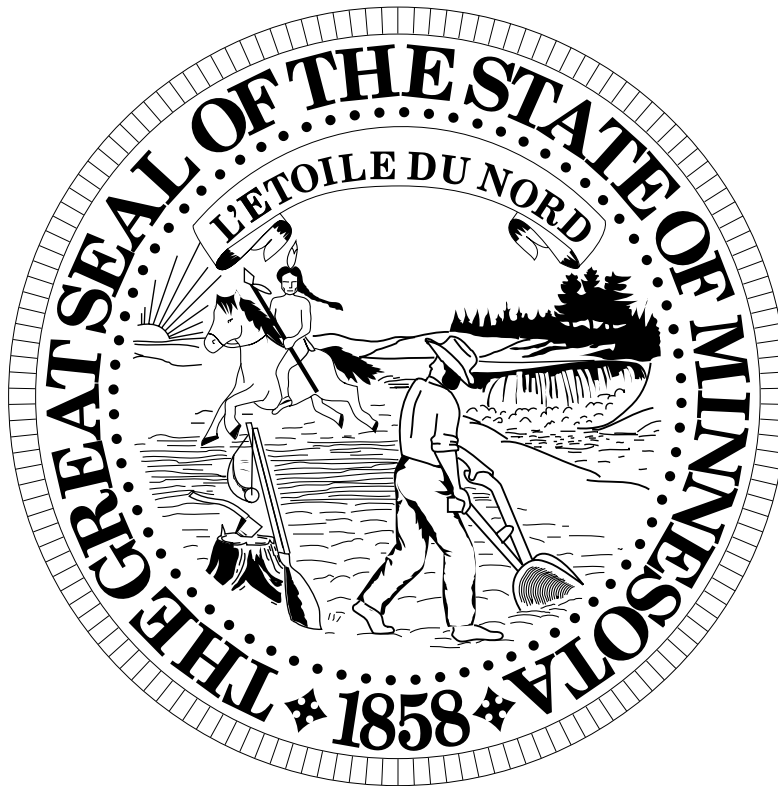


State of Minnesota

State Register

Rules and Official Notices Edition



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State Register

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

The *State Register* is the official publication of the State of Minnesota, 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- proposed, adopted, exempt, expedited emergency and withdrawn rules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
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#25	Monday 16 December	Noon Tuesday 10 December	Noon Wednesday 6 December
#26	Monday 23 December	Noon Tuesday 17 December	Noon Wednesday 11 December
#27	Monday 30 December	NOON MONDAY 23 DECEMBER	Noon Wednesday 18 December
#28	Monday 6 January	NOON MONDAY 30 DECEMBER	NOON TUESDAY 24 DECEMBER

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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.

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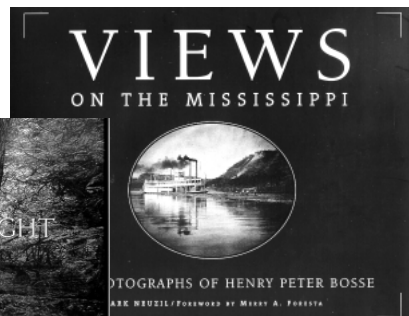
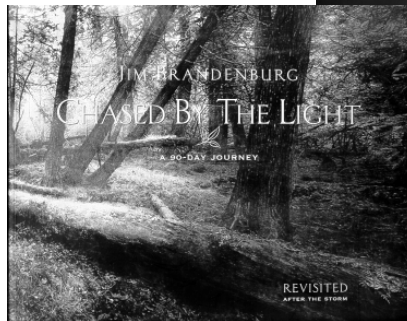
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Proposed Rules

Comments on Planned Rules or Rule Amendments

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

Rules to be Adopted After a Hearing

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

Rules to be Adopted Without a Hearing

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

Department of Commerce

Petroleum Tank Release Compensation Board

Proposed Permanent Rules Relating to Petroleum Tank Release Cleanup Fund

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 Permanent Rules Relating to Petroleum Tank Release Cleanup Fund *Minnesota Rules*, Chapter 2890: Proposed Repeal of *Minnesota Rules*, parts 2890.0072, 2890.0080, and 2890.0089.

Introduction. The Petroleum Tank Release Compensation Board 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 by 4:30 p.m. on January 15, 2003, a public hearing will be held in the video conference room on the 3rd floor of the Metro Square Annex Building, 130 E. 7th Street, St. Paul, Minnesota, 55101, starting at 9:00 am on Wednesday, February 19, 2003. Interested parties may also attend the hearing via video conference from the Lyon County Courthouse, First Floor, 607 W. Main Street, Marshall, Minnesota, 56258, and from the Crow Wing County Courthouse, Courthouse Multimedia Room, 326 Laurel Street, Brainerd, Minnesota, 56401. To find out whether the rules will be adopted without a hearing or whether the hearing will be held, you should contact the agency contact person after January 15, 2003, and before February 19, 2003.

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: James Pearson, Minnesota Department of Commerce, 85 7th Place East, Suite 500, St. Paul, MN 55101, **phone:** (651) 297-1119, **fax:** (651) 296-0201, **email:** james.pearson@state.mn.us. **TTY** users may call the Department of Commerce at (651) 297-3067.

Subject of Rules and Statutory Authority. *Minnesota Rules* Chapter 2890 (2001) governs reimbursement from the Petroleum Tank Release Cleanup Fund (Petrofund) for costs paid by applicants for the cleanup of petroleum contamination caused by releases from underground and aboveground petroleum storage tanks. The proposed amendments to the rules affect the forms, procedures, and cost guidelines that eligible applicants must understand in order to take full advantage of the reimbursement program as they comply with Minnesota Pollution Control Agency (MPCA) cleanup requirements. The statutory authority to adopt the rules is *Minnesota Statutes*, section 115C.07, subd. 3 (a) (2000). A copy of the proposed rules is published in the *State Register*. A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on Wednesday, January 15, 2003, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for

the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, January 15, 2003. 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 amendments. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when 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 valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

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

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules unless the procedure under part 1400.2110 has been followed. 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 February 19, 2003, 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) 297-1119 after January 15, 2003, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid 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 Beverly Jones Heydinger is assigned to conduct the hearing. Judge Jones Heydinger can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **phone:** (612) 341-7606, 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 be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

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Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota, 55155, **phone:** (651) 296-5148 or 1-800-657-3889.

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

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and of the date on which they are filed 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: 3 December 2002

James Pearson, Executive Director
Petroleum Tank Release Cleanup Fund

2890.0005 APPLICABILITY.

This chapter, as adopted at ... SR, applies to costs incurred for work performed on or after its effective date, excluding costs incurred for work performed as part of one of the steps of consultant services as described in part 2890.0075, as it existed prior to that effective date, for which the applicant began incurring costs before that effective date.

~~2890.0010~~ 2890.0015 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the terms in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 2a. **Applicant.** "Applicant" means a person ~~seeking~~ eligible under *Minnesota Statutes*, section 115C.09, to receive reimbursement ~~of costs~~ from the ~~Minnesota~~ petroleum tank release ~~compensation~~ cleanup fund.

Subp. 2b. **Board.** "Board" means the petroleum tank release compensation board.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 3a. **Consultant services.** "Consultant services" means the rendering of professional opinion, advice, or analysis regarding a release.

Subp. 3b. **Contractor services.** "Contractor services" means products and services within a scope of work that can be defined by typical written plans and specifications including, but not limited to, excavation, treatment of contaminated soil and groundwater, soil borings and well installations, laboratory analysis, surveying, electrical work, plumbing, carpentry, and equipment.

Subp. 4. **Corrective action.** "Corrective action" means an action taken to minimize, eliminate, or clean up a release to protect the public health and welfare or the environment.

Subp. 4a. **Limited use applicant.** "Limited use applicant" means an applicant who:

A. has not regularly sold petroleum to others;

B. seeks reimbursement for costs incurred in response to a release from a tank containing no more than 10,000 gallons of petroleum; and

C. is unlikely to have known of federal and state regulations applicable to the tank because of the nature of the applicant's business or use of the tank.

Subp. 5. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state.

Subp. 5a. **Prima facie unreasonable.** "Prima facie unreasonable" means unreasonable absent proof by a preponderance of the evidence.

~~Subp. 6. **Responsible person.** "Responsible person" means a person who is an owner or operator of a tank at any time during or after the release, except as provided in *Minnesota Statutes*, section 115C.021, subdivision 2.~~

Subp. 7. ~~Volunteer.~~ “Volunteer” means a person who:

- A. ~~is not a responsible person under *Minnesota Statutes*, section 115C.02;~~
- B. ~~holds legal or equitable title to the property where a release occurred; and~~
- C. ~~incurs reimbursable costs on or after May 23, 1989.~~

2890.0020 BOARD MEETINGS; TIME, PLACE, NOTICE.

Subpart 1. **Regular meetings.** A regular meeting of the board must be scheduled at least four times a year. A scheduled meeting may be canceled if there is insufficient business.

Subp. 2. **Special meetings.** A special meeting may be called by the chair or by written request of three board members.

2890.0030 VICE-CHAIR.

A vice-chair ~~shall~~ **must** be elected by the board at the first regular board meeting of each calendar year. The vice-chair ~~shall~~ **must** preside at regular and special meetings in the absence of the chair and perform other duties assigned by the board. If the vice-chair position becomes vacant, a vice-chair ~~shall~~ **must** be elected at the next regularly scheduled board meeting.

2890.0040 CONDUCT OF MEETINGS.

Subpart 1. **Quorum.** A quorum ~~shall consist~~ **consists** of three board members.

Subp. 2. **Minutes.** Meetings ~~shall~~ **must** be tape recorded and minutes prepared by staff.

Subp. 3. **Parliamentary procedure.** Except as specifically provided by statute or negotiation, Robert’s Rules of Order ~~shall~~ **must** govern questions that may arise at a meeting of the board.

Subp. 4. **Abstentions.** ~~The abstention of a board member or members does not prevent the remaining members from conducting a legal vote.~~

2890.0050 CONFLICT OF INTEREST.

~~When a member of the board who has a direct or indirect financial or employment interest relating to a matter before the board, which and when that interest is reasonably likely to affect the member’s impartiality or judgment in the matter, shall make known the member must reveal the interest and shall refrain from participating must not participate in, or voting vote upon, the matter. The abstention of a board member or members shall not prevent the remaining members from conducting a legal vote.~~

2890.0060 REIMBURSEMENT OF COSTS.

Subpart 1. **Generally.** ~~Each~~ **An** applicant eligible for reimbursement may apply to the board for reimbursement of eligible costs.

Subp. 2. **Conditions for reimbursement.** A reimbursement may not be made unless the board determines that the commissioner has determined that the corrective action has, or when completed will have, adequately addressed the release in terms of public health, welfare, and the environment.

Subp. 3. **Multiple applicants.** If there is more than one applicant who incurs reimbursable costs for a single release or at a single corrective action site, each applicant must apply separately for reimbursement. Not more than \$1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement.

Subp. 4. **Cost forgiven.** ~~A cost that has been forgiven by a consultant or contractor is not an incurred cost for the purposes of this chapter.~~

Subp. 5. **Cost subject to condition.** ~~A cost that has been made conditional by the consultant or contractor on a subsequent reimbursement determination is not an incurred cost for the purposes of this chapter.~~

2890.0065 REDUCTION OF REIMBURSEMENT AMOUNT.

Subpart 1. **Amount of reduction.** Pursuant to *Minnesota Statutes*, section 115C.09, subdivision 3, paragraph ~~(f)~~ **(i)**, the board ~~shall~~ **must** reduce the amount of reimbursement to be made to an applicant as follows:

A. The board ~~shall~~ **must** reduce the amount of reimbursement for failure to comply with state and federal rules and regulations applicable to the tank as follows:

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- (1) by 15 percent for failure to provide ~~adequate~~ corrosion protection;
- (2) by 15 percent for failure to provide ~~release~~ leak detection;
- (3) by 15 percent for failure to provide spill ~~or~~ and overfill ~~control~~ protection;
- (4) by ~~ten~~ 15 percent for failure to ~~use a certified contractor~~ provide secondary containment; and
- (5) by ~~ten~~ percent for failure to provide prior notice of tank removal;
- (6) by \$1,000 for failure to register an aboveground or underground tank. The amount of the reduction shall be \$200, rather than \$1,000, for a limited use applicant unaware of the registration requirement; and
- (7) by up to 50 percent for failure to comply with ~~any~~ a state or federal ~~rules~~ rule or ~~regulations~~ regulation applicable to the tank not specifically cited in this subpart.

B. For failure to ~~report a~~ give the agency notice of the release as required by *Minnesota Statutes*, section 115.061, the board ~~shall~~ must consider the timeliness of the release reporting in determining the amount of the reduction. The board ~~shall~~ must reduce the amount of reimbursement by a minimum of \$1,000. The minimum amount of the reduction ~~shall~~ must be \$200, rather than \$1,000, for a limited use applicant unaware of the reporting requirement.

C. For failure to cooperate fully with the agency in responding to the release, the board ~~shall~~ must reduce the amount of reimbursement by up to 50 percent.

~~D. For failure to exercise due care with regard to operation of the tank, the board shall reduce the amount of reimbursement by up to 50 percent.~~

Subp. 2a. **Calculations of reductions.** Percentage or dollar reductions ~~shall~~ must be applied as specified in this subpart. If the board imposes more than one dollar reduction on an application, the dollar amounts ~~shall~~ must be added together and the total dollar amount of reduction ~~shall~~ must be applied to the application. If the board imposes more than one percentage reduction on an application, the percentage amounts ~~shall~~ must be added together and then applied to the reimbursement request to determine a dollar amount of the reduction. If the board imposes both percentage and dollar amount reductions on an application, the dollar amount reductions ~~shall~~ must be applied after the percentage reductions.

Subp. 3. **Deviations.** The board may increase or decrease the amount of reduction by up to ~~50~~ 100 percent of the original amount of reimbursement, or use either dollar amounts or percentages for ~~any~~ a reduction, based on the following factors:

- A. the ~~likely environmental impact of~~ reasonable determination by the agency that the noncompliance poses a threat to the environment;
- B. whether the noncompliance was negligent, knowing, or willful;
- C. the deterrent effect of the award reduction on other tank owners and operators;
- ~~D.~~ the amount of reimbursement reduction recommended by the commissioner; and
- ~~D.~~ whether the noncompliance was negligent, knowing, or willful
- E. the documentation of noncompliance provided by the commissioner.

Subp. 4. **Multiple Supplemental applications.**

A. When the board imposes a reduction in the form of a percentage, the percentage for that reduction ~~shall~~ must continue to be imposed on ~~all subsequent~~ supplemental applications for the same release.

B. When the board imposes a reduction in the form of a dollar amount, the amount of the reduction ~~shall~~ must be a ~~one-time~~ onetime penalty. That dollar amount reduction ~~shall~~ must not continue to be imposed on ~~subsequent~~ supplemental applications unless necessary to fully impose the reduction.

2890.0070 ELIGIBLE COSTS.

Subpart 1. **Reimbursable corrective actions.** Costs associated with the following corrective actions may be eligible for reimbursement from the fund:

- A. Emergency response and initial site hazard mitigation. Costs may include, but are not limited to, those necessary to abate acute risks to human health, safety, and the environment.
- B. Temporary site hazard control measures. Costs may include, but are not limited to, temporary provision of drinking water and housing, initial abatement of vapors, and removal of free product.
- C. Investigation and source identification including, but not limited to, collecting and analyzing soil samples, testing the groundwater, testing adjacent drinking water supplies, tank integrity testing, and engineering services.

D. Development of a corrective action plan in accordance with the commissioner's requirements.

E. ~~Clean up~~ Cleanup of releases including, but not limited to, removal, treatment, or disposal of surface and subsurface contamination and provision of a permanent alternative water supply. ~~Clean up~~ Cleanup must be performed in accordance with a corrective action plan approved by the commissioner.

Subp. 3. **Documentation of eligible costs.** ~~It is the responsibility of~~ The applicant ~~to obtain~~ must get and ~~maintain all~~ keep records ~~that necessary to~~ document incurred costs submitted in an application for reimbursement for seven years from the date the application is submitted to the board. Among the records required are all invoices, time records, equipment records, receipts, proposals ~~for consultant services,~~ and bids ~~for contractor services.~~

~~2890.0071~~ **2890.0200 INELIGIBLE COSTS.**

Subpart 1. **Generally.** ~~All~~ Costs are not eligible for reimbursement when they are:

A. associated with actions that do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment ~~are ineligible costs;~~

B. not incurred by the applicant; or

C. not reasonable.

Subp. 2. **Specific items.** Among ineligible costs are:

A. costs related to the repair or replacement of tanks, upgrading tanks, removal of tanks, or abandonment of tanks in place;

B. loss of income, including the applicant's purported loss of income from land used for the treatment or disposal of contaminated soil generated from the applicant's leak site;

C. attorney's attorney fees or other fees charged by an attorney or by another person for providing legal or quasi-legal advice, filing appeals, or providing legal testimony;

D. costs for permanent relocation of residents;

E. decreased property values for the applicant's property;

F. ~~reimbursement~~ costs for the applicant's own time spent in planning ~~and performing~~ or administering a corrective action plan;

G. costs for aesthetic or site improvements;

H. costs for work performed that is not in compliance with safety codes including, but not limited to, Occupational Safety and Health Administration requirements, well codes, and fire codes;

I. per diem charges for sites less than 60 miles from an office of the person providing consultant services or contractor services;

J. costs for repair or restoration of ~~buildings, roads, yards, fences, or other structures, surfacing,~~ or land damaged by equipment used in the corrective action, unless the damage was ~~necessary to access the petroleum-contaminated soil~~ unavoidable to implement corrective action;

K. costs for the demolition, disposal, removal, repair, or replacement of the following items, when the demolition, disposal, removal, repair, or replacement is necessary to remove, repair, upgrade, or replace a tank:

(1) clean overburden;

(2) concrete, asphalt, or other manmade surfacing;

(3) pump islands, canopies, lights, or ~~any~~ other aboveground structures; or

(4) sewer lines, water lines, electrical lines, phone lines, fiber optic lines, or ~~any~~ other utilities;

L. costs for the removal of water from ~~the an~~ an excavation basin, unless ~~mandated~~ required by the agency as ~~a remedial part of~~ a corrective action;

M. site restoration costs for clean fill in excess of the agency-approved amount of petroleum-contaminated soil removed for disposal; ~~or~~

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N. administrative costs incurred in obtaining reimbursement from the board, including, but not limited to, compiling materials for and preparing applications to the board for reimbursement, responding to inquiries from the board or its staff, or appearing before the board;

O. costs for correspondence that result from avoidable noncompliance with agency deadlines, as determined by the agency;

P. costs for priority turnaround of laboratory analysis, unless requested by the agency;

Q. late payment fees;

R. fees charged by property owners for access to their property, unless charged by a political subdivision to preserve public safety;

S. interest costs other than those eligible for reimbursement under *Minnesota Statutes*, chapter 115C;

T. costs for a phase I or II environmental site assessment;

U. costs for work done solely to facilitate a property transfer;

V. administrative costs associated with acquiring business, preparing or responding to a request for proposal, or preparing invoices for services provided or performed;

W. costs to prepare specifications for, or get a proposal or bid for, contractor services other than system installation;

X. costs for reports not submitted to the agency or not required by the agency;

Y. costs for work determined by the agency to be incompetently performed;

Z. consultant markup charges; or

AA. costs for work performed after the agency has granted site closure, excluding:

(1) costs for well abandonment; and

(2) costs for tasks or items required by the agency to dismantle an approved corrective action system after its operation is no longer necessary and to remove the dismantled system from the site.

~~2890.0072 OVERVIEW OF RULES GOVERNING REASONABLENESS OF COSTS FOR CONSULTANT SERVICES.~~

~~The board shall approve for reimbursement only those costs for consultant services that meet the standards and requirements in parts 2890.0073 to 2890.0079. Part 2890.0073 sets forth the definition of terms related to consultant services. Parts 2890.0074 to 2890.0076 establish the requirement of a written proposal and invoice for each step of consultant services and the standard tasks and maximum costs for each step of consultant services. Part 2890.0077 states the requirements for competitive bidding in proposals for consultant services, and part 2890.0089 establishes standards for exemption from the competitive bidding requirement. Part 2890.0078 establishes criteria for the board in evaluating costs for consultant services that deviate from either the standard tasks or maximum costs for consultant services, or are higher than the costs stated in the written proposal for consultant services. Part 2890.0079 states the requirement for costs to be reasonable and necessary.~~

CONSULTANT SERVICES REIMBURSEMENT

2890.0073 DEFINITIONS RELATED TO CONSULTANT SERVICES.

~~Subpart 1. **Scope.** As used in this part and parts 2890.0074 to 2890.0079, the terms defined in this part have the meanings given them.~~

~~Subp. 1a. **Active remediation.** “Active remediation” means corrective actions such as free product removal, soil vapor extraction, air sparging, soil excavation, replacement of impacted drinking water wells, groundwater pump-out, and the installation of oxygen releasing compound.~~

~~Subp. 2. **Air emission testing.** “Air emission testing” means evaluation of air emissions from various groundwater or soil treatment systems to determine if the concentration meets the standard emission rate established by the agency.~~

~~Subp. 2a. **Annual monitoring report.** “Annual monitoring report” means the form required by the agency to report site monitoring results annually.~~

~~Subp. 2b. **Annual monitoring report preparation.** “Annual monitoring report preparation” means the labor and materials necessary to complete and submit the annual monitoring report to the agency, including, but not limited to, data analysis, data entry, drafting, photocopying, report review, shipping, and word processing.~~

~~Subp. 2c. **Applicant status update.** “Applicant status update” means a notification from the consultant to the applicant, in person or in writing, that explains the services performed, the data collected, and the recommendations for additional work.~~

Subp. 2d. **Aquifer determination.** “Aquifer determination” means the analysis of stratigraphic data and permeability measurements to determine whether the hydrogeologic unit is an aquifer as defined by the agency program that administers petroleum tank release cleanups.

~~Subp. 3. **Aquifer test.** “Aquifer test” means the design of a site specific hydraulic response test and the collection of data obtained from the test including hydraulic conductivity, storativity, transmissivity, recharge times, radius of influence, and pumpability rates. This generally involves removal of water by pumping at a constant rate over a specified time period based on aquifer characteristics.~~

Subp. 3a. **AST soil sampling.** “AST soil sampling” means soil sampling from the aboveground storage tank location.

Subp. 4. **Background review.** “Background review” means a search of records to establish the site history. It includes gathering information from the applicant’s records and public records. This information includes, but is not limited to, purchase and lease dates, operation dates, previous ownership, previous site use, current and previous underground storage tanks, current and previous waste oil tanks, types of products handled, current site status, tank and line testing results, inventory records, spill history, maintenance history, previous environmental assessments, and geologic setting.

~~Subp. 5. **CAD installation notification worksheet.** “CAD installation notification worksheet” means the completion and submission to the agency of a form that provides notification of Corrective Action Design (CAD) system start up, verifies system construction, and documents initial system emissions and operating parameters.~~

~~Subp. 6. **CAD system monitoring worksheet.** “CAD system monitoring worksheet” means the completion and submission to the agency of a form with equations and methods for calculating contaminant mass removal for various remediation technologies.~~

Subp. 6a. **Citizen contact.** “Citizen contact” means the labor and materials required to contact residents, property owners, business owners, and others to determine whether water wells, basements, or sumps exist on their property.

Subp. 6b. **Composted soil sampling.** “Composted soil sampling” means soil sampling from the compost pile.

Subp. 6c. **Composting monitoring worksheet.** “Composting monitoring worksheet” means the form required by the agency for reporting the results of follow-up sampling of a specific batch of composted petroleum-contaminated soil.

Subp. 6d. **Composting monitoring worksheet preparation.** “Composting monitoring worksheet preparation” means the labor and materials necessary to complete and submit the composting monitoring worksheet to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 6e. **Composting site application.** “Composting site application” means the form submitted to the agency to gain approval for a specific site to be used for the composting of petroleum-contaminated soil.

Subp. 6f. **Composting site application preparation.** “Composting site application preparation” means the labor and materials necessary to complete and submit the composting site application to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 7. **Contaminated soil stockpile soil sampling.** “Contaminated soil stockpile soil sampling” means soil sampling from the stockpile of petroleum-contaminated soil.

