetland type, or banking determinations, or if the local government unit does not have knowledgeable and trained staff, the board shall notify the local government unit in writing of its concerns. The local government unit must respond in writing within 60 days of being notified by the board. If not satisfied with

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

the local government unit's response, or none is received, the board shall ask the local government unit to appear at a hearing before the board to discuss the matter. The board may invite comments from other local governments or state and federal agencies. ~~If it is determined~~ the board determines at the hearing, that corrective action is necessary, the board shall write the local government unit directing specific corrective action to occur within 60 days of receiving the board's decision. The notice shall explain the reason for the action.

If, after the 60-day period described in this part the local government unit has not corrected the problem to the satisfaction of the board, the board shall declare a moratorium as prescribed in item A or take other appropriate legal action to ensure compliance.

8420.0290 ENFORCEMENT PROCEDURES.

Subpart 1. **Enforcing Enforcement authorities.** The commissioner, conservation officers, and other peace officers may issue cease and desist orders and restoration and replacement orders.

Subp. 2. **Cease and desist orders.** ~~Site specific~~ Cease and desist orders may be issued when the enforcement authority has probable cause that a drain, excavation, or fill activity is being or has been conducted in a wetland and does not qualify for an exemption or a no-loss determination under parts 8420.0210 and 8420.0220 and is being or has been conducted without prior approval of a replacement plan by a local government unit under part 8420.0230.

A cease and desist order must not be issued if the landowner has a valid ~~certificate of exemption~~ or, no-loss, or replacement plan determination from the local government unit or completed a public road project notification, that has not been remanded or reversed on appeal under provisions of part 8420.0250, or has sufficient evidence to support an exemption. ~~Otherwise:~~

~~A. the enforcement authority may issue a cease and desist order upon discovery of the drain or fill activity;~~

~~B. the order may be withheld to give the landowner time to produce the evidence required by part 8420.0122 to the enforcement authority of qualification for an exemption or no loss determination; or~~

~~C. a cease and desist order may be issued with an effective date three weeks from the date of issuance. The enforcement authority shall exercise this option when the enforcement authority cannot readily make a determination on the facts and circumstances to deny a landowner's claim of exemption or no loss, and continued drain or fill activity would not cause irreparable harm to the wetland.~~

The enforcement authority shall advise the landowner that the landowner's written application, if any, for an exemption ~~or, no-loss, or replacement plan~~ determination, should be made immediately to the local government unit and that whatever drain ~~and, excavation, or fill work~~ the landowner has been done may require restoration ~~according to a restoration plan designed by the soil and water conservation district~~, if the application for exemption ~~or, no-loss, or replacement plan~~ determination is denied or reversed on appeal.

The enforcement authority issuing a cease and desist order shall promptly submit copies to the soil and water conservation district, local government unit, and Department of Natural Resources.

If an application for an exemption ~~or, no-loss, or replacement plan~~ determination is triggered by a cease and desist order, the local government unit ~~or the technical evaluation panel shall make a decision within three weeks from the date of the application. The local government unit or technical evaluation panel shall review evidence of exemption or no loss produced by the landowner, inspect the site if necessary, and determine:~~ shall make the determination in accordance with parts 8420.0210 to 8420.0230.

~~(1) if the area in question is a wetland; and~~

~~(2) if the activity qualifies for an exemption or no loss determination under parts 8420.0210 and 8420.0220.~~

In cases where the cease and desist order has been issued to a local government unit, the determination of exemption or no-loss shall be made by the board.

If the ~~decision~~ determination is that the activity is exempt or results in a no-loss ~~determination of wetland~~, the decision maker shall ~~issue a certificate of exemption or no loss~~, request that the enforcement authority rescind the cease and desist order, pending the outcome of any appeal, and notify the soil and water conservation district, the ~~Department of Natural Resources~~ enforcement authority, and the landowner.

If the application is denied, the decision-maker shall immediately notify the soil and water conservation district, the enforcement authority, and the landowner.

Subp. 3. **Restoration and replacement orders.** The enforcement authority shall issue a restoration order or replacement order when:

A. the drain, excavation, or fill has already been completed when discovered, or after a cease and desist order has been issued, and the landowner does not seek apply for an exemption, replacement plan, or no-loss determination within three weeks; or

B. the local government unit grants the application but it is reversed on appeal; or

C. the local government unit denies the application.

Promptly upon being informed by the enforcement authority of the need, the soil and water conservation district staff person shall inspect the site and prepare a plan in consultation with the local government unit for restoring the site to its prealtered condition. Restoration shall be ordered unless the soil and water conservation district person, with the concurrence of the technical evaluation panel and the enforcement authority, concludes that restoration is impossible. The soil and water conservation district shall incorporate its plan into a restoration or replacement order and send it to the enforcement authority for service in person or by certified mail to the landowner.

~~The A~~ restoration order must specify a date by which the landowner must ~~either:~~

~~A.~~ restore the wetland according to the soil and water conservation district plan and obtain a certificate of satisfactory restoration from the soil and water conservation district; ~~or~~

~~B.~~ submit a replacement plan to the local government unit.

The restoration order shall state that it will be ~~canceled when~~ rescinded if the landowner obtains ~~a certificate of an after-the-fact replacement plan, or an exemption or no-loss determination~~ from the local government unit, ~~or a certificate that replacement has been completed according to an approved replacement plan.~~ Otherwise, the landowner must restore the wetland in the manner required by the restoration order.

A replacement order must specify a date by which the landowner must submit a replacement plan to the local government unit and a subsequent date by which the landowner must replace the wetland according to the approved replacement plan and obtain a certificate of satisfactory replacement from the soil and water conservation district.

If the soil and water conservation district, with the concurrence of the technical evaluation panel and the enforcement authority, determines that restoration will not restore all the loss caused by the drain, excavation, or fill activity, the enforcement authority may order a combination of restoration and replacement, or may order replacement rather than restoration, ~~as determined by the soil and water conservation district with the concurrence of the technical panel and the enforcement authority.~~ The order must direct the landowner to obtain replacement plan approval from the local government unit. The order must specify that if replacement plan approval is not obtained, the landowner must restore the wetland ~~in a manner determined by the soil and water conservation district~~ as ordered.

Each cease and desist, restoration, and replacement order shall ~~tell the landowner~~ state that violation of the order is a misdemeanor.

If, as part of a misdemeanor proceeding, the court orders restoration or replacement, the soil and water conservation district, with the concurrence of the technical evaluation panel and the enforcement authority, shall determine which is appropriate, and if it is restoration, the method of restoration. If the court orders replacement, the landowner must follow the replacement plan process in subpart 4 and parts 8420.0500 to 8420.0630 ~~unless the court orders otherwise.~~

Subp. 4. **After-the-fact replacement.** If a landowner seeks approval of a replacement plan after the proposed project has already ~~impacted~~ affected the wetland, the local government unit may require the landowner to replace the impacted wetland at a ratio not to exceed twice the replacement ratio otherwise required.

Subp. 5. **Misdemeanor.** A violation of an order issued under this part is a misdemeanor and must be prosecuted by the county attorney where the wetland is located or the illegal activity occurred.

Subp. 6. **Contractor's responsibility when work drains or fills wetlands.**

A. An agent or employee of someone other than the landowner may not drain or fill a wetland, wholly or partially, unless the agent or employee has:

(1) obtained a signed statement from the landowner stating that the wetland replacement plan required for the work has been obtained or that a replacement plan is not required; and

(2) mailed a copy of the statement to the local government unit with jurisdiction over the wetland.

B. Work in violation of this part is a misdemeanor.

C. The board shall develop a form to be distributed to contractors' associations, local government units, and soil and water conservation districts to comply with this part. The form must include:

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

- (1) a listing of the activities for which a replacement plan is required;
- (2) a description of the penalties for violating *Minnesota Statutes*, sections 103G.2212 to 103G.237;
- (3) the telephone number to call for information on the responsible local government unit;
- (4) a statement that national wetland inventory maps are on file with the soil and water conservation district office; and
- (5) spaces for a description of the work and the names, mailing addresses, and telephone numbers of the person authorizing the work and the agent or employee proposing to undertake it.

8420.0300 MINING.

Wetlands may not be drained, excavated, or filled as part of a project for which a permit to mine is required by *Minnesota Statutes*, section 93.481, except as approved by the commissioner. Draining, excavating, or filling of wetlands created by pits, stockpiles, or tailing basins by actions whose purpose was not to create the wetland are exempt under part 8420.0122.

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

B. For mining operations in existence before July 1, 1993, and operated on or after that date under a permit to mine issued under chapter 6130 for iron ore and taconite or chapter 6132 for nonferrous metallic minerals:

(1) no draining, excavating, or filling activities shall be conducted within wetlands for which these activities were approved but not initiated before July 1, 1993, until the operating plan or annual report as required in the permit to mine includes an approved wetland replacement plan for the undisturbed wetlands. The wetland replacement plan shall meet the same principles and standards for replacing wetlands under parts 8420.0500 to 8420.0630;

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

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

8420.0350 HIGH PRIORITY REGIONS AND AREAS.

Subpart 1. **High priority regions.** Parts of the state that are high priority regions for preservation, enhancement, restoration, and establishment of wetlands include all of the ~~counties that have lost less than~~ 50 percent or more of their presettlement wetland base areas, which are those listed in part 8420.0540, subpart 5, item B.

In all other counties of the state, high priority regions are high priority areas approved as such by the board according to subpart 2.

Subp. 2. **High priority areas.**

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

D. The board will review the inclusion of high priority areas in plans as part of the standard process for plan review established in statute. High priority areas approved by the board that are not in a high priority region listed in ~~item C~~ subpart 1 become high priority regions with board approval.

8420.0505 PREVIOUSLY APPROVED REPLACEMENT PLANS.

Replacement ~~plans~~ plan, exemption, public road project notification, wetland boundary, wetland type, and no-loss determinations may be completed under the laws, rules, conditions, and guidelines in effect when they were approved.

8420.0510 PROCEDURES.

Subpart 1. **Generally.** No person shall drain or fill a wetland, wholly or partially, or excavate in the temporarily or permanently flooded areas of type 3, 4, or 5 wetlands without first having a wetland ~~value~~ replacement plan approved or other determination made by the governing body of the local government unit, or the lead local government unit if so designated by the board, consistent with parts 8420.0122 to 8420.0290, and provided that the activity is not prohibited under the special considerations provisions in part 8420.0540, subpart 9.

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

8420.0520 SEQUENCING.

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

Subp. 3. **Determination of impact avoidance.**

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

C. Alternatives analysis:

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

(2) The local government unit shall determine whether any feasible and prudent alternatives are available that would avoid impacts to wetlands. An alternative shall be considered feasible and prudent if it is capable of being done from an engineering point of view, is in accordance with accepted engineering standards and practices, is consistent with reasonable requirements of the public health, safety, and welfare, is an environmentally preferable alternative based on a review of social, economic, and environmental impacts, and would create no truly unusual problems. For projects proposing impacts to the permanently and semipermanently flooded areas of type 3, 4, or 5 wetlands, the local government unit shall also determine that there are no environmentally preferable alternatives that would avoid the impact. The local government unit shall consider the following in evaluating alternatives as applicable:

[For text of units (a) to (e), see M.R.]

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

Subp. 4. Determination of impact minimization.

A. The applicant shall demonstrate to the local government unit's satisfaction that the activity will minimize impacts to wetlands. In reviewing the sufficiency of the applicant's efforts to minimize wetland impacts, the local government unit must consider:

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

(7) an applicant's efforts to:

- (a) modify the size, scope, configuration, or density of the project;
- (b) remove or accommodate site constraints including zoning, infrastructure, access, or natural features; ~~and~~
- (c) confine impacts to the fringe or periphery of the wetland; and
- (d) otherwise minimize impacts.

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

[For text of subps 5 to 9, see M.R.]

8420.0530 REPLACEMENT PLAN COMPONENTS.

On an application form provided by the local government unit, and with needed attachments supplied by the applicant, the following documentation must be provided, except that for replacement plans utilizing the wetland bank in parts 8420.0700 to 8420.0760, items B, subitem (1), and D, do not apply; instead the applicant shall submit the wetland banking credit withdrawal form prescribed in part 8420.0740, subpart 2, item E:

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

B. either:

- (1) a signed statement confirming that the wetland acres and values will be replaced before or concurrent with the actual draining or filling of a wetland; or
- (2) an irrevocable bank letter of credit, a performance bond, or other security acceptable to the local government unit in an amount sufficient to guarantee the successful completion of the wetland ~~value~~ replacement;

C. for the impacted wetland:

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

(7) ~~the estimated size of the watershed that drains surface water into the wetland as determined from a United States Government Survey topographical map or other suitable topographical survey;~~

~~(8)~~ the locations of any surface inlets or outlets, natural or otherwise, draining into or out of the wetlands, and if the wetland is within the shoreland wetland protection zone or floodplain of a stream, river, or other watercourse, the distance and direction to the watercourse;

~~(9)~~ (8) a map, photograph, or written description of the land use of the immediate watershed;

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

~~(10)~~ (9) the nature of the proposed project, its areal extent, and the impact on the wetland must be described in sufficient detail to allow the local government unit to determine the amount and types of wetland to be impacted and to demonstrate compliance with the replacement sequencing criteria in part 8420.0520, if applicable;

~~(11)~~ (10) evidence of ownership or rights to the affected areas, including a legal description. When two or more landowners are involved, including both the impact site and the proposed replacement site, a contract or other evidence of agreement signed by all landowners and notarized must be included with the replacement plan. The contract or agreement must contain an acknowledgment of the covenant provisions in item D, subitem (6), by landowners on which a replacement wetland is proposed and the location and acreage of replacement wetlands. The contract becomes binding upon final approval of the replacement plan;

~~(12)~~ (11) a list of all other local, state, and federal permits and approvals required for the activity; and

~~(13)~~ (12) other information considered necessary by the local government unit for evaluation of the activity;

D. for the replacement wetland, item C, subitems (1) to ~~(9)~~ (8) and ~~(11)~~ (10) to ~~(13)~~ (12), and:

[For text of subitems (1) to (10), see M.R.]

(11) a plan for monitoring the success of the replacement plan in meeting the project goal in subitem (1), and as specified in parts 8420.0610 and 8420.0620; ~~and~~

(12) evidence that a person proposing to create or restore a wetland within the easement of a pipeline as defined in *Minnesota Statutes*, section 299J.02, subdivision 11, has first notified the easement holder and the director of the Office of Pipeline Safety in writing. The person may not create or restore the wetland if, within 90 days after receiving the required notice, the easement holder or the director of the Office of Pipeline Safety provides to the person a written notice of objection that includes the reasons for the objection; ~~and~~

(13) evidence that any drainage or property rights potentially detrimental to the replacement wetland have been acquired, subordinated, or otherwise eliminated;

(14) a five-year vegetation management plan, including seeding rates, seed mixes, herbicide treatments, and control of noxious weeds and invasive or nonnative species such as reed canary grass and purple loosestrife; and

(15) other information considered necessary for evaluation of the project by the local government unit.

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

8420.0540 REPLACEMENT PLAN EVALUATION CRITERIA.

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

Subp. 2. Type of replacement.

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

B. Modification or conversion of nondegraded wetlands from one wetland type to another, for example by impoundment of additional water or excavation, does not constitute ~~adequate~~ replacement credit.