~~Subp. 8. **Corrective action alternative.** “Corrective action alternative” means the development of a conceptual design of a system or scheme for cleanup of petroleum contamination at a site.~~

~~Subp. 9. **Data reduction.** “Data reduction” means the evaluation and interpretation of analytical and field data.~~

~~Subp. 10. **Delineation decision/work plan.** “Delineation decision/work plan” means the development of a plan of action to determine the size and severity of the petroleum contamination and to determine from the data gathered in the course of investigation whether the extent of the petroleum contamination has been defined. This task includes a recommendation letter to the applicant for additional assessment, or if no additional assessment is necessary, a letter recommending that to the applicant.~~

Subp. 11. **Draftsperson.** “Draftsperson” means a person with a trade school diploma or the equivalent and at least one ~~or more~~ year of experience in computer-assisted design.

Subp. 11a. **Drill cuttings disposal management.** “Drill cuttings disposal management” means the making of arrangements with a permitted soil disposal facility for the disposal of petroleum-contaminated drill cuttings generated at a leak site during assessment activity.

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Subp. 11b. **Drilling oversight, log preparation, and soil sampling.** “Drilling oversight, log preparation, and soil sampling” means the oversight of the drilling of borings, including drilling log preparation and soil sampling.

Subp. 12. **Entry level professional.** “Entry level professional” means a person with:

A. a college degree in agricultural engineering, chemical engineering, civil engineering, environmental engineering, geological engineering, geotechnical engineering, soil science, geology, hydrogeology, or a related science, ~~and zero to three years of experience in performing the activities listed in this subpart;~~ or

B. ~~a high school degree and a minimum of at least~~ eight years of experience in performing a majority of the following activities:

- (1) report preparation;
- (2) field work preparation and planning;
- (3) supervision of site assessment activities;
- (4) system installation oversight;
- (5) limited data review and analysis; and
- (6) monitoring activities.

Subp. 13. **Equipment and field supplies.** “Equipment and field supplies” means the purchase or rental of equipment and supplies necessary to perform consultant services including, but not limited to, AccuVac ampoules, carbon dioxide meters, color charts, colorimetric ampoules, coolers, coring devices, decontamination fluids, direct reading probes, dissolved iron field analysis kits, electronic water level indicators, explosimeters, filtration devices, flame ionization detectors, flow cells, ice, membrane electrode probes, oil water interface indicators, oxide semiconductor total hydrocarbon detectors, personal protective gear, pH meters, photoionization detectors, ~~flame ionization detectors, electronic water level indicators, oil water interface indicators,~~ polyethylene bags, pumps, rope, sample containers, sample labels, sampling bailers, ~~explosimeters,~~ sampling gloves, steel tape, temperature probes, tubing, and ~~carbon dioxide meters~~ water-finding paste.

Subp. 14. **Excavation basin soil sampling.** “Excavation basin soil sampling” means soil sampling ~~of petroleum contaminated soil as it is excavated from the perimeter and bottom of the excavation basin and obtaining representative samples for submission to a laboratory for chemical analysis.~~

Subp. 15. **Excavation report.** “Excavation report” means the ~~preparation of a report submitted to form required by the agency that documents petroleum contaminant concentrations encountered during the~~ to document excavation process and treatment of petroleum-contaminated soil.

Subp. 15a. **Excavation report preparation.** “Excavation report preparation” means the labor and materials necessary to complete and submit the excavation report to the agency, including, but not limited to, data analysis, data entry, drafting, photocopying, report review, shipping, and word processing.

Subp. 16. **Field technician.** “Field technician” means a person who performs ~~environmental~~ field work, ~~including one or more of the following activities:~~

- A. ~~field work preparation and planning;~~
- B. ~~operation and maintenance of equipment;~~
- C. ~~well oversight and development;~~
- D. ~~waste disposal;~~
- E. ~~decontamination of equipment;~~
- F. ~~system installation oversight; and~~
- G. ~~monitoring activities.~~

Subp. 16a. **Field work notification and scheduling.** “Field work notification and scheduling” means the labor and materials required for the consultant to contact the applicant and subcontractors to schedule field work; to notify the agency, when necessary, of the results of field work; and to manage the project internally. It does not include submitting a report.

Subp. 16b. **Free product recovery report worksheet.** “Free product recovery report worksheet” means the form required by the agency to report interim free product recovery actions.

Subp. 16c. **Free product recovery report worksheet preparation.** “Free product recovery report worksheet preparation” means the labor and materials necessary to complete and submit the free product recovery report worksheet to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 16d. **Free product recovery through hand bailing or portable pump.** “Free product recovery through hand bailing or portable pump” means the recovery of free product from the leak site using hand bailing or a portable pump.

Subp. 17. ~~**Groundwater pump and treat system design.**~~ “Groundwater pump and treat system design” means the design of a remedial technology used to capture the contaminant plume by extracting groundwater and treating the effluent to meet discharge requirements.

Subp. 18. ~~**Groundwater receptor survey.**~~ “Groundwater receptor survey” means a qualitative survey performed to identify features such as surface water bodies and aquifer and water supply wells that potentially may be impacted if petroleum contamination is present.

Subp. 18a. **Groundwater sampling (other than permanent monitoring well).** “Groundwater sampling (other than permanent monitoring well)” means collecting water samples from a sampling point other than a permanent monitoring well to determine petroleum contaminant concentrations, quality assurance and quality control, and the amount of free product; filling, labeling, and preserving each sample vial; and completing chain-of-custody forms.

Subp. 19. **Groundwater sampling (permanent monitoring well).** “Groundwater sampling (permanent monitoring well)” means ~~the purging of~~ collecting water samples from a permanent monitoring well ~~by removing the number of well volumes required by the agency, the~~ to determine petroleum contaminant concentrations, quality assurance and quality control, and the amount of free product; filling, labeling, and preserving ~~of~~ each sample vial; ~~and water level measurement~~ completing chain-of-custody forms.

Subp. 20. ~~**Groundwater sampling analysis.**~~ “Groundwater sampling analysis” means quantifying the concentration of petroleum contaminants and inorganic compounds present in a groundwater sample.

Subp. 21. **Health and safety plan.** “Health and safety plan” means preparation of a site-specific document containing local, state, and federal safety data instructions and guidelines for health and safety.

Subp. 22. **Hydraulic conductivity estimate field test.** “Hydraulic conductivity ~~estimate field test~~” means ~~determining the rate at which groundwater can move through subsurface material~~ a test performed on a monitoring well to determine hydraulic conductivity, including a slug test, bail test, and pump test. It does not mean using a book value for hydraulic conductivity.

Subp. 23. ~~**Infiltration test.**~~ “Infiltration test” means the performance and oversight of a test to determine the rate which water introduced at the surface will infiltrate to the subsurface.

Subp. 23a. **Investigation report.** “Investigation report” means the comprehensive form required by the agency to document remedial investigation activities.

Subp. 23b. **Investigation report preparation (full RI).** “Investigation report preparation (full RI)” means the labor and materials necessary to complete and submit the investigation report to the agency when a full remedial investigation is necessary, including, but not limited to, aquifer determination, data analysis, data entry, drafting, photocopying, report review, shipping, and word processing.

Subp. 23c. **Investigation report preparation (LSI only).** “Investigation report preparation (LSI only)” means the labor and materials necessary to complete and submit the investigation report to the agency when only a limited site investigation is necessary, including, but not limited to, aquifer determination, data analysis, data entry, drafting, photocopying, report review, shipping, and word processing.

Subp. 23d. **Karst field survey.** “Karst field survey” means the labor, equipment and field supplies, and materials required to perform a qualitative survey to identify karst features and determine their landscape position; note where water moves across, into, and out of the landscape; and correlate the resulting data with information on depth to bedrock, surficial geology, and bedrock geology.

Subp. 23e. **Land treatment application.** “Land treatment application” means the form submitted to the agency to gain approval for the land treatment of a batch of petroleum-contaminated soil at an approved land treatment site.

Subp. 23f. **Land treatment application preparation.** “Land treatment application preparation” means the labor and materials necessary to complete and submit the land treatment application to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

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Subp. 23g. Land treatment monitoring worksheet. “Land treatment monitoring worksheet” means the form required by the agency for reporting the results of follow-up sampling of a specific batch of petroleum-contaminated soil spread at a land treatment site.

Subp. 23h. Land treatment monitoring worksheet preparation. “Land treatment monitoring worksheet preparation” means the labor and materials necessary to complete and submit the land treatment monitoring worksheet to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 23i. Land treatment site application. “Land treatment site application” means the form submitted to the agency to gain approval for a specific site to be used for the land treatment of petroleum-contaminated soil.

Subp. 23j. Land treatment site application preparation. “Land treatment site application preparation” means the labor and materials necessary to complete and submit the land treatment site application to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 23k. Land treatment spreading notification form. “Land treatment spreading notification form” means the form used to notify the agency that petroleum-contaminated soil approved for land treatment has been spread.

Subp. 23l. Land treatment spreading notification form preparation. “Land treatment spreading notification form preparation” means the labor and materials necessary to complete and submit the land treatment spreading notification form to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 23m. Land-treated soil sampling. “Land-treated soil sampling” means soil sampling from the land treatment site.

Subp. 23n. Minnesota Department of Health drinking water hotline contact. “Minnesota Department of Health drinking water hotline contact” means the labor and materials required to contact the Minnesota Department of Health drinking water hotline to find out whether the leak site is within a drinking water supply management area.

Subp. 24. Midlevel professional. “Midlevel professional” means a person with:

A. a college degree in agricultural engineering, chemical engineering, civil engineering, environmental engineering, geological engineering, geotechnical engineering, soil science, geology, hydrogeology, or a related science; registration as a professional engineer or other professional certification, if such certification is available; and at least four years of experience in performing one or more of the activities listed in this subpart; or

B. a graduate degree in the environmental sciences; registration as a professional engineer or other professional certification, if such certification is available; and at least three years of experience in performing one or more of the following activities;

- (1) project management;
- (2) engineering/equipment design;
- (3) report preparation;
- (4) data review and analysis;
- (5) field work planning;
- (6) work plan preparation;
- (7) site inspection; and
- (8) off-site access.

~~Subp. 25. Mileage. “Mileage” means a charge per mile to transport individuals to or from the leak site or other location necessary to provide consultant services.~~

~~Subp. 26. Monitoring well. “Monitoring well” means a well constructed for the purpose of measuring water levels and collecting representative groundwater samples.~~

~~Subp. 26a. Monitoring well abandonment oversight. “Monitoring well abandonment oversight” means the time required to oversee the permanent discontinuation of a monitoring well according to applicable well codes.~~

~~Subp. 26b. Monitoring well development. “Monitoring well development” means the work required to remove drilling fluid and to ensure that an adequate hydraulic connection exists between a monitoring well and the aquifer.~~

~~Subp. 26c. Monitoring well installation oversight and development. “Monitoring well installation oversight and development” means the oversight of the at-grade or above-grade completion of a monitoring well from a completed soil boring, including monitoring well development and monitoring well installation log preparation.~~

~~Subp. 27. MPCA conference call. “MPCA conference call” means a conference call among the agency, the applicant, and the consultant.~~

Subp. 28. **Off-site access acquisition time.** “Off-site access acquisition time” means the ~~process of obtaining~~ time spent by the consultant getting permission from property owners other than the applicant to enter their property for the purpose of doing to do a remedial investigation or ~~implementing~~ carry out a corrective action plan.

Subp. 29. **Passive bioremediation risk assessment.** “Passive bioremediation risk assessment” means the ~~analysis of the effectiveness and risks involved in allowing microorganisms to break down petroleum products in the soil and groundwater naturally without the use of any corrective action technology.~~

Subp. 30. **Per diem.** “Per diem” means ~~per day costs incurred by the consultant~~ per day costs for meals and lodging when the distance to the leak site makes it more cost-effective ~~for the consultant~~ to lodge overnight near the leak site.

Subp. 30a. **Photocopying.** “Photocopying” means making copies of a report or worksheet submitted to the agency.

Subp. 31. **Piezometer installation.** “Piezometer installation” means the ~~conversion of a small diameter soil boring to a non-pumping well used to measure the elevation of the water table or potentiometric surface.~~

Subp. 32. **Piezometer installation oversight.** “Piezometer installation oversight” means the oversight of the conversion of a small diameter soil boring to a nonpumping well used to measure the elevation of the water table or potentiometric surface.

Subp. 33. **Project management and administration.** “Project management and administration” means the documented management of the project. It includes preparing and submitting status reports, tracking regulatory issues, producing additional assessment or monitor only recommendation letters, and managing subcontracts. It does not include field work or data analysis.

Subp. 33a. **Quarterly monitoring report.** “Quarterly monitoring report” means the form required by the agency to report quarterly site monitoring results for the period after the investigation report is submitted until that form is reviewed by agency staff.

Subp. 33b. **Quarterly monitoring report preparation.** “Quarterly monitoring report preparation” means the labor and materials necessary to complete and submit the quarterly monitoring report to the agency, including, but not limited to, data analysis, data entry, drafting, photocopying, report review, shipping, and word processing.

Subp. 34. **Remedial action decision.** “Remedial action decision” means the ~~conferences between the consultant and the applicant at which the assessment data is discussed and, if appropriate, a conference call among the agency, the applicant, and the consultant.~~

Subp. 34a. **Report.** “Report” means a report required by the agency as a necessary part of corrective action.

Subp. 35. **RI/CAD report.** “RI/CAD report” means ~~compilation of all data at the time the vertical and horizontal extent of the petroleum contamination has been determined. The CAD portion of the report must include all reduced data from the CAD field tests.~~

Subp. 35a. **Sample shipping and transportation.** “Sample shipping and transportation” means the cost to ship or transport air, groundwater, or soil samples to a laboratory for analysis, and the labor and materials required to count, package, and prepare shipping paperwork for the samples.

Subp. 36. **Senior level professional.** “Senior level professional” means a person with:

A. a college degree in agricultural engineering, chemical engineering, civil engineering, environmental engineering, geological engineering, geotechnical engineering, soil science, geology, hydrogeology, or a related science; registration as a professional engineer or other professional certification, if this certification is available; and at least eight years of experience in performing one or more of the activities listed in this subpart; or

B. a graduate degree in the environmental sciences; registration as a professional engineer or other professional certification, if the certification is available; and at least seven years of experience in performing one or more of the following activities:

- (1) project oversight;
- (2) project management;
- (3) aquifer characterization;
- (4) review of technical reports;
- (5) review of remedial plans; and

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(6) data review and analysis.

Subp. 36a. Sewer vapor survey. “Sewer vapor survey” means the labor, equipment and field supplies, and materials required to perform the tasks required by the agency to determine whether petroleum vapors have accumulated in sanitary and storm sewers within 500 feet of the source of the release.

Subp. 36b. Shipping. “Shipping” means mailing an agency-required form, report, or worksheet to the applicant and agency.

Subp. 37. Site monitoring worksheet. “Site monitoring worksheet” means the preparation and submission to the agency of a form providing information about groundwater or vapor impact.

Subp. 38. Soil boring drilling. “Soil boring drilling” means the drilling of holes in the ground to determine soil structure or to monitor for the presence of contaminants in soil.

Subp. 39. Soil boring oversight. “Soil boring oversight” means the oversight of the drilling of borings, including soil sampling, logging, and field screening of materials encountered during the installation of borings.

Subp. 40. Soil borings. “Soil borings” means holes drilled in the ground to determine the lithologic log or monitor for the presence of contaminants in soil.

Subp. 41. Soil excavation corrective action plan. “Soil excavation corrective action plan” means the design of a remediation technology that removes petroleum contaminated soils from the ground and treatment by landfarming, thin spreading, composting, incineration, or other agency approved methods.

Subp. 42. Soil field screening and sampling. “Soil field screening and sampling” means the collection and screening of soil samples that are not collected or screened as part of excavation basin soil sampling, soil boring oversight, soil test pit oversight, or contaminated soil stockpile sampling.

Subp. 43. Soil sampling. “Soil sampling” means the collection of field screening and collecting soil samples and the to determine grain size, organic vapor concentrations, quality assurance and quality control, stratigraphy, and the amount of free product; filling, labeling, and, if necessary, preserving of each sample vial; and completing chain-of-custody forms.

Subp. 44. Soil sampling analysis. “Soil sampling analysis” means quantifying the concentration of petroleum contaminants and inorganic compounds present in a soil sample.

Subp. 45. Soil test pit oversight. “Soil test pit oversight” means the oversight of soil test pits as defined in part 2890.0081, including soil sampling.

Subp. 46. Soil treatment permitting. “Soil treatment permitting” means preparation of the application for treatment of petroleum contaminated soil to be submitted to government and regulatory bodies.

Subp. 47. Soil vapor extraction system design. “Soil vapor extraction system design” means the design of a remediation technology that induces air flow from the subsurface and brings contaminants to the surface where they can be treated if necessary and discharged.

Subp. 48. Soil vapor extraction system with groundwater sparging design. “Soil vapor extraction system with groundwater sparging design” means the design of a remediation technology that removes volatile organic compounds from groundwater by forcing an air flow through a well screen placed in the aquifer which causes a bubbling effect in the groundwater and forces contaminants into the soils above the aquifer.

Subp. 49. Sparging test. “Sparging test” means the design and implementation of a site specific saturated zone air injectability test and the collection of data gained from the test including flow rates, pressure requirements, and radius of influence of the system.

Subp. 49a. State duty officer emergency contact. “State duty officer emergency contact” means a telephone call placed to the state duty officer immediately after a site assessment for emergency conditions indicates that an emergency condition exists at the site. It does not include a call placed to the state duty officer to report a release.

Subp. 49b. Step of services. “Step of services” means:

- A. limited site investigation or full remedial investigation;
- B. active remediation-initial field testing;
- C. active remediation-data evaluation/site-specific system design;
- D. active remediation-system installation, start-up, and operation and maintenance; or
- E. active remediation-system decommissioning.

Subp. 49c. Subsurface migration pathway survey. “Subsurface migration pathway survey” means the labor, equipment and field supplies, and materials required to perform the tasks required by the agency to determine potential subsurface petroleum vapor migration pathways within 500 feet of the source of the release.

Subp. 49d. Surface water receptor survey and risk evaluation. “Surface water receptor survey and risk evaluation” means the labor, equipment and field supplies, and materials required to perform a qualitative survey to identify surface water bodies that potentially may be impacted if petroleum contamination is present.

Subp. 50. Surveying and surveying equipment. “Surveying and surveying equipment” means ~~surveying the labor, equipment and field supplies, and materials required to establish the locations and ground surface elevations of the soil borings and monitoring wells and preparing site maps.~~ The locations of the site boundaries, aboveground features, and belowground features must be known with reasonable accuracy.

Subp. 51. System installation oversight. “~~System installation oversight~~” means the consultant’s monitoring of the remedial system installation activities performed by the contractor to ensure that all design specifications are met, and discussion with the contractor of any design modifications or system layout changes.

Subp. 52. System operation and maintenance. “~~System operation and maintenance~~” means the operation and any necessary maintenance of the remediation system.

Subp. 53. System startup/initial discharge sampling. “System startup/initial discharge sampling” means a one day trial run of the remediation system to ensure that the system and all its components are in proper running condition, and the collection of any initial discharge samples required by the agency.

Subp. 53a. Temporary well installation oversight. “Temporary well installation oversight” means the oversight of the conversion of a soil boring into a temporary monitoring well.

Subp. 53b. Thermal treatment application. “Thermal treatment application” means the form submitted to the agency to gain approval for the thermal treatment of a batch of petroleum-contaminated soil at a permitted thermal treatment facility.

Subp. 53c. Thermal treatment application preparation. “Thermal treatment application preparation” means the labor and materials necessary to complete and submit the thermal treatment application to the agency, including, but not limited to, data analysis, data entry, photocopying, shipping, and word processing.

Subp. 54. Travel time and vehicle cost. “Travel time and vehicle cost” means the time ~~spent by the consultant~~ required to mobilize equipment ~~and, the time required to travel to and from the leak site or other location necessary to provide consultant services, and the costs associated with providing and using the necessary vehicle.~~

Subp. 54a. Utility backfill investigation. “Utility backfill investigation” means the advancement of hand-driven or hand-augered soil borings in the backfill surrounding sanitary and storm sewer lines, water mains, or other utilities that intercept contaminated soil or groundwater.

Subp. 54b. Utility clearance. “Utility clearance” means the process used by the consultant, driller, or excavation contractor to identify and locate all aboveground and underground utilities.

Subp. 55. Vacuum enhanced groundwater extraction system design. “~~Vacuum enhanced groundwater extraction system design~~” means the design of a combined remediation technology in which groundwater recovery is supplemented by applying vacuum pressure to a recovery well. Vacuum extraction may also remediate petroleum-contaminated soil above the water table in the same manner as a soil vapor extraction system.

Subp. 56. Vapor risk assessment and receptor survey and risk evaluation. “Vapor risk assessment and receptor survey and risk evaluation” means the ~~making of a determination whether the petroleum release has or could cause petroleum~~ labor, equipment and field supplies, and materials required to perform a qualitative survey to identify the location and type of nearby potential vapor accumulation in basements, sewer lines, or other confined spaces receptors. It includes field work notification and scheduling, sewer vapor survey, and subsurface migration pathway survey.

Subp. 57. Vehicle cost. “Vehicle cost” means the cost of a van or truck used to carry to the leak site tools or equipment which cannot reasonably fit into a passenger car.

Subp. 58. Vent point. “Vent point” means a borehole screened in the subsurface, typically in the unsaturated zone, and used to extract petroleum vapors and induce clean air in the subsurface.

Subp. 59. Vent point installation. “Vent point installation” means the completion of a vent point from a completed soil boring.

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Subp. 60. ~~Vent point installation oversight.~~ “Vent point installation oversight” means the oversight of the completion of a vent point from a completed soil boring.

Subp. 61. ~~Venting test.~~ “Venting test” means the design and implementation of a site-specific vapor extraction test and the collection of data gained from the test, including radius influenced by the system, discharge rates, and contaminant emission rate.

Subp. 62. ~~Waste disposal.~~ “Waste disposal” means the making of arrangements for the disposal of all waste generated at a leak site, including disposable bailers, rubber gloves, bailer rope, and petroleum contaminated drill cuttings during assessment activity.

Subp. 63. ~~Water discharge compliance permitting.~~ “Water discharge compliance permitting” means preparation of an application for water discharge approval to the appropriate regulatory authorities.

Subp. 64. ~~Water level measurement.~~ “Water level measurement” means the calculation of groundwater elevation referenced to an established elevation.

Subp. 64a. ~~Water well receptor survey and risk evaluation.~~ “Water well receptor survey and risk evaluation” means the labor, equipment and field supplies, and materials required to perform a qualitative survey to identify features such as surface water bodies and aquifer and water supply wells that potentially may be impacted if petroleum contamination is present. It includes field work notification and scheduling, and Minnesota Department of Health drinking water hotline contact.

Subp. 65. ~~Well abandonment.~~ “Well abandonment” means the permanent discontinuation of a well according to applicable well codes.

Subp. 66. ~~Well abandonment oversight.~~ “Well abandonment oversight” means the time required to solicit competitive bids for the permanent discontinuation of a well according to applicable well codes.

Subp. 67. ~~Well installation.~~ “Well installation” means the completion of a monitoring well from a completed soil boring.

Subp. 68. ~~Well oversight and development.~~ “Well oversight and development” means the oversight of the conversion of completed soil borings to monitoring wells.

Subp. 69. ~~Well permitting.~~ “Well permitting” means obtaining permits to allow the drilling and installation of monitoring wells and filing well completion/installation records with state and local agencies.

Subp. 69a. ~~Word processing.~~ “Word processing” means using a computer or a typewriter to prepare correspondence or prepare a form, report, or worksheet submitted to the agency.

Subp. 70. ~~Word processor.~~ “Word processor” means a person who operates a computer for performs word processing spreadsheets, statistical typing, correspondence, and report generation.

~~2890.0074~~ **2890.1000 WRITTEN PROPOSAL AND INVOICE REQUIRED REQUIREMENTS FOR CONSULTANT SERVICES.**

Subpart 1. ~~Written proposal.~~ ~~The board shall consider as prima facie unreasonable~~ Costs incurred for consultant services for which are prima facie unreasonable when the applicant has not obtained a written proposal for consultant services according to this part, unless the necessary services were required by an emergency, including the emergency abatement of free product, for which there was not sufficient time to obtain proposals. ~~A written proposal for consultant services shall be approved by the applicant, as necessary, in the following steps: underground storage tank removal assessment, initial site assessment, additional site assessments, remedial investigation/corrective action design report, and remedial design/maintenance. The applicant shall approve the written proposal before incurring costs for each step of consultant services. The applicant must get proposals for consultant services only from persons who are registered with the board as consultants. Proposals A proposal for each a step of consultant services shall must be on a the form prescribed by the board according to parts 2890.0072 to 2890.0079 for that step of services.~~

Subp. 2. ~~Excavation and soil disposal oversight before investigation.~~ An applicant is not required to get a written proposal for the following consultant services when they are performed as part of excavation and soil disposal oversight that occurs before the first limited site investigation or full remedial investigation of the leak site occurs:

- A. AST soil sampling;
- B. composted soil sampling;
- C. contaminated stockpile soil sampling;
- D. excavation soil sampling;
- E. field work notification and scheduling;
- F. groundwater sampling (other than permanent monitoring well);
- G. land-treated soil sampling;

H. sample shipping and transportation;

I. state duty officer emergency contact; and

J. utility clearance.

Subp. 3. **Steps of services.** A written proposal for consultant services must be approved by the applicant for each necessary step of services. The applicant must approve in writing a written proposal for a step of services before incurring costs for that step of services.