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

D. The ~~following~~ actions and areas in subitems (1) to (8) are eligible for replacement credit or wetland banking credit as determined by the local government unit in parts 8420.0500 to 8420.0760:

(1) Restoration of the natural hydrology regime and vegetation on completely drained or filled wetlands and wetlands created in upland areas may receive new wetland credit in an amount not to exceed 100 percent of the total wetland area hydrologically restored.

(2) Restoration of the natural hydrology regime and vegetation of jurisdictional wetlands that have been degraded by prior drainage, diversion of the natural watershed, or filling may:

(a) in a less than 80 percent area, receive public value credit in an amount up to 50 percent of the degraded wetland area;
and

(b) in a greater than 80 percent area, receive new wetland credit in an amount not to exceed 25 percent of the total wetland area hydrologically restored.

(3) Reestablishment of permanent vegetative cover on a wetland that was planted with annually seeded crops, was in a crop rotation seeded to pasture grasses or legumes, or was required to be set aside to receive price supports or other payments under *United States Code*, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991. Replacement credit may not exceed 50 percent of the total wetland area vegetatively restored;

(4) Reestablishment of permanent native, noninvasive vegetative cover on a wetland that was planted with annually seeded crops, was in a crop rotation seeded to pasture grasses or legumes, or was required to be set aside to receive price supports or other payments under *United States Code*, title 7, sections 1421 to 1469, in six of the last 20 years prior to the date of application for a replacement plan or bank plan in accordance with one of the following:

(a) if the wetland was annually seeded, in rotation, or set aside for six or more of the last 20 years, the wetland is eligible for public value credit not to exceed 50 percent of the wetland area; or

(b) if the wetland was annually seeded, in rotation, or set aside for ten or more years of the last 20 years, the wetland is eligible for new wetland credit based on the percent of the time the wetland area was annually seeded, in rotation, or set aside during the 20-year period.

~~(2)~~ (5) Buffer areas of permanent native, noninvasive vegetative cover established or preserved on upland adjacent and contiguous to replacement wetlands and adjacent existing wetlands, provided that the upland buffer must be established at the time of wetland replacement has a minimum width of 16.5 feet and the buffer vegetative establishment or preservation plan must be approved by the technical evaluation panel. Replacement credit for the buffer may not exceed 75 percent of the replacement wetland area and may only be used as public value credits for replacement above a 1:1 ratio;

~~(3) wetlands~~ (6) Wetland areas restored for conservation purposes under terminated easements or contracts, provided that are eligible for up to 75 percent of the restored wetland area is eligible for new wetland credit and adjacent upland buffer areas reestablished to permanent native, noninvasive vegetative cover are eligible for public value credit above a 1:1 ratio in an amount not to exceed 25 percent of the restored wetland area; and

~~(4) water quality treatment ponds constructed to pretreat storm water runoff prior to discharge to wetlands, public waters, or other water bodies, provided that the water quality treatment ponds must be associated with an ongoing or proposed project that will impact a wetland and replacement credit for the treatment ponds may not exceed 75 percent of the treatment pond area and may only be used for public value credit a 1:1 ratio.~~

(7) Reestablishment and maintenance of permanent native, noninvasive vegetation cover on a wetland that is dominated by invasive or exotic species may receive public value credit. Replacement credit may not exceed 25 percent of the total wetland area vegetatively restored and the vegetative restoration and maintenance plan must be approved by the technical evaluation panel. The technical evaluation panel may require a monitoring period in excess of 12 months after the vegetative restoration is completed before approving the site for replacement credit.

(8) Wetland areas established in nonwetland areas due to mineral extraction activities may receive new wetland credits if all of the following criteria are met:

(a) application for replacement credit is made within ten years after the last day that extraction activities have taken place;

(b) the United States Army Corps of Engineers has approved the use of the area for wetland replacement;

(c) a wetland establishment and management plan have been approved by the technical evaluation panel and implemented by the landowner or authorized;

(d) the wetland area meets the criteria in part 8420.0550; and

(e) if the land is not state owned, a conservation easement in favor of the state has been accepted by the state and recorded in the county recorder's office; or if the land is state owned, covenants and restrictions are recorded that identify that the wetland area is a replacement wetland subject to the provisions of this chapter.

~~E. The local government unit may allow constructed storm water detention basins for new wetland credit if the basin conforms to the following specifications:~~

~~(1) the basin design uses a two-cell system in which the upstream cell has a 24-hour retention time for a two-year storm event;~~

~~(2) the downstream cell is designed for a maximum 12-inch rise in water level for a ten-year storm event;~~

~~(3) the standards in part 8420.0550 are followed; and~~

~~(4) the design goal is a palustrine emergent wetland.~~

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.

Exempt Rules

~~Only the downstream cell can be counted for new wetland credit, and the replacement plan must include a plan and schedule for maintenance of the storm water basin system. Storm water detention basins allowed for replacement are not eligible for the exemptions in part 8420.0122 and are subject to parts 8420.0500 to 8420.0630.~~

~~Storm water management basins constructed for the primary purpose of controlling or treating storm water runoff from impervious surfaces or developed areas, not conforming to the specifications in subitems (1) to (4), are not considered wetlands.~~

E. The local government unit may allow constructed storm water treatment basins for replacement credit provided:

(1) the local governmental unit has adopted, implemented, and funded a storm water management plan that provides for the removal of sediments whenever the phosphorus removal efficiency drops below 50 percent efficiency based on actual water quality monitoring data, calibrated modeling, or physical measurement of the pond volume;

(2) the basins are constructed in nonwetland areas that are directly tributary to public waters, wetlands, or other waters of the state that are not storm water treatment ponds; and

(3) the basins are associated with an ongoing or proposed project that will impact a wetland.

F. Credits under item E are determined according to subitems (1) to (4).

(1) Public value credit may be allowed for up to 75 percent of the normal pool area of an isolated one-cell, wet detention basin or the upper cell of a two-cell system provided the basin is designed and constructed to retain at least 60 percent of the phosphorus loading expected in the runoff from a one-year, 24-hour storm based on the fully developed watershed tributary to the basin.

(2) Public value credit may be allowed for up to 75 percent of the one-year design pool area of a storm water infiltration area that also has an established native, noninvasive vegetative cover.

(3) New wetland credit may be allowed for up to 100 percent of the normal pool area of the downstream cell of a two-cell, wet detention system provided:

(a) the two cells are completely separated by a barrier for up to the ten-year critical event;

(b) the upstream basin meets the criteria in subitem (1);

(c) the downstream cell is designed for a maximum 24-inch rise in water level for the ten-year critical storm event;

(d) the standards in part 8420.0550 are followed; and

(e) the design goal is a palustrine emergent wetland for the downstream cell.

(4) Buffer areas installed adjacent to two-celled systems that are consistent with this subpart may be allowed for public value credit in an amount up to 75 percent of the acreage of the downstream cell of a two-cell system, provided the buffer is applied only to the downstream cell, is no narrower than 16.5 feet at any one location, and is adjacent to the entire periphery of the downstream cell.

G. Storm water detention basins allowed for replacement are not eligible for the exemptions in part 8420.0122 and are subject to parts 8420.0500 to 8420.0630.

Subp. 3. **Timing of replacement.** Replacement of wetland values must be completed before or concurrent with the actual draining or filling of a wetland, unless an irrevocable bank letter of credit or other security acceptable to the ~~responsible local~~ responsible local government unit is submitted to the ~~responsible local~~ responsible local government unit to guarantee successful completion of the replacement. All wetlands to be restored or created for replacement must be designated for replacement before restoration or creation. Submission to the local government unit of the information required in part 8420.0530 and subsequent approval shall be considered evidence of designation for replacement, provided the information is submitted before the actual restoration or creation. The exceptions contained in subpart 5 do not apply to replacement completed using wetland banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.

Subp. 4. ~~Location of replacement wetlands~~ **Wetland replacement siting.** ~~Replacement wetlands shall be located within the same watershed or county as the impacted wetlands, except that greater than 80 percent areas may accomplish replacement in less than 50 percent areas. When environmentally preferable, replacement wetlands should be located as close to the impacted wetland as possible, preferably in the same watershed.~~

A. Siting wetland replacement must follow this priority order:

(1) on site or in the same minor watershed as the affected wetland;

(2) in the same watershed as the affected wetland;

(3) in the same county as the affected wetland;

(4) in an adjacent watershed or county to the affected wetland; and

(5) statewide, for:

(a) wetlands affected in greater than 80 percent areas; and

(b) public transportation projects, except that wetlands affected in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands affected in the seven-county metropolitan area must be replaced in the affected county or, if no restoration opportunities exist in the county, in another seven-county metropolitan area county.

B. The exemption in item A, subitem (5), does not apply to replacement completed using wetlands banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.

C. When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in item A, the applicant may seek opportunities at the next level.

D. For the purposes of this subpart, “reasonable, practicable, and environmental beneficial replacement opportunities” are opportunities that:

(1) take advantage of naturally occurring hydrogeomorphological conditions and require minimal landscape alteration;

(2) have a high likelihood of becoming a functional wetland that will continue in perpetuity;

(3) do not adversely affect other habitat types of ecological communities that are important in maintaining the overall biological diversity of the area; and

(4) are available and capable of being done after taking into consideration cost, existing technology, and logistics consistent with overall project purposes.

E. Regulatory agencies, local government units, and other entities involved in wetland restoration shall collaborate to identify potential replacement opportunities within their jurisdictional areas.

Subp. 5. Replacement for public transportation projects.

A. Wetlands impacted by public transportation projects may be replaced statewide, except that wetlands impacted in a less than 50 percent area must be replaced in a less than 50 percent area, and wetlands impacted in the seven-county metropolitan area by public ~~highways~~ roads must be replaced in the affected county, or, if no restoration opportunities exist in the county, in another seven-county metropolitan area county.

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

C. For projects involving draining, excavating, or filling of wetlands associated with a new public transportation project in a greater than 80 percent area, public transportation authorities, other than the state department of transportation, may purchase wetland banking credits if available from the state wetland bank established with proceeds from Laws 1994, chapter 643, section 26, subdivision 3, paragraph (c). Wetland banking credits may be purchased at the least of the following, but in no case shall the purchase price be less than \$400 per acre:

[For text of subitems (1) to (3), see M.R.]

D. A replacement plan for wetlands is not required for individual projects that result in the filling, excavating, or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This item only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling, excavating, or draining associated with the project and consider mitigating important site-specific wetland functions on site; ~~and~~

(2) except as provided in subitem (3), submit annual project-specific reports by January 15 and any changes or addendums to the board, the technical evaluation panel, the commissioner of natural resources, and members of the public requesting a copy at least 30 days prior to construction that indicate the location, amount, and type of wetlands that have been filled or drained during the previous year and a projection of the location, amount, and type of wetlands to be filled or drained by the project; or convene an annual meeting of the parties required to receive notice to review projects to be commenced during the upcoming year; and

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.

Exempt Rules

(3) for minor and emergency maintenance work impacting less than 10,000 square feet, submit project-specific reports, within 30 days of commencing the activity, to the board that indicate the location, amount, and type of wetlands that have been filled, excavated, or drained.

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

F. Those required to receive notice of public transportation projects may appeal minimization, delineation, and on-site mitigation decisions made by the public transportation authority to the board according to the provisions of part 8420.0250.

G. Changes to wetland impacts proposed in item D shall be reported to the board by the end of the calendar year in which the change is finalized.

H. Except for state public transportation projects, for which the state Department of Transportation is responsible, the board must replace the wetlands and wetland areas of public waters if authorized by the commissioner or a delegated authority, drained, excavated, or filled by local government public transportation projects on existing roads. Replacement of the wetlands must occur in critical rural and urban watersheds.

~~G. I.~~ I. Public transportation authorities at their discretion may deviate from federal and state design standards on existing road projects when practical and reasonable to avoid wetland filling or draining, provided that public safety is not unreasonably compromised. The local road authority and its officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the deviation from the design standards for construction or reconstruction under this item. This item does not preclude an action for damages arising from negligence in construction or maintenance on a highway.

Subp. 5a. **Presettlement wetland acres and areas.**

A. For purposes of this part, the following counties are greater than 80 percent areas: Aitkin; Beltrami; Carlton; Cass; Clearwater; Cook; Crow Wing; Hubbard; Isanti; Itasca; Kanabec; Koochiching; Lake; Lake of the Woods; Mille Lacs; Pine; ~~and~~ St. Louis; and Wadena.

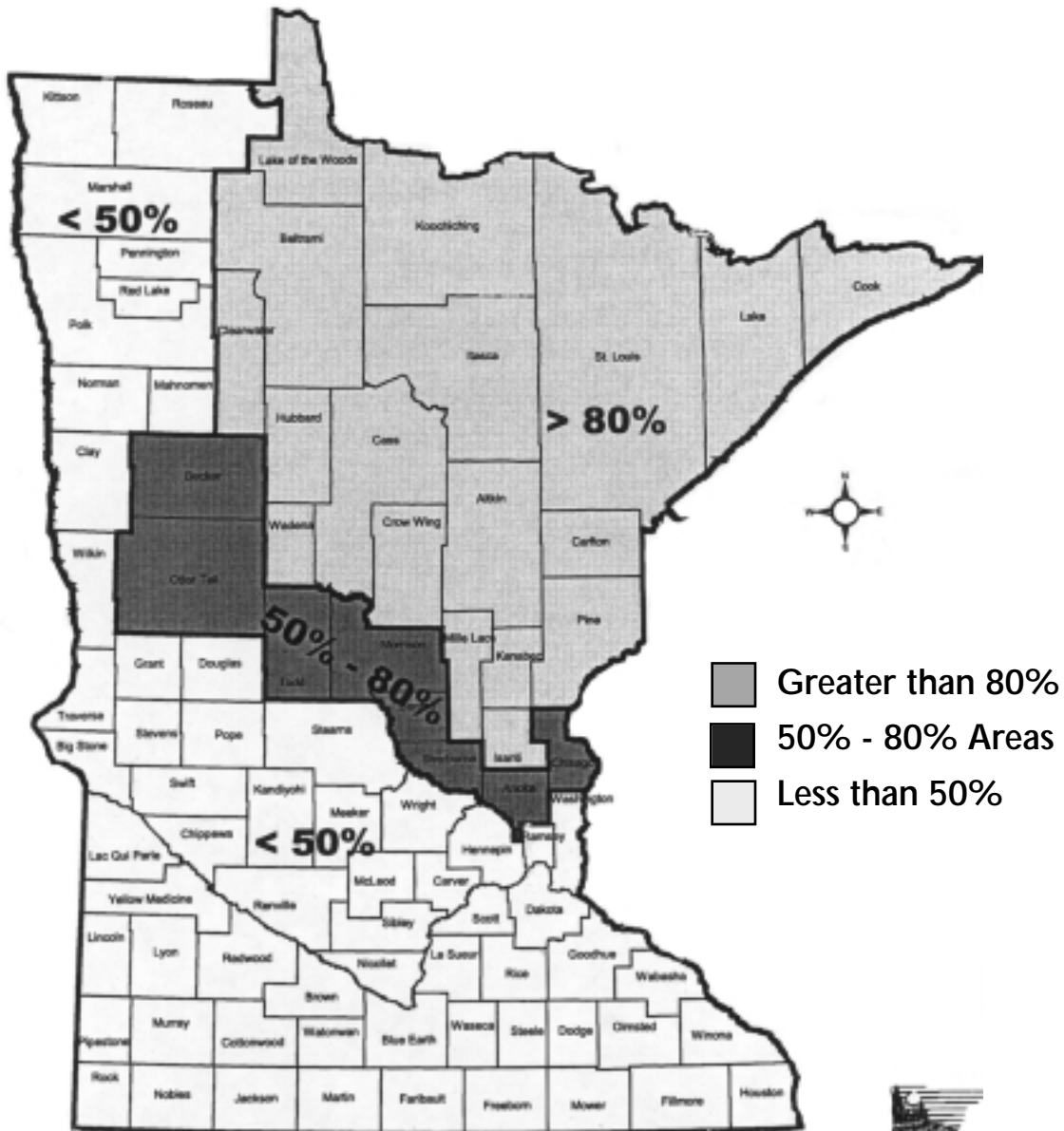
[For text of item B, see M.R.]