Subp. 4. **Emergency services.** An applicant is not required to get a written proposal for consultant services that are required by emergency conditions that pose such a threat to the public health and welfare or the environment that there is not sufficient time to get a proposal for the necessary services.

Subp. 5. **Notarization required; prevention of conflict of interest.** The applicant's signature indicating acceptance of a written proposal for consultant services must be dated with the date on which the applicant approves the proposal in writing and must be notarized, but the applicant must not have the applicant's signature notarized by a person employed by or otherwise affiliated with the consultant services firm that provided the proposal. If the proposal is not in compliance with any of these conditions, it is not valid for the purposes of this chapter.

Subp. 2 6. **Invoice.** ~~The board shall consider as prima facie unreasonable~~ Costs incurred for consultant services that are not billed to the applicant on an invoice form prescribed by the board are prima facie unreasonable. The invoice form prescribed by the board ~~shall be consistent with the written proposal for consultant services and shall~~ must be according to parts ~~2890.0072 2890.1000 to 2890.0079 2890.2200.~~

2890.0075 2890.1100 REASONABLENESS OF WORK PERFORMED; ~~STANDARD TASKS FOR EACH STEP OF CONSULTANT SERVICES.~~

Subpart 1. **Generally.** ~~The board shall consider as prima facie unreasonable~~ Costs incurred ~~for consultant services for work other than tasks specified in~~ not covered by this part are prima facie unreasonable.

Subp. 2. **Underground storage tank removal assessment.** Notwithstanding part 2890.0071, item A, costs for an underground storage tank removal assessment may be incurred before an initial site assessment, but only when an underground storage tank is being removed and the site is discovered to have petroleum contaminated soil. The objectives of the underground storage tank removal assessment are to determine the volume of petroleum contaminated soil, determine the feasibility of excavating the petroleum contaminated soil, and allow for the excavation of petroleum contaminated soil to accommodate new tanks.

The board shall consider as prima facie unreasonable costs incurred for an underground storage tank removal assessment other than costs for the following tasks or items: excavation basin soil sampling, soil test pit oversight, contaminated soil stockpile sampling, soil sampling analysis, travel time, mileage, vehicle cost, per diem, and equipment. If petroleum contaminated soil is excavated, an underground storage tank removal assessment may also include soil treatment permitting and an excavation report.

Subp. 3 2. **Initial Limited site assessment investigation or full remedial investigation.** The objectives of the initial site assessment are to determine the vertical and horizontal extent of petroleum contaminated soil, determine if groundwater has been impacted, determine the apparent source or sources of petroleum contamination, and establish any vapor and groundwater receptors. The initial site assessment shall consist of up to five soil borings with up to three of the five borings completed as monitoring wells. Monitoring wells may be completed only if petroleum contamination is found to be in contact with groundwater or bedrock, or if requested by the agency. ~~The board shall consider as prima facie unreasonable~~ Costs incurred for an initial a limited site assessment investigation or full remedial investigation other than costs for the following tasks or items: required by the agency to evaluate the level of risk associated with the release are prima facie unreasonable.

A. project management and administration;

B. health and safety plan;

C. background review;

D. soil field screening and sampling;

E. soil treatment permitting;

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- ~~F. well permitting;~~
- ~~G. surveying;~~
- ~~H. soil test pit oversight;~~
- ~~I. soil boring drilling;~~
- ~~J. soil boring oversight;~~
- ~~K. well installation;~~
- ~~L. well oversight and development;~~
- ~~M. groundwater sampling;~~
- ~~N. piezometer installation;~~
- ~~O. piezometer installation oversight;~~
- ~~P. vapor risk assessment and survey;~~
- ~~Q. groundwater receptor survey;~~
- ~~R. water level measurement;~~
- ~~S. data reduction;~~
- ~~T. waste disposal;~~
- ~~U. delineation decision/work plan;~~
- ~~V. remedial action decision, if applicable;~~
- ~~W. soil sampling analysis;~~
- ~~X. groundwater sampling analysis; and~~
- ~~Y. other:~~
 - ~~(1) travel time;~~
 - ~~(2) mileage;~~
 - ~~(3) vehicle cost;~~
 - ~~(4) per diem; and~~
 - ~~(5) equipment.~~

~~Subp. 4. **Additional site assessment.** Costs for an additional site assessment may be incurred only if the initial site assessment failed to determine the vertical and horizontal extent of petroleum contaminated soil. The objectives of the additional site assessment are the same as the objectives for the initial site assessment. The additional site assessment shall consist of up to three soil borings, with all completed as monitoring wells if the petroleum is found to be in contact with the groundwater. The applicant shall continue to obtain a proposal for each additional site assessment until the vertical and horizontal extent of petroleum contamination has been determined. The board shall consider as prima facie unreasonable costs incurred for an additional site assessment other than costs for the following tasks or items:~~

- ~~A. project management and administration;~~
- ~~B. soil field screening and sampling;~~
- ~~C. well permitting;~~
- ~~D. off site access;~~
- ~~E. surveying;~~
- ~~F. soil boring drilling;~~
- ~~G. soil boring oversight;~~
- ~~H. well installation;~~
- ~~I. well oversight and development;~~
- ~~J. groundwater sampling of wells installed in the additional site assessment;~~
- ~~K. groundwater sampling on a quarterly basis of wells installed in the initial site assessment;~~

- ~~L. piezometer installation;~~
- ~~M. piezometer installation oversight;~~
- ~~N. water level measurement;~~
- ~~O. data reduction;~~
- ~~P. waste disposal;~~
- ~~Q. delineation decision/work plan;~~
- ~~R. remedial action decision;~~
- ~~S. soil sampling analysis;~~
- ~~T. groundwater sampling analysis; and~~
- ~~U. other:~~
 - ~~(1) travel time;~~
 - ~~(2) mileage;~~
 - ~~(3) vehicle cost;~~
 - ~~(4) per diem; and~~
 - ~~(5) equipment.~~

~~Subp. 5. **Remedial investigation/corrective action design report.** The objective of the remedial investigation/corrective action design report is to prepare a report either recommending no further corrective action or recommending a specific plan for further corrective action. If the consultant recommends no further corrective action, the board shall consider as prima facie unreasonable costs incurred for a remedial investigation/corrective action design report other than costs for the submission to the agency of an RI/CAD report which proposes and provides justification for no further action.~~

~~If the consultant recommends further corrective action, the further objectives of this step are to conduct applicable field and pilot tests and to prepare an RI/CAD report for submission to the agency. The report must present three corrective action alternatives specific to the applicant's site, evaluate these three alternatives, and recommend the most cost effective alternative. The evaluation of the three corrective action alternatives must set forth long term costs and separate dollar amounts for consulting and contracting services. Soil removal and treatment is one corrective action alternative whether the soil is landfarmed, thin spread, composted, incinerated, or treated by other approved means.~~

~~If the consultant recommends further corrective action, the board shall consider as prima facie unreasonable costs incurred for a remedial investigation/corrective action design report other than costs for the following tasks or items:~~

- ~~A. project management and administration;~~
- ~~B. aquifer test:~~
 - ~~(1) hydraulic conductivity estimate;~~
 - ~~(2) soil boring drilling;~~
 - ~~(3) well installation;~~
 - ~~(4) well oversight and development;~~
 - ~~(5) well permitting;~~
 - ~~(6) data reduction;~~
- ~~C. piezometer installation;~~
- ~~D. piezometer installation oversight;~~
- ~~E. venting test;~~

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Proposed Rules

- (1) soil boring drilling;
- (2) vent point installation;
- (3) vent point installation oversight;
- (4) data reduction;
- F. sparging test:
 - (1) soil boring drilling;
 - (2) well installation;
 - (3) well oversight and development;
 - (4) data reduction;
- G. infiltration;
- H. groundwater sampling;
- I. surveying;
- J. data reduction;
- K. corrective action alternative;
- L. passive bioremediation risk assessment;
- M. site monitoring worksheet;
- N. MPCA conference call;
- O. RI/CAD report;
- P. waste disposal;
- Q. soil sampling analysis;
- R. groundwater sampling analysis; and
- S. other:
 - (1) travel time;
 - (2) mileage;
 - (3) vehicle cost;
 - (4) per diem; and
 - (5) equipment.

Subp. 6.3. ~~Remedial design/maintenance~~ **Active remediation-initial field testing.** Costs ~~incurred~~ for ~~remedial design/maintenance~~ may be incurred only if the agency has approved a corrective action design for the site. ~~The objectives of remedial design/maintenance are to develop site-specific drawings, specifications, and schedules consistent with the corrective action design approved by the agency; initiate permitting activities; assist the applicant in obtaining contractor services for the implementation of the system for corrective action; verify and document that installation of the system for corrective action is consistent with the design; and conduct up to one year of operating, monitoring, and maintaining the system for corrective action.~~

~~The board shall consider as prima facie unreasonable costs incurred for remedial design/maintenance~~ active remediation-initial field testing other than costs for ~~the following~~ tasks or items: required by the agency to determine whether the technology approved by the agency after reviewing the investigation report will be effective in reducing the risk associated with the release are prima facie unreasonable.

- A. ~~project management and administration;~~
- B. ~~groundwater pump and treat system design;~~
- C. ~~soil excavation corrective action plan;~~
- D. ~~soil vapor extraction system design;~~
- E. ~~soil vapor extraction system with groundwater sparging design;~~
- F. ~~vacuum enhanced groundwater extraction system design;~~
- G. ~~system installation oversight;~~

- ~~H. system startup/initial discharge sampling;~~
- ~~I. air emission testing;~~
- ~~J. water discharge compliance permitting;~~
- ~~K. CAD installation notification worksheet;~~
- ~~L. groundwater sampling;~~
- ~~M. soil field screening and sampling;~~
- ~~N. water level measurement;~~
- ~~O. site monitoring worksheet;~~
- ~~P. CAD system monitoring worksheet;~~
- ~~Q. system operation and maintenance;~~
- ~~R. data reduction;~~
- ~~S. well abandonment;~~
- ~~T. well abandonment oversight;~~
- ~~U. soil sampling analysis;~~
- ~~V. groundwater sampling analysis; and~~
- ~~W. other:~~
 - ~~(1) travel time;~~
 - ~~(2) mileage;~~
 - ~~(3) vehicle cost;~~
 - ~~(4) per diem; and~~
 - ~~(5) equipment.~~

Subp. 4. Active remediation-site-specific system design. Costs incurred for active remediation-site-specific system design other than costs for tasks or items required by the agency to evaluate the data generated during the active remediation-initial field testing step of services, if it was conducted, or to determine the costs associated with completing the site-specific system design, are prima facie unreasonable.

Subp. 5. Active remediation-system installation, start-up, and operation and maintenance. Cost incurred for active remediation-system installation, start-up, and operation and maintenance other than costs for tasks or items required by the agency to install, start-up, operate, and maintain the approved corrective action system are prima facie unreasonable.

Subp. 6. Active remediation-system decommissioning. Costs incurred for active remediation-system decommissioning other than costs for tasks or items required by the agency to dismantle the approved corrective action system after its operation is no longer necessary and to remove the dismantled system from the site are prima facie unreasonable.

2890.1150 MAXIMUM COSTS FOR CONSULTANT SERVICES.

Costs for consultant services are prima facie unreasonable when they do not meet the standards and requirements in parts 2890.1000 to 2890.2200.

~~2890.0076~~ 2890.1300 MAXIMUM COSTS FOR CONSULTANT SERVICES PRELIMINARY LABOR CHARGES.

Subpart 1. ~~Maximum labor charges~~ **General.** The board shall consider as prima facie unreasonable costs incurred for consultant services ~~either in excess of~~ When a task listed in this part is performed during the limited site investigation or full remedial investigation step of services or as part of excavation and soil disposal oversight before the investigation, the cost is prima facie unreasonable when it exceeds the ~~amounts~~ amount specified for it in the proposal for consultant services or ~~in excess of the following~~ maximum charges, ~~whichever is less:~~ cost specified for it in this part when the task was started, whichever is less.

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Proposed Rules

- ~~A. air emission testing has a maximum cost of two hours per technology employed at the leak site per quarter;~~
- ~~B. aquifer tests have a maximum cost of 24 hours per test;~~
- ~~C. Background review has a maximum cost of eight hours \$480 per leak site;~~
- ~~D. CAD installation notification worksheet has a maximum cost of six hours per report;~~
- ~~E. CAD system monitoring worksheet has a maximum cost of two hours per worksheet per technology employed at the leak site;~~
- ~~F. Contaminated soil stockpile sampling has a maximum charge of four hours per leak site;~~
- ~~G. corrective action alternative has a maximum cost of \$1,000 per leak site;~~
- ~~H. data reduction has a maximum cost of six hours plus six hours per technology employed at the leak site per test;~~
- ~~I. delineation decision/work plan has a maximum cost of two hours per leak site;~~
- ~~J. Excavation basin soil sampling has a maximum cost of two hours per tank;~~
- ~~K. Excavation report has a maximum charge of five hours per leak site;~~
- ~~L. groundwater pump and treat system design has a maximum cost of \$3,500;~~
- ~~M. groundwater receptor survey has a maximum cost of four hours per leak site;~~
- ~~N. Groundwater sampling has a maximum cost of 1 1/2 hours per well per sampling event;~~
- ~~O. Health and safety plan has a maximum cost of \$250;~~
- ~~P. Hydraulic conductivity estimate has a maximum cost of four hours per test;~~
- ~~Q. infiltration test has a maximum cost of one hour per test;~~
- ~~R. MPCA conference call has a maximum cost of two hours per leak site;~~
- ~~S. off site access has a maximum cost of ten hours per leak site;~~
- ~~T. passive bioremediation risk assessment has a maximum cost of \$1,000;~~
- ~~U. piezometer installation oversight has a maximum cost of four hours per piezometer;~~
- ~~V. project management and administration shall be reimbursed only for actual hours spent on this task with a maximum cost of (1) 20 percent of total consultant services labor charges, inclusive of the cost for hours spent on project management and administration, or (2) \$200 per proposal, whichever is greater;~~
- ~~W. remedial action decision has a maximum cost of four hours per leak site;~~
- ~~X. RI/CAD report has a maximum cost of 50 hours if the report recommends no further corrective action and a maximum of 65 hours if the report recommends further corrective action;~~
- ~~Y. site monitoring worksheet has a maximum cost of four hours per worksheet;~~
- ~~Z. soil boring oversight has a maximum cost of two hours per boring;~~
- ~~AA. soil excavation corrective action plan has a maximum cost of \$500;~~
- ~~BB. soil field screening and sampling shall be reimbursed only for actual hours spent on this task;~~
- ~~CC. soil test pit oversight has a maximum cost of one hour per test pit;~~
- ~~DD. soil treatment permitting has a maximum cost of two hours per leak site;~~
- ~~EE. soil vapor extraction system design has a maximum cost of \$3,000;~~
- ~~FF. soil vapor extraction system with groundwater sparging design has a maximum cost of \$3,500;~~
- ~~GG. sparging test has a maximum cost of 16 hours per leak site;~~
- ~~HH. surveying has a maximum cost of two hours per step of consultant services;~~
- ~~I. system installation oversight shall be reimbursed only for actual hours spent on this task with a maximum cost of 25 percent of the contractor's time on site installing the system;~~
- ~~JJ. system operation and maintenance shall be reimbursed only for actual hours spent on this task and for the cost of materials;~~
- ~~KK. system startup/initial discharge sampling has a maximum cost of eight hours per leak site;~~
- ~~LL. travel time has a maximum cost per hour of the maximum hourly rate specified for the traveler's services in subpart 2;~~

- ~~MM. vacuum enhanced groundwater extraction system design has a maximum cost of \$4,000;~~
~~NN. vapor risk assessment and survey has a maximum cost of four hours per leak site;~~
~~OO. vent point installation oversight has a maximum cost of two hours per vent point;~~
~~PP. venting test has a maximum cost of 16 hours per leak site;~~
~~QQ. waste disposal has a maximum cost of three hours per leak site;~~
~~RR. water discharge compliance permitting has a maximum cost of 12 hours per permit application process and two hours per periodic discharge report submittal;~~
~~SS. water level measurement has a maximum cost of .25 hours per well;~~
~~TT. well abandonment oversight has a maximum cost of .5 hours per well;~~
~~UU. well oversight and development has a maximum cost of four hours per well, except when done in connection with aquifer tests when it shall have a maximum cost of eight hours per well; and~~
~~VV. well permitting has a maximum cost of .5 hours per well.~~

Subp. 2. Administrative tasks.

- A. Applicant status update has a maximum cost of \$440 per leak site.
B. Background review has a maximum cost of \$480 per leak site.
C. Drill cuttings disposal management has a maximum cost of \$60 per disposal.
D. Field work notification and scheduling has a maximum cost of \$120 per field work event for which notification and scheduling is necessary.
E. Health and safety plan has a maximum cost of \$250 per leak site.
F. Off-site access acquisition time has a maximum cost of the reasonable actual cost or \$2,000 per leak site, whichever is less.
G. Sample shipping and transportation has a maximum cost of \$60 per shipping event.
H. State duty officer emergency contact has a maximum cost of \$15 per call.

Subp. 3. Consultant drilling and excavation activities.

- A. Free product recovery through hand bailing or portable pump has a maximum cost of \$30 per well.
B. Hydraulic conductivity field test has a maximum cost of \$60 per monitoring well for which the performance of a hydraulic conductivity field test is necessary.
C. Monitoring well abandonment oversight has a maximum cost of \$30 per well.
D. Monitoring well installation oversight and development has a maximum cost of \$240, plus \$120 per well that requires more than two hours for monitoring well development.
E. Surveying and surveying equipment has a maximum cost of:
(1) \$170 per surveying event for which a licensed professional surveyor is not necessary; or
(2) the reasonable actual cost up to \$750 per surveying event for which a licensed professional surveyor is necessary.
F. Temporary well installation oversight has a maximum cost of:
(1) \$125 for a 25-foot or shallower well; or
(2) \$5 per foot for a well deeper than 25 feet.
G. Utility backfill investigation has a maximum cost of \$60 per hand-auger boring.
H. Utility clearance has a maximum cost of:
(1) the reasonable actual cost up to \$200 for each utility clearance event for which a private utility locator is not necessary;

and

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Proposed Rules

(2) the reasonable actual cost up to \$500 for each utility clearance event for which a private utility locator is necessary.

Subp. 4. Field and receptor surveys.

A. Karst field survey has a maximum cost of \$1,740.

B. Surface water receptor survey and risk evaluation has a maximum cost of \$120 per leak site.

C. Vapor receptor survey and risk evaluation has a maximum cost of \$600 per leak site, plus:

(1) \$15 per citizen contact beyond eight; and

(2) \$30 per subsurface monitoring point beyond 16.

D. Water well receptor survey and risk evaluation has a maximum cost of \$645 per leak site, plus \$30 per citizen contact or property surveyed beyond 15.

Subp. 5. Sampling.

A. AST soil sampling has a maximum cost of \$30 per sample that is listed on the chain-of-custody form received by the laboratory.

B. Composted soil sampling has a maximum cost of \$60 per sampling event.

C. Contaminated stockpile soil sampling has a maximum cost of \$30 per sample that is listed on the chain-of-custody form received by the laboratory.

D. Drilling oversight, log preparation, and soil sampling has a maximum cost of:

(1) \$125 for a 25-foot or shallower boring; or

(2) \$5 per foot for a boring deeper than 25 feet.

E. Excavation soil sampling has a maximum cost of:

(1) \$60 per tank that is removed or abandoned plus \$3 per cubic yard excavated when a tank is being removed or abandoned; plus

(2) \$1.20 per cubic yard excavated when a tank is not being removed or abandoned; plus

(3) \$60 per test pit.

F. Groundwater sampling (permanent monitoring well) has a maximum cost of \$105 per well per sampling event.

G. Groundwater sampling (other than permanent monitoring well) has a maximum cost of \$30 per sampling point from which a sample is taken and delivered to a laboratory for analysis.

H. Land-treated soil sampling has a maximum cost of \$60 per sampling event.

Subp. 6. Submissions to agency.

A. Annual monitoring report preparation has a maximum cost of \$1,320 per report, plus:

(1) \$30 per well beyond three;

(2) \$120, if follow-up vapor monitoring is performed;

(3) \$6 per subsurface monitoring point beyond 16 that had to be plotted on a site map;

(4) \$6 per property beyond 16 that had to be added to a property table;

(5) \$30 for photocopying beyond the second photocopied report; and

(6) \$13 for shipping beyond the second photocopied report.

B. Composting monitoring worksheet preparation has a maximum cost of \$60 per worksheet, plus:

(1) \$8 for photocopying beyond the second photocopied report; and

(2) \$5 for shipping beyond the second photocopied report.

C. Composting site application preparation has a maximum cost of \$480 per composting site, plus:

(1) \$15 for photocopying beyond the second photocopied report; and

(2) \$7 for shipping beyond the second photocopied report.

D. Excavation report preparation has a maximum cost of \$420 per report, plus:

(1) \$15 for photocopying beyond the second photocopied report; and

(2) \$7 for shipping beyond the second photocopied report.

E. Free product recovery report worksheet preparation has a maximum cost of \$120 per site.

F. Investigation report preparation (full RI) has a maximum cost of:

(1) for a report recommending closure, additional vapor monitoring, or additional groundwater monitoring, \$4,065, plus:

(a) \$1,160 for the karst field survey attachment;

(b) \$130 per soil boring beyond five;

(c) \$165 per well beyond three;

(d) \$6 per subsurface monitoring point beyond 16 that had to be plotted on a site map;

(e) \$6 per property beyond 16 that had to be added to a property table;

(f) \$30 for photocopying beyond the second photocopied report; and

(g) \$13 for shipping beyond the second photocopied report;

(2) for a report recommending active remediation, \$4,185, plus:

(a) \$1,160 for the karst field survey attachment;

(b) \$130 per soil boring beyond five;

(c) \$165 per well beyond three;

(d) \$6 per subsurface monitoring point beyond 16 that had to be plotted on a site map;

(e) \$6 per property beyond 16 that had to be added to a property table;

(f) \$30 for photocopying beyond the second photocopied report; and

(g) \$13 for shipping beyond the second photocopied report; or

(3) for a full remedial investigation report submitted in response to a documented special request made by the agency after a limited site investigation report was submitted to the agency, the maximum cost for investigation report preparation (LSI only), plus:

(a) \$960;

(b) \$1,160 for the karst field survey attachment, if it was prepared in response to the documented special request made by the agency after a limited site investigation report was submitted to the agency;

(c) \$130 per soil boring drilled in response to the documented special request made by the agency after a limited site investigation report was submitted to the agency;

(d) \$165 per well installed in response to the documented special request made by the agency after a limited site investigation report was submitted to the agency;

(e) \$30 for photocopying beyond the second photocopied report; and

(f) \$13 for shipping beyond the second photocopied report.

G. Investigation report preparation (LSI only) has a maximum cost of \$3,295, plus:

(1) \$1,160 for the karst field survey attachment;

(2) \$105 per soil boring beyond five;

(3) \$6 per subsurface monitoring point beyond 16 that had to be plotted on a site map;

(4) \$6 per property beyond 16 that had to be added to a property table;

(5) \$30 for photocopying beyond the second photocopied report; and

(6) \$13 for shipping beyond the second photocopied report.