C. For purposes of this part, the following counties are 50 to 80 percent areas: Anoka; Becker; Benton; Chisago; Morrison; Otter Tail; Sherburne; and Todd; ~~and Wadena.~~

WETLAND AREAS

Figure 1. [Map is all new material.]

Minnesota Wetland Conservation Act Amount of Pre-Statehood Wetland Area Remaining



[For text of subs 6 to 9, 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.

Exempt Rules

Subp. 10. Evaluation of wetland functions and values.

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

B. Wetland types: wetlands classification equivalency chart. For purposes of this part, the following table serves as a key for using Table 2 (item D, subitem (1)) and Table 4 (part 8420.0550, subpart 3) and as a wetland classification equivalency chart for the wetland classification developed by the United States Fish and Wildlife Service (Cowardin et al. 1979), and the approximate wetland type from the *United States Fish and Wildlife Service Circular No. 39* (1971 edition).

Table 1. **Wetland Classification Equivalency Chart.** The Cowardin classification includes system, subsystem, class, subclass, and/or water regime. The Circular 39 wetland type is approximated.

Cowardin System	Circular 39
L1 (all)	5*
L2ABF	4
L2ABG	5
L2ABH	5
L2EMA	5
L2EMB	5
L2EMF	4
L2EMG	4
L2EMH	5
L2RS	5
L2UB	5
L2US	4
PABF	4
PABG	4
PABH	5
PEMA	1
PEMB	2, 8
PEMC	3
PEMD	3
PEME	2
PEMF	3
PEMG	4
PEMH	4
PEMJ	1
PEMU	3
PEMW	1
PEMY	3
PEMZ	4
PFOA	1L**
PFO1B	7
PFO2B	8 7
PFO4B	8 7
PFO5B	7
PFO6B	7
PFO7B	8 7
PFOC	7
PFOD	7
PFOF	7
PFOJ	1L**
PFOU	1L**
PFOW	1L**
PFOY	7
PLB	8
PRB (all)	5
PSSA	6
PSS1B	6

PSS2B	8
PSS3B	8
PSS4B	8
PSS5B	6
PSS6B	6
PSS7B	8
PSSC	6
PSSD	6
PSSF	6
PSSG	6
PSSH	6
PSSJ	6
PSSW	6
PSSY	6
PSSZ	6
PSSU	6
PUBB	<u>4</u> <u>3</u>
PUBF	4
PUBG	5
PUBH	5
PUS (all)	<u>4</u> <u>3</u>
R1	R2***
R2 (all)	R2***
R3 (all)	R3***
R4 (all)	R4***
R5	R4***

* *Circular No. 39* does not classify deep water as a wetland type, but for purposes of this table, these areas can be approximated as a type 5.

** 1L wetlands by *Circular No. 39* are Type 1 Bottomland Hardwoods.

*** No equivalent. *Circular No. 39* does not address riverine wetlands.

“K” water regimes are often municipal/industrial water facilities.

NOTE: In the case of wetland identified using the Cowardin system with both numerator and denominator wetland types, the numerator type is considered the dominant wetland type, with the exception that the denominator wetland type is to be used when the numerator wetland type vegetation is dead.

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.

STATE OF MINNESOTA WATERSHED BOUNDARIES - 1979
(81 MAJOR WATERSHED UNITS)

Figure 2.

[For map, see M.R.]

LIST OF 81 MAJOR WATERSHED UNITS OF MINNESOTA

- 1 Lake Superior (north)
- 2 Lake Superior (south)
- 3 St. Louis River
- 4 Cloquet River
- 5 Nemadji River
- 7 Mississippi River (Headwaters, Lake Winnibigoshish)
- 8 Leech Lake River
- 9 Mississippi River (Grand Rapids)
- 10 Mississippi River (Brainerd)
- 11 Pine River
- 12 Crow Wing River
- 13 Redeye River (Leaf River)
- 14 Long Prairie River
- 15 Mississippi River (Sartell)
- 16 Sauk River
- 17 Mississippi River (St. Cloud)
- 18 North Fork Crow River
- 19 South Fork Crow River
- 20 Mississippi River (Metro)
- 21 Rum River
- 22 Minnesota River (Headwaters)
- 23 Pomme de Terre River
- 24 Lac qui Parle River
- 25 Minnesota River (Granite Falls)
- 26 Chippewa River
- 27 Redwood River
- 28 Minnesota River (Mankato)
- 29 Cottonwood River
- 30 Blue Earth River
- 31 Watonwan River
- 32 Le Sueur River
- 33 Minnesota River (Shakopee)
- 34 St. Croix River (Upper)
- 35 Kettle River
- 36 Snake River
- 37 St. Croix River (Stillwater)
- 38 Mississippi River (Red Wing) and Lake Pepin
- 39 Cannon River
- 40 Mississippi River (Winona)
- 41 Zumbro River
- 42 Mississippi River (La Crescent)
- 43 Root River
- 44 Mississippi River (~~Nevo~~ Reno)
- 46 Upper Iowa River
- 47 Wapsipinican River (Headwaters)
- 48 Cedar River
- 49 Shell Rock River
- 50 Winnebago River (Lime Creek)
- 51 West Fork des Moines River (Headwaters)
- 52 West Fork des Moines River (Lower)

53	East Fork des Moines River
54	Bois de Sioux River
55	Mustinka River
56	Otter Tail River
57	Red River of the North (Headwaters)
58	Buffalo River
59	Marsh River
60	Wild Rice River
61	Sandhill River
62	Upper and Lower Red Lake
63	Red Lake River
65	Thief River
66	Clearwater River
67	Grand Marais Creek (Red River of the North)
68	Snake River
69	Tamarack River (Red River of the North)
70	Two River
71	Roseau River
72	Rainy River (Headwaters)
73	Vermillion River
74	Rainy River (Rainy Lake)
75	Rainy River (Manitou)
76	Little Fork River
77	Big Fork River
78	Rapid River
79	Rainy River (Baudette)
80	Lake of the Woods
81	Big Sioux River (Medary Creek)
82	Big Sioux River (Pipestone)
83	Rock River
84	Little Sioux River

C. Replacement ratios for in-kind replacement. When wetland functions lost as a result of drainage, ~~excavation,~~ or filling are replaced by ~~restoring a restored or created~~ restored or created wetland of the same type, ~~and having within the same topographic setting, county, or in the same watershed and with the same topographic setting ratio as described in item D, subitem (2), and related definitions,~~ the replacement shall be considered to be in-kind and the minimal replacement ratio shall be used to determine the necessary size of the replacement wetland. For impacted wetlands on agricultural land, or in ~~counties or watersheds in which greater than 80 percent or more of the presettlement wetland acreage exists~~ areas, the minimum replacement ratio is 1:1, requiring an equal area be replaced for the area impacted. ~~Except for counties or watersheds in which~~ For less than 80 percent ~~or more of the presettlement wetland acreage exists, areas~~ and for impacted wetlands on nonagricultural land, the minimum replacement ratio is 2:1, requiring two times the impacted area be replaced.

D. Out-of-kind replacement ratios. If the wetland functions lost as a result of drainage or filling are to be replaced by creating a wetland or restoring a wetland of a different type ~~or and~~ in a different topographic setting county than the impacted wetland, ~~or and if the replacement wetland is in a different watershed other than the impacted wetland or had different inlet and outlet characteristics than the impacted wetland,~~ the replacement shall be considered to be out-of-kind and the local government unit shall use the replacement ratios in ~~this subpart~~ Table 2 to determine the amount of replacement wetland needed to replace the lost wetland values.

~~(1) Wetland type ratio. Differences in wetland functions and values among wetland types are to be evaluated and replaced using the wetland type ratio table in this part, to be applied as specified in subitem (4). The wetland type ratio table incorporates an evaluation of public values as specified in Minnesota Statutes, section 103B.3355, for the purposes of comparison among wetland types.~~

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.

Exempt Rules

If a wetland to be drained or filled exhibits more than one wetland type as determined by the technical evaluation panel, and more than one wetland type is proposed to be drained or filled, the local government unit shall use the following procedure to determine needed replacement. The acreage of each wetland type to be converted to nonwetland impacted shall be determined. The wetland type ratio table shall then be used to determine the amount of replacement wetland for each wetland type. The sum of the replacement for each wetland type shall be the resultant acreage requirement for the wetland type ratio.

Table 2. Wetland type ratio values for use in determining wetland replacement ratios for out of kind replacement. *Circular No. 39* wetland types include Type 1 (seasonally flooded basin or flat), Type 1L (bottomland hardwoods), Type 2 (wet meadow), Type 3 (shallow marsh), Type 4 (deep marsh), Type 5 (shallow open water), Type 6 (shrub swamp), Type 7 (wooded swamp), Type 8 (bog), R2 (lower perennial river), R3 (upper perennial river), and R4 (intermittent river).

Impacted Wetland	Replacement Wetland					
	1	1L	2	3	4	5
1	1.0	1.5	1.0	1.0	1.0	1.5
1L	3.0	1.0	1.5	1.0	1.0	1.5
2	1.0	1.5	1.0	1.0	1.0	1.5
3	3.0	1.5	1.5	1.0	1.0	1.5
4	3.0	1.5	1.5	1.0	1.0	1.5
5	3.0	1.5	1.5	1.0	1.0	1.0
6	2.0	1.5	1.0	1.0	1.0	1.5
7	2.0	1.5	1.0	1.0	1.0	1.5
8	1.0	1.0	1.0	1.0	1.0	1.5
R2	3.0	1.5	1.5	1.0	1.0	1.0
R3	3.0	1.5	1.5	1.0	1.0	1.0
R4	2.0	1.5	1.5	1.0	1.0	1.0

Impacted Wetland	Replacement Wetland					
	6	7	8	R2	R3	R4
1	2.0	1.0	1.5	3.0	1.5	3.0
1L	2.0	1.5	3.0	2.0	1.5	2.0
2	2.0	1.0	2.0	3.0	1.5	3.0
3	3.0	1.5	3.0	3.0	1.5	3.0
4	3.0	1.5	3.0	3.0	1.5	3.0
5	3.0	1.5	3.0	2.0	1.0	2.0
6	1.0	1.0	2.0	2.0	1.5	2.0
7	2.0	1.0	2.0	3.0	1.5	3.0
8	2.0	1.0	1.0	2.0	1.5	2.0
R2	3.0	1.5	3.0	1.0	1.0	1.5
R3	3.0	1.5	3.0	2.0	1.0	2.0
R4	3.0	1.5	2.0	1.0	1.0	1.0

Replacement	Impact Location	
	>80% Area or Ag Land	<80% Area and Non-Ag Land
<u>In-Kind (same wetland type or same watershed or same county)</u>	<u>1:1</u>	<u>2:1</u>
<u>Out-of-Kind: direct replacement</u>	<u>1.5:1</u>	<u>2.5:1</u>
<u>Out-of-Kind: banking</u>	<u>1.25:1</u>	<u>2.25:1</u>

*See Table 1 of item B for wetland classification equivalency.

~~(2) Topographic setting ratio. If The topographic setting characteristics of a replacement wetland differ from those of the and an impacted wetland, the following ratios shall be applied, described as specified in subitem (4) topographic, shoreland, riverine, floodplain, flow-through, tributary, and isolated.~~

The topographic setting ratio does not apply when replacement for impacts within a greater than 80 percent area is accomplished in a less than 50 percent area or to wetland replacement projects conducted by the board for public transportation projects on existing roads.

Table 3. Topographic Setting Ratios.

Impacted Wetland	Replacement Wetland		
	Shoreland	Riverine	Floodplain
Shoreland	0	0.2	0.4
Riverine	0	0	0.2
Floodplain	0	0	0
Flow Through	0	0	0
Tributary	0	0	0
Isolated	0	0	0

Impacted Wetland	Replacement Wetland		
	Flow Through	Tributary	Isolated
Shoreland	0.6	0.8	1.0
Riverine	0.4	0.6	0.8
Floodplain	0.2	0.4	0.6
Flow Through	0	0.2	0.4
Tributary	0	0	0.2
Isolated	0	0	0

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.

Exempt Rules

~~(3) Local public value ratio. A local government unit may by ordinance establish additional local public value ratios to address wetland conservation or preservation issues of local concern. These ratios must have a minimum value of zero and should be based on wetland management objectives of a local water management plan adopted under *Minnesota Statutes*, chapter 103B or 103D. The local public value ratios must be applied as specified in subitem (4).~~

~~(4) Application of replacement ratios. The required replacement ratio for out of kind replacement shall be the sum of the wetland type ratio plus the topographic setting ratio plus the local public value ratio. When this ratio is less than the minimum in-kind ratio of 1:1 for wetlands on agricultural land or in greater than 80 percent areas, or 2:1 for wetlands on nonagricultural lands in less than 80 percent areas, the minimum in-kind ratio shall be the required replacement ratio.~~

E. Determining impacts of partial drainage. In cases where wetlands will be partially or incompletely drained, the amount of wetland to be replaced must be determined as follows:

The area impacted by partially draining a wetland is determined in two parts. The wetland area where the hydrology is totally removed must be replaced in its entirety. The area that is partially drained must be replaced in an amount that is at least 50 percent of the acreage of the remaining wetland area or determined by an assessment of the wetland functions listed in part 8420.0103, using a methodology chosen by the technical evaluation panel from one of the methodologies established or approved by the board.