H. Land treatment application preparation has a maximum cost of \$120 per application, plus:

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Proposed Rules

- (1) \$15 for photocopying beyond the second photocopied report; and
- (2) \$7 for shipping beyond the second photocopied report.
- I. Land treatment monitoring worksheet preparation has a maximum cost of \$90 per worksheet, plus:
 - (1) \$8 for photocopying beyond the second photocopied report; and
 - (2) \$5 for shipping beyond the second photocopied report.
- J. Land treatment site application preparation has a maximum cost of \$480 per land treatment site, plus:
 - (1) \$15 for photocopying beyond the second photocopied report; and
 - (2) \$7 for shipping beyond the second photocopied report.
- K. Land treatment spreading notification form preparation has a maximum cost of \$60 per notification, plus:
 - (1) \$8 for photocopying beyond the second photocopied report; and
 - (2) \$5 for shipping beyond the second photocopied report.
- L. Quarterly monitoring report preparation has a maximum cost of \$330 per report, plus:
 - (1) \$30 per well beyond three;
 - (2) \$60, if follow-up vapor monitoring is performed;
 - (3) \$6 per subsurface monitoring point beyond 16 that had to be plotted on a site map;
 - (4) \$6 per property beyond 16 that had to be added to a property table;
 - (5) \$15 for photocopying beyond the second photocopied report; and
 - (6) \$7 for shipping beyond the second photocopied report.
- M. Thermal treatment application preparation has a maximum cost of \$60 per application, plus:
 - (1) \$8 for photocopying beyond the second photocopied report; and
 - (2) \$5 for shipping beyond the second photocopied report.

Subp. 2. 2890.1400 MAXIMUM HOURLY RATES.

A. After the applicant has accepted a consultant's first written proposal for consultant services at the applicant's site, hourly rate charges for subsequent services performed at the leak site by that consultant that exceed the hourly rates listed in the consultant's first written proposal for consultant services at the applicant's site are prima facie unreasonable.

B. Notwithstanding item A, hourly rate charges that exceed by a maximum of five percent per year the hourly rates listed in the consultant's first written proposal for consultant services at the applicant's site are not prima facie unreasonable when at least one year has passed since the applicant approved that proposal in writing.

C. The board shall consider as prima facie unreasonable Notwithstanding items A and B, hourly rate charges for consultant services in excess of the following are prima facie unreasonable: senior level professional at \$110 per hour, midlevel professional at \$85 per hour, entry level professional at \$60 per hour, field technician at \$55 per hour, draftsman at \$45 per hour, and word processor at \$35 per hour.

~~Subp. 3. Allowable level of expertise. The board shall consider as prima facie unreasonable costs incurred for consultant services when the work is performed by an individual with a level of expertise other than as contained in items A to E.~~

~~A. Corrective action alternative, equipment, groundwater pump and treat system design, health and safety plan, mileage, MPCA conference call, passive bioremediation risk assessment, per diem, project management and administration, RI/CAD report, soil excavation corrective action plan, soil vapor extraction system design, soil vapor extraction system with groundwater sparging design, travel time, vacuum enhanced groundwater extraction system design, vehicle cost, and well abandonment shall be performed by one or more of the following:~~

- ~~(1) a senior level professional;~~
- ~~(2) a midlevel professional;~~
- ~~(3) an entry level professional;~~
- ~~(4) a field technician;~~
- ~~(5) a draftsman; and~~
- ~~(6) a word processor.~~

~~B. Delineation decision/work plan and remedial action decision shall be performed by one or more of the following:~~

- ~~(1) a senior level professional;~~
- ~~(2) a midlevel professional;~~
- ~~(3) an entry level professional; and~~
- ~~(4) a field technician.~~

~~C. CAD installation notification worksheet, CAD system monitoring worksheet, off site access, system installation oversight, system startup/initial discharge sampling, and well abandonment oversight shall be performed by a midlevel professional.~~

~~D. Air emission testing, aquifer test, contaminated soil stockpile sampling, data reduction, excavation basin soil sampling, excavation report, groundwater sampling, hydraulic conductivity estimate, infiltration test, soil boring oversight, soil field screening and sampling, soil test pit oversight, soil treatment permitting, sparging test, surveying, system operation and maintenance, vapor risk assessment and survey, venting test, water discharge compliance permitting, water level measurement, and well permitting shall be performed by an entry level professional and/or a field technician.~~

~~E. Background review, groundwater receptor survey, piezometer installation oversight, site monitoring worksheet, vent point installation oversight, waste disposal, and well oversight and development shall be performed by an entry level professional.~~

~~Notwithstanding items A to E, the board shall not consider as prima facie unreasonable tasks performed by an individual with a higher level of expertise than permitted under this subpart if the total charges for the tasks performed by the individual do not exceed the total cost that could have been charged under this part for an individual with the level of expertise permitted to perform the task under this subpart.~~

~~Subp. 4. **Maximum analytical, drilling, and well charges.** The board shall consider as prima facie unreasonable costs incurred for groundwater sampling analysis, soil sampling analysis, soil boring drilling, piezometer installation, vent point installation, well abandonment, or well installation in excess of the amount specified in the proposal for consultant services.~~

Subp. 5. 2890.1500 MAXIMUM NONLABOR TRAVEL AND PER DIEM CHARGES.

~~The board shall consider as prima facie unreasonable costs incurred for consultant services in excess of The cost for an item listed in this subpart is prima facie unreasonable when it exceeds the following amount specified for it in the proposal for consultant services or the specified maximum charges: cost, whichever is less.~~

~~A. mileage Travel and vehicle cost has a maximum cost ~~of the rate per mile specified as the business standard mileage rate for passenger automobile use in Internal Revenue Service Procedure 94 73, 1994 52 I.R.B. 23, which is incorporated by reference in this part, and was issued in 1994 by the Internal Revenue Service under authority in Code of Federal Regulations, title 26, section 1.274(d) 1, and is updated on an annual basis by the Internal Revenue Service. Two copies of the document are located in the state law library;~~ determined by the county in which the leak site is located as follows:~~

~~(1) Anoka, Dakota, Hennepin, Ramsey, Scott, Washington: \$1.50 per mile for the first occupant of a vehicle, plus \$1 per mile for each additional occupant of a vehicle; and~~

~~(2) all other counties: \$1.05 per mile for the first occupant of a vehicle, plus 55 cents per mile for each additional occupant of a vehicle.~~

~~B. vehicle cost has a maximum cost of 35 cents per mile or \$50 per day, whichever is greater;~~

~~C. Per diem has a maximum cost of \$70 \$135 per day ~~or actual cost, whichever is less; and~~~~

~~D. equipment has a maximum cost of the following:~~

~~(1) for a disposable item, the cost to purchase the item; or~~

~~(2) for a reusable item, the cost to purchase the item or to rent it for the amount of time necessary to transport and use it, whichever is less.~~

2890.1600 MAXIMUM EQUIPMENT AND FIELD SUPPLIES CHARGES.

~~The cost for an item listed in this subpart is prima facie unreasonable when it exceeds the amount specified for it in the proposal for consultant services or the specified maximum cost, whichever is less.~~

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Proposed Rules

A. A conductivity meter has a maximum cost of \$20 per day.

B. A disposable bailer has a maximum cost of \$15.

C. A disposable water filter has a maximum cost of \$5.50.

D. A dissolved oxygen meter has a maximum cost of \$40 per day.

E. A gas detection tube has a maximum cost of \$5.

F. An LEL meter has a maximum cost of \$35 per day.

G. A multimeter has a maximum cost of \$85 per day.

H. An oil/water interface probe has a maximum cost of \$65 per day.

I. A petroleum absorbent sock has a maximum cost of \$5.

J. A pH meter has a maximum cost of \$20 per day.

K. A photoionization detector has a maximum cost of \$90 per day.

L. A Tedlar bag has a maximum cost of \$15.

M. A temperature meter has a maximum cost of \$20 per day.

N. A water level indicator has a maximum cost of \$35 per day.

O. Water level tape has a maximum cost of \$5 per day.

P. Equipment and field supplies items not specified in this subpart have a maximum cost of the following:

(1) for a disposable item, the cost to buy the item; or

(2) for a reusable item, the cost to buy the item or to rent it for the amount of time necessary to transport and use it, whichever is less.

2890.1700 MAXIMUM LABOR CHARGES FOR WORK PERFORMED DURING ACTIVE REMEDIATION STEPS OF SERVICES.

For a task performed during active remediation-initial field testing; active remediation-data evaluation/site-specific system design; active remediation-system installation, start-up, and operation and maintenance; or active remediation-system decommissioning, the cost is prima facie unreasonable when:

(1) it exceeds the amount specified for it in the proposal approved by the board's staff under part 2890.0077, subpart 4; or

(2) the proposal that includes it is not approved by the board's staff under part 2890.0077, subpart 4.

2890.1800 EMERGENCY RESPONSE COSTS.

A. A cost for an emergency response task performed before February 1, 2003, that exceeds the amount specified for it in the Minnesota Department of Administration's "Hazardous Spill and Substance Release - Full Service Emergency Response" contract when the task was performed is prima facie unreasonable. The Minnesota Department of Administration's "Hazardous Spill and Substance Release - Full Service Emergency Response" contract (publ. Minnesota Department of Administration Materials Management Division, 2002) is incorporated by reference in this part. Two copies of the document are located in the State Law Library.

B. A cost for an emergency response task performed after January 31, 2003, that exceeds the amount specified for it in the Minnesota Department of Administration's "Emergency Response, Limited Service and Full Service" contract when the task was performed is prima facie unreasonable. The Minnesota Department of Administration's "Emergency Response, Limited Service and Full Service" contract (publ. Minnesota Department of Administration Materials Management Division, 2003) is incorporated by reference in this part and is updated biennially. Two copies of the document are located in the State Law Library.

2890.1900 ADJUSTMENT OF DOLLAR AMOUNTS.

A. The dollar amounts in parts 2890.1300 to 2890.1600 must be adjusted periodically, as provided in this part, according to and to the extent of changes in the implicit price deflator for the gross domestic product, 1996 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for the fourth quarter of 2001 is the original reference base index for purposes of this part. When the dollar amounts in parts 2890.1300 to 2890.1600 are adjusted, the index for the fourth quarter of the preceding year becomes the current reference base index for purposes of this part. The implicit price deflator for the gross domestic product (publ. United States Department of Commerce Bureau of Economic Analysis) is incorporated by reference in this part and is revised quarterly. It is available on the Internet at www.bea.doc.gov/bea/dn/nipaweb/index.asp.

B. The dollar amounts in parts 2890.1300 to 2890.1600 must be adjusted on July 1 of each year after 2002 in which the percentage of change, calculated to the nearest whole percentage point, between the index for the fourth quarter of the preceding year and the current reference base index is ten percent or more; but the part of the percentage change in the index in excess of a multiple of ten percent must be disregarded and the dollar amounts must change only in multiples of ten percent.

C. If the index is revised, the percentage of change under this part must be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index must be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the United States Department of Commerce. If the index is superseded, the index referred to in this part is the one represented by the United States Department of Commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers and businesses.

D. The board must announce and publish:

(1) before July 1 of each year in which adjustments are made, the adjustments in dollar amounts required by item B; and

(2) promptly after the changes occur, changes in the index required by item C, including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of the index superseding the index.

~~2890.0077~~ 2890.2000 COMPETITIVE BIDDING REQUIREMENTS FOR CONSULTANT SERVICES PROPOSALS.

Subpart 1. **Generally; dollar cost bidding.** ~~The applicant shall obtain~~ must get written competitive proposals for consultant services according to this part. ~~All~~ Items on the consultant proposal shall ~~must~~ be bid by dollar amount per ~~unit of service item.~~

Subp. 2. Prevention of collusion; requests for proposals.

A. The applicant may not request from a consultant or receive from a consultant, directly or indirectly:

(1) a list of consultants from whom to request competitive proposals; or

(2) any information concerning consultants from which to request competitive proposals.

B. The applicant may not request or allow a consultant to determine which other consultant receives a request for a proposal.

C. A proposal obtained in a manner prohibited by this subpart is not valid for the purposes of this chapter.

Subp. 3. Prevention of collusion; drilling services.

A. A consultant who submits a proposal for consultant services to the applicant for work at a leak site, but is not selected to perform consultant services at the leak site, may not perform drilling services at the leak site.

B. If drilling services are performed in a manner prohibited by this subpart, the associated proposals for consultant services are not valid for the purposes of this chapter.

Subp. 2 4. ~~Underground storage tank removal assessment~~ **Excavation and soil disposal oversight before investigation.** ~~An applicant is not required to seek competing proposals from consultants for an underground storage tank removal assessment the following consultant services when the services are performed as part of excavation and soil disposal oversight that occur before the first limited site investigation or full remedial investigation of the leak site occurs:~~

A. AST soil sampling;

B. composted soil sampling;

C. contaminated stockpile soil sampling;

D. excavation soil sampling;

E. field work notification and scheduling;

F. groundwater sampling (other than permanent monitoring well);

G. land-treated soil sampling;

H. sample shipping and transportation;

I. state duty officer emergency contact; and

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Proposed Rules

J. utility clearance.

Subp. 3 ~~5~~. **Initial Limited site assessment investigation or full remedial investigation.** The applicant ~~shall obtain~~ must get at least two written competitive proposals for ~~consultant~~ services for ~~an initial a limited site assessment investigation or full remedial investigation~~ according to parts ~~2890.0072~~ 2890.1000 to ~~2890.0079~~ 2890.2200. The proposals ~~shall~~ must be on a form prescribed by the board according to parts ~~2890.0072~~ 2890.1000 to ~~2890.0079~~ 2890.2200. The proposals ~~shall~~ must comply with ~~all~~ the requirements of parts ~~2890.0072~~ 2890.1000 to ~~2890.0079~~ 2890.2200. Costs for the following contractor services may be included in a proposal for the limited site investigation or full remedial investigation step of services: drilling; groundwater sample analysis; and soil sample analysis.

A. Standard scope: unless the applicant knows, determines, or reasonably suspects that an investigation conducted according to the following assumptions would not meet its intended purpose, limited site investigation or full remedial investigation costs must be bid based on the following standard assumptions:

- (1) push probe technology will be used;
- (2) groundwater depth is 20 feet;
- (3) the release is from a single source;
- (4) utilities and subsurface obstructions do not inhibit the advancement of borings;
- (5) water samples will be collected immediately after completion of the borings;
- (6) free product is not present;
- (7) level D safety precautions are adequate; and
- (8) the work will be completed according to agency and Minnesota Department of Health guidance.

B. Nonstandard scope: when the applicant knows or reasonably suspects that an investigation conducted according to the standard assumptions in item A would not meet its intended purpose, the applicant must get a minimum of two written competitive proposals for a limited site investigation or full remedial investigation based on identical assumptions about the characteristics of the site. The proposals must specifically state the assumptions of the proposal concerning:

- (1) scope of work to be performed;
- (2) drilling technology to be employed;
- (3) soil conditions;
- (4) groundwater depth;
- (5) number of borings to be advanced;
- (6) drilling depths;
- (7) drilling intervals;
- (8) number of monitoring wells to be installed;
- (9) number of soil samples to be collected;
- (10) analytes for which soil samples will be analyzed;
- (11) number of groundwater samples to be collected;
- (12) analytes for which groundwater samples will be analyzed;
- (13) number of rounds of groundwater sampling to be conducted; and
- (14) type of investigation report to be submitted to the agency.

Subp. 4 ~~6~~. Subsequent steps of services.

A. After the ~~initial~~ limited site assessment investigation or full remedial investigation step of services, the applicant must get a written proposal for each necessary subsequent step of services in accordance with part 2890.1000 but is not required to seek competing proposals ~~from consultants other than the consultant performing the prior step of consultant services if:~~

A. ~~the applicant continues to use the same consultant that performed services for the prior step;~~

B. ~~the consultant that performed services for the prior step does not increase its hourly rates over the amounts stated in that consultant's proposal for the prior step; and~~

C. ~~the consultant that performed services for the prior step does not increase its rates for analytical, drilling, and well services identified in part 2890.0076, subpart 4, over the amounts stated in that consultant's proposal for the prior step.~~

Proposed Rules

~~If the applicant seeks competitive proposals after the initial site assessment step, the applicant shall obtain at least two written proposals for consultant services for the appropriate step of consultant services according to parts 2890.0072 to 2890.0079. The proposals shall be on a form prescribed by the board according to parts 2890.0072 to 2890.0079, and the proposal shall comply with all requirements of parts 2890.0072 to 2890.0079.~~

Costs for the following contractor services may be included in the proposal: air sample analysis, drilling, groundwater sample analysis, soil sample analysis, and system installation. The proposal must be submitted to the board's staff for review before the commencement of the proposed work. The applicant must not approve the proposal until it has been reviewed by the board's staff.

B. A written proposal for active remediation-system installation, start-up, and operation and maintenance must include the proposed costs for up to one year of system operation and maintenance. When the time period covered by the proposal expires, the applicant must obtain a new proposal for up to one year of ongoing system operation and maintenance, if necessary, until the agency determines that operation of the system can stop.

Subp. 5. Drilling costs.

~~A. Soil boring drilling shall be bid based on the assumption of drilling to a depth of 30 feet in unconsolidated soil with sampling at five foot intervals. However, if the applicant knows, determines, or reasonably suspects that the specific site does not contain unconsolidated soil or that borings of a depth of 30 feet with sampling at five foot intervals would not meet the purpose of drilling the borings, the applicant must make substantial efforts to obtain a minimum of two written competitive proposals for consultant services based on substantially similar assumptions as to the characteristics of the site. These proposals shall specifically state the assumptions of the proposal as to soil conditions, drilling depths, and drilling intervals, and provide a detailed explanation of the basis for those assumptions.~~

~~B. Costs for soil boring drilling shall be bid by cost per foot.~~

Subp. 7. Switching consultants. When the applicant wishes to hire a different consulting firm, the applicant must follow the procedures in items A and B.

A. If the limited site investigation or full remedial investigation step of services has not been completed, the applicant must get competitive proposals for the limited site investigation or full remedial investigation step of services according to subpart 5.

B. If the limited site investigation or full remedial investigation step of services has been completed, the applicant must get a written proposal for the appropriate step of services from the new consultant according to subpart 6.

Subp. 6 8. Lowest cost proposal.

~~A. Except as provided in part 2890.0078, the board shall consider as prima facie unreasonable total costs for consultant a step of services in excess of that exceed the total cost costs in the lowest competitive proposal for consultant a step of services based on the use of the same technology, and in the case of proposals involving soil borings, substantially similar assumptions as to number of soil borings, number of monitoring wells, soil conditions, drilling depth, and sampling intervals identical assumptions about the characteristics of the site are prima facie unreasonable, unless the applicant demonstrates provides documented proof to demonstrate that the services to be performed or the selected consultant's qualifications are superior to those of the consultant who gave the lowest competitive proposal and justify the selection of a higher cost proposal. Among the factors relevant to the qualifications of a consultant are education, experience, and certifications and registrations, health and safety training, insurance, availability, and references. A prior business relationship between the applicant and consultant is not relevant to the qualifications of a consultant. The board shall must consider costs the cost for a consultant service in the lowest overall competitive proposal as a reasonable amount to charge for a specific task or item if the costs cost for that task or item do does not exceed the maximum costs cost stated in part 2890.0076 parts 2890.1250 to 2890.1900.~~

B. When the proposals obtained by the applicant for the limited site investigation or full remedial investigation step of services are not based on identical assumptions about the characteristics of the site, the proposals are not valid competitive proposals.

Subp. 9. Exemptions from competitive bidding requirements. The applicant may be granted an exemption from the competitive bidding requirement of this part if the board determines that the applicant has documented that:

A. only one consultant was reasonably available to perform the necessary services and that the costs are not substantially in excess of costs typically charged for similar services by comparable consultants in the same geographical area;

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B. the necessary services were required by an emergency that did not allow the applicant sufficient time to get proposals for necessary services; or

C. a standard contract entered into via an annual bidding or evaluation process results in lower corrective action costs than obtaining proposals on a per-job basis.

~~2890.0078~~ 2890.2100 DEVIATIONS FROM STANDARD PROPOSED TASKS AND OR MAXIMUM COSTS FOR CONSULTANT SERVICES.

~~Subpart 1. Deviations from standard tasks in proposals.~~

~~A. The board shall not consider as prima facie unreasonable tasks performed and costs incurred to implement a technology other than soil borings if:~~

~~(1) the tasks and associated costs to implement that alternative technology are identified in the proposal prior to approval by the applicant; and~~

~~(2) the board determines that the applicant has established that the alternative approach:~~

~~(a) met the objectives for that step of consultant services; and~~

~~(b) resulted in lower total reimbursed costs, as compared to an approach using soil borings.~~

~~B. The board shall not consider as prima facie unreasonable consultant services costs for tasks additional to or different than those specified in part 2890.0075 if:~~

~~(1) the proposal accepted by the applicant prior to the provision of consultant services specifically states the additional or different tasks to be performed and provides a detailed explanation of the reasons for these additional or different tasks; and~~

~~(2) the applicant demonstrates that the additional or different tasks:~~

~~(a) met the objectives for that step of consultant services; and~~

~~(b) were essential to the completion of the objectives for that step of consultant services or were more cost effective than the standard tasks for that step of consultant services.~~

~~C. The board shall not consider as prima facie unreasonable consultant services charges for a higher number of hours spent performing a task or a higher dollar cost for a task than the number of hours or dollar costs set as the maximum cost for that task in part 2890.0076, subpart 1, if:~~

~~(1) the proposal accepted by the applicant prior to the provision of consultant services specifically states that the amount exceeds the maximum cost limits and provides a detailed explanation of the reasons for the higher number of hours or dollar costs; and~~

~~(2) the applicant demonstrates that the higher number of hours or dollar costs:~~

~~(a) were justified by unusual conditions existing at the applicant's site; and~~

~~(b) were essential to the completion of the objectives for that step of consultant services.~~

~~D. The board shall not consider as prima facie unreasonable consultant services costs in excess of the maximum costs for soil boring oversight in part 2890.0076, subpart 4, if:~~

~~(1) the applicant knew, determined, or reasonably suspected prior to accepting a proposal that the specific site does not contain unconsolidated soil or that borings of a depth of 30 feet with sampling at five foot intervals would not meet the purpose of drilling the borings;~~

~~(2) the costs in excess of maximum costs result from depth of drilling greater than 30 feet, or greater drilling costs due to consolidated soil or unusual subsurface conditions;~~

~~(3) the proposal accepted by the applicant prior to the provision of consulting services specifically states the assumptions of the proposal as to soil conditions, drilling depths, and drilling intervals, and the proposal provides a detailed explanation of the basis for those assumptions; and~~

~~(4) the applicant demonstrates that the applicant has established that the costs incurred for consultant services related to drilling were reasonable given the actual conditions for drilling at that site.~~

~~Subp. 2. Subpart 1. Deviations from standard proposed tasks or maximum costs after proposal approved by applicant.~~

~~A. The board shall not consider as prima facie unreasonable Costs for tasks performed that are different than or in addition to the tasks specified in a proposal for consultant a step of services approved by the applicant if are not prima facie unreasonable when:~~

- (1) the applicant approves a change order for the different or additional tasks;
- (2) the different or additional tasks were required by circumstances beyond the control of the consultant or applicant that could not have been reasonably anticipated ~~at the time when~~ the proposal was accepted by the applicant; and
- (3) the applicant ~~demonstrates documents that the applicant has established that~~ the different or additional tasks:
 - (a) met the objectives for that step of ~~consultant~~ services; and
 - (b) were essential to complete the objectives for that step of ~~consultant~~ services ~~or were more cost effective than the standard tasks for that step of consultant services.~~

B. ~~The board shall not consider as prima facie unreasonable~~ Consultant services charges for a ~~higher number of hours spent performing a task or a higher dollar cost for a task than that exceed the number of hours or dollar costs~~ cost specified for that task in a proposal approved by the applicant ~~if are not prima facie unreasonable when:~~

- (1) the applicant approves a change order for the higher ~~number of hours or dollar costs~~ cost for the task;
- (2) the higher ~~number of hours or dollar costs~~ cost for the task ~~were~~ was required by circumstances beyond the control of the consultant or applicant that could not have been reasonably anticipated ~~at the time when~~ the proposal was accepted by the applicant; and
- (3) the applicant ~~demonstrates documents that the applicant has established that~~ the higher ~~number of hours or dollar costs~~ were cost was essential to complete the objectives for that step of ~~consultant~~ services.

C. ~~Notwithstanding items A and B, the board shall not consider as prima facie unreasonable higher charges or a higher number of hours for consultant services for soil boring drilling and soil boring oversight than the costs specified in a proposal approved by the applicant if:~~

- (1) the applicant approves a change order for the additional drilling costs;
- (2) the higher costs were required by circumstances beyond the control of the consultant or applicant that could not have been reasonably anticipated at the time the proposal was accepted by the applicant;
- (3) the change order is limited to:
 - (a) depth of drilling greater than specified in the proposal;
 - (b) redrilled borings due to subsurface conditions; and
 - (c) other greater drilling costs due to type of soil other than that assumed in the proposal; and
- (4) the applicant demonstrates that the applicant has established that the higher number of hours were essential to complete the objectives for that step of ~~consultant~~ services.