~~Calculation of partial drainage is explained by the following example:~~

~~Partial drainage of a ten-acre Type 3 (PEMC) wetland to a five-acre Type 1 (PEMA) wetland would require replacing five acres of Type 3 wetland plus 2.5 acres of Type 3 wetland for a total of 7.5 acres of Type 3 acres of replacement wetland.~~

~~F. Determining credit for restoration of partially drained wetlands.~~

~~The determination of acres credited for fully restoring the hydrology of a wetland that has been partially, but demonstrably, affected by drainage, is in two parts. The first is the new wetland credit (NWC) caused by the restoration, for example, if the pre-restoration wetland is one acre and postrestoration will be three acres, the new wetland credit is two acres. The second credit is for the change in value of the prerestoration wetland acres. This is the public value credit (PVC) and is equal to 50 percent of the acreage of the prerestoration wetland.~~

~~The credit for increase in new acres can be used in its entirety. The public value credit can only be used for that portion of wetland replacement requiring greater than a 1:1 ratio.~~

~~Calculation of partial restoration credits is explained by the following example:~~

~~A partially drained five-acre Type 1 (PEMA) wetland is to be restored to its former state, which would be a ten-acre Type 3 (PEMC) wetland.~~

~~New Wetland Credit = five acres of Type 3 (PEMC) wetland~~

~~Public Value Credit = 2.5 acres of Type 3 (PEMC) wetland (50 percent of five acres of prerestoration acreage)~~

~~G. F. Alternative Evaluation Methodologies. The local government unit may evaluate the replacement plan using a scientifically accepted methodology that evaluates all wetland functions specified in *Minnesota Statutes*, section 103B.3355, for both the impacted and replacement wetlands. Such alternative methodologies must be approved by the board, in consultation with the commissioners of natural resources and agriculture, and local government units. Currently acceptable alternative methodologies include: "Minnesota Routine Assessment Methodology for Evaluating Wetland Functions" (Board of Water and Soil Resources, Version 1.0 2.0 - May 1996 September 1998); "Minnesota Wetland Evaluation Methodology (for the North Central United States)" (United States Army Corps of Engineers, September 1988); The Hydrogeomorphic Functional Assessment Methodology (as developed by the United States Army Corps of Engineers based on Wetlands Research Program Technical Report WRP-DE-3, August 1993); Oregon Freshwater Wetland Assessment Methodology (Oregon Division of State Lands, December 1993); and Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire (New Hampshire Department of Environmental Services, March 1991). Other methodologies may be used following board approval and publication in the *Environmental Quality Board Monitor*.~~

When using alternative evaluation methodologies to evaluate replacement plans, the ratio of impact wetland to replacement wetland must not be less than the minimum acreage requirements as listed in subpart 6, except as provided for in part 8420.0650, subpart 2. When using an alternative evaluation methodology to evaluate a wetland replacement plan, the replacement wetland must be projected to have an equal or greater functional level than the impacted wetland for each of the functions listed in part 8420.0103, unless the technical evaluation panel determines that the overall functional level for each of the functions will be maintained within the local government unit's jurisdiction.

~~H. G. Special cases or appeals. For projects of unusual complexity, or replacement plans that have been denied and are being appealed, and for which the local government unit believes an alternative evaluation process may produce a substantially different replacement requirement, the local government unit may evaluate the replacement plan using the current version of the Minnesota~~

wetland evaluation methodology or another scientifically accepted methodology approved by the board, in consultation with the commissioner, that evaluates all wetland functions and values for both the impacted and replacement wetlands.

When using a board-approved methodology to evaluate replacement plans, the ratio of impact wetland to replacement wetland must not be less than the minimum acreage requirements as listed in subpart 6. ~~Further, the topographic setting ratio in item D, subitem (2), and the local public value ratio, if any, in item D, subitem (3), must also be considered when using a board approved methodology.~~

~~F. H.~~ Adequacy decision. A replacement plan that fails to meet the requirements in items A to ~~H G~~ must be considered inadequate in replacing lost functions and values and shall not be approved by the local government unit. A replacement plan that has been considered by the local government unit and not approved may be revised and resubmitted for consideration by the local government unit. As required by part 8420.0250, the decision of a local government unit to approve, approve with conditions, or not approve a replacement plan becomes final if not appealed to the board within 15 days after the date on which the decision is mailed to those required to receive notice of the decision. ~~Before~~ Within 30 days of completing construction of ~~the a~~ replacement wetland ~~may proceed~~, the notice specified in part 8420.0530, item D, subitem (6), must be recorded and proof of recording provided to the local government unit.

8420.0650 LOCAL COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.

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

Subp. 2. **Plan contents.** A comprehensive wetland protection and management plan may:

A. provide for classification of wetlands in the plan area based on:

(1) an inventory of wetlands in the plan area;

(2) an assessment of the wetland functions listed in ~~Minnesota Statutes, section 103B.3355~~ part 8420.0103, using a methodology chosen by the technical evaluation panel from one of the methodologies established or approved by the board ~~under that section;~~ and

(3) the resulting public values;

B. vary application of the sequencing standards in ~~Minnesota Statutes, section 103G.222, subdivision 1, paragraph (b)~~ part 8420.0540, subpart 6, for projects based on the classification and criteria set forth in the plan;

C. vary the replacement standards of ~~Minnesota Statutes, section 103G.222, subdivision 1, paragraphs (f) and (g)~~ part 8420.0540, subpart 6, based on the classification and criteria set forth in the plan, for specific wetland impacts provided there is no net loss of public values within the area subject to the plan, and so long as:

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

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

E. in a greater than 80 percent area, based on the classification and criteria set forth in the plan, expand the application of the exemptions in ~~Minnesota Statutes, section 103G.2241, subdivision 1, paragraph (a), clause (4)~~ part 8420.0122, subpart 1, item D, to also include nonagricultural land, provided there is no net loss of wetland values.

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

Subp. 4. **Effective date; replacement decisions.**

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

B. After the effective date of the plan, a local government unit shall make replacement ~~decisions~~ and other determinations consistent with the plan.

[For text of subs 5 and 6, see M.R.]

8420.0720 PRINCIPLES OF WETLAND BANKING.

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

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

Subp. 2. **Sequencing prerequisite.** The state wetland banking system may only be used for replacement of drained or filled wetlands when the local government unit determines that the applicant has complied with all of the sequencing requirements of part 8420.0520; ~~that the project would otherwise be allowed if adequate replacement could be secured by the applicant; that project specific replacement is not reasonable or desirable;~~ and that the owner of the account agrees to the withdrawal of wetland banking credits from the account.

Subp. 3. **Geographic limitations.** Wetland banking is allowed for any impact; ~~however, wetland impacts should be replaced in a location that either most closely resembles lost functions and public values at the impact site or in a location that maximizes important wetland functions and public values~~ subject to the requirements of part 8420.0540, subpart 4.

[For text of subp 4, see M.R.]

Subp. 5. **Ineligible wetlands.** Wetlands that are drained or filled under an exemption in part 8420.0122 and subsequently restored are not eligible for deposit in the wetland bank. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in ~~a~~ the statewide wetlands bank.

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

Subp. 8. **Deed recording.** For wetlands proposed for deposit, a deed covenant in a format provided by the board or a conservation easement granted to and accepted by the state must be recorded ~~stating that the subject wetland was or will be restored or created for mitigation banking purposes~~ provides for perpetual preservation of the banked wetland's functions.

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

8420.0730 ADMINISTRATION AND MANAGEMENT AUTHORITY.

Subpart 1. **Establishment.** The board shall establish a state wetland bank. The board or the board's assignee is responsible for management of the bank including recording all bank transactions, maintaining bank records, and ensuring that the operation of the bank complies with parts 8420.0700 to 8420.0760. The board shall notify all local government units upon establishment of the bank. Any separate banking system including those established by local governments must comply with parts 8420.0700 to 8420.0760 and must be approved by the board and the commissioner.

Subp. 2. **Deposit prerequisites.** To be deposited into the wetland bank, a wetland must be certified as eligible for deposit by the local government unit in which it is located, according to part 8420.0740, subpart 1. The method of certification by local government units is optional, but wetland banking credits may not be deposited into the bank within that local government units jurisdiction without certification. If a local government unit elects to certify wetlands for the wetland bank, the local government unit is also responsible for ensuring that the monitoring provisions in part 8420.0750 are fulfilled. A local government unit may decline to certify all wetlands within its jurisdiction or, based on a comprehensive local water or wetland protection and management plan, a local government unit may elect to certify wetlands for deposit into the wetland bank only in selected areas, for example, high priority regions and areas. If the local government unit elects to reject or limit banking, it must do so by rule or ordinance, as applicable.

Subp. 3. [See repealer.]

8420.0740 PROCEDURES.

Subpart 1. Deposits and credits.

A. Restored wetlands are eligible for deposit into the wetland bank. Created wetlands are eligible for deposit in the wetland bank in counties in which 80 percent or more of the presettlement wetlands are intact. In other counties, created wetlands are eligible for deposit in the bank only if they are created by excavation in nonwetlands, by dikes or dams along public or private drainage ditches, or by dikes or dams associated with the restoration of previously drained or filled wetlands. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in ~~a statewide~~ the wetlands bank.

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

E. There is no maximum wetland acreage eligible for deposit in the wetland bank. The local government unit, upon recommendation of the technical evaluation panel, must identify the acreage that will receive credit. ~~As an incentive to encourage the deposit of small wetlands, the local government unit shall assign wetland banking credit to wetland acreage as follows:~~

Wetland Acreage	Wetland Banking Credit
0 to 10 acres	100 percent
over 10 acres	90 percent

~~The local government unit may modify the credit given, up to a maximum of 100 percent, if agreed to by the technical evaluation panel.~~

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

H. In cases where a wetland is proposed to be restored or created solely for wetland banking purposes, that is, the wetland is not part of a project-specific wetland replacement plan, the depositor must submit to the local government unit a bank plan containing the information required in part 8420.0530, items A and D.

A copy of the bank plan shall be mailed to members of the technical evaluation panel, members of the public who have requested a copy, ~~the commissioner of natural resources, the district office of the United States Army Corps of Engineers, and members of the watershed district or watershed management organization if there is one.~~ Based on input from the technical evaluation panel and other comments received, the local government unit must determine the likelihood that the restoration or creation will be successful and, ~~if affirmative,~~ approve, modify, or reject the banking plan and ~~advise the depositor of the wetland banking credits likely to be accepted into the wetland bank.~~ The local government unit decision must be made in compliance with Minnesota Statutes, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit decision must be mailed to the landowner within ten days of the decision. A summary of the government unit decision must be mailed within ten days of the decision to those required to receive notice of the application. Approval of the plan shall be considered official acknowledgment that the wetland is designated for replacement.

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

J. The proposed wetland must be restored or created within two years of approval or the bank plan must be resubmitted for consideration. Upon approval, the depositor shall restore or create the wetland and notify the local government unit when construction has been completed. The technical evaluation panel shall inspect the site when construction is completed to ensure that construction specifications and the vegetation management plan have been followed. Failure to follow approved construction specifications and the vegetation management plan is sufficient grounds for the local government unit to deny consideration of the wetland for banking.

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

L. The local government unit shall ~~notify the depositor of its findings as to the suitability of the wetland~~ consider the recommendations of the technical evaluation panel and comments from those required to receive a copy of the banking plan prior to developing findings and ~~approved~~ approving wetland banking credits. If the depositor chooses to proceed with a deposit into the bank, the depositor must record the notice specified in part ~~8420.0530, item D, subitem (6)~~ 8420.0720, subpart 8, and submit proof of the recording to the local government unit for the wetlands to be deposited. If the depositor chooses not to proceed with the deposit, the depositor may return the wetland to its preconstruction condition without replacement within five years. At any time within the five-year period, the depositor may request certification for the board to deposit any or all eligible and approved credits into the bank or may amend the bank plan and ~~submit~~ resubmit the plan to the local government unit for approval and ~~subsequent~~ board certification. After five years, any activity in the wetland is subject to this chapter.

M. To be deposited into the bank, the following information concerning the wetland must be submitted to the board by the depositor or by local government unit in which the wetland is located:

(1) name, address, and telephone number of the depositor;

~~(2) location of the wetland, including legal description, public land survey coordinates, county, and watershed~~ a complete copy of the bank plan, application and supporting documents, and a survey or accurate map of the land area that will be subject to restrictions;

(3) a copy of the deed for the property containing the wetland ~~with the required covenant recorded;~~

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

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

Subp. 2. **Withdrawals.**

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

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
--

Exempt Rules

B. ~~The use of the wetland bank is allowed~~ Wetland bank credits may be used to mitigate wetland losses authorized by local government units, or other local, state, and federal regulatory authorities provided the impacted wetland is within the state and the credit withdrawal procedures of this chapter are followed.

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

E. The applicant may then contact, negotiate, and purchase the required wetland banking credits from the account holder. When the account holder and applicant come to agreement, the applicant will provide requested information on a ~~notarized~~ wetland banking credit withdrawal form developed by the board, and include the wetland banking credit withdrawal form as part of the wetland replacement plan transmitted to the local government unit. The wetland banking credit withdrawal form will include information indicating the wetland type by acres for withdrawal, location of banked wetland, and the topographic setting characteristics and, if applicable, the new wetland credits and public value credits of the banked wetland.

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

G. On approval of the applicant's wetland replacement plan using wetland banking credits as wetland replacement, the local government unit shall notify the board to debit the appropriate banked wetland by type and acreage. The board will complete the accounting transactions and send a notice of wetland banking credit withdrawal to the account holder and the applicant. No sale withdrawal, transfer, or use of wetland credits is valid until the board debits a wetland bank account. Wetland credits may only be used once.

H. The applicant shall not be allowed to begin proposed drain or fill activities until the local government unit formally approves the wetland replacement plan using the acknowledged wetland banking credits as replacement and the applicant has received notice of withdrawal of the wetland banking credits from the board or local government unit.

I. An individual, corporation, local government unit, a state or federal agency, or other organization may buy and hold wetland banking credits from account holders in the bank for later use or resale. Transfer of wetland banking credits must be accomplished through use of a board wetland banking credit transfer form, and must be maintained in an account in the state wetland banking system. An account will be established for the individual or organization on presentation to the board of a wetland banking credit transfer form, and ~~required organization information~~ evidence that a conservation easement granted to and accepted by the state has been recorded. The board will notify both account holders on transfer of the wetland banking credits. ~~An account transfer must be accompanied by transfer of the fee title or easement. A wetland banking credit for a wetland may not be split between accounts. Wetland banking credits may also be transferred between banks approved by the board.~~

8420.0750 AUDITING AND MONITORING.

Subpart 1. Annual report and audit.

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

D. ~~An annual~~ A wetland bank status report shall be prepared as part of the report required by Minnesota Statutes, section 103G.2373, and distributed by the board to applicable local government units, soil and water conservation districts, watershed districts, watershed management organizations, the departments of natural resources and agriculture, and on request.

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

8420.1070 ENFORCEMENT PROCEDURES.

Enforcement procedures shall be conducted consistent with the provisions of Minnesota Statutes, sections 103G.141 and 103G.2372.

REPEALER. Minnesota Rules, part 8420.0730, subpart 3, 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 Relating to Turkey Hunting

NOTICE IS HEREBY GIVEN that the above entitled rule has been adopted through the process prescribed by *Minnesota Statutes*, section 84.027, subdivision 13 (b). The statutory authority for the contents of this rule is *Minnesota Statutes*, section 97A.435, 97B.711, and 97B.723.

Dated: 21 July 2000

Allen Garber
Commissioner of Natural Resources

6236.0300 TURKEY HUNT DRAWING.

Subpart 1. **License application drawings.** Drawings will be conducted by the department to determine persons who will be eligible to purchase licenses for each season. The drawings will be subject to the quotas established by the commissioner. Preference in the respective drawings is given to applicants based upon the number of times they have correctly applied for a license for that hunt but have been unsuccessful. A person selected by the drawings is eligible to purchase a license to hunt turkey. Upon issuance of a turkey license for the spring or fall season, all accumulated preference for that season is lost.

Subp. 2. **Participation in application drawings.** Applicants may complete an application ~~form as determined by the commissioner~~ for either the spring or fall turkey hunt or both. Qualifying individuals may apply for the resident landowner-tenant turkey drawing. All of the information in items A to G must be supplied on the application forms.

A. A resident applicant 18 years or older must provide the applicant's individual Minnesota driver's license number of 13 characters, a 13-character firearms safety number, or an official state of Minnesota identification number of 13 characters issued by the Department of Public Safety.

B. A nonresident 18 years or older must provide a driver's license number or other identification number.

C. A resident or nonresident applicant age 12 to 15 by the opening day of the season may provide one of the above numbers or may participate in the drawing without a number by providing the applicant's full first, middle, and last name and date of birth. Youthful applicants who do not provide a number will be placed into the drawing using a number generated by the department.

D. An applicant must choose one of the wild turkey permit areas and one of the time periods.

E. Up to four persons desiring to hunt together as a group may apply by submitting their drawing applications in one envelope. Applications by a group must all be for the same wild turkey permit area and time period. The person within a group with the lowest preference rating will determine the preference rating of the group. Properly completed applications which are submitted in one envelope will either all be selected or none selected. Mixing landowner-tenant applications with general applications will not be permitted for purposes of applying as a group. A person may apply individually or with one to three other hunters in a group. All group members, up to a maximum of four people, must apply for the same wild turkey permit area and hunt time. The first applicant of each group shall receive a group identification number that is printed on the receipt. The remaining group members must use the identification number when applying to be included in the group. The preference rating of a group shall be determined by the member who has the lowest preference level. Group applications may be made up of all general or all landowner-tenant applications, but not both. Applicants may not mix general and landowner-tenant applications.

F. A person who makes a faulty application or who applies as a landowner or tenant but does not meet the definition as provided by this part will be ineligible for that season's drawings.

G. Application deadlines are as follows:

- (1) spring season: the first Friday in December; and
- (2) fall season: ~~the Friday nearest June 29, July 28, 2000.~~

Subp. 3. **Landowner-tenant drawing.** A landowner-tenant license application drawing will be held subject to the restrictions in items A to F.

Expedited Emergency Rules

- A. An applicant must meet all eligibility requirements and must provide a complete and accurate description of the qualifying land.
- B. An applicant must be a landowner, tenant, or a member of the landowner's or tenant's immediate family.
- C. For each wild turkey permit area and time period, no more than 20 percent of the successful participants will be drawn from the special landowner-tenant applications.
- D. An individual participant in the landowner-tenant drawing may submit only one application and only for the turkey wild turkey permit area in which the participant resides.
- E. Applicants unsuccessful in the landowner-tenant drawing will be included in the general drawing.
- F. Landowner-tenant licensees must allow turkey hunting as provided by *Minnesota Statutes*, section 97A.435, and the commissioner will provide descriptions of these lands to licensed turkey hunters.

Subp. 4. **Modification of quota numbers for group applications.** The quota of licenses or permits for a drawing may be increased to accommodate group members if the last applicant to be selected is a member of a group.

Subp. 5. **Drawing application fee.** ~~An A resident applicant must submit, along with the application, a cashier's check, money order, or personal check payable to the Minnesota Department of Natural Resources.~~ pay a fee at the time of application at the electronic license system-point of sale (ELS-POS) agent. A nonresident applicant must pay a fee at the time of application, if using the ELS-POS, or submit a signed and dated worksheet with an application fee, for each individual, payable to the Minnesota Department of Natural Resources. Any check that is returned to the department for nonpayment will invalidate the application and the check will be destroyed. Refunds of application fees will not be made for any reason.

Subp. 6. **Undersubscribed wild turkey permit areas.** A second preference drawing may be held for undersubscribed time periods. All unsuccessful applicants for the wild turkey permit area that includes the undersubscribed time period will be eligible for the second drawing.

6236.0700 FALL TURKEY SEASON.

Subpart 1. **Open dates.** The fall turkey season consists of two five-day periods, the first period beginning the Wednesday nearest October 15 and the second beginning the Wednesday nearest October 22.

Subp. 2. **Shooting hours.** Shooting hours for turkeys during the fall season are one-half hour before sunrise to sunset.

Subp. 3. **Bag limit.** The bag limit for the fall season is one turkey of either sex or any age.

Subp. 4. **Open areas.** Permit areas shall be identified in application materials and on electronically issued licenses by their three-digit number. For combined permit areas, the first three digits shall be used. Wild turkey permit areas are open for the fall turkey season as prescribed by the commissioner. The following wild turkey permit areas are open for the 2000 fall season: 337-338; 339-462; 341-342; 343-347; 344; 345-348; 346; 349; 461; 464-465; and 466-467.

Subp. 5. **Registration.** Turkeys must be registered within 24 hours after being taken during the fall turkey season.

Subp. 6. **Turkey hunt quotas.** Permit quotas for the 2000 fall season are as follows:

2000 WILD TURKEY PERMIT AREA QUOTAS (FALL)

<u>Wild Turkey Permit Area</u>	<u>Time Period and Date</u>	
	<u>October 18-22, 2000</u>	<u>October 25-29, 2000</u>
<u>337-338</u>	<u>60</u>	<u>60</u>
<u>339-462</u>	<u>75</u>	<u>75</u>
<u>341-342</u>	<u>325</u>	<u>325</u>
<u>343-347</u>	<u>150</u>	<u>150</u>
<u>344</u>	<u>100</u>	<u>100</u>
<u>345-348</u>	<u>250</u>	<u>250</u>
<u>346</u>	<u>195</u>	<u>195</u>
<u>349</u>	<u>280</u>	<u>280</u>
<u>461</u>	<u>40</u>	<u>40</u>
<u>464-465</u>	<u>30</u>	<u>30</u>
<u>466-467</u>	<u>40</u>	<u>40</u>
<u>TOTAL</u>	<u>1,545</u>	<u>1,545</u>

Grand Total = 3,090

EFFECTIVE PERIOD. The emergency amendments to *Minnesota Rules*, part 6236.0300, expire 18 months after adoption. The emergency amendments to *Minnesota Rules*, part 6236.0700, subparts 4 and 6, expire December 31, 2000. After the emergency amendments expire, the permanent rules as they read prior to those amendments again take effect, except as they may be amended by permanent rule.

Revenue Notices

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

Department of Revenue

Revenue Notice # 00-08: Sales and Use Tax - Ready-mixed Concrete and Trucks; Revocation of Revenue Notice # 98-12

Statutory Authority

Minnesota Statutes, section 297B.03, clause (9), provides that ready-mixed concrete trucks (trucks that process ready-mixed concrete) are exempt from sales tax on motor vehicles. *Minnesota Statutes*, sections 297A.01, subdivision 16, and 297A.25, subdivision 42, provide that ready-mixed concrete trucks are exempt from sales and use tax as capital equipment. *Minnesota Statutes*, section 297A.01, subdivision 8, provides that sales and use tax applies to transportation, delivery, or other service charges relating to sales of ready-mixed concrete sold from a ready-mixed concrete truck. *Minnesota Statutes*, section 297A.25, subdivision 9, provides that petroleum and special fuels used for propelling ready-mixed concrete trucks on the public highways are taxable. These provisions are effective for sales and purchases made after June 30, 1998.

Sales Tax on Motor Vehicles

The registration of a ready-mixed concrete truck and the attached mixing unit with the Minnesota Department of Public Safety is not subject to sales tax on motor vehicles. Unlike other purchases of capital equipment, it is not necessary to pay the sales tax and apply for a refund. This up-front exemption does not apply to leases of ready-mixed concrete trucks or purchases of repair or replacement parts for the truck.

Capital Equipment Exemption

Sales or use tax must be paid on the lease of a ready-mixed concrete truck and purchases of repair or replacement parts for the truck. The purchaser or lessee may then make an application for refund of the sales or use tax paid according to the procedures found in *Minnesota Statutes*, section 297A.15, subdivision 5.

Sales Tax on Transportation, Delivery, and Other Service Charges

When determining the "sales price" of ready-mixed concrete, all transportation, delivery, and other service charges shall be included. Consequently, these charges are also subject to sales tax, regardless of whether the charges are stated separately from the concrete charge. "Other charges" include, but are not limited to, any charges for small loads, overtime unloading, early and late loads, Saturday delivery, government required testing, winter service and other service charges related to the sale and delivery of the concrete to the work site. Charges for pumping the finished ready-mixed concrete product from the ready-mixed concrete truck to the location of use at the job site are exempt from sales or use tax provided they are listed as a separate bid item and separately invoiced from any taxable charges.

Petroleum Products and Special Fuels

Fuels used to propel ready-mixed concrete trucks over the road are not exempt from the petroleum tax. However, fuels and lubricants used to operate power take-off units that run the mixer attached to the ready-mixed concrete truck qualify for a refund of Minnesota's state petroleum tax and are exempt from sales and use tax.

Revenue Notice # 98-12, "Sales and Use Tax - Transitional Period for Sales of Ready-Mix," is revoked because it is obsolete.

Jennifer L. Engh
Assistant Commissioner for Tax Policy

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 Administration

State Designer Selection Board (SDSB)

Meetings during August 2000

Pursuant to SDSB *Minnesota Rule* 3200.0400, below is the schedule of State Designer Selection Board meeting dates, times and agenda items as of July 19, 2000:

- **August 1, 2000**
 1. Shortlisting Project 00-16 Department of Veterans Affairs for the Further Development of the Minnesota State Veterans Cemetery
 2. Shortlisting Project 00-17 MnSCU/Bemidji State University for the Design of the American Indian Resource Center
 3. Interview/Selection Project 00-14 Winona State University for a New Science Building Addition and Renovation
- **August 8, 2000**
 1. Shortlisting Project 00-19 Veterans Home Board for Facility Repairs at the Veterans Home in Hastings
 2. Interview/Selection Project 00-16 Department of Veterans Affairs for the Further Development of the Minnesota State Veterans Cemetery
 3. Interview/Selection Project 00-17 MnSCU/Bemidji State University for the Design of the American Indian Resource Center
- **August 15, 2000**
 1. Shortlisting Project 00-18 Departments of Health, Human Services and Agriculture for the Predesign Services of Locating and Developing the Principal Administrative Offices of the Departments
 2. Interview/Selection Project 00-15 Itasca Community College for the Construction of an Engineering Technology Center
- **August 22, 2000**
 1. Interview/Selection Project 00-18 Departments of Health, Human Services and Agriculture for the Predesign Services of Locating and Developing the Principal Administrative Offices of the Departments
 2. Interview/Selection Project 00-19 Veterans Home Board for Facility Repairs at the Veterans Home in Hastings

Unless otherwise stated, all meetings are held in the Administration Building, 50 Sherburne Avenue, St. Paul, Room G-10/Conference Room A. Other matters may come before the Board and be added to the agenda as needed. For additional information, including meeting start times, contact Lisa Blue at (651) 297-5526.

Department of Agriculture

Rural Finance Authority

Notice of Change in Meeting Place

The location of the August meeting of the Rural Finance Authority Board has been changed. This meeting will start at 1:00 p.m., August 2, 2000, at the Country Kitchen, at the intersection of Highways 59, 212 and 7 on the south side of Montevideo, MN.

Curtis Pietz
RFA Director

Minnesota Department of Health

Health Policy and Systems Compliance Division

REQUEST FOR COMMENTS and Notice of Intent to Adopt Exempt Rules Regarding a Manual for Completion of the HCFA 1500 Paper Health Insurance Claim Form; Per *Minnesota Statutes*, section 62J.52, Subdivision 2, paragraph (b)

Introduction. Notice is hereby given that the Minnesota Department of Health (MDH) is seeking information or opinions from outside sources on a manual for completion of the HCFA 1500 paper health insurance claim form; as developed by the Administrative Uniformity Committee (AUC) and its Data Definitions Technical Advisory Group. The HCFA 1500 form was developed by the Health Care Financing Administration. The manual is a description of the conventions for completing the HCFA 1500 paper claim form.

Contact Person. MDH requests information and opinions concerning the applicability and functionality of the manual. Interested persons or groups may submit data or views in writing. Written statements should be addressed to Kristin Loncorich, MDH, P.O. Box 64975, St. Paul, MN 55164, **Internet:** at kristin.loncorich@health.state.mn.us or **fax:** (651) 282-5628.

Description of the Rules. *Minnesota Statutes*, section 62J.52 outlines the advantages of uniform billing formats to participants in the health care system. Further, the statute requires participants in the health care system to use the HCFA 1500 billing form for physician and allied provider claims. Under *Minnesota Statutes*, section 62J.61, the Commissioner of Health is exempt from chapter 14, including section 14.386, in implementing sections 62J.50 to 62J.54, subdivision 3, and 62J.56 to 62J.59. Because the Commissioner of Health has determined that it is unduly cumbersome to publish the entire text of the proposed rules, the Commissioner of Health is publishing this notice of the proposed rules with a detailed description.

Public Review Process. MDH will provide free copies of the draft manual in paper or electronic PDF format to persons and organizations interested in reviewing them against their current data requirements. The draft manual will be available as of July 31, 2000. **Comments and suggestions for improvements on this document will be accepted at the above address until Wednesday, August 30, 2000.** After the Commissioner of Health has considered all comments received, the Commissioner will publish a notice of adoption in the *State Register*. The rules will take effect 30 days after that.

How to Obtain the Manual for Completion of the HCFA 1500 Form Document. A free copy of the proposed rules is available upon request. Persons who wish to obtain a paper copy should call Tammy Goggeley at MDH, (651) 282-5650, or fax a request to (651) 282-5628 or write at the address above. The document will also be available for downloading on the **World Wide Web:** at <http://www.mhdi.org/auc>.

Dated: 31 July 2000

Jan K. Malcolm, Commissioner
Department of Health

Minnesota Higher Education Facilities Authority

Notice of Public Hearing on Revenue Obligations on Behalf of Order of St. Benedict

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to a proposal to issue revenue bonds or other obligations on behalf of Order of St. Benedict (the "University"), as owner and operator of St. John's University at the Authority's offices at Suite 450 Galtier Plaza, 175 East Fifth Street, St. Paul, Minnesota on August 16, 2000 at 2:00 p.m. Under the proposal, the Authority would issue its revenue bonds or other obligations in an aggregate principal amount of up to approximately \$14,950,000 to finance a project generally described as (a) construction of two residence halls for approximately 100 undergraduate and summer program students, (b) renovation of the first floor of Main Quadrangle, (c) renovation of the second floor and completion of the third and fourth floors of Sexton Commons and (d) reroofing of the Great Hall (collectively, the "Project"), owned or to be owned and operated by the University and located on its main campus, the street address of which is St. John's University, Collegeville, Minnesota, 56321.

At said time and place the Authority shall give all parties who appear or have submitted written comments an opportunity to express their views with respect to the proposal to undertake and finance the Project.

Dated: 31 July 2000

By Order of the
Minnesota Higher Education Facilities Authority
Marianne Remedios, Executive Director

United Auto Workers – Ford–MnSCU Training Center

Meeting of the Board of Directors

The UAW-Ford-MnSCU Training Center Board of Directors will meet on August 15 at 9:00 a.m., in the Conference Room of the Training Center.

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

Agriculture Market Services Division

Notice of Authority to Make Market Development Grants

The Minnesota Department of Agriculture announces its authority for fiscal year 2001 to make agricultural market development grants to encourage and promote marketing of Minnesota agricultural products as provided for in *Minnesota Statutes*, sections 17.101, subd 2, and 17.102, and *Minnesota Rules*, chapter 1552.

Grant applications may be received throughout the fiscal year and awarded at such time as funds may become available. Publication of this notice does not obligate the Minnesota Department of Agriculture to award grant funds. Copies of the rules governing the program and other related application materials are available. The rules describe eligibility criteria, application content, application procedures. The grant award for any project may not exceed \$70,000, and the total of all grants to any grantee may not exceed \$70,000 for the biennium ending June 30, 2001.