D. ~~C.~~ The applicant ~~shall~~ must approve ~~all~~ change orders on a form prescribed by the board. The change order ~~shall~~ must contain the following:

- (1) a detailed description of the different or additional tasks ~~and/or higher number of hours~~;
- (2) the reason for the ~~proposed~~ changes from the original proposal;
- (3) the ~~original proposal~~ amount originally proposed for each affected task and the ~~revised proposal~~ amount actually charged for each affected task; and
- (4) signatures of the applicant and the consultant.

Subp. 3 2. **Additional or different tasks approved by the agency.** Notwithstanding ~~subparts subpart 1 and 2,~~ the board shall ~~not consider as prima facie unreasonable~~ costs for tasks performed that are different than or in addition to those ~~specified in part 2890.0075 or~~ specified in a proposal for ~~consultant~~ a step of services approved by the applicant ~~if are not prima facie unreasonable when~~ the agency states in writing before the performance of those tasks that the performance of those tasks is necessary and appropriate for the completion of the corrective action.

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~~2890.0079~~ **2890.2200 REASONABLE, NECESSARY, AND ACTUAL CONSULTANT SERVICES COSTS.**

Notwithstanding parts ~~2890.0073 to 2890.0078~~ 2890.1000 to 2890.2100, the board ~~shall~~ **must not** reimburse applicants ~~only for consultant services tasks and costs necessary for corrective action at the applicant's site, only for consultant services costs that are reasonable, and only for a cost for a consultant services task that exceeds the cost for the actual hours spent by the consultant performing tasks when consultant services are charged based on the consultant's time that task.~~

CONTRACTOR SERVICES STANDARDS

~~2890.0080~~ **OVERVIEW OF RULES GOVERNING REASONABLENESS OF COSTS FOR CONTRACTOR SERVICES.**

~~The board shall approve for reimbursement only those costs for contractor services that meet the standards and requirements in parts 2890.0081 to 2890.0086. Part 2890.0081 sets forth the definitions of terms related to contractor services. Part 2890.0082 states the maximum costs for specific contractor services. Part 2890.0083 establishes the requirement of competitive written bids for contractor services, and part 2890.0089 establishes standards for exemption from the competitive bidding requirement. Part 2890.0084 establishes criteria for the board in evaluating costs for contractor services that deviate from the maximum costs for contractor services. Part 2890.0085 states the requirements for costs to be reasonable and necessary. Part 2890.0086 states the need for use of a standardized invoice form.~~

2890.0081 DEFINITIONS RELATED TO CONTRACTOR SERVICES.

~~Subpart 1. **Scope.** As used in this part and in parts 2890.0082 to 2890.0086, the terms defined in this part have the meanings given them.~~

~~Subp. 1a. **Air sample analysis.** "Air sample analysis" means quantifying the concentration of petroleum contaminants in an air sample.~~

~~Subp. 1b. **Biopiling.** "Biopiling" means composting.~~

~~Subp. 1c. **Borehole abandonment.** "Borehole abandonment" means the filling and sealing of a borehole not completed as a monitoring well.~~

~~Subp. 2. **Clean fill purchase, transportation, and installation.** "Clean fill purchase, transportation, and installation" means the purchase, transportation, placement, and compaction of soil necessary to replace excavated petroleum-contaminated soil.~~

~~Subp. 3. **Compaction.** "Compaction" means the densification of soils by the application of mechanical energy.~~

~~Subp. 3a. **Composted soil sampling.** "Composted soil sampling" means soil sampling from the compost pile.~~

~~Subp. 3b. **Composting.** "Composting" means the controlled microbial degradation of petroleum-contaminated soil. It includes the following:~~

~~A. costs for use of land;~~

~~B. costs for permits necessary for the composting of the petroleum-contaminated soil;~~

~~C. costs for labor and materials required for the temporary storage of the petroleum-contaminated soil;~~

~~D. costs for fertilizer, microbes, or other enhancer;~~

~~E. costs for bulking agents; and~~

~~F. all labor and materials required for the construction of the compost pile and the demolition of the compost pile.~~

~~Subp. 3c. **Decontamination.** "Decontamination" means completely cleaning down hole drilling equipment and tools to avoid cross-contamination.~~

~~Subp. 4. **Disking.** "Disking" means the periodic tilling of ~~landspread~~ **land-treated** petroleum-contaminated soil to aerate the soil.~~

~~Subp. 4a. **Drilling.** "Drilling" means the advancement of one or more soil borings to determine soil structure or to monitor for the presence of contaminants in soil. It includes hand auger drilling, hand-driven drilling, hollow stem auger drilling, push probing, sonic drilling, and any alternative method approved by the agency; borehole abandonment; decontamination; drilling permitting; drinking water well installation; drinking water well permitting; mobilization/demobilization; monitoring well abandonment; monitoring well installation; monitoring well permitting; and temporary well installation.~~

~~Subp. 4b. **Drilling permit.** "Drilling permit" means a document issued by a state or local government agency to allow the advancement of soil borings.~~

~~Subp. 4c. **Drilling permitting.** "Drilling permitting" means obtaining a drilling permit.~~

~~Subp. 4d. **Drinking water well installation.** "Drinking water well installation" means the installation of a well, as part of corrective action, that provides a permanent supply of drinking water.~~

Subp. 4e. Drinking water well permitting. “Drinking water well permitting” means obtaining permits to allow the drilling and installation of drinking water wells and filing well completion or installation records with state and local agencies.

Subp. 4f. Drum disposal. “Drum disposal” means the labor, materials, and equipment necessary to load, haul, and dispose of drums containing free product or waste generated at a leak site, including petroleum-contaminated drill cuttings, petroleum-contaminated water, and used equipment and field supplies.

Subp. 5. Excavation. “Excavation” means ~~utility clearance and all necessary~~ the equipment and labor required to remove petroleum-contaminated soil and any overburden and surfacing ~~which that~~ must be displaced ~~in order~~ to access the petroleum-contaminated soil.

Subp. 5a. Groundwater sample analysis. “Groundwater sample analysis” means quantifying the concentration of petroleum contaminants and/or inorganic compounds present in a groundwater sample.

Subp. 6. Hauling. “Hauling” means the transportation and unloading of:

- A. petroleum-contaminated soil from the leak site to an agency-approved stockpiling site and/or soil disposal location; and
- B. concrete, asphalt, or debris from the leak site to a disposal location.

Subp. 7. Landfarmed soil sampling. ~~“Landfarmed soil sampling” means the periodic collection and testing of soil samples from the landfarming site.~~

Subp. 8. Landfarming Land treatment. ~~“Landfarming Land treatment” consists of~~ means the placement and incorporation of petroleum-contaminated soil into the native soil surface for biodegradation of organic waste components. It includes the following costs or activities:

- A. costs for use of land;
- B. costs for any permits necessary for the land ~~application~~ treatment of the petroleum-contaminated soil;
- C. ~~costs for labor and materials required for the temporary storage of the petroleum-contaminated soil;~~
- ~~D.~~ E. costs for fertilizer;
- ~~D.~~ E. separation of rocks and debris from the petroleum-contaminated soil;
- ~~E.~~ F. spreading of petroleum-contaminated soil and incorporation with native soil;
- ~~F.~~ G. periodic disking of soil;
- ~~G.~~ H. ~~landfarmed~~ land-treated soil sampling; and
- ~~H.~~ I. periodic reporting of the ~~landfarmed~~ land-treated soil sampling results.

Subp. 8a. Landfilling. “Landfilling” means the placement of petroleum-contaminated soil into a landfill.

Subp. 9. Loading. “Loading” means ~~all necessary~~ the equipment and labor required to:

- ~~A.~~ load petroleum-contaminated soil into trucks at the leak site;
- ~~B.~~ load petroleum-contaminated soil into a stockpile at the leak site; and
- ~~C.~~ load petroleum-contaminated soil into trucks at an off-site stockpiling location.

Subp. 9a. Mobilization/demobilization (drilling). “Mobilization/demobilization (drilling)” means the preparation and transport to and from the leak site of necessary drilling equipment after the release is discovered.

Subp. 10. Mobilization/demobilization (heavy equipment). “Mobilization/demobilization (heavy equipment)” means:

- A. the preparation and transport to and from the leak site of any necessary excavation equipment after the release is discovered;
- B. the preparation and transport to and from an off-site stockpiling location, if applicable, of equipment needed to consolidate the stockpile;
- C. the preparation and transport to and from an off-site stockpiling location, if applicable, of equipment needed to load petroleum-contaminated soil into trucks for hauling to a disposal location; and

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D. the preparation and transport to and from the ~~landfarming~~ land treatment site, if applicable, of ~~any~~ equipment necessary for spreading of petroleum-contaminated soil.

Subp. 10a. Monitoring well. “Monitoring well” means a well constructed for measuring water levels and collecting representative groundwater samples.

Sub. 10b. Monitoring well abandonment. “Monitoring well abandonment” means the permanent discontinuation of a monitoring well according to applicable well codes.

Subp. 10c. Monitoring well installation. “Monitoring well installation” means at-grade or above-grade completion of a monitoring well from a completed soil boring.

Subp. 10d. Monitoring well permitting. “Monitoring well permitting” means obtaining permits to allow the drilling and installation of monitoring wells and filing well completion or installation records with state and local agencies.

Subp. 11. Off site stockpiling. “Off site stockpiling” means:

A. ~~all equipment, materials, and labor necessary for stockpiling on property other than the leak site or the final disposal site;~~
and

B. ~~the cost to rent the temporary storage site.~~

Subp. 12. Overburden. “Overburden” means ~~any~~ soil ~~which that~~ must be ~~replaced in order~~ removed to access the petroleum-contaminated soil.

Subp. 12a. Pumping of free product or petroleum-contaminated water. “Pumping of free product or petroleum-contaminated water” means the cost to pump free product or petroleum-contaminated water from the excavation basin, sumps, or monitoring wells using a vacuum truck.

Subp. 12b. Saw cutting. “Saw cutting” means the labor, materials, and tools required to cut through asphalt, concrete, or similar surfacing as part of corrective action.

Subp. 12c. Soil disposal. “Soil disposal” means:

A. biopiling;

B. composting;

C. land treatment;

D. landfilling;

E. thermal treatment; or

F. an alternative method of treatment or disposal allowed by agency rules, excluding drum disposal.

Subp. 12d. Soil sample analysis. “Soil sample analysis” means quantifying the concentration of petroleum contaminants and/or inorganic compounds present in a soil sample.

Subp. 13. Soil test pits ~~pit~~ excavation. “Soil test ~~pits~~ ~~pit~~ excavation” means the excavation, backfilling, and compaction, if necessary, of small pits ~~around the tank basin at the time of tank removal~~ in the area of maximum contamination to determine the vertical and horizontal extent of petroleum-contaminated soil.

Subp. 14. Spreading. “Spreading” means the labor and equipment necessary for the placement of petroleum-contaminated soil at the ~~landfarming~~ land treatment site.

Subp. 15. Stockpiling. “Stockpiling” means the ~~temporary storage of~~ equipment, materials, and labor necessary to temporarily store petroleum-contaminated soil on an impermeable surface and cover the petroleum-contaminated soil with plastic anchored in place to prevent exposure to the elements.

Subp. 15a. Surface disposal tipping fees. “Surface disposal tipping fees” means the fees paid to dispose of asphalt, concrete, sod, or other surfacing that was removed as part of corrective action.

Subp. 15b. Surface removal. “Surface removal” means the labor, materials, and tools required to remove asphalt, concrete, sod, or other surfacing as part of corrective action.

Subp. 15c. Surface replacement. “Surface replacement” means the labor, materials, and tools required to install appropriate base material and replace asphalt, concrete, sod, or other surfacing that was removed as part of corrective action.

Subp. 16. System installation. “System installation” means the labor and equipment necessary to install the remediation system.

Subp. 16a. **Temporary well installation.** “Temporary well installation” means the conversion of a soil boring into a temporary monitoring well.

Subp. 17. **Thermal treatment.** “Thermal treatment” means the burning of petroleum-contaminated soil by a soil roaster that has received an agency air emission permit. It includes:

- A. costs for permits necessary for the thermal treatment of the petroleum-contaminated soil;
- B. costs for labor and materials required for the temporary storage of the petroleum-contaminated soil; and
- C. costs for taking postburn samples and reporting the results.

Subp. 18. **Treatment of free product or petroleum-contaminated water from the excavation basin.** “Treatment of free product or petroleum-contaminated water from the excavation basin” means the cost to treat free product or petroleum-contaminated water recovered from the excavation basin leak site, excluding free product or petroleum-contaminated water put into drums for drum disposal.

Subp. 19. **Utility clearance.** “Utility clearance” means the process of locating used by the consultant, driller, or excavation contractor to identify and locate all aboveground and belowground underground utilities and identifying all underground storage tanks and associated lines, pumps, and dispensers.

2890.2300 MAXIMUM COSTS FOR CONTRACTOR SERVICES.

Costs for contractor services are prima facie unreasonable when they do not meet the standards and requirements in parts 2890.2400 to 2890.4300.

~~2890.0082~~ 2890.2400 MAXIMUM COSTS FOR CONTRACTOR SERVICES IN “MEANS” BOOK.

Subpart 1. ~~Maximum costs in “Means” book.~~ The board shall consider as prima facie unreasonable costs incurred either in excess of the amounts Costs that exceed the amount specified in the bid for contractor services or the amount stated in the most recent edition of “Means Heavy Construction Cost Data,” as of the date the task was started, whichever is less, for mobilization/demobilization over 50 miles one way; hauling; and cutting, saw-cutting; surface removal, and; surface replacement of surfacing other than concrete and asphalt ; and contractor services not otherwise listed in this part, are prima facie unreasonable. “Means Heavy Construction Cost Data” (ed. Kornelis Smit et al., publ. R.S. Means Company, Inc., 1993 2002), is incorporated by reference in this part, and is updated on an annual basis. Two copies of the document are located in the State Law Library.

2890.2500 MAXIMUM COSTS FOR SYSTEM INSTALLATION.

System installation costs are prima facie unreasonable:

- A. when they exceed the amount specified for them in the consultant services proposal approved by the board’s staff under part 2890.2000, subpart 6; or
- B. when the consultant services proposal that includes them is not approved by the board’s staff under part 2890.2000, subpart 6.

2890.2600 MAXIMUM COSTS FOR MOBILIZATION/DEMobilIZATION (HEAVY EQUIPMENT), SAW-CUTTING, SOIL DISPOSAL, SURFACE REMOVAL, AND SURFACE REPLACEMENT.

Subp. 2. ~~Maximum costs for test pits, excavation, loading, clean fill, off site stockpiling, landfarming, and thermal treatment.~~ The board shall consider as prima facie unreasonable costs incurred for the following contractor services either in excess of For a task listed in this part, the cost is prima facie unreasonable when it exceeds the amount specified for it in the bid for contractor services or in excess of the following maximum charges, whichever is less: cost specified for it in this part when the task was started, whichever is less.

- A. soil test pits has a maximum cost of \$100 per test pit;
- B. excavation has a maximum cost of \$7 per cubic yard;
- C. loading has a maximum cost of \$3 per cubic yard;
- D. clean fill purchase, transportation, and installation has a maximum cost of \$15 per cubic yard;

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Proposed Rules

E. off site stockpiling has a maximum cost of \$2.50 per cubic yard;

F. landfarming has a maximum cost that shall be determined by the county of disposal site as follows:

(1) ~~Becker, Beltrami, Benton, Blue Earth, Brown, Cass, Chisago, Clay, Clearwater, Crow Wing, Dodge, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Hubbard, Isanti, Kanabec, Kittson, Lake of the Woods, Le Sueur, Mahanomen, Marshall, Martin, Mille Laes, Morrison, Mower, Nicollet, Norman, Olmsted, Otter Tail, Pennington, Pine, Polk, Pope, Red Lake, Rice, Roseau, Sherburne, Sibley, Stearns, Steele, Stevens, Todd, Traverse, Wabasha, Wadena, Waseca, Watonwan, Wilkin, Winona, and Wright: \$20 per cubic yard;~~

(2) ~~Anoka, Big Stone, Carver, Chippewa, Cottonwood, Dakota, Hennepin, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, McLeod, Meeker, Murray, Nobles, Pipestone, Ramsey, Redwood, Renville, Rock, Scott, Swift, Washington, and Yellow Medicine: \$25 per cubic yard; and~~

(3) ~~Aitkin, Carlton, Cook, Itasca, Koochiching, Lake, and St. Louis: \$30 per cubic yard; and~~

G. thermal treatment of petroleum contaminated soil has a maximum cost of \$40 per cubic yard.

Notwithstanding item G, if the type of soil to be treated requires the thermal treatment facility to operate at a reduced rate of production, the maximum reimbursable cost for thermal treatment of petroleum contaminated soil shall be \$50 per cubic yard.

A. Mobilization/demobilization (heavy equipment), including crew and equipment.

<u>Equipment</u>	<u>Maximum cost</u>
<u>Dozer, loader, backhoe, or excavator, 70-250 hp. (0 to 50 miles one way)</u>	<u>\$180 each</u>
<u>Dozer, loader, backhoe, or excavator, over 250 hp. (0 to 50 miles one way)</u>	<u>\$270 each</u>

B. Saw-cutting.

<u>Surfacing material</u>	<u>Maximum cost</u>
<u>Asphalt</u>	<u>\$1.25 per linear foot</u>
<u>Concrete</u>	<u>\$3.60 per linear foot</u>

C. Soil disposal.

<u>Volume</u>	<u>Maximum cost</u>
<u>0 to 10 cubic yards</u>	<u>\$50 per cubic yard</u>
<u>11 to 150 cubic yards</u>	<u>\$40 per cubic yard</u>
<u>151 to 500 cubic yards</u>	<u>\$35 per cubic yard</u>
<u>more than 500 cubic yards</u>	<u>\$30 per cubic yard</u>

D. Surface removal.

<u>Surfacing material</u>	<u>Maximum cost</u>
<u>Asphalt</u>	<u>\$4.10 per square yard</u>
<u>Concrete (mesh-reinforced)</u>	<u>\$10.20 per square yard</u>
<u>Concrete (rod-reinforced)</u>	<u>\$13 per square yard</u>

E. Surface replacement.

<u>Surfacing material</u>	<u>Maximum cost</u>
<u>2-inch asphalt (including compacted gravel base)</u>	<u>\$2 per square foot</u>
<u>4-inch asphalt (including compacted gravel base)</u>	<u>\$4 per square foot</u>
<u>6-inch reinforced concrete (including a minimum of 4-inch compacted gravel base, forms, concrete in place, finish, and cure)</u>	<u>\$6.50 per square foot</u>
<u>8-inch reinforced concrete (including a minimum of 4-inch compacted gravel base, forms, concrete in place, finish, and cure)</u>	<u>\$8.50 per square foot</u>

Subp. 3. 2890.2700 MAXIMUM ANALYTICAL, ~~DRILLING, AND WELL~~ CHARGES.

~~To the extent that groundwater sampling analysis, soil sampling analysis, soil boring drilling, piezometer installation, vent point installation, well abandonment, and well installation constitute contractor services, reimbursement of costs for these services shall be governed by parts 2890.0072 to 2890.0079. Analytical services performed as part of landfarmed soil sampling shall be governed by parts 2890.0080 to 2890.0086. For a task listed in parts 2890.2800 to 2890.3000, the cost is prima facie unreasonable when it exceeds the lowest of the following: the amount specified for it in the bid for contractor services; the amount specified for it in the consultant proposal for the associated step of services; and the maximum cost specified for it in parts 2890.2800 to 2890.3000 when the task was started.~~

2890.2800 AIR SAMPLE ANALYSIS.

Air sample analysis: BTEX-air has a maximum cost of \$100 per analysis.

2890.2900 GROUNDWATER SAMPLE ANALYSIS.

Groundwater sample analysis:

- A. BTEX/MTBE-water has a maximum cost of \$40 per analysis;
- B. dissolved oxygen-water has a maximum cost of \$10 per analysis;
- C. DRO-water has a maximum cost of \$45 per analysis;
- D. GDPH-water has a maximum cost of \$150 per analysis;
- E. GRO-water has a maximum cost of \$40 per analysis;
- F. lead-water has a maximum cost of \$25 per analysis;
- G. lead, hardness-water has a maximum cost of \$17.50 per analysis;
- H. manganese-water has a maximum cost of \$25 per analysis;
- I. methane-water has a maximum cost of \$145 per analysis;
- J. nitrate-water has a maximum cost of \$12.50 per analysis;
- K. pH-water has a maximum cost of \$7.50 per analysis;
- L. polyaromatic hydrocarbons (PAHs)-water, selected ion monitoring, has a maximum cost of \$162.50 per analysis;
- M. polyaromatic hydrocarbons (PAHs)-water, high performance liquid chromatography, has a maximum cost of \$125 per analysis;
- N. polychlorinated biphenyls (PCBs)-water has a maximum cost of \$95 per analysis;
- O. RCRA metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver)-water has a maximum cost of \$150 per analysis;
- P. soluble ferrous iron-water has a maximum cost of \$27.50 per analysis;
- Q. sulfate-water has a maximum cost of \$12.50 per analysis;
- R. sulfide-water has a maximum cost of \$40 per analysis;
- S. total iron-water has a maximum cost of \$25 per analysis;
- T. VOCs-water, gas chromatography, has a maximum cost of \$90 per analysis; and
- U. VOCs-water, gas chromatography/mass spectrometry, has a maximum cost of \$90 per analysis.

2890.3000 SOIL SAMPLE ANALYSIS.

- A. BTEX/MTBE-soil has a maximum cost of \$40 per analysis;
- B. DRO-soil has a maximum cost of \$50 per analysis;
- C. GDPH-soil has a maximum cost of \$150 per analysis;

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Proposed Rules

D. grain size analysis has a maximum cost of \$70 per analysis when a hydrometer is used, and \$70 per analysis when a hydrometer is not used;

E. GRO-soil has a maximum cost of \$40 per analysis;

F. lead-soil has a maximum cost of \$25 per analysis;

G. polyaromatic hydrocarbons (PAHs)-soil has a maximum cost of \$187.50 per analysis;

H. polychlorinated biphenyls (PCBs)-soil has a maximum cost of \$105 per analysis;

I. RCRA metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver)-soil has a maximum cost of \$125 per analysis;

J. TCLP-soil has a maximum cost of \$100 per analysis;

K. VOCs-soil, gas chromatography/mass spectrometry, has a maximum cost of \$125 per analysis; and

L. VOCs-soil, purge and trap, gas chromatography, has a maximum cost of \$100 per analysis.

2890.3100 MAXIMUM DRILLING CHARGES, DIRECT PUSH TECHNOLOGY.

For a task listed in this part, the cost is prima facie unreasonable when it exceeds the lowest of the following: the amount specified for it in the bid for contractor services; the amount specified for it in the consultant proposal for the associated step of services; and the maximum cost specified for it in this part when the task was started.

The following costs include costs for decontamination, drilling permitting, monitoring well permitting, and completion of well-sealing notification forms:

A. direct push probing, \$135 per hour;

B. one-inch well completion, \$135 per hour plus \$12.50 per foot;

C. push probe abandonment, \$1 per foot;

D. mobilization/demobilization (drilling) (0 to 50 miles one way), \$175;

E. mobilization/demobilization (drilling) (51 to 500 miles one way), \$175 plus \$4.50 per mile over 50;

F. mobilization/demobilization (drilling) (over 500 miles one way), \$2,200; and

G. per diem, \$135 per day per person.

2890.3200 MAXIMUM DRILLING CHARGES, OTHER TECHNOLOGIES.

For a task listed in parts 2890.3300 to 2890.3700, the cost is prima facie unreasonable when it exceeds the lowest of the following: the amount specified for it in the bid for contractor services; the amount specified for it in the consultant proposal for the associated step of services; and the maximum cost specified for it in parts 2890.3300 to 2890.3700 when the task was started.

The costs specified in parts 2890.3300 to 2890.3700 include costs for decontamination, drilling permitting, monitoring well permitting, and completion of well-sealing notification forms.

2890.3300 SOIL BORING ADVANCEMENT.

Subpart 1. General. Costs for soil boring advancement are as described in this part.

Subp. 2. Hollow-stem auger. Hollow-stem auger drilling in sand, silt, or clay, with continuous sampling. Items A to D list the depth of the boring and the maximum cost per boring:

A. 0 - 25 feet, \$700;

B. 26 - 50 feet, \$700 plus \$24 per foot beyond 25 feet;

C. 51 - 100 feet, \$1,300 plus \$42 per foot beyond 50 feet; and

D. over 100 feet, \$3,400 plus \$53 per foot beyond 100 feet.

Subp. 3. Mud or air rotary. Mud or air rotary drilling in limestone or hard rock, with surface sampling only. Items A to D list the depth of the boring and the maximum cost per boring:

A. 0 - 25 feet, \$1,275;

B. 26 - 50 feet, \$1,275 plus \$40 per foot beyond 25 feet;

C. 51 - 100 feet, \$2,275 plus \$46 per foot beyond 50 feet; and

D. over 100 feet, \$4,575 plus \$60 per foot beyond 100 feet.

Subp. 4. **Air coring.** Air coring of limestone or hard rock with continuous sampling. Items A to D list the depth of the boring and the maximum cost per boring:

- A. 0 - 25 feet, \$1,400;
- B. 26 - 50 feet, \$1,400 plus \$45 per foot beyond 25 feet;
- C. 51 - 100 feet, \$2,525 plus \$47 per foot beyond 50 feet; and
- D. over 100 feet, \$4,875 plus \$67 per foot beyond 100 feet.

Subp. 5. **Rotosonic drilling.** Rotosonic drilling in sand, silt, or clay, with continuous sampling. Items A to D list the depth of the boring and the maximum cost per boring:

- A. 0 - 25 feet, \$1,450;
- B. 26 - 50 feet, \$1,450 plus \$59 per foot beyond 25 feet;
- C. 51 - 100 feet, \$2,925 plus \$64 per foot beyond 50 feet; and
- D. over 100 feet, \$6,125 plus \$84 per foot beyond 100 feet.

2890.3400 ABOVEGROUND WELL INSTALLATION.

Subpart 1. **General.** Costs for well installation of an above-grade well are as described in this part.

Subp. 2. **Hollow-stem auger.** Hollow-stem auger in sand, silt, or clay, with continuous sampling:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch PVC well:

- (1) 0 - 25 feet, \$950;
- (2) 26 - 50 feet, \$950 plus \$42 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$2,000 plus \$50 per foot beyond 50 feet; and
- (4) over 100 feet, \$4,500 plus \$60 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch PVC well:

- (1) 0 - 25 feet, \$1,037.50;
- (2) 26 - 50 feet, \$1,037.50 plus \$53.50 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$2,375 plus \$60.50 per foot beyond 50 feet; and
- (4) over 100 feet, \$5,400 plus \$79 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch PVC well:

- (1) 0 - 25 feet, \$1,900;
- (2) 26 - 50 feet, \$1,900 plus \$77 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$3,825 plus \$78 per foot beyond 50 feet; and
- (4) over 100 feet, \$7,725 plus \$90 per foot beyond 100 feet.

Subp. 3. **Mud or air rotary.** Mud or air rotary in limestone or hard rock, with surface sampling only:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$1,750;
- (2) 26 - 50 feet, \$1,750 plus \$45 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$2,875 plus \$53 per foot beyond 50 feet; and
- (4) over 100 feet, \$5,525 plus \$63 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,025;

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Proposed Rules

- (2) 26 - 50 feet, \$2,025 plus \$59 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$3,500 plus \$65 per foot beyond 50 feet; and
- (4) over 100 feet, \$6,750 plus \$70 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,275;
- (2) 26 - 50 feet, \$2,275 plus \$79 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,250 plus \$80 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,250 plus \$92 per foot beyond 100 feet.

Subp. 4. Air coring. Air coring in limestone or hard rock, with continuous sampling:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,200;
- (2) 26 - 50 feet, \$2,200 plus \$57.50 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$3,637.50 plus \$67 per foot beyond 50 feet; and
- (4) over 100 feet, \$6,987.50 plus \$76 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,600;
- (2) 26 - 50 feet, \$2,600 plus \$60 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,100 plus \$79 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,050 plus \$92 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,850;
- (2) 26 - 50 feet, \$2,850 plus \$90 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$5,100 plus \$98 per foot beyond 50 feet; and
- (4) over 100 feet, \$10,000 plus \$118 per foot beyond 100 feet.

Subp. 5. Rotosonic drilling. Rotosonic drilling in sand, silt, or clay, with continuous sampling:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch PVC well:

- (1) 0 - 25 feet, \$2,300;
- (2) 26 - 50 feet, \$2,300 plus \$81 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,325 plus \$84 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,525 plus \$98 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch PVC well:

- (1) 0 - 25 feet, \$2,750;
- (2) 26 - 50 feet, \$2,750 plus \$84 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,850 plus \$105 per foot beyond 50 feet; and
- (4) over 100 feet, \$10,100 plus \$117 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch PVC well:

- (1) 0 - 25 feet, \$3,150;
- (2) 26 - 50 feet, \$3,150 plus \$125 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$6,275 plus \$144 per foot beyond 50 feet; and
- (4) over 100 feet, \$13,475 plus \$170 per foot beyond 100 feet.

2890.3500 AT-GRADE WELL INSTALLATION.

Subpart 1. General. Costs for well installation of an at-grade well are as described in this part.

Subp. 2. Hollow-stem auger. Hollow-stem auger in sand, silt, or clay, with continuous sampling:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch PVC well:

- (1) 0 - 25 feet, \$1,400;
- (2) 26 - 50 feet, \$1,400 plus \$42 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$2,450 plus \$50 per foot beyond 50 feet; and
- (4) over 100 feet, \$4,950 plus \$60 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch PVC well:

- (1) 0 - 25 feet, \$1,487.50;
- (2) 26 - 50 feet, \$1,487.50 plus \$53.50 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$2,825 plus \$60.50 per foot beyond 50 feet; and
- (4) over 100 feet, \$5,850 plus \$79 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch PVC well:

- (1) 0 - 25 feet, \$2,350;
- (2) 26 - 50 feet, \$2,350 plus \$77 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,275 plus \$78 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,175 plus \$90 per foot beyond 100 feet.

Subp. 3. Mud or air rotary. Mud or air rotary in limestone or hard rock, with surface sampling only:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,200;
- (2) 26 - 50 feet, \$2,200 plus \$45 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$3,325 plus \$53 per foot beyond 50 feet; and
- (4) over 100 feet, \$5,975 plus \$63 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,475;
- (2) 26 - 50 feet, \$2,475 plus \$59 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$3,950 plus \$65 per foot beyond 50 feet; and
- (4) over 100 feet, \$7,200 plus \$70 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,725;
- (2) 26 - 50 feet, \$2,725 plus \$79 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,700 plus \$80 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,700 plus \$92 per foot beyond 100 feet.

Subp. 4. Air coring. Air coring in limestone or hard rock, with continuous sampling:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$2,650;

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Proposed Rules

- (2) 26 - 50 feet, \$2,650 plus \$57.50 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,087.50 plus \$67 per foot beyond 50 feet; and
- (4) over 100 feet, \$7,437.50 plus \$76 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$3,050;
- (2) 26 - 50 feet, \$3,050 plus \$60 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,550 plus \$79 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,500 plus \$92 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch well (steel riser with PVC screen):

- (1) 0 - 25 feet, \$3,300;
- (2) 26 - 50 feet, \$3,300 plus \$90 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$5,550 plus \$98 per foot beyond 50 feet; and
- (4) over 100 feet, \$10,450 plus \$118 per foot beyond 100 feet.

Subp. 5. Rotosonic drilling. Rotosonic drilling in sand, silt, or clay, with continuous sampling:

A. subitems (1) to (4) list the depth of the well and the maximum cost per two-inch PVC well:

- (1) 0 - 25 feet, \$2,750;
- (2) 26 - 50 feet, \$2,750 plus \$81 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$4,775 plus \$84 per foot beyond 50 feet; and
- (4) over 100 feet, \$8,975 plus \$98 per foot beyond 100 feet;

B. subitems (1) to (4) list the depth of the well and the maximum cost per four-inch PVC well:

- (1) 0 - 25 feet, \$3,200;
- (2) 26 - 50 feet, \$3,200 plus \$84 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$5,300 plus \$105 per foot beyond 50 feet; and
- (4) over 100 feet, \$10,550 plus \$117 per foot beyond 100 feet; and

C. subitems (1) to (4) list the depth of the well and the maximum cost per six-inch PVC well:

- (1) 0 - 25 feet, \$3,600;
- (2) 26 - 50 feet, \$3,600 plus \$125 per foot beyond 25 feet;
- (3) 51 - 100 feet, \$6,725 plus \$144 per foot beyond 50 feet; and
- (4) over 100 feet, \$13,925 plus \$170 per foot beyond 100 feet.

2890.3600 SOIL BORING AND MONITORING WELL ABANDONMENT.

The following tasks have a maximum cost as listed in items A to E:

- A. soil boring abandonment, \$3.50 per foot;
- B. two-inch well abandonment, \$10 per foot;
- C. four-inch well abandonment, \$15 per foot;
- D. six-inch well abandonment, \$20 per foot; and
- E. at-grade well pad removal, \$250 per well pad.

2890.3700 DRILLING MOBILIZATION/DEMobilIZATION AND DRILL CREW PER DIEM FOR TECHNOLOGIES OTHER THAN DIRECT PUSH.

The following tasks have a maximum cost as listed in items A to D when one of these technologies is used: hollow-stem auger, mud or air rotary, air coring, or rotosonic:

- A. mobilization/demobilization (drilling) (0 to 50 miles one way), \$400;
- B. mobilization/demobilization (drilling) (51 to 500 miles one way), \$400 plus \$6 per mile over 50 miles;

C. mobilization/demobilization (drilling) (over 500 miles one way), \$3,100; and

D. per diem, \$135 per day per person.

2890.3800 MAXIMUM COSTS FOR OTHER CONTRACTOR SERVICES.

Subp. 4. ~~Maximum costs for all other contractor services.~~ For contractor services not otherwise listed in this part, such as ~~treatment of petroleum contaminated water from the excavation basin, and system installation, the board shall consider as the following tasks, the cost is prima facie unreasonable costs incurred in excess of when it exceeds the amount specified for it in the bid for contractor services; or the maximum cost specified when the task was started, whichever is less:~~

A. clean fill purchase, transportation, and installation has a maximum cost of \$15 per cubic yard;

B. drum disposal has a maximum cost of \$100 for a drum and its contents plus \$65 per hour for the associated loading and hauling;

C. excavation has a maximum cost of \$7 per cubic yard;

D. hauling has a maximum cost of \$100 plus \$0.25 per cubic yard/mile;

E. loading has a maximum cost of \$3 per cubic yard;

F. pumping of free product or petroleum-contaminated water has a maximum cost of:

(1) \$85 per hour when a 2,000 gallon vacuum truck is used; or

(2) \$100 per hour when a 3,000 gallon vacuum truck is used;

G. soil test pit excavation has a maximum cost of \$100 per test pit;

H. stockpiling has a maximum cost of:

(1) \$3 per cubic yard, when the stockpiling takes place on the leak site or the soil disposal site, or when the stockpiling takes place on property other than the leak site or the final disposal site and it is not necessary to rent the temporary storage site; or

(2) \$3.50 per cubic yard, when the stockpiling takes place on property other than the leak site or the final disposal site and it is necessary to rent the temporary storage site;

I. surface disposal tipping fees has a maximum cost of the reasonable actual cost charged by the disposal facility;

J. treatment of free product or petroleum-contaminated water has a maximum cost of:

(1) \$1 per gallon for mixtures of water and light oil (diesel oil, No. 1 to No. 4 fuel oil);

(2) \$2 per gallon for mixtures of water and heavy oil (drain oil, No. 5 and No. 6 fuel oil); and

(3) \$2 per gallon for mixtures of water and gasoline; and

K. utility clearance has a maximum cost of:

(1) the reasonable actual cost up to \$200 for each utility clearance event for which a private utility locator is not necessary;
and

(2) the reasonable actual cost up to \$500 for each utility clearance event for which a private utility locator is necessary.

2890.3900 ADJUSTMENT OF DOLLAR AMOUNTS.

A. The dollar amounts in parts 2890.2600, 2890.2800 to 2890.3100, and 2890.3300 to 2890.3800 must be adjusted periodically, as provided in this part, according to and to the extent of changes in the implicit price deflator for the gross domestic product, 1996 = 100, compiled by the United States Department of Commerce, and referred to in this part as the index. The index for the fourth quarter of 2001 is the original reference base index for purposes of this part. When the dollar amounts in parts 2890.2600, 2890.2800 to 2890.3100, and 2890.3300 to 2890.3800 are adjusted, the index for the fourth quarter of the preceding year becomes the current reference base index for purposes of this part. The implicit price deflator for the gross domestic product (publ. United States Department of Commerce Bureau of Economic Analysis) is incorporated by reference in this part and is revised quarterly. It is available on the Internet at www.bea.doc.gov/bea/dn/nipaweb/index.asp.

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B. The dollar amounts in parts 2890.2600, 2890.2800 to 2890.3100, and 2890.3300 to 2890.3800 must be adjusted on July 1 of each year after 2002 in which the percentage of change, calculated to the nearest whole percentage point, between the index for the fourth quarter of the preceding year and the current reference base index is ten percent or more; but the part of the percentage change in the index in excess of a multiple of ten percent must be disregarded and the dollar amounts must change only in multiples of ten percent.

C. If the index is revised, the percentage of change under this part must be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index must be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the United States Department of Commerce. If the index is superseded, the index referred to in this part is the one represented by the United States Department of Commerce as most accurately reflecting changes in the purchasing power of the dollar for consumers and businesses.

D. The board must announce and publish:

(1) before July 1 of each year in which adjustments are made, the adjustments in dollar amounts required by item B; and

(2) promptly after the changes occur, changes in the index required by item C including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of the index superseding the index.

~~2890.0083~~ **2890.4000** COMPETITIVE BIDDING REQUIREMENTS FOR CONTRACTOR SERVICES.

Subpart 1. **Generally; competitive bidding required.** The applicant ~~shall obtain~~ must get, publicly or privately, a minimum of two written competitive bids for each contractor service ~~prior to before~~ incurring costs for that contractor service and must approve the winning bid in writing before incurring costs for that contractor service. Bids for contractor services ~~shall~~ must be on a form prescribed by the board according to parts ~~2890.0081~~ 2890.2400 to 2890.0086 2890.4300. The applicant ~~shall only obtain~~ must get bids for contractor services only from persons who are registered with the board as a contractor.

Subp. 2. **Contractor services in consultant proposals.** When costs for air sample analysis, drilling, groundwater sample analysis, soil sample analysis, or system installation are included in a consultant proposal, bidding requirements for these services are not governed by subpart 1 and part 2890.4300, but are governed by parts 2890.1000 to 2890.2100 and 2890.4200.

Subp. 3. **Notarization required; prevention of conflict of interest.** The applicant's signature indicating acceptance of a written bid for contractor services must be dated with the date on which the applicant approves the bid in writing and must be notarized, but the applicant must not have the applicant's signature notarized by a person employed by or otherwise affiliated with the contractor services firm that provided the bid.

If the bid is not in compliance with any of these conditions, the bid is not a valid competitive bid for the purposes of this chapter.

Subp. ~~2~~ **4. Dollar cost bidding and cost per cubic yard bidding required.** All items on the contractor bid ~~shall~~ must be bid by dollar amount per unit of service. For purposes of this part, one cubic yard equals 1.4 tons. The following contractor services must be itemized on a cost per cubic yard basis on the bid form for contractor services:

A. ~~hauling;~~

~~B.~~ excavation;

~~C.~~ clean fill purchase, transportation, and installation;

~~D.~~ off-site stockpiling;

~~E.~~ landfarming, including a breakdown by cost per cubic yard for each of the tasks listed in part 2890.0081, subpart 8; and

~~F.~~ thermal treatment

D. on-site stockpiling;

E. loading;

F. surface disposal tipping fees;

G. surface removal, when the surfacing removed is reinforced concrete; and

H. soil disposal.

Subp. ~~3~~ **5. Lowest cost bid.**

A. Except as provided in part ~~2890.0084~~ 2890.4100, total costs ~~in excess of those~~ for contractor services that exceed the total cost in the bid of the lowest qualified bidder shall be considered competitive bid for contractor services are prima facie unreasonable ~~by the board~~, unless the applicant ~~demonstrates~~ provides documented proof to demonstrate that the services to be performed or the selected contractor's qualifications are superior to those of the contractor who gave the lowest competitive bid and justify the selection of a higher cost bid. Among the factors relevant to the qualifications of a contractor are education, experience, and certifi-

cations and registrations, ~~health and safety training, insurance, availability, and references.~~ A prior business relationship between the applicant and the contractor is not relevant to the qualifications of a contractor. The board ~~shall~~ must consider ~~costs~~ the cost for a contractor service in the lowest overall competitive bid as a reasonable amount to charge for a specific task or item if the ~~costs~~ cost for that task or item ~~do~~ does not exceed the maximum ~~costs~~ cost stated in ~~part 2890.0082~~ parts 2890.2400 to 2890.3800.

B. When the bids obtained by the applicant for contractor services are not based on identical assumptions about the scope of work to be performed, the bids are not valid competitive bids.

Subp. 6. Exemptions from competitive bidding requirements. The applicant may be granted an exemption from the competitive bidding requirements of this part if the board determines that the applicant has documented:

A. that only one contractor was reasonably available to perform the necessary service and that the costs are not substantially in excess of costs typically charged for similar services by comparable contractors in the same geographical area;

B. that the necessary services were required by an emergency that did not allow the applicant sufficient time to get bids for the necessary services; or

C. that a standard contract that was entered into via an annual bidding or evaluation process results in lower corrective action costs than obtaining bids on a per-job basis.

~~2890.0084~~ 2890.4100 DEVIATIONS FROM MAXIMUM COSTS FOR CONTRACTOR SERVICES.

Subpart 1. Bids over maximum costs due to unusual site conditions. The board shall not consider as prima facie unreasonable contractor services costs higher than the maximum costs in part 2890.0082 if:

A. the bid accepted by the applicant prior to the provision of contractor services specifically states that the amount exceeds the maximum cost limits and provides a detailed explanation of the reasons for costs in excess of the maximum cost limits; and

~~B. the applicant demonstrates that the higher costs:~~

~~(1) were justified by unusual conditions existing at the applicant's site; and~~

~~(2) were essential to complete the corrective action properly.~~

Subp. 2. Subpart 1. Bids over maximum costs ~~due~~ owing to unavailability of contractors. ~~The board shall not consider as prima facie unreasonable contractor services costs higher than~~ A cost for a contractor task that exceeds the maximum ~~costs~~ cost specified for that task in ~~part 2890.0082, if~~ parts 2890.2400 to 2890.3800 is not prima facie unreasonable when:

A. the bid accepted by the applicant ~~prior to~~ before the provision of contractor services specifically states that the amount exceeds the maximum cost limits and provides a detailed explanation of the reasons for costs in excess of the maximum cost limits; and

B. the applicant demonstrates by reasonable evidence that:

(1) the applicant ~~was unable to~~ could not secure a bid to perform that contractor service for an amount not exceeding the maximum costs in ~~part 2890.0082~~ parts 2890.2400 to 2890.3800 for that contractor service;

(2) the applicant conducted an extensive search for bids from persons that could perform that contractor service or perform a comparable service at less expense that would make unnecessary the performance of that contractor service; and

(3) the performance of that contractor service was essential to complete the corrective action properly.

Subp. 3 2. Additional costs incurred after bid approved by applicant.

A. ~~The board shall not consider as prima facie unreasonable charges greater than~~ Costs for contractor services that exceed the amount specified in a bid approved by ~~an~~ the applicant ~~if~~ are not prima facie unreasonable when:

(1) the applicant approves a change order for the higher costs;

(2) the higher costs were required by circumstances beyond the control of the contractor ~~or applicant~~ or applicant that could not have been reasonably anticipated ~~at the time when~~ when the bid was accepted by the applicant; and

(3) the applicant demonstrates that ~~the applicant has established that~~ the higher costs were essential to complete the corrective action properly.

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B. The applicant ~~shall~~ must approve ~~all~~ change orders on a form prescribed by the board. The charge order form ~~shall~~ must contain the following:

(1) a detailed description of the higher costs;

(2) the reason for the ~~proposed~~ changes from the original ~~proposal~~ bid;

(3) the ~~original proposal~~ amount originally proposed for each affected task and the ~~revised proposal~~ amount actually charged for each affected task; and

(4) signatures of the applicant and the contractor.

~~2890.0085~~ 2890.4200 ~~REASONABLE, NECESSARY, AND ACTUAL CONTRACTOR SERVICES COSTS.~~

Notwithstanding parts ~~2890.0084~~ 2890.2400 to ~~2890.0084~~ 2890.4100, the board ~~shall~~ must not reimburse applicants ~~only for contractor services tasks and costs necessary for the corrective action at the applicant's site, only for contractor services costs that are reasonable, and only for a cost for a contractor services task that exceeds the cost for the actual hours spent by the contractor performing that task~~ when contractor services are charged based on the contractor's time.

~~2890.0086~~ 2890.4300 ~~WRITTEN INVOICE REQUIREMENTS FOR CONTRACTOR SERVICES.~~

The board ~~shall~~ consider as prima facie unreasonable Costs incurred for contractor services that are not billed to the applicant on an invoice form prescribed by the board are prima facie unreasonable. The invoice form prescribed by the board ~~shall~~ must be consistent with the bid form for contractor services and according to parts ~~2890.0084~~ 2890.2400 to ~~2890.0085~~ 2890.4200.

~~2890.0089~~ EXEMPTIONS FROM COMPETITIVE BIDDING.

The applicant shall be granted an exemption from the competitive bidding requirement of parts 2890.0077 and 2890.0083 if:

~~A. the board determines that the applicant has provided satisfactory evidence that:~~

~~(1) only one contractor or consultant was reasonably available to perform the necessary service and that costs are not substantially in excess of costs charged for similar services by a comparable contractor or consultant in the same geographical area; or~~

~~(2) the necessary services were required by an emergency, including the emergency abatement of free product, for which there was not sufficient time to obtain bids or proposals; or~~

~~B. the board makes an annual determination that the applicant has established that a standard contract that was entered into via the annual bidding or evaluation process will result in reasonable corrective action costs by providing to the board:~~

~~(1) documentation of the annual bidding process that led to the standing contract for contractor services or a written explanation of the annual evaluation process that led to the standing contract for consultant services; and~~

~~(2) a written explanation of why the standing contract results in lower corrective action costs than obtaining bids or proposals on a per job basis.~~

~~2890.0090~~ 2890.4400 ~~APPLICATION PROCESS.~~

Subpart 1. **Applications.** An applicant ~~shall~~ must complete, sign, and submit to the board a written application. The application ~~shall~~ must be made on a form prescribed by the board and ~~shall~~ must contain at least the following:

~~A. the legal name of the person making the application;~~

~~B. a description of the site of the release;~~

~~C. (1) for costs associated with corrective action related to soil contamination, a copy of the commissioner's approval of a soil corrective action plan, or evidence that a proposed soil corrective action plan has been submitted to the commissioner; or~~

~~(2) for costs associated with corrective action that will address the entire release, including groundwater if necessary, a copy of the commissioner's approval of a comprehensive corrective action plan, or evidence that a proposed comprehensive corrective action plan has been submitted to the commissioner; or~~

~~(3) a closure letter issued by the commissioner;~~

~~D. an itemized list of all corrective actions taken, the eligible costs associated with the actions, and the name of the engineer, contractor, or subcontractor who performed the action;~~

~~E. a copy of all competitive bids and competitive proposals obtained by the applicant as required by parts 2890.0077 2890.2000 and 2890.0083, or documentation of an exemption from these requirements under part 2890.0089 2890.4000;~~

~~F. D. a copy of the proposals for each step of consultant services as required by parts 2890.0074 to 2890.0077 and;~~

~~E. a copy of all change orders, if any, as required by parts 2890.0078 and 2890.0084; and~~

~~G. E.~~ a copy of all invoices as required by parts ~~2890.0074~~ 2890.1000 and ~~2890.0086~~ 2890.4300; and

G. a copy of a site map that identifies the locations of any soil borings advanced and any monitoring wells installed as part of corrective action at the leak site.

Subp. 2. **Time of application; costs payable under an insurance policy.** ~~The application and all accompanying documentation applicant must be received by the board's office 30 days before a board meeting in order for reimbursement to be considered at that meeting. The board may waive the 30-day requirement, if it finds that undue financial hardship to the applicant will result if action is delayed until the next regular meeting.~~ make reasonable efforts to collect payment from an insurer for any costs that are payable under an applicable insurance policy before applying for reimbursement for those costs.

Subp. 3. **Subsequent Supplemental applications.** An applicant who has already submitted to the board an application for reimbursement and who has incurred additional or continuing eligible costs may apply for reimbursement of those costs by filing a subsequent ~~supplemental application.~~ An applicant may file a ~~subsequent supplemental~~ subsequent supplemental application only if the applicant has not submitted the costs on a previous application and the costs are not related to ~~any a new releases~~ release at the site.