Other information may be obtained by contacting:

Paul Hugunin
Agriculture Marketing Services Division
Minnesota Department of Agriculture
90 West Plato Blvd.
St. Paul, MN 55107
(651) 297-5510

Minnesota Department of Agriculture

Agriculture Marketing Services Division

Notice of Authority to Make Value-Added Cooperative Grants

The Minnesota Department of Agriculture announces its authority for fiscal year 2001 to make agricultural market development grants to help farmers finance new value-added cooperatives that organize for the purposes of operating facilities and for marketing activities related to the sale and distribution of value-added agricultural products as provided for in *Minnesota Statutes*, sections 17.101, subd. 2 and subd. 5, and *Minnesota Rules*, chapter 1552.

Grant applications may be received throughout the fiscal year and awarded if funds are available. Publication of this notice does not obligate the Minnesota Department of Agriculture to award grant funds. Copies of the rules governing the program and other

related application materials are available. The rules describe eligibility criteria, application content, application procedures. The grant award for any project may not exceed \$50,000.

Application packet and rules may be obtained by contacting:

Terry Dalbec
Agriculture Marketing Services Division
Minnesota Department of Agriculture
90 West Plato Blvd.
St. Paul, MN 55107
(651) 215-0368

Department of Human Services Families with Children Division

Notice of Availability of Request for Proposals to Provide Services to Hard-to-Employ MFIP (Minnesota Family Investment Program) Families and to Working Participants in Need of Job Retention and Wage Advancement Services

SCOPE OF PROJECT

The Families with Children Division, Minnesota Department of Human Services, is seeking proposals to provide services to hard-to-employ MFIP (Minnesota Family Investment Program) families and to working participants in need of job retention and wage advancement services. Services provided must reduce the number of MFIP participants who are expected to reach the 60-month time limit. Services must be provided to enhance county's strategy for serving hard-to-employ MFIP participants. Projects may be proposed for a period of up to 30 months, beginning on or after **January 1, 2001**. This source of funding is TANF (Temporary Assistance for Needy Families) block grant from the U.S. Department of Health and Human Services. The estimated amount of funds available is 9 million dollars.

A complete copy of the RFP may be obtained by contacting Liza Witter at the address below. **Phone number:** (651) 297-5978. **email address:** liza.witter@state.mn.us. Questions may be addressed only to:

Gus Avenido
Department of Human Services
Families with Children Division
444 Lafayette Road
St. Paul, MN 55155-3834
(651) 296-1884
email: gus.avenido@state.mn.us

DHS will hold a Proposers Conference on August 11, 2000 at 1:00 P.M. in room 1A, Human Services Building, 444 Lafayette Road, Saint Paul.

All proposals must be received no later than 4:00 P.M. on September 29, 2000, in the manner specified in the RFP document. We reserve the right not to act on this Request for Proposals.

Department of Transportation
Office of Investment Management

Special Solicitation Announcement for Candidate Projects for Funding through the Transportation Revolving Loan Fund

NOTICE IS HEREBY GIVEN that the Minnesota Department of Transportation (Mn/DOT) is soliciting candidate projects for funding through the Transportation Revolving Loan Fund (TRLF). **The deadline for submitting applications is Friday, September 15, 2000.**

For those unfamiliar with the TRLF program, the TRLF operates much like a commercial bank, providing low-interest loans and other types of financial assistance on a competitive basis to governmental entities for eligible transportation projects.

The 2000 Legislature appropriated \$15 million to the TRLF to be used for highway projects such as road and bridge construction, right-of-way acquisition, certain utility work necessitated by highway reconstruction, etc. . . .

Candidate projects must be eligible under Federal Title 23 to apply for a loan. Federal Title 23 projects are those transportation projects that are eligible to receive federal funds under one of the existing programs administered by the Federal Highway Administration.

In addition, projects which get selected will be required to follow all Mn/DOT State and Federal Aid project development requirements.

The schedule for selecting candidate projects will be as follows:

- July 2000** - Solicitation announcement distributed and published
- Aug.-Sept. 15, 2000** - Applicants prepare and submit applications to TRLF Coordinators
- Sept. 15. - Nov. 17, 2000** - District/ATPs approve/prioritize applications and submit to Mn/DOT
- Nov. 17 - Dec. 2000** - Mn/DOT evaluates applications and selects projects
- Jan.- Dec. 2001** - Public Facilities Authority approves loans and enters into loan agreements

If you are interested in applying for a loan, please contact the applicable TRLF Coordinator listed below.

District/ATP 1

Gus Peterson
1123 Mesaba Avenue
Duluth, MN 55811
(218) 723-4960 Ext. 3325
Fax: (218) 723-4936
gus.peterson@dot.state.mn.us

District/ATP 2

Craig Collison
P.O. Box 490
Bemidji, MN 56619
(218) 755-3813
Fax: (218) 755-2028
craig.collison@dot.state.mn.us

District/ATP 3

Steve Voss
1991 Industrial Park
Brainerd, MN 56425
(218) 828-2471
Fax: (218) 828-2210
steve.voss@dot.state.mn.us

District/ATP 4

Lee Kessler
1000 Trunk Hwy. 10 West
Detroit Lakes, MN 56601
(218) 847-1553
Fax: (218) 847-1583
lee.kessler@dot.state.mn.us

District/ATP 6

Tony Hames
2900 48th Street N.W.
Rochester, MN 55901
(507) 285-7380
Fax: (507) 285-7355
tony.hames@dot.state.mn.us

District/ATP 7

Douglas Haeder
P.O. Box 4039
Mankato, MN 56002-4039
(507) 389-6870
Fax: (507) 389-6281
douglas.haeder@dot.state.mn.us

District/ATP 8

Patrick Weidemann
P.O. Box 768
2505 Transportation Road
Willmar, MN 56201
(320) 214-3753
Fax: (320) 231-5168
patrick.weidemann@dot.state.mn.us

Metro

Brian Vollum
Waters Edge Bldg.
1500 W. County Rd. B2
Roseville, MN 55113
(651) 582-1408
Fax: (651) 582-1368
brian.vollum@dot.state.mn.us

For questions specifically related to project eligibility, please contact:

Brad Larsen
Mn/DOT, Office of Investment Management
Transportation Building - Third Floor, MS 440
395 John Ireland Boulevard
St. Paul, MN 55155-1899
(651) 282-2170 **Fax:** (651) 296-3019
brad.larsen@dot.state.mn.us

For questions specifically related to financing and loan approval, please contact:

Jeff Freeman
MN Dept. of Trade and Econ. Development
500 Metro Square
121 7th Place East
St. Paul, MN 55101
(651) 296-2838 **Fax:** (651) 205-4226
jeffrey.freeman@state.mn.us

Or

Becky Sabie
MN Dept. of Trade and Econ. Development
500 Metro Square
121 7th Place East
St. Paul, MN 55101
(651) 297-3799 **Fax:** (651) 205-4226
rebecca.sabie@state.mn.us

The TRLF web site can be found at <http://www.oim.dot.state.mn.us>

Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$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

Request for Proposal (RFP) to Establish a Contract for an Automated Sticker/Title Printing System for the Minnesota Department of Public Safety

There will be a pre-proposal vendor conference on Thursday, August 3, 2000, from 12:30 to 2:00 p.m. CDT. This is **NOT** a mandatory conference.

Questions concerning the RFP terms and conditions or technical requirements must be sent to the Acquisition Management Specialist listed in the RFP by August 7, 2000.

Proposals will be due on August 22, 2000, at 3:00 p.m. CDT

Contact the Materials Management Division

50 Sherburne Ave.
St. Paul, MN 55155
(651) 296-2600 - **Phone**
(651) 297-3996 - **Fax**

to request a copy of the complete Request for Proposal.

Department of Administration
State Designer Selection Board

To Minnesota Registered Design Professionals: Request for Proposals for the Academic
Addition to Fond du Lac Tribal and Community College (Project 00-20)

The State Designer Selection Board has been requested to select consultants for a project. Design firms who wish to be considered for this project must deliver proposals on or before 12 p.m. (Noon), Monday, August 14, 2000, to:

Lisa Blue, Executive Secretary
State Designer Selection Board
Department of Administration
c/o Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, Minnesota 55155-3000
(651) 297-5526

PROPOSALS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

Questions concerning the Board's procedures herein described, or the schedule in Item 8.h, should be referred to the Executive Secretary at (651) 297-5526. Questions relating to the project must be referred to the project contact(s) in Item 8.i.

NOTE TO RESPONDERS: Changes May Have Been Made in the Content and Format Requirement. Proposals that Do Not Conform to the Following Content, Order and Format Requirements as Outlined in Items 1 through 5 below May Be Disqualified.

1. **The front cover of the proposal should be clearly labeled** with the project number and project title as shown at the top of this request for proposal, together with the designer's firm name, address, telephone number, fax number and the name of the contact person. The back cover should remain blank.
2. **All data should be on 8-1/2" x 11" sheets**, soft bound. No more than 20 printed faces should be included (see the following for clarification):
 - a. All letters directed to the Board should be bound into the proposal and all pages will be counted as printed face(s). It is not necessary to do a cover letter to the Executive Secretary.
 - b. Blank dividers (with printed tab headings only) will not be counted as faces.
 - c. Front and back covers of proposals will not be counted as faces.
 - d. None of the statutory or mandatory information, except as requested in Item 3 below, should appear on the dividers or covers.
 - e. All pages should be numbered.

Proposals that deviate from the above may be disqualified.

3. BRIEF PROPOSAL SUMMARY:

All proposals shall begin with a summary which includes only the following items:

- a. Name of firm and its legal status;
- b. Names of persons in leadership roles for project management, design and production of architecture; design of civil, structural, mechanical and electrical engineering, landscape architecture, land surveying, fire protection and geoscience for each and every discipline called for in Section 8.b. The name of each person so mentioned must also include their Minnesota registration number. Fire protection engineering requires a licensed fire protection engineer, identified by their number OR the engineering registration number accompanied in Section 4.b by a listing of past projects demonstrating competency in this field.

Consultants and assistants to the persons in leadership roles, as identified above, need not provide a Minnesota registration number. These individuals should be listed separately from those above.

- c. A statement indicating that the consultants listed have been contacted and have agreed to be a part of the design team;
- d. A commitment to enter into the work promptly, if selected, by engaging the consultants and assigning the persons named in Item 3.b above, along with adequate staff to meet the requirements of work;

Professional, Technical & Consulting Contracts

- e. At least one copy of the proposal must contain an original signature by an authorized member of the firm submitting the proposal, in ink, on the bottom of the first page of the proposal.
- f. A list of all State and University of Minnesota current and past projects and studies awarded to the prime firm(s) responding to this request for proposal during the four years immediately preceding the date of this request for proposal.

Projects and studies shall mean those projects and studies (1) funded by the state legislature, by state/user agencies or University of Minnesota operating funds, or by funding raised from the private sector or individuals by state/user agencies or the University of Minnesota; (2) awarded as a result of the State Designer Selection Board process or awarded directly by state/user agencies or the University of Minnesota without employing the State Designer Selection Board process; or (3) related to design-bid-build or design/build project delivery systems.

The prime firm(s) shall list and total all gross fees associated with the above projects and studies, whether the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid, or are anticipated to be paid, to engineering or other specialty consultants employed, or anticipated to be employed, on the projects and studies listed pursuant to the above. The prime firm(s) shall subtract consultant fees from gross fees to determine total net fees using the format below.

PROJECT	(A) GROSS FEES	(B) SUBDESIGNERS PORTION	(C) NET TOTAL PROJECT FEE
TOTAL			

(The total shown in column (A) shall equal the sum of those shown in columns (B) and (C).

4. ADDITIONAL MANDATORY PROPOSAL CONTENTS:

- a. A section containing graphic material (e.g., photos, plans, drawings, etc.) as evidence of the firm's qualifications for the work. The graphic material shall be identified. It shall be work in which the personnel listed in Item 3.b above have had significant participation and their roles shall be clearly described. It shall be noted if the personnel were, at the time of the work, employed by other than their present firms.
- b. Expanded resumes showing qualification of individuals, listed in Item 3.b above, administering or producing the major elements of the work, including consultants. Identify roles which such persons played in projects which are relevant to the project at hand.
- c. A discussion of the firm's understanding of and approach to the project.
- d. A listing of relevant past projects.

5. Eleven (11) copies of the proposal should be submitted.

6. Design firms wishing to have their proposals returned after the Board's review shall follow one of the following procedures:

- a. Enclose a *self-addressed, stamped* postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two weeks to pick up their proposals, after which time the proposals will be discarded; or
- b. Enclose a *self-addressed, stamped* mailing envelope with the proposals. When the Board has completed its selection, proposals will be returned using this envelope.

7. BOARD SELECTION CRITERIA:

In making its selection of designers the Board shall consider the criteria listed below:

Credit for the following criteria will equal not less than sixty percent.

- a. Qualifications and technical competence in the required field of design;
- b. Ability to deal with aesthetic factors;
- c. Project understanding and approach.

Professional, Technical & Consulting Contracts

Credit for the following criteria will equal up to forty percent.

- d. Capacity to accomplish the work and services within the required constraints;
- e. Availability of appropriate personnel;
- f. Geographic relationship of the designer's base to the project site; and
- g. Awards previously made to a designer by the state. This is in the interest of equitable distribution of commissions.

The criteria do not necessarily have the same weight, nor are their relative weights necessarily constant from one project to another. The Board may issue statements regarding criteria as they relate to individual projects.

Evaluations of the proposals shall be made independently by the Board members.

8. PROJECT 00-20

Fond du Lac Tribal and Community College Academic Addition
2101 14th Street
Cloquet, MN 55720

a. PROJECT DESCRIPTION:

The Fond du Lac Tribal and Community College (FDLTCC) is unique because of its co-governance with the Fond du Lac Band of Lake Superior Chippewa and the Minnesota State Colleges and Universities system. The uniqueness of being a tribal and state college is expressed in the curriculum and the architectural design of the college. The college offers American Indian and non-Indian students a quality basic liberal arts curriculum, while also offering strong Ojibwe language, history, arts, science, and culture courses. The building architecture is an exciting representation of the college's dual cultural nature. It has received an MSAIA honor Award for design excellence. Refer to *Architecture Minnesota*, September/October 1993, and pages 27-29 for a description of the dual cultural nature of this project. The project consists of an addition to the existing building. The additional space includes archives storage, general storage, computer lab, PC classroom, ITV classroom, performing arts studio, art studio, communication arts studio, chemistry/physics labs, environmental sciences lab, academic support spaces, student activity spaces, and student recreational spaces. The total GSF of the new addition is approximately 34,000 GSF.

b. REQUIRED CONSULTANT SERVICES:

The scope of the work includes full design, bidding and construction administration services for the project. Cost estimating; architectural; and civil, mechanical, electrical and structural engineering services are required. A roof design consultant designated by MnSCU will be assigned to and become an integral part of the consultant's design team.

c. SERVICES PROVIDED BY OTHERS:

None

d. SPECIAL CONSIDERATIONS:

Knowledge and familiarity in the design of dual cultural higher education facilities and sensitivity to the unique mission of FDLTCC is preferred. It is imperative that the architectural firm chosen will seek to compliment the existing facility, and blend the existing structure with the addition as a one building campus.

e. PROJECT BUDGET/FEES:

The total project cost may not exceed \$7.5 million. Design fees for the project are approximately 9 percent of the construction cost plus agreed upon reimbursable expenses. The amount of \$4.5 million has been appropriated by the 2000 Legislature and \$3.0 million has been raised by FDLTCC.

f. PROJECT SCHEDULE:

Design is expected to begin immediately upon selection; construction documents shall be complete for bidding in the spring of 2001; construction shall be complete by June of 2002.

g. PROJECT INFORMATIONAL MEETING(S)/SITE VISIT(S):

An informational meeting will be held on Tuesday, August 8 at 1 p.m. The meeting will be at Fond du Lac Tribal and Community College, 2101 14th Street, Cloquet, MN. To pre-register, call Gail Thomas at (218) 879-0811.

Professional, Technical & Consulting Contracts

h. STATE DESIGNER SELECTION BOARD SCHEDULE:

<i>Project Information Meeting and/or Site Visit:</i>	August 8, 2000,
<i>Project Proposals Due:</i>	August 14, 2000, by 12 p.m. (Noon)
<i>Project Shortlist:</i>	August 22, 2000
<i>Project Interviews and Award:</i>	September 5, 2000

i. PROJECT CONTACT(S):

Questions concerning the project should be referred to:

Jack Briggs, President
Fond du Lac Tribal and Community College
2101 14th Street
Cloquet, MN 55720
Phone: (218) 879-0800

Richard Cottle
State Division of Building Construction
G-10 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Phone: (651) 297-2208

9. CONTRACT REQUIREMENTS:

- a. The amended Minnesota Human Rights Act (*Minnesota Statute 363.073*) divides the contract compliance program into two categories. Both categories apply to any contracts for goods or services in excess of \$100,000. The first category applies to businesses who have more than 40 full-time employees within Minnesota on a single working day during the previous 12 months. The businesses in this category must have submitted an affirmative action plan to the Commissioner of the Department of Human Rights prior to the date and time set for the solicitation opening and must have received a Certificate of Compliance prior to the execution of the contract or agreement. The second category applies to businesses who have more than 40 full-time employees on a single working day in the previous 12 months in the State in which they have their primary place of business. The business in this category must either have an unexpired Certificate of Compliance previously issued by the Department of Human Rights, or certify to the contracting State agency that they are in compliance with federal affirmative action requirements before execution of the contract. This Certificate is valid for two (2) years. For further information, contact the Department of Human Rights, 190 East Fifth Street, Suite 700, St. Paul, MN 55101, (651) 296-5663 or (800) 657-3704.

The Department of Administration is under no obligation to delay award or execution of this contract until a vendor has completed the human rights certification process. It is solely the responsibility of the vendor to apply for, and obtain, a human rights certificate prior to contract award.
- b. Costs incurred in responding to this RFP shall be borne by the responder. In accordance with existing statutes, the Board shall retain one copy of each proposal submitted. Responses to this RFP become public information under the Freedom of Information Act after the final selection has been made.
- c. *Laws of Minnesota 1997*, require the successful responder to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution of the contract.
- d. *Laws of Minnesota 1997*, Chapter 202, Article 1, Section 12, Subdivision 2, require that during the biennium ending June 30, 1999, for an executive agency contract that is subject to *Minnesota Statutes*, Section 363.073 (over \$100,000 and subject to Human Rights Certification requirements), before the agency enters into the contract, should to the extent practical and to the extent consistent with the business needs of the State, ensure that the company to receive the contract attempts to recruit Minnesota welfare recipients to fill vacancies in entry level positions if the company has entry level employees in Minnesota.
- e. This RFP does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Minnesota State Colleges and Universities (MnSCU)

Anoka-Hennepin Technical College

Request for Proposals for Architectural and Engineering Consulting Services

1. PROJECT DESCRIPTION

Minnesota State Colleges and Universities (MnSCU) intends to retain architectural and engineering consulting services for HVAC system improvements; necessary repairs and remodeling; and related demolition of portions of the existing main building at Anoka-Hennepin Technical College (AHTC).

Design will be based on an approved predesign currently being prepared by *Studio Five Architects* that is expected to be completed by September 29, 2000.

The project includes the interior renovation and adaptive reuse of approximately 235,000 square feet; major repair and upgrade of the heating, ventilation and air conditioning (HVAC) systems; and modernization to meet applicable building and life safety codes. In addition, the design should include provisions for planned future site expansion for a STEP (Secondary Technical Educational Program) educational facility currently under design by Anoka-Hennepin School District Number 11 and planned for construction between June 2001 and September 2002. The STEP facility will be colocated on the College campus. Coordination of construction schedules and cooperation between all concerned parties will be required.

The existing building is one contiguous structure of approximately 334,000 square feet. The original building was constructed in the 1950's as a manufacturing plant with subsequent additions and adaptive reutilization as an educational facility. The facility consists of a single story, brick exterior with concrete block back-up walls with punched style windows, combination of BUR and EPDM single-ply roofs, and an aluminum front door entrance system. Interior reallocation of space will be required to allow for code upgrades and to maximize functionality of spaces. Significant improvements to the heating, ventilation and air conditioning systems are required for improved environmental control and indoor air quality considerations. Retention of the central boiler/chiller system is anticipated. Individual air handling units, currently suspended beneath the roof deck, will be replaced. A portion or portions of the building, up to 99,000 square feet, is anticipated for demolition following the parameters established by the master academic plan and predesign regarding program mix, functionality, spatial reallocation as well as parking required to accommodate the STEP facility. Most of the roofing system will be replaced under the project; however, design and execution will be performed by others.

2. REQUIRED CONSULTANT SERVICES

The selected Design Team shall provide a comprehensive scope of services, including Schematic Design (SD), Design Development (DD), Construction Documents (CD), and Construction Administration. Prepare and provide all SD, DD, and CD documents using a CADD technology in an electronic data exchange file format acceptable to MnSCU.

The Design Team will demonstrate experience in adaptive reuse, ADA compliance, efficient spatial reallocation, design of higher education facilities, particularly those in a technical/vocational environment, and other programmatic areas based on and planned from the AHTC Transition Team report dated June 16, 2000 and the approved predesign. Strong mechanical engineering capability and experience is expected, with demonstrated innovation in large scale HVAC retrofit work. The Design Team will provide all architecture, engineering, cost estimating, construction administration, project scheduling, site planning, electronic communication consultation, as well as all electrical, mechanical, structural, fire protection, and civil engineering services as required. The Design Team will provide coordination of all services with selected services provided by others.

Note: a roof design consultant designated by and under contract to MnSCU will be assigned to and become an integral part of the consultant's design team. The roof consultant's fee and scope of work is not included in this proposal.

3. SERVICES PROVIDED BY OTHERS

Asbestos abatement

Roofing

4. SPECIAL CONSIDERATIONS

Technical educational delivery methods, ability to design within a limited budget and cost analysis of alternatives, ability to project images of design for better understanding, phased and/or staged construction documents and/or construction. It is expected that some selected interior renovation work designed by the consultant would commence prior to the major contract in late calendar year 2000/early 2001.

5. PROJECT BUDGET / FEES

The project has been funded at the total cost of \$12,500,000. Note that the costs for roof repairs and replacements, including necessary design work, will be subtracted from the overall cost of the project. Remaining funds will be for design fees and reimbursables, site investigations and surveys, testing and inspection services, construction, furniture, fixtures, equipment, phased construction staging, spatial relocation, demolition and contingencies.

6. PROJECT SCHEDULE

Design complete: January 2001

The following preliminary schedule durations are suggested:

Schematic Design	September 29 - October 31, 2000
Design Development	November 1 - December 29, 2000
Possible special ordering and/or minor construction	January 2001 - June 2001
Construction Documents	January 1, 2001 - April 15, 2001
Bidding and Contract Award	April 15 - May 31 2001
Construction Administration (phased)	June 2001 - January to August 2002

7. PROJECT INFORMATIONAL MEETING(S) / SITE VISIT(S)

An informational meeting is tentatively scheduled for 1:00 p.m. on Friday, August 11, 2000, in the Administrative Conference Room at Anoka Hennepin Technical College, Anoka, MN. All firms interested in this meeting should contact Mailor Moua at 651-297-7862 to sign-up for the meeting.

8. SCHEDULE

Project Site Visits:	August 11, 2000
Project Proposal Due: to Sally Grans (address listed below)	August 22, 2000 @12:00 p.m. (noon)
Project Short List (or possible contract award):	September 6, 2000
Project Interview (if necessary)	September 13, 2000

9. PROPOSAL CONTENTS

- Provide full corporate name, resumes and registration numbers and overall structure of how the project will be implemented by key members of the team.
- Provide brief description of process for design methodology.
- Provide statement of understanding of the schedule and scope to be executed.
- Provide statement of technical college/vocational school design experience.
- Provide examples of ability to create perspective drawings and or other documentation to allow user groups to appropriately evaluate schematic design
- Provide six bond copies of no more than 40 face pages of 8 1/2" x 11" size.

10. SUBMISSION OF PROPOSALS

Proposals may be mailed or hand delivered to Minnesota State Colleges and Universities, 500 World Trade Center, 30 East 7th Street, St. Paul, MN 55101, attention Sally Grans, and must be received not later than 12:00 noon, August 22, 2000. Clearly indicate on the envelope "Anoka-Hennepin Technical College Renovation Project." After final selection all but one copy of the proposals will be available for pickup.

11. PROJECT CONTACT(S)

Sally Grans : Minnesota State Colleges and Universities; **phone:** (651) 296-7083 or **fax:** (651) 296-8488; **e-mail:** sally.grans@so.mnscu.edu; **mail address:** MnSCU, 500 World Trade Center, 30 East 7th Street, St. Paul, MN 55101

Roger Fernelius: Anoka-Hennepin Technical College; for details concerning condition of the existing physical plant; **phone:** (763) 576-4708.

Professional, Technical & Consulting Contracts

Minnesota State Colleges and Universities (MnSCU)

Minneapolis Community and Technical College

Request for Proposal for Construction Management Services at MCTC

NOTICE IS HEREBY GIVEN that Minneapolis Community and Technical College will receive proposals for Construction Management Services.

The Minneapolis Community and Technical College is soliciting proposals from qualified firms to assist with owner's representative construction management services for Minneapolis Community and Technical College's Library and Information Technology Center.

Specifically the consultant will be responsible for recommending aspects of construction design, contracting approach, budget tracking as well as providing on-site project supervision. The dates of service are anticipated to be on/about September, 2000 through April, 2002.

The project has completed Schematic Design and Design Development and is currently at the beginning of the Construction Documents Phase with Construction Documents expected to be completed later in 2000. Minneapolis Community and Technical College desires to involve the owner's representative in the construction document design process with more significant involvement when the project is under construction. Construction funding has been acquired and construction is expected to begin Spring, 2001.

This RFP does not obligate Minneapolis Community and Technical College to complete the proposed project and MCTC reserves the right to cancel the solicitation if it is considered in its best interest.

To receive proposal specifications, contact :

Administrative Affairs
Phone: (651) 772-7740
Fax: (651) 772-7631

Proposals are due by Thursday, August 10, 2000, 2 p.m.

Send proposals to:

Minneapolis Community and Technical College
Susan Nemitz
Vice President for Finance
1501 Hennepin Avenue
Minneapolis, MN 55403

MCTC reserves the right to reject any or all bids or portions thereof, or to waive any irregularities or informalities in proposals received.

Minnesota Historical Society

Request for Bids for Construction of the Jeffers Petroglyphs Visitor Center Addition and Reroof, Comfrey, Minnesota

The Minnesota Historical Society is seeking bids from qualified firms to provide all labor, materials, equipment and supplies to complete the construction of the Jeffers Petroglyphs Visitor Center Addition and Re-roof, in Comfrey, Minnesota. The work consists of a one story, 600 GSF Addition to the Visitor Center with masonry foundation walls, wood framed exterior walls, cedar siding, overhead garage door, wood truss at roof and standing seam metal roof. Work includes re-roofing existing building with standing seam metal roof. The existing water softening system will be relocated. New electrical circuits will be installed for lights and outlets.

The Request for Bids is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, Minnesota 55102. Telephone (651) 297-5863 (chris.bonnell@mnhs.org).

All bids must be received by Chris M. Bonnell, Contracting Officer for the Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, Minnesota, 55102 or an authorized agent no later than 2:00 p.m., Local Time, Monday, August 28, 2000. A bid opening will be conducted at that time. Bids must be submitted in a sealed envelope with the project name clearly written on the

Professional, Technical & Consulting Contracts

envelope. A Bid Bond must be included in the amount of 5% of the total base bid if the total base bid is over \$50,000. Late bids will not be considered.

Authorized agents for receipt for bids are the following: Mary Green-Toussaint, Contracting and Procurement Technician or any Work Service Center staff member in the Finance and Administration Division on the 4th Floor of the History Center. Bids may not be delivered to the information desk, to the guard or to any location or individual other than as specified above.

There will be a mandatory pre-bid meeting at the project site for all interested parties on Monday, August 21, 2000 at 10:30 a.m.

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

Minnesota Historical Society

Notice of Request for Bids for Printing Services

The Minnesota Historical Society is seeking bids from qualified presses to provide printing services for the Society's Museum Store shopping bags. Bids are being requested for the following quantities and sizes:

Shopping bags w/twisted paper handles

8" x 4" x 10" — 10,000

16" x 6" x 12" — 10,000

Merchandise bags (flat)

6.25" x 9.25" — 50,000

10" x 13" — 25,000

12" x 18" w/3" gusset

The bags will print w/heavy ink coverage and close registration. Each bag will print w/black and a PMS color. The PMS ink will differ from bag to bag. PDFs of artwork to be printed are available upon request.

The Request for Bids is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102. Telephone: (651) 297-5863. Complete specifications, bid format and details concerning submissions requirements are included.

Sealed bids must be received no later than 2 p.m., Central Time, Monday, Aug. 21, 2000. Late bids will not be accepted.

Authorized agents for receipt of bids are the following: Chris M. Bonnell, Contracting Officer, Mary Green-Toussaint, Contracting and Procurement Technician, or any Work Service Center staff member in the Finance and Administration Division on the Fourth Floor of the History Center. Bids may not be delivered to the information desk, to the guard, or to any location or individual other than as specified above.

PLEASE NOTE THAT THE ABOVE ADDRESS IS THE MINNESOTA HISTORY CENTER. IF BIDS ARE BEING HAND DELIVERED, VENDORS MAY PARK IN THE ON-SITE LOT, BUT SHOULD ALLOW ENOUGH TIME TO DELIVER THEIR STATEMENTS TO THE CONTRACTING OFFICE ON THE FOURTH FLOOR OF THE BUILDING. ACTUAL RECEIPT OF BIDS BY THE CLOSING TIME IS REQUIRED FOR CONSIDERATION.

Department of Human Services

Notice of Availability of Request for Proposal to Evaluate Concurrent Permanency Planning Program

Scope of Project

The Department of Human Services is seeking proposals for an evaluation of its Concurrent Permanency Planning Program. The program provides for the simultaneous development of two plans for a child who is in foster care: one plan for reunification with the parent or parents from whom the child was removed and another plan for permanent placement of the child away from the parent or

Professional, Technical & Consulting Contracts

parents in the event the reunification plan does not succeed in a timely manner. The department's program for concurrent planning is being implemented in every Minnesota county. A successful response will propose an evaluation of goals set by the legislature related to reducing the amount of time Minnesota children spend in foster care and the number of moves children experience from one foster home to another. The evaluation will be the basis of a report by the commissioner to the legislature by January 15, 2001.

A complete copy of the request for proposal may be obtained by contacting Sue Hanes by telephone, fax, e-mail, or at the address listed below. Questions regarding this request for proposal may be addressed in writing only to Ann Ahlstrom by fax, e-mail, or at the address below.