Subp. 4. **Signatures.** An application must be signed as follows:

A. for a corporation, by a principal executive officer of at least the level of vice-president ~~or, by~~ by the duly authorized representative or agent of the executive officer if the representative or agent is responsible for the overall operation of the facility that is the subject of the application, ~~or by a person whom the board of directors designates by means of a corporate resolution;~~

B. for a partnership, sole proprietorship or individual, by a general partner, the proprietor, or individual respectively; or

C. for a municipality, state, federal, or other public agency, by either a principal, executive officer, or ranking elected official, or by the duly authorized representative or agent of the principal executive officer if the representative or agent is responsible for the overall operation of the facility that is the subject of the application.

Subp. 5. **Certification.** A person who signs an application for reimbursement ~~shall~~ must make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

I certify that if I have submitted invoices for costs that I have incurred but that remain unpaid, I will pay those invoices within 30 days of receipt of reimbursement from the board. I understand that if I fail to do so, the board may demand return of all or ~~any portion~~ a part of reimbursement paid to me and that if I fail to comply with the board's demand, that the board may recover the reimbursement, plus administrative and legal expenses in a civil action in district court. I understand that I may also be subject to a civil penalty."

Additionally, if the applicant is not an individual, the person authorized under subpart 4 ~~shall~~ must make the following certification: "I further certify that I am authorized to sign and submit this application on behalf of (entity)."

Subp. 6. **Report of the commissioner.** ~~Upon~~ No later than 15 days after receiving notification ~~by~~ from the board's staff that a complete application has been received, the commissioner ~~shall, in a timely manner,~~ must provide the board with a written report on:

A. whether the corrective action was appropriate in terms of protecting public health, welfare, and the environment; and

B. the applicant's compliance or noncompliance with the requirements listed in Minnesota Statutes, section 115C.09, subdivision 2, paragraphs (b) and (c) 3, paragraph (i). The report ~~shall~~ must include documentation supporting the commissioner's findings, ~~if necessary. The commissioner shall file the report with the board no later than 15 days after notification.~~

In addition, the board may, as it ~~deems~~ considers necessary, ~~request~~ ask for additional information from the commissioner or ~~can request~~ ask for participation of agency staff at a board meeting. ~~All~~ Responses to requests for information ~~shall~~ must be delivered in a timely manner. The board may delegate these powers to its staff.

~~2890.0100~~ 2890.4500 REVIEW AND DETERMINATION.

Subpart 1. **Review.** The board's staff ~~shall~~ must review ~~all~~ applications. ~~If~~ When the staff finds that the application is incomplete or otherwise deficient, the staff ~~shall~~ must promptly advise the applicant of the incompleteness or deficiency. Further process-

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ing of the application affected by the deficiency ~~shall~~ must be suspended until the applicant has supplied the necessary information or otherwise corrected the deficiency. A complete application and the corresponding report of the commissioner ~~constitutes~~ constitute the written record.

Subp. 2. **Staff recommendation determination.** After a reimbursement application is complete and the commissioner has provided the information relevant to the application, the board's staff ~~shall make a recommendation as to~~ must determine the eligibility of the applicant and the eligibility of the costs specified in the application. The reimbursement determination that results from these determinations constitutes the reimbursement determination made by the commissioner of commerce under authority delegated by the board according to Minnesota Statutes, section 115C.09, subdivision 10.

Subp. 3. **Board determination.** When the board considers an appeal of a reimbursement determination, the board shall must determine the amount of the reimbursement based on those costs it finds are eligible, actually incurred, and reasonable. The determination ~~shall~~ must be made on the basis of the written record. The board may also allow supplemental information explaining the application to be presented orally. The board may establish a fair and reasonable limit on time allowed for oral presentation.

The applicant ~~shall~~ must be notified in writing within ten business days of the board's decision. If the board rejects ~~any portion~~ all or a part of the request for reimbursement, a statement of the reasons for rejection ~~shall~~ must be included with the notification.

~~2890.0110~~ **2890.4600 RIGHT TO APPEAL.**

Subpart 1. **Appeal from determination of commissioner of commerce.** An applicant for reimbursement may appeal to the board a reimbursement determination made by the commissioner of commerce under authority delegated by the board according to Minnesota Statutes, section 115C.09, subdivision 10, by submitting a written notice setting forth the specific basis for the appeal. The applicant for reimbursement must file written notice with the board of an appeal of a reimbursement determination made by the commissioner of commerce within 60 days of the date that the commissioner of commerce sends written notice to the applicant of the reimbursement determination. The written notice must set forth the specific basis for the appeal.

Subp. 2. Appeal from decision of the board.

A. ~~A person~~ An applicant for reimbursement may appeal within 30 days a reimbursement determination by of the board as a contested case hearing under Minnesota Statutes, chapter 14. An applicant for reimbursement must provide written notification to the board of a request for a contested case, setting forth the specific basis for the appeal, within 30 days of the date that the board makes a reimbursement determination. On appeal, the Office of Administrative Hearings must determine whether the evidence submitted to the board entitles the applicant to reimbursement and whether the board's determination is otherwise consistent with or contrary to law.

B. This subpart applies to reimbursement determinations made by the board as a result of an appeal to the board under subpart 1 and reimbursement determinations made by the board when the board has not delegated its authority to make reimbursement determinations.

C. An appeal of a reimbursement determination may only be made by an applicant as defined by Minnesota Statutes, chapter 115C.

~~2890.0120~~ **2890.4700 FUNDING OF MPCA ACTIONS.**

In accordance with *Minnesota Statutes*, section 115C.10, subdivision 1, paragraph (a), the agency may apply to the board for money to pay for actions taken under *Minnesota Statutes*, section 115C.03, if all other state and federal funds appropriated for such actions have been exhausted. The application ~~shall~~ must consist of a written statement of proposed corrective actions, an itemized estimate of costs for the proposed actions, and documentation that applicable state appropriations and federal awards have been exhausted by actions authorized under *Minnesota Statutes*, section 115C.03.

The board ~~shall~~ must pay the agency the cost of the proposed actions if the board determines that:

- A. applicable state and federal funds are exhausted;
- B. the agency's proposed actions are authorized under *Minnesota Statutes*, section 115C.03; and
- C. an adequate amount exists in the fund to pay for the proposed actions.

~~2890.0130~~ **2890.4800 ACTION ON NOTICE OF LIEN FILING.**

In accordance with *Minnesota Statutes*, section 514.673, the commissioner ~~shall~~ must send written notice of intent to file an environmental lien notice to each board member. If a regular meeting of the board is to be held within 30 days of receipt of the commissioner's notice, the approval of the lien filing must be considered at the next regular meeting. If no regular meeting is scheduled within the 30-day period, a special meeting to consider approval of the lien filing ~~shall~~ must be scheduled at the request of at least one board member. If the board takes no action on the matter within the 30-day period, the commissioner may file the lien notice.

RENUMBERER. The rule parts or subparts in Column A are renumbered with the number in Column B. Parts 2890.0010, 2890.0073, and 2890.0081 are renumbered as part 2890.0015, with the definitions placed in alphabetical order.

A
2890.0071
2890.0074, subp. 1
2890.0074, subp. 2
2890.0075, subp. 1
2890.0075, subp. 3
2890.0075, subp. 6
2890.0076, subp. 1
2890.0076, subp. 2
2890.0076, subp. 5
2890.0077, subp. 1
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2890.0077, subp. 3
2890.0077, subp. 4
2890.0077, subp. 6
2890.0078, subp. 2
2890.0078, subp. 3
2890.0079
2890.0082, subp. 1
2890.0082, subp. 2
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2890.0082, subp. 4
2890.0083, subp. 1
2890.0083, subp. 2
2890.0083, subp. 3
2890.0084, subp. 2
2890.0084, subp. 3
2890.0085
2890.0086
2890.0090
2890.0100
2890.0110
2890.0120
2890.0130

B
2890.0200
2890.1000, subp. 1
2890.1000, subp. 6
2890.1100, subp. 1
2890.1000, subp. 2
2890.1100, subp. 3
2890.1300
2890.1400
2890.1500
2890.2000, subp. 1
2890.2000, subp. 4
2890.2000, subp. 5
2890.2000, subp. 6
2890.2000, subp. 8
2890.2100, subp. 1
2890.2100, subp. 2
2890.2200
2890.2400
2890.2600
2890.2700
2890.3800
2890.4000, subp. 1
2890.4000, subp. 4
2890.4000, subp. 5
2890.4100, subp. 1
2890.4100, subp. 2
2890.4200
2890.4300
2890.4400
2890.4500
2890.4600
2890.4700
2890.4800

REPEALER. *Minnesota Rules*, parts 2890.0010, subparts 6 and 7; 2890.0072; 2890.0073, subparts 1, 2, 3, 5, 6, 8, 9, 10, 17, 18, 20, 23, 25, 27, 29, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 49, 51, 52, 53, 55, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, and 69; 2890.0075, subparts 2, 4, and 5; 2890.0076, subparts 3 and 4; 2890.0077, subpart 5; 2890.0078, subpart 1; 2890.0080; 2890.0081, subparts 1, 7, and 11; 2890.0084, subpart 1; and 2890.0089, are repealed.

INCORPORATIONS BY REFERENCE: Part 2890.1800, item A: the Minnesota Department of Administration’s “Hazardous Spill and Substance Release – Full Service Emergency Response” contract (publ. Minnesota Department of Administration Materials Management Division, 2002) is located in the State Law Library

Part 2890.1800, item B: the Minnesota Department of Administration’s “Emergency Response, Limited Service and Full Service” contract (publ. Minnesota Department of Administration Materials Management Division, 2003) is located in the State Law Library

Parts 2890.1900, item A, and 2890.3900, item A: the implicit price deflator for the gross domestic product (publ. United States Department of Commerce Bureau of Economic Analysis) is available on the Internet at: www.bea.doc.gov/bea/dn/nipaweb/index.asp

Part 2890.2400: “Means Heavy Construction Cost Data” (ed. Kornelis Smit et al., publ. R.S. Means Company, Inc., 2002), is located in the State Law Library

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Commissioners' Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners' orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Minnesota Pollution Control Agency

Findings of Fact, Conclusions, and Order in the Matter of the Petition to Create the Lake Washington Sanitary District

The Township of Kasota and the Township of Washington located in LeSueur County, Minnesota and the Township of Jamestown located in Blue Earth County, Minnesota petitioned the Minnesota Pollution Control Agency (MPCA) under *Minnesota Statutes* § 115.20 requesting the formation of the Lake Washington Sanitary District. The Chairpersons of the Kasota, Jamestown, and Washington Township Board of Supervisors were authorized to sign the petition pursuant to resolutions passed by their respective bodies of government.

The MPCA published the Notice of Intent to Approve the Lake Washington Sanitary District in the *State Register* on Tuesday, September 3, 2002. The MPCA also mailed a copy of the notice to all property owners in the affected area.

The MPCA, after having considered the petition, having published notice of the intent to approve creation of the sanitary district in the *State Register*, having notified the affected property owners of the intent to create the district, having reviewed the comment letters received during the comment period, having not received 25 or more hearing requests requisite for a hearing, and being fully advised in this matter, hereby makes the following:

FINDINGS OF FACT

1. The area of the proposed sanitary district is located in portions of Kasota Township and Washington Township located in LeSueur County, Minnesota and in a portion of Jamestown Township located in Blue Earth County, Minnesota, surrounding a body of water known as Lake Washington. Lake Washington is part of the Minnesota River Basin and flows to the Minnesota River via Shanaska Creek.
2. The area proposed for formation of the sanitary district is specifically described in the attached legal description (Attachment 1).

Legal Description for the Lake Washington Sanitary District

The territory of the proposed district is located within Blue Earth and LeSueur Counties and is legally described as:

Within Washington Township:

Corner's Point Subdivision, LeSueur County, Minnesota.

All that part of Section 6, Township 109 North, Range 25 West, LeSueur County, Minnesota, lying southerly of North Shore Drive.

All that part of Section 7, Township 109 North, Range 25 West, LeSueur County, Minnesota, lying southerly of North Shore Drive.

All that part of Section 8, Township 109 North, Range 25 West, LeSueur County, Minnesota, lying southerly of North Shore Drive.

All that part of Section 9, Township 109 North, Range 25 West, LeSueur County, Minnesota, lying southerly of North Shore Drive and northerly of Patterson Road; also that part of the westerly 600 feet of the Southwest Quarter of said Section 9 lying southerly of Patterson Road.

Washington Park Subdivision, Washington Park Subdivision No. 2, Lundin's Lake Washington Subdivision, Loeffler's Subdivision No. 2, Loeffler's Subdivision No. 1, Linder Bay, and Block One, Hiniker's Rolling Acres; Section 17, Township 109 North, Range 25 West, LeSueur County, Minnesota. Also that part of said Section 17, lying westerly of the following described line; beginning at the southeast corner of said Hiniker's Rolling Acres; thence south to the south line of said Section 17 and there terminating.

Within Jamestown Township:

Gurni Subdivision No. 2, Gurni Subdivision No. 3, Section 20, Township 109 North, Range 25 West, Blue Earth County, Minnesota, and that part of said Section 20 lying northerly of County Road No. 2. Also that part of said Section 20 described as follows: beginning at the southwest corner of Lot 7, Block 2, Gurni Subdivision No. 3; thence south 400 feet; thence west 200 feet; thence northwesterly to the intersection of the south line of said

Gurni Subdivision No. 3 and the shoreline of George Lake; thence east on said south line to the point of beginning.

Gurni Subdivision No. 2, Willivan Knolls Subdivision, and all that part of Section 19,

Township 109 North, Range 25 West, Blue Earth County, Minnesota, lying northerly of Jessica Drive and northerly of County Road No. 2.

Within Kasota Township:

All that part of Section 18, Township 109 North, Range 25 West, LeSueur County, Minnesota, lying easterly and northerly of Crystal Cove Road. Also that part of said Section 18 lying northerly of the following described line: beginning at the southwest corner of West Addition to Kenneywood Beach Subdivision; thence west to the west line of said Section 18 and there terminating.

All that part of Section 13, Township 109 North, Range 26 West, LeSueur County, Minnesota, lying northerly of Limerdink Road and easterly of County Road No. 19.

All that part of Government Lots 3 and 4, Section 12, Township 109 North, Range 26 West, LeSueur County, Minnesota, lying easterly of Baker's Bay Road, and lying southerly and easterly of the northerly and westerly lines of Wakefield's Sunrise Acres and Wakefield's Sunrise Acres No. 2. Also lying southerly of the following described line: beginning at the northwest corner of Wakefield's Sunrise Acres No. 2; thence west to County Road No. 19 and there terminating. Also that part of Government Lots 1 and 2, and that part of the east 600 feet of the Northwest Quarter of said Section 12, lying northeasterly of County Road No. 19.

All that part of Section 1, Township 109 North, Range 26 West, LeSueur County, Minnesota, lying southerly of North Shore Drive.

3. On January 9, 2002, a public meeting was held at the Kasota Community Center, Kasota, Minnesota to consider the proposed creation of a sanitary district. Notice of the public meeting was published at least once each week for two weeks in a qualified newspaper published in the area of the proposed district. The Notice was published on December 26, 2001, and January 2, 2002, in the *Le Center Leader*. Notice of the meeting was also published on December 27, 2001, and January 3, 2002, in the *St. Peter Herald*; and on December 26, 2001, and January 2, 2002, in *The Mankato Free Press and The Land*. Notice of the public meeting was posted for at least two weeks prior to the meeting in each of the territorial units of the proposed district. Notice of the public meeting was posted at the Jamestown Township Hall, the Kasota Township Hall, the Washington Township Hall, and the Kasota Community Center, Kasota, Minnesota, from December 20, 2001, through January 9, 2002. Notice of the public meeting was also mailed to the property owners residing within the boundaries of the proposed district on December 27, 2001.
4. On January 14, 2002, the Kasota Township Board of Supervisors adopted a resolution authorizing the approval of the creation of the sanitary district, authorizing the signing of the petition by the Chair of the Township of Kasota, and authorizing the submission of the petition to the MPCA for establishment of the Lake Washington Sanitary District. The resolution was published in the *Mankato Free Press and The Land* on January 24, 2002, and January 31, 2002; in the *Le Center Leader* on January 30, 2002, and on February 6, 2002; and in the *St. Peter Harold* on January 31, 2002, and February 7, 2002. The resolution became effective forty (40) days after the date of first publication.
5. On January 14, 2002, the Washington Township Board of Supervisors adopted a resolution authorizing the approval of the creation of the sanitary district, authorizing the signing of the petition by the Chair of the Township of Washington, and authorizing the submission of the petition to the MPCA for establishment of the Lake Washington Sanitary District. The resolution was published in the *Mankato Free Press and The Land* on January 24, 2002, and January 31, 2002; in the *Le Center Leader* on January 30, 2002, and on February 6, 2002; and in the *St. Peter Harold* on January 31, 2002, and February 7, 2002. The resolution became effective forty (40) days after the date of first publication.
6. On January 9, 2002, the Jamestown Township Board of Supervisors adopted a resolution authorizing the approval of the creation of the sanitary district, authorizing the signing of the petition by the Chair of the Township of Jamestown, and authorizing the submission of the petition to the MPCA for establishment of the Lake Washington Sanitary District. The resolution was published in the *Mankato Free Press and The Land* on January 24, 2002, and January 31, 2002; in the *Le Center Leader* on January 30, 2002, and on February 6, 2002; and in the *St. Peter Harold* on January 31, 2002, and February 7, 2002. The resolution became effective forty (40) days after the date of first publication.
7. On April 19, 2002, a petition and record of the public meeting was filed with the MPCA requesting approval for the formation of the Lake Washington Sanitary District. The Chairpersons of the Townships of Kasota, Washington, and Jamestown signed the petition for creation of the district as authorized by the resolutions. The petition requesting approval for formation of the sanitary district has met all the requirements of *Minnesota Statutes* § 115.20, subd. 1(a).

Commissioner's Orders

8. The proposed sanitary district will not be within twenty-five (25) miles of the boundary of any city of the first class.
9. On September 3, 2002, the MPCA published the Notice of Intent to Approve Creation of the Lake Washington Sanitary District in the *State Register* at 27 SR 327 and mailed the notice to each of the property owners in the area of the proposed district using addresses provided by the county auditor. The public notice period lasted for 30 days and ended on October 2, 2002.
10. By October 2, 2002, the end of the public notice period, the MPCA had received 34 letters requesting a hearing on the matter. *Minnesota Statutes* § 115.20, subd. 4(b) requires the MPCA to hold a contested case hearing if 25 or more written requests for hearing are received by the end of the public notice period. The MPCA also received one letter requesting additional information on the proposed district and thirteen telephone calls requesting additional information about the proposed sanitary district.
11. On October 15, 2002, the MPCA sent a letter addressed to the attorney representing the Chairpersons of Kasota, Washington, and Jamestown Townships, notifying them that more than 25 timely requests for a hearing had been received and encouraging the petitioners to find a way to address the citizens' concerns in lieu of holding a contested case hearing. A copy of the letter was mailed to each of the property owners located within the boundaries of the proposed district as notification of the status of the petition to create the Lake Washington Sanitary District.
12. Fifteen of the 34 citizens who requested a public hearing sent letters to the MPCA asking to withdraw their request for a hearing. As a result of these 15 withdrawals of request for a hearing, the total number of standing hearing requests fell to 19. Subsequently, the legal threshold of 25 hearing requests, required before the MPCA must hold a hearing, was not met.
13. On November 7, 2002, the MPCA sent a letter notifying the 34 citizens who had sent hearing requests that 15 citizens had withdrawn their requests for a hearing. The letter stated that the MPCA would not hold a hearing regarding the matter to create the Lake Washington Sanitary District, and the MPCA intended to proceed with the process of forming the sanitary district.
14. Lake Washington is an important regional and economic resource of value to local residents.
15. There is a need throughout the proposed district for an adequate and efficient means of treating and disposing of domestic sewage. The area around Lake Washington has an existing high density of residential development and continues to grow. Currently, most of the residential and commercial establishments within the boundaries of the proposed district are served by on-site treatment systems. Surveys of these systems indicate that many are not conforming to current standards required by *Minnesota Rules* chs. 7080 regarding on-site treatment systems. Many of the residential lots do not provide adequate space for replacement of a non-conforming system with a new system. High ground water levels, varying topography, and soil conditions present additional limitations for placing on-site wastewater treatment systems in much of the area of the proposed district. Drinking water is supplied to residents by private wells, individually owned or shared with neighbors. There is a concern that the existing non-conforming on-site systems are contaminating the ground water affecting local drinking water supplies and Lake Washington.
16. Creation of the district will serve the purpose of promoting the public health and welfare by providing an adequate and efficient system and means of collecting, conveying, pumping, treating and disposing of domestic sewage within the district.
17. The creation and maintenance of the sanitary district will be administratively feasible, and will further the public health, safety, and welfare. The district will be administered by a five member governing board who are voters within the sanitary district and who will be elected by the members of the related governing bodies in joint session. When formed, the Lake Washington Sanitary District will adopt sewer use ordinances and a sewer service charge system to adequately and equitably fund the wastewater treatment operation throughout the district.
18. Pursuant to *Minnesota Statutes* § 115.23, Washington Township is designated as the central related governing body for the purpose of joint meetings between the Township of Kasota, the Township of Washington, and the Township of Jamestown.

CONCLUSIONS

1. The Commissioner of the MPCA has subject matter jurisdiction over the petition and proposed establishment of the district pursuant to *Minnesota Statutes* §§ 115.18 to 115.37 (2000).
2. The petitioners have substantially complied with all the procedural requirements of *Minnesota Statutes* § 115.20, as well as other substantive and procedural requirements of law and rule. This matter, therefore, is properly before the Commissioner.
3. The conditions described in *Minnesota Statutes* § 115.19 for creation of a sanitary district do exist within the area identified in the legal description.

4. The MPCA is not required to hold a hearing pursuant to *Minnesota Statutes* § 115.20, subd. 4(b), based on the withdrawal of 15 of the original requests for a hearing.
5. Any of the foregoing Findings of Fact that might properly be termed Conclusions and Conclusions that might properly be termed Findings are hereby adopted as such.

NOW THEREFORE, the Commissioner hereby makes the following:

ORDER

It is ORDERED that the Lake Washington Sanitary District is hereby created to include portions of Kasota Township, Washington Township, and Jamestown Township as described in the legal description attached to the petition filed with the MPCA.

Dated: 16 December 2002

Karen A. Studders
Commissioner

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.

Minnesota Board of Chiropractic Examiners

REQUEST FOR COMMENTS on Possible Rules Governing an Examination in Acupuncture, Minnesota Rules, 2500.3000, subp 2

Subject of Rules. The Minnesota Board of Chiropractic Examiners requests comments on its possible rules governing an examination in acupuncture. The Board is considering rules that require a competency examination in acupuncture prior to granting acupuncture registration for all new requests for registration. Chiropractors presently registered to perform acupuncture under current requirements as part of their practice would be exempt from this new requirement.

Persons Affected. The rules would likely affect new licensees and current licensees who request acupuncture registration for the first time.

Statutory Authority. *Minnesota Statutes*, section 148.08, authorizes the Board to promulgate rules necessary to administer sections 148.01 to 148.105 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any term, whether or not used in sections 148.01 to 148.105, if the definitions are not inconsistent with the provisions of sections 148.01 to 148.105.

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

Rules Drafts. The Board does not anticipate that a draft of the rules will be available before the publication of the proposed rules.

Agency Contact Person. Written comments, questions, and requests for more information on these possible rules should be directed to: Micki King at The Chiropractic Board, 2829 University Ave SE #300, Minneapolis MN 55414, **phone:** (612) 617-2226, **fax:** (612) 617-2224, and **email:** Micki.king@state.mn.us. **TTY** users may call the Board at 1-800-627-3529.