Sue Hanes
Family and Children's Services Division
Department of Human Services
444 Lafayette Road North
St. Paul, Minnesota 55155-3832
(651) 296-3800
fax: 651-297-1949
email: susan.hanes@state.mn.us

Ann Ahlstrom
Family and Children's Services Division
Department of Human Services
444 Lafayette Road North
St. Paul, Minnesota 55155-3832
fax: 651-297-1949
email: ann.ahlstrom@state.mn.us

DHS will entertain questions regarding this RFP until 8-11-2000. Written questions must be received **email:** or **fax:** to Ann Ahlstrom by 4:00 on that date or post-marked first class U.S. mail 8-8-2000.

All proposals must be received not later than 4:00 p.m. on August 23, 2000 in the manner specified in the RFP document.

Legislative Coordinating Commission

Request for Bid for Financial Audit for Fiscal Year 2000

The Minnesota Legislative Coordinating Commission is requesting proposals to audit the financial statements of the Commission for the fiscal year ending June 30, 2000. The audit is to be performed by an independent certified public accounting firm licensed to do business in the State of Minnesota

To obtain a copy of the complete Request for Bid, contact:

Chad Thuet
Minnesota Legislative Coordinating Commission
Room 85 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1298
phone: (651) 296-1121
email: chad.thuet@commissions.leg.state.mn.us

Proposals must be received by the Legislative Coordinating Commission at the above address no later than 4:00 p.m., on August 30, 2000.

Department of Military Affairs

Request for Proposal for Fort Ripley Cultural Resources Investigation

The Minnesota Department of Military Affairs is seeking proposals from qualified firms and individuals to conduct a comprehensive cultural resources investigation of the historic Fort Ripley located at Camp Ripley in Morrison County, Minnesota. The investigation will focus on a one-mile radius of land centered on Fort Ripley. The investigation will necessitate an intensive literature search and field assessment to ascertain the content and condition of the cultural resources at Fort Ripley and its associated properties, structures and features within the one-mile study site. The goal of the project is to develop guidelines for the long-term management of the cultural resources within the entire one-mile study site surrounding Fort Ripley. The proposed work plan and specifications were developed pursuant to the 1993 Camp Ripley Historic Preservation Plan (HHP) and the Integrated Cultural Resources Management Plan (ICRMP) for Camp Ripley (preliminary draft June 2000).

Professional, Technical & Consulting Contracts

The project scope consists of four primary tasks as follows:

1. Historical Literature Review
2. Phase I and II Field Survey and Testing
3. Preparation of Report and Treatment Plan
4. Project Management and Coordination

At least one individual representing the responder must be knowledgeable of the Secretary of Interior Standards for archeological field surveys.

The Request for Proposal is available by writing or calling, Mrs Suzanne Krueger, Contracts Officer, Minnesota Department of Military Affairs, Facilities Management Office, 15000 Highway 115, Little Falls, MN 56345-4173, **Telephone:** (320) 632-7573 or **email:** Sue.Krueger@mn.ngb.army.mil.

Proposals must be submitted in the format provided in the Request for Proposal. Proposals must be received not later than 4:30 p.m. Central Time, Wednesday, 23 August 2000. No late proposals will be accepted.

Department of Transportation Engineering Services Division

Notice of Availability of Contract for I-35W Segment 3 Final Design

The Minnesota Department of Transportation (Mn/DOT) is soliciting the proposals for Final Design services for the portion of I-35W located between Minnehaha Creek and 42nd Street in Minneapolis.

Work is proposed to start November 1, 2000.

Request for Proposals will be available by mail from this office through August 14, 2000. **A written request (direct mail or FAX) is required to receive the Request for Proposal.** After August 14, 2000, the Request for Proposal must be picked up in person.

The Request for Proposal can be obtained from the Agreement Administrator:

Alex Chernyaev, P.E.
Consultant Services Unit - 7th Floor North
Minnesota Department of Transportation
395 John Ireland Boulevard, Mail Stop 680
St. Paul, MN 55155
fax: (651) 282-5127

Proposals in response to the Request for Proposals in this advertisement must be received at the above address no later than 2:00 P.M. CDT on August 22, 2000. **Late proposals will not be considered.** No time extensions will be granted.

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

Professional, Technical & Consulting Contracts

Minnesota Veterans Homes Board

Luverne Veterans Home

Notice of Request for Proposals for Physical Therapy Assistant Services

The Minnesota Veterans Homes-Luverne is soliciting proposals for contracts, to provide physical therapy assistant services, on the site of the Veterans Home for residents of this nursing care facility.

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

These contracts may be let for a period on one year, beginning October 09, 2000. For details and a copy of the Request for Proposals, contact Anne C. Stegenga, Business Manager, at (507) 283-1100 x107, or write to Minnesota Veterans Home - Luverne, Attn: Anne C. Stegenga-Business Manager, PO Box 539, Luverne, MN 56156. All proposals must be received no later than 2:00 p.m. on September 18, 2000.

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *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.

Minnesota Airports Commission

Notice of Call For Bids for: A.) Three (3) 4 Dr., 4WD Utility Vehicles, B.) Two (2) 1500 GVWR Dump Trucks, C.) One (1) 1-Ton Cab & Chassis

Sealed bids will be received by the Metropolitan Airports Commission at its office at 6040 28th Avenue South, Minneapolis, MN 55450-2799, until 1:30 p.m., Local Time, TUESDAY, AUGUST 10, 2000, for the procurement of equipment described above and as outlined in the specification.

At that time and place the bids will be publicly opened and the names and address of those responding read aloud. If mailed the Commission's mailing address is 6040 28th Avenue South, Minneapolis, MN 55450-2799, **and bids to be considered must be received by the Commission by the date and hour set for opening of bids.**

Bids shall be according to the specifications. The Commission reserves the right to reject any or all bids or portions thereof, and to waive any minor irregularities or informalities therein. Copies of the Specifications may be obtained at the office of the Commission, 6040 28th Avenue South, Minneapolis, Minnesota 55450, **phone:** (612) 726-8146.

Dated: 24 July 2000

METROPOLITAN AIRPORTS COMMISSION
JoAnn Brown/Buyer-Administrator

Metropolitan Council

Request for Bids for Process Chemicals for the Seneca Wastewater Treatment Plant

Sealed bids will be received in the office of the Metropolitan Council, Environmental Services Division, (MCES), 230 East 5th Street, St. Paul, Minnesota 55101, for the delivery of following process chemicals for the Seneca Treatment Plant – Sodium Hydroxide, Sodium Hypochlorite, Liquid Sulfuric Acid – 40% and Sulfuric Acid – 40% Dry in 540# drums.

Bids will be received until WEDNESDAY, AUGUST 16, 2000 at 2:00 p.m., at which time and place the bids will be publicly opened and read aloud.

Copies of the specifications and bid instructions may be obtained from the offices of the Metropolitan Council or by **calling:** (651) 602-1499 or via **fax:** request at (651) 602-1083.

All bids to be considered must be submitted on **Council approved bid forms.**

The award will be based upon, but not necessarily limited to, factors of price, lead time, agreement to the terms and conditions and past experience with the Metropolitan Council.

The Metropolitan Council shall consider all bids received and intends to award a contract to the responsive and responsible bidder submitting the lowest total cost to the Council, by the due date and time, provided, however, that the Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions of any bid, to obtain new bids, or to proceed to do the work otherwise.

Metropolitan Council

Request for Bids for Postassium Permanganate for the Seneca Wastewater Treatment Plant

Sealed bids will be received in the office of the Metropolitan Council, Environmental Services Division, (MCES), 230 East 5th Street, St. Paul, Minnesota 55101, for the delivery of Potassium Permanganate for the Seneca Treatment Plant.

Bids will be received until TUESDAY, AUGUST 15, 2000 at 1:00 p.m., at which time and place the bids will be publicly opened and read aloud.

Copies of the specifications and bid instructions may be obtained from the offices of the Metropolitan Council or by **calling:** (651) 602-1499 or via **fax:** (651) 602-1083.

All bids to be considered must be submitted on **Council approved bid forms.**

The award will be based upon, but not necessarily limited to, factors of price, lead time, agreement to the terms and conditions and past experience with the Metropolitan Council.

The Metropolitan Council shall consider all bids received and intends to award a contract to the responsive and responsible bidder submitting the lowest total cost to the Council, by the due date and time, provided, however, that the Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions of any bid, to obtain new bids, or to proceed to do the work otherwise.

Metropolitan Council

Request for Bids for Liquid Aluminum Sulfate for Stillwater Wastewater Treatment Plant

Sealed bids will be received in the office of the Metropolitan Council, Environmental Services Division, (MCES), 230 East 5th Street, St. Paul, Minnesota 55101, for the delivery of liquid aluminum sulfate for the Stillwater Treatment Plant.

Bids will be received until TUESDAY, AUGUST 15, 2000 at 2:00 p.m., at which time and place the bids will be publicly opened and read aloud.

Copies of the specifications and bid instructions may be obtained from the offices of the Metropolitan Council or by calling: (651) 602-1499 or via **fax:** (651) 602-1083.

All bids to be considered must be submitted on **Council approved bid forms.**

Non-State Public Bids, Contracts & Grants

The award will be based upon, but not necessarily limited to, factors of price, lead time, agreement to the terms and conditions and past experience with the Metropolitan Council.

The Metropolitan Council shall consider all bids received and intends to award a contract to the responsive and responsible bidder submitting the lowest total cost to the Council, by the due date and time, provided, however, that the Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions of any bid, to obtain new bids, or to proceed to do the work otherwise.

Metropolitan Council

Invitation for Bids for Purchase of Eight (8) Passenger Shelters

The Metropolitan Council is soliciting sealed bids for the purchase of eight passenger shelters. Bids are due at 2 p.m., on August 8, 2000.

Bids must be submitted in accordance with the Invitation for Bids document available from:

Metropolitan Council
Metro Transit Purchasing Department
515 N. Cleveland Avenue
St. Paul, MN 55114
(612) 349-5070

Metropolitan Council

Notice of Request for Proposals for Conversion of Metro HRA File Room, Contract Number C-99-105

The Metropolitan Council is requesting proposals for Consultant Services to convert the Metro HRA file room, including replacement of file cabinet system, purging and reordering existing files, replacement file folders and implementation of new file tabbing system.

A tentative schedule for the project is as follows:

Issues Request for Proposals	August 1, 2000
Receive Proposals	August 29, 2000
Contract Go Ahead	September 12, 2000
Complete Project	November 30, 2000

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Jan Bevins, Purchasing Agent, Contract and Procurement Unit
Metropolitan Council Environmental Service
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101

Inquiries should be directed to Gordon Backlund at (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 modifications 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

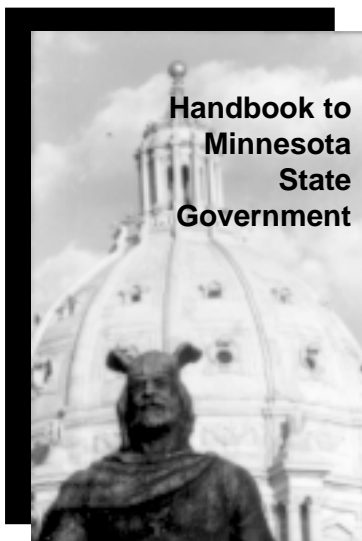
Notice of Bid Information Service (BIS) Available for All Potential Vendors

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* 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.



proudly presents —



Personalize your government, get involved . . . meet the "Ventura Administration", through the **NEW Handbook to Minnesota State Government**

Gov. Jesse Ventura says:
**"Celebrate citizen involvement in public life.
 Encourage public service.
 Invite real people...to participate
 in government."**

These are YOUR state agencies. Now you can contact them all, and make full use of the services paid for by your tax dollars. Work smarter. Save time and cut through red tape.

This easy-to-use Handbook has 60-pages packed with information you can put to use immediately: key points of contact in each state agency, and 34 photos of the top people in charge.

You also get hundreds of addresses, phone numbers, web sites, e-mail addresses, FAX numbers plus brief outlines of what each agency does for you.

Why wait to work smarter? Let your state government, and your taxes, go to work FOR YOU today. "It's the people's money," says Gov. Ventura, and he tells his state agencies "Do the right things and do them well."

Get your money's worth. Now you can reach them all, and make full use of your tax dollars. Don't wait. Put state government to work for you today.

Copies cost \$ 7.95 each + tax. Or, get the **BEST DEAL**: Order the NEW Handbook with the Minnesota Guidebook to State Agency Services 1996-1999 in a special package for only \$ 20.95. Together, they are a combination that will go to work for you immediately, and serve you well.

	117 University Ave., Room 110A St. Paul, MN 55155	<p>PREPAYMENT REQUIRED. Ordering is easy, delivery is fast when you place your order via phone or fax! (Credit card orders only, please). Receive delivery in 1-2 weeks! Mail orders accepted with payment by check or credit card. (Allow 4-6 weeks for delivery). American Express, Discover, MasterCard, and VISA accepted. Make checks * payable to "Minnesota's Bookstore". *A \$20 fee will be charged for any returned check.</p> <p style="text-align: center;">Price and availability subject to change.</p>
	Phone: 651/297-3000 metro area 1-800/657-3757 nationwide TTY: 651/282-5077 metro area 1-800/657-3706 nationwide FAX: 651/215-5733 www.comm.media.state.mn.us	

Send my order to:

Company _____

Name _____

Street Address (Not deliverable to P.O. boxes) _____

City () State Zip _____

Daytime phone (In case we have a question about your order) _____

Credit card number: _____

Expiration date: _____ Signature: _____

Stock No.	Title	Unit Cost	Quantity	TOTAL																																
1-1	Handbook to MN State Government	\$ 7.95																																		
1-5	Handbook AND Guidebook to State Agency Services '96-'99	\$20.95																																		
<table border="1"> <thead> <tr> <th colspan="2">Shipping Charges</th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>If Subtotal is ----</td> <td>Please Add:</td> <td>.....</td> <td>Subtotal</td> </tr> <tr> <td>Up to \$25.00</td> <td>\$3.00</td> <td>.....</td> <td>Applicable sales tax</td> </tr> <tr> <td>\$25.01-\$50.00</td> <td>\$5.00</td> <td>.....</td> <td>(6-1/2% MN residents</td> </tr> <tr> <td>\$50.01-\$100.00</td> <td>\$7.00</td> <td>.....</td> <td>7% St. Paul residents)</td> </tr> <tr> <td>\$100.01-\$1,000.00</td> <td>\$10.00</td> <td>.....</td> <td>Shipping</td> </tr> <tr> <td></td> <td></td> <td></td> <td>(based on Subtotal)</td> </tr> <tr> <td></td> <td></td> <td></td> <td>TOTAL</td> </tr> </tbody> </table>					Shipping Charges				If Subtotal is ----	Please Add:	Subtotal	Up to \$25.00	\$3.00	Applicable sales tax	\$25.01-\$50.00	\$5.00	(6-1/2% MN residents	\$50.01-\$100.00	\$7.00	7% St. Paul residents)	\$100.01-\$1,000.00	\$10.00	Shipping				(based on Subtotal)				TOTAL
Shipping Charges																																				
If Subtotal is ----	Please Add:	Subtotal																																	
Up to \$25.00	\$3.00	Applicable sales tax																																	
\$25.01-\$50.00	\$5.00	(6-1/2% MN residents																																	
\$50.01-\$100.00	\$7.00	7% St. Paul residents)																																	
\$100.01-\$1,000.00	\$10.00	Shipping																																	
			(based on Subtotal)																																	
			TOTAL																																	

State agencies please submit purchase order.

If tax exempt, please provide ES # _____