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

Official Notices

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submitted comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: 11 December 2002

Larry A. Spicer, DC
Executive Director

Minnesota Department of Health

Notice of Request for Comments on Minnesota Emergency Health Powers Act Recommendations

The Minnesota Department of Health is soliciting comments from interested individuals, associations, or groups on proposed recommendations in response to *Minnesota Statutes* 2002, Chapter 402, Section 20. The following are the proposed recommendations. **In order for comments to be included in the final report, the Agency Contact Person must receive them by 4:30 p.m. on January 17, 2003.** The entire draft report can be accessed by contacting the Agency Contact Person or through the MDH web page at: www.health.state.mn.us/oep/legislative.htm

Agency Contact Person. Written or oral comments, questions, and requests for more information on these proposed recommendations should be directed to:

Yvette Young
Minnesota Department of Health
85 E. 7 th Place, Suite 400
P.O. Box 64882
St. Paul, Minnesota 55164-0882
Phone: (651) 215-5805
Fax: (651) 215-5801
Email: Yvette.Young@health.state.mn.us
MDH Web Site: www.health.state.mn.us
TTY users may call the Department of Health at (651) 215-8980

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

Minnesota Emergency Health Powers Act Study Recommendations

Liability, immunity and compensation concerns

1. MDH needs to continue strategic discussions involving providers, health plans, hospitals, other private employers of health care providers, and their insurance carriers. Input is needed from the Commerce Department, the Joint Underwriting Association established by the legislature to deal with unusual risks, and the state, county, and city attorneys who have had the duty of protecting the public against tort claim actions. The trial lawyers who regularly represent personal injury plaintiffs should also participate in these discussions to identify gaps, possible solutions, and need for legislative or other action.
2. MDH should monitor ongoing federal legislative activity and interpretations of the Homeland Security Act for application to Minnesota's workers and volunteers, particularly the liability concerns of the volunteers and sponsoring government or non-profit agencies.
3. MDH should request funding for a study on potential unmet needs in paying costs for acute care in a public health emergency. Such a study should also examine:
 - a. Compensation for victims of a public health emergency, especially those who have suffered additional injury or disability because of medical care that was lacking or deficient.
 - b. The implications of federal administrative compensation in lieu of tort litigation such as the September 11 Fund established for victims of the World Trade Center attacks and Janna12@@

- c. The National Vaccine Adverse Effects Compensation Program established to compensate persons suffering adverse effects from routine childhood vaccinations.
- d. The application of the Minnesota administrative compensation concept in the Harmful Substance Compensation Account under *Minnesota Statutes* §§ 115B.25 - 115B.37.

Dangerous facilities and materials

4. The Minnesota Departments of Pollution Control, Public Safety and Health should jointly prepare background information, plans, protocols, training and exercises for state and local agencies that consider the possible range of terrorism agents in radiological, chemical, and biological areas. These background materials should address response, recovery, clean-up and debris disposal procedures for these hazards. These agencies should also review and modify hazardous material protocols to assure worker safety in all aspects of emergency response and recovery.
5. These same state agencies should do table top and field exercises to test their plans and identify additional protocols and training needs.

Control of medical supplies and facilities

6. The Minnesota Departments of Health, Public Safety, and the National Guard should update and clarify procedures for managing medical supplies from the National Pharmaceutical Stockpile as well as the need for and management of other medical supplies.
7. The Hospital Preparedness Grant program should identify health care system concerns and recommendations about access to supplies, issues about use of medical facilities, and views about alternative locations for patient care.
8. The MDH and local public health agencies should work with hospitals to use tabletop and field exercises to identify issues related to commandeering and compensating medical facilities caring for victims of a public health emergency.

Limiting public gatherings and transportation

9. The Minnesota Departments of Health and Public Safety should jointly develop protocols and public information materials for limiting gatherings or transportation using the least restrictive means necessary.
10. MDH and local public health agencies should use tabletop and field exercises to evaluate the effectiveness of these protocols and to identify methods to minimize any impact of such limitations on individual or group rights while considering health and safety issues.

Medical examinations, testing, collecting laboratory specimens and samples

11. MDH and local public health should use tabletop and field exercises to identify problems and solutions related to testing, to collecting and handling laboratory specimen, and to health status examinations. They should also address methods to reduce the impact on individual liberties while considering health and safety issues.
12. MDH should gather information from surrounding states and bordering Canadian provinces to coordinate approaches to these issues and to determine what resources are available just beyond our borders to help resolve these issues.

Isolation and quarantine and due process protections

13. MDH and local public health agencies should include approaches to isolation and quarantine in state and local public health, hospital and first responder exercises to identify and clarify roles and procedures in the event isolation and quarantine is indicated.
14. MDH, Public Safety and the Attorney General's office should develop step-by-step procedural protocols for how the isolation and quarantine orders will be carried out with clarity about who's responsible for each of the steps, including enforcement.
15. MDH and the Attorney General's office should develop training and delegation agreements with interested local public health agencies and county attorneys for managing the court order process for isolation and quarantine to be consistent with state procedures.
16. MDH should gather information from other states and Canadian provinces about their planning, rules, statutes, and protocols in this area. In particular how the states and provinces immediately adjoining Minnesota address these issues should be understood and ideally should be similar as differences in approaches will lead to confusion and reduce the public health benefit of particular recommendations or actions for isolation or quarantine.
17. MDH should gather information on the enhanced internal quarantine powers granted the federal government in the Public Health Security and Bioterrorism Preparedness Act of 2002, and coordinate Minnesota's efforts with federal planning.

Official Notices

Vaccination and treatment

18. MDH and delegated local public health agencies should:
 - a. Identify problems and solutions for individuals who choose to decline vaccinations or treatment that may limit their capability to transmit a communicable disease, and
 - b. Evaluate the protocols for isolation and quarantine with the accompanying due process protections to determine methods to ensure health and safety while minimizing the impact on individual rights.
19. MDH should explore data management systems for tracking vaccinations and treatments that can support critical public health functions by sharing information in a secure, accurate manner.

Definition of communicable disease

20. MDH should propose changing the term “communicable disease” in *Minnesota Statutes* 144.419, subd. 1 (2) to “airborne transmissible disease”.

Enforcement methods for assuring compliance with emergency measures and measures to detect and prevent the spread of disease

21. MDH should work with sponsors of local, regional and statewide exercises to include situations that explore enforcement challenges and report problems, suggested solutions and alternatives to the state. MDH should also confer with bordering states and provinces on lessons learned from their planning efforts.
22. MDH should review its communicable disease rules to assure they are up-to-date on risks from bioterrorism.
23. MDH should review current Division of Emergency Management current procedures and protocols for enforcing emergency provisions to identify problems and solutions that could be used in a public health emergency.
24. MDH should work with the Department of Public Safety and representatives of peace officers to develop training materials and work with local public health and others to provide training to peace officers about enforcement issues for a public health emergency.

Preserving effectiveness of fluoroquinolones and other antibiotics

25. MDH should continue collaborative efforts with other state agencies, provider groups, and coalitions to coordinate Minnesota efforts in research and surveillance of antibiotic resistance and to educate providers, and the public about the issue of antibiotic resistance and appropriate uses of antibiotics. MDH should provide information to groups such as the Veterinary School, Board of Animal Health and professional veterinary associations about the human health consequences of antibiotic-resistant foodborne pathogens for their use in educating food producers.
26. MDH should continue to conduct monitoring of human disease and antibiotic resistance and make information available to provider groups, policy makers and the public. MDH should collaborate with animal health groups such as the veterinary school to evaluate potential animal sources of antibiotic resistant bacteria for humans.
27. MDH and others working on antibiotic resistance issues should continue to provide Minnesota specific information to national policy makers and agencies.

Impact of recommendations on constitutional and other rights of citizens

28. MDH should work with the Commissioner’s Task Force on Terrorism and Health to review reports from state, regional and local tabletop and field exercises to explore issues of constitutional and other rights that may arise in a public health emergency.
29. MDH should meet with representatives of various civil rights and other citizen groups, special populations, and interested individuals throughout 2003 to continue to identify concerns about constitutional and other rights during a public health emergency and proposed methods to address them.
30. MDH should monitor, and comment when appropriate, on federal DHHS quarantine regulation proposals under the expanded powers granted in the Public Health Security and Bioterrorism Preparedness Act of 2002.

Department of Human Services

Disabilities Services Division, Continuing Care Administration

Public Notice Regarding a Medical Assistance Case Management Service and Rates

NOTICE IS HEREBY GIVEN to recipients, providers of services, and to the public of a proposed home care case management service and rates under the Medical Assistance Program.

Upon federal approval, Minnesota's Medical Assistance Program will cover home care case management services to assist individuals receiving home care services to gain access to medical, social, educational, financial, housing and other services and supports necessary to meet their needs so that they may remain in the community.

Home care case management services will be coordinated on an individual client basis. Examples of case management services are: assessments of individuals' needs for services and supports; routine communication with individuals and their families, legal representatives, caregivers, service providers, and other relevant people; developing individual service plans; completing and maintaining necessary records; travel; coordinating referrals to health care programs and programs providing housing assistance; and identification of other possible home and community-based services.

Home care case management providers must be certified by the Department. At a minimum, certified providers will have a bachelor's degree or a license in a health or human services field, as well as the capacity and experience mandated in state law. The Department expects that it will enroll as certified providers county agencies, private entities, Indian Health Service (IHS) facilities, and facilities owned or operated by tribes or tribal organizations funded by Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638), as amended, or Title V of the Indian Self-Determination and Education Assistance Act (Public Law 106-260) and known as "638" facilities.

Upon federal approval, Medical Assistance will pay the following rates:

- To counties and private entities, \$20.43 per 15-minute unit.
- To IHS and 638 facilities, the federally-approved "encounter" rate negotiated between the IHS and the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services and published annually by the IHS in the *Federal Register*.
- To subcontractors of certified providers, a negotiated rate with a cap of \$20.43 per 15-minute unit.

The Department anticipates that the total Medical Assistance costs will be \$96,000 through June 30, 2003 (the end of State Fiscal Year 2003), of which \$ 48,000 is projected to be state costs, and \$936,000 from July 1, 2003-June 30, 2004 (State Fiscal Year 2004), of which \$468,000 is projected to be state costs.

Home care case management services will be provided pursuant to *Laws of Minnesota 2001*, First Special Session, chapter 9, article 3, sections 20-21, 23-25, and 27-28 (*Minnesota Statutes*, section 256B.0621, subds. 2-3, 5-7, and 9-10).

This notice is published pursuant to *Code of Federal Regulations*, Title 42, section 447.205, which requires publication of a notice when there is a rate change in the methods and standards for setting payment rates for noninstitutional Medical Assistance services. Written comments and requests for information may be sent to:

Christopher Ricker
Disabilities Services Division
Minnesota Department of Human Services
444 Lafayette Road North
St. Paul, Minnesota 55155-3872
Phone: (651) 582-1787
Email: chris.ricker@state.mn.us

Department of Natural Resources

Notice of Availability

NOTICE IS HEREBY GIVEN that the document titled "Assessment Plan for the Natural Resource Damage Assessment at the St. Louis River Interlake/Duluth Tar Superfund Site, 9/24002" ("The Plan") is available for public review. The Natural Resource Trustees provided the public an opportunity to review and submit comments to a draft Plan. All comments received were considered and the draft Plan revised. The Plan announced by this Notice is considered to be complete for implementation, as provided for in the Natural Resource Damage Assessment Regulations found at 43 CFR Part 11.

Interested members of the public are invited to review the Plan. Copies of the Plan can be requested by contacting:

Marilyn Danks, Trustee Coordinator
MN Department of Natural Resources
Division of Ecological Services
500 Lafayette Road
St. Paul, MN 55155-4025
Email: marilyn.danks@dnr.state.mn.us

The Plan is also available on the MPCA's web page.

Minnesota Pollution Control Agency

Majors and Remediation Division

REQUEST FOR COMMENTS on Possible New Rules Governing Pretreatment

Subject of Rules. The Minnesota Pollution Control Agency (MPCA) is the delegated approval authority for the federal pretreatment program. The federal general pretreatment regulations are found in title 40 part 403 of the *Code of Federal Regulations*. The pretreatment program regulates the discharge of wastewater from industries to publicly owned treatment works (POTWs). POTWs provide treatment of the wastewater prior to discharge to the environment. MPCA requests comments on its possible rules governing pretreatment. The MPCA is considering rules that prescribe how industrial users of publicly owned wastewater treatment facilities must be regulated to prevent interference with the POTW, or pollutants passing through the POTW inadequately treated. The rules will largely mirror federal regulations and current practices. These will be new rules and no rule chapter number has been assigned to them yet. Comments are particularly being sought on the following issues related to the rule:

- The identification of pollutants of concern for consideration in pretreatment activities.
- The basis and "targets" for prohibiting overload of a POTW.
- The need for additional special controls on trucked in wastes.
- The MPCA enforcement authority and process against POTWs and significant industrial users.
- The specification of MPCA authority to directly control Industrial Users (IUs) of a POTW.
- The extent of MPCA review and approval of POTW controls on IUs.
- The mechanisms for the MPCA to regulate IUs it controls directly.

Persons Affected. The rules would likely directly affect cities, sanitary districts, and other public entities operating a POTW; and industries whose wastewater is treated by a POTW.

Statutory Authority. The MPCA has general authority to promulgate rules under *Minnesota Statutes* § 115.03, subd. 1e. This authority specifically includes the authority to promulgate pretreatment rules.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on January 31, 2003. The MPCA does not anticipate appointing an advisory committee to comment on the possible rules.

Rules Drafts. The MPCA has not yet prepared a draft of the possible rules.

Agency Contact Person. Written comments, questions, and requests for more information on these possible rules should be directed to:

Randall Dunnette
Minnesota Pollution Control Agency
Majors and Remediation Division
520 Lafayette Road North
St. Paul, MN 55155
Email: randall.dunnette@pca.state.mn.us
Phone: (651) 296-8006
MN Toll Free: (800) 657-3864
Fax: (651) 296-8717
TTY users may call the MPCA teletypewriter at (651) 282-5332 or 1-800-657-3864

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

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

Karen A. Studders, Commissioner
Minnesota Pollution Control Agency

Department of Transportation

State Aid for Local Transportation Group

Appointments and Meeting of a State Aid Variances Committee

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Wednesday, December 18, 2002 at 10:00 a.m. at the Roseville Public Library, 2180 North Hamline, Roseville, MN 55113.

This notice is given pursuant to *Minnesota Statute* 47k.705.

The purpose of this open meeting is to investigate and determine recommendations for variance requests from minimum State Aid roadway standards and administrative procedures as governed by *Minnesota Rules* for State Aid Operations 8820.3300 adopted pursuant to *Minnesota Statutes* Chapters 161 and 162.

The agenda will be limited to the following:

- Petition of the City of Elk River** for a variance from *Minnesota Rules* 8820.2800, Subp. 2, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, as they apply to the State Project No. 204-111-04, MP STPX 7100 (271) which provides street improvements on 175th Avenue in Elk River, Minnesota, so as to allow approval of construction plans after bids are opened, in lieu of the required approval of construction plans by the State Aid Engineer prior to opening of contract bids.
- Petition of the City of Duluth** from *Minnesota Rules* for State Aid Operations 8820.9920, adopted pursuant to *Minnesota Statutes* Chapters 161 and 162, to allow 9'-3" driving lanes and 1' shoulders in lieu of 11' driving lanes and 3' shoulders; and to allow a bridge width of 20 feet in lieu of 24' - 6" (lane and shoulder widths plus 4') as required; and to allow 0.020'/' super-elevation on 60' (17 mph) and 75' (19 mph) radius curves in lieu of 0.06'/' super-elevation on 110' (30 mph) radius curves as required.
- Petition of the City of Duluth** for a variance from *Minnesota Rules* for State Aid for State Aid Operations 8820.9920, adopted pursuant to *Minnesota Statutes* Chapters 161 and 162, to allow 10' driving lanes and 1' shoulders in lieu of 11' driving lanes and 3' shoulders as required; and to allow a bridge width of 20 feet in lieu of 26' (lane and shoulder widths plus 4') as required.

The Cities previously listed are requested to adhere to the following time schedule when appearing before the Variance Committee:

Official Notices

10:15 a.m. City of Elk River
10:35 a.m. City of Duluth
10:55 a.m. City of Duluth

Dated this 6th day of December, 2002.

Julie A. Skallman
State Aid Engineer
State Aid for Local Transportation

Department of Transportation

State Aid for Local Transportation Group

Petition of the City of Duluth for a Variance from State Aid Requirements for Lane Width, Shoulder Width, Bridge Width, and Design Speed

NOTICE IS HEREBY GIVEN that the Duluth City Council has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300, for a variance from rules as they apply to project SAP 118-080-25 which involves the removal of Bridge L8504 and construction of Bridge 69654 over Amity Creek, part of the Seven Bridges Road Project in the City of Duluth, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9920, adopted pursuant to *Minnesota Statutes* Chapters 161 and 162, to allow 10' driving lanes and 1' shoulders in lieu of 11' driving lanes and 3' shoulders as required; and to allow a bridge width of 20 feet in lieu of 26' (lane and shoulder widths plus 4') as required.

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

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

Dated: 25 November 2002

Julie A. Skallman
State Aid Engineer
State Aid for Local Transportation

Department of Transportation

State Aid for Local Transportation Group

Petition of the City of Duluth for Variance from State Aid Requirements for Lane Width, Shoulder Width, Bridge Width, and Design Speed

NOTICE IS HEREBY GIVEN that the Duluth City Council has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300, for a variance from rules as they apply to project SAP 118-080-30 which involves the rehabilitation of Bridge L8506 over Amity Creek, part of the Seven Bridges Road Project in the City of Duluth, Minnesota.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9920, adopted pursuant to *Minnesota Statutes* Chapters 161 and 162, to allow 9'-3" driving lanes and 1' shoulders in lieu of 11' driving lanes and 3' shoulders; and to allow a bridge width of 20 feet in lieu of 24' - 6" (lane and shoulder widths plus 4') as required; and to allow 0.020'/' super-elevation on 60' (17 mph) and 75' (19 mph) radius curves in lieu of 0.06'/' super-elevation on 110' (30 mph) radius curves as required.

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

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

Dated: 25 November 2002

Julie A. Skallman
State Aid Engineer
State Aid for Local Transportation

Department of Transportation State Aid for Local Transportation Group

Petition of the City of Elk River for a Variance from State Aid Requirements for AFTER THE FACT PLAN APPROVAL

NOTICE IS HEREBY GIVEN that the City of Elk River has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300, for a variance from rules as they apply to the State Project No. 204-111-04, MP STPX 7100 (271) for the construction project on 175th Avenue (MSAS 111), located between Tyler Street and Fillmore Street in the City of Elk River.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800, Subp. 2, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, as they apply to State Project No. 204-111-04, MP STPX 7100 (271) which provides street improvements on 175th Avenue in Elk River, Minnesota, so as to allow approval of construction plans after bids are opened in lieu of the required approval of construction plans by the State Aid Engineer prior to opening of contract bids.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

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

Dated: 6 December 2002

Julie A. Skallman
State Aid Engineer
State Aid for Local Transportation

Department of Transportation State Aid for Local Transportation Group

Petition of the Fillmore County Board for a Variance from Minimum State Aid Standards Regarding DESIGN SPEED

NOTICE IS HEREBY GIVEN that the Fillmore County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300, for a variance from rules as they apply to the proposed Bridge No. 23J56 construction project SAP 23-620-001 located on CSAH 20, over Canfield Creek in York Township, in Fillmore County.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9920, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, as they apply to the proposed construction of Bridge No. 23J56, so as to permit a 30 mph (590 foot) vertical curve in lieu of the required 40 mph (1025 foot) vertical curve.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Mail Stop 100 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

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

Dated: 6 December 2002

Julie A. Skallman
State Aid Engineer
State Aid for Local Transportation

Official Notices

Department of Transportation

State Aid for Local Transportation Group

Notice of Proposed Variance from Rules under Consideration As Applicable to Advance Funding for State-aid and Federal-aid Construction Projects

NOTICE IS HEREBY GIVEN that the Commissioner of Transportation pursuant to *Minnesota Statutes* 162.02, subd. 3a, shall accept comments concerning a proposed variance from rules under consideration as applicable to advance funding for state-aid and federal-aid construction projects.

The proposed variance from *Minnesota Rules* for State Aid Operations 8820.1500, subpart 9 and 10b, adopted pursuant to *Minnesota Statutes* Chapters 161 and 162, is to waive the limit and payment period for advancing funds. This variance shall expire at the subsequent adoption of rules or by notice of the Commissioner of Transportation.

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

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

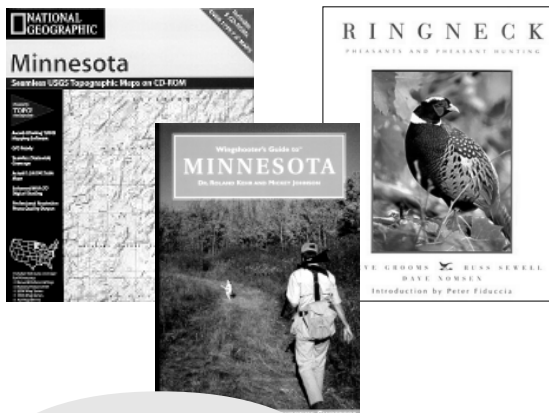
Dated this 9th day of December, 2002.

Julie A. Skallman
Director
State Aid for Local Transportation

Available at Minnesota Bookstore

Order form on back page

...for the hunter



Prices shown do NOT include shipping or applicable sales tax.

Wingshooter's Guide to Minnesota

A great one-step guide for upland bird and waterfowl hunters. Packed with maps and charts, the book offers hunting tips, notes how to locate hunting areas statewide, provides species information, hunting tips and even includes lodging, restaurants, campgrounds, etc. near each hunting site. Includes hunting methods, gun, shot, and choke suggestions, habits & habitat of species, seasonal patterns, taxidermists, vets, and more. Softcover, 346pp. **Stock No. 9-84 \$26.95**

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A full-color tribute to the pheasant and its place in the sporting life of millions of upland bird hunters. Its stunning photographs, from many of the finest outdoor photographers in the country, are supported with quotations from eminent writers. A special essay by Steve Grooms takes a witty and eloquent look at the ringneck's supreme talent for outsmarting dog and hunter alike. Hardcover, 120pp. **Stock No. 9-7 \$40.00**

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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 Human Services

Health Care Purchasing and Service Delivery

Notice of Request for Proposals from Prepaid Health Plans for Minnesota Health Care Programs Recipients in Big Stone, Douglas, Grant, McLeod, Meeker, Pipestone, Pope, Renville, Stevens, and Traverse Counties

The Minnesota Department of Human Services (DHS) is seeking proposals from prepaid health plans to provide health care services to persons in Big Stone, Douglas, Grant, McLeod, Meeker, Pipestone, Pope, Renville, Stevens, and Traverse Counties who are covered by Medical Assistance (MA), General Assistance Medical Care (GAMC), or MinnesotaCare.

The education/enrollment process will occur in May 1, 2003. The estimated number of eligible enrollees is:

Number Eligible Clients as of November 2002

	MA	GAMC	Minnesota Care	Total
Program Total	11,814	658	6,696	19,168

Prepaid health plans qualified to respond to this RFP must be able to provide all MA/GAMC/MinnesotaCare covered services, and must be able to accept financial risk. Capitation rates have been set by DHS in consultation with an independent actuary. Contracts will be awarded based on: (1) network capacity, and geographic accessibility of service delivery sites; (2) ability to comply with service delivery standards appropriate to the demographic characteristics of the population to be enrolled; (3) financial and risk capability; and (4) ability to meet quality assurance, complaint, appeal, and reporting requirements. The Commissioner reserves the right to reject any proposal.

Proposal requirements for prospective respondents currently contracting with DHS for Minnesota health Care Programs enrollment in our counties include network information applicable to Big Stone, Douglas, Grant, McLeod, Meeker, Pipestone, Pope, Renville, Stevens, and Traverse Counties, and assurances and exhibits addressing specific county issues and concerns. Prospective respondents who have no current contracts with DHS for Minnesota Health Care Programs are required to submit additional information pertaining to network capabilities, administration and reporting capabilities.

Request for Proposals will be available December 16, 2002. Interested parties may receive a copy of the Request for Proposal by contacting:

Mary Freeberg, Development Manager
Purchasing and Service Delivery Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota, 55155-3854
Phone: (651) 297-7968
Fax: (651) 297-3230
Email: Mary.E.Freeberg@state.mn.us

Prospective respondents with questions regarding this RFP may call, write or email: Mary Freeberg at the above address. Ms. Freeberg is the only person at the Department of Human Services who is authorized to answer questions regarding this document. All responses to this RFP are due to the Department of Human Services by 4:30 p.m. January 31, 2003.

State Contracts

Informal Solicitations: Effective March 1, 2002, informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) website. Interested vendors are encouraged to monitor the P/T Contract section of the MMD website at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Department of Administration

Office of Technology

Notice of Request for Proposal for Information Technology-Professional Technical Services Master Roster

NOTICE IS HEREBY GIVEN that Minnesota Office of Technology of the Department of Administration is seeking vendors that provide information technology consulting services. The state is interested in a wide range of vendors that can qualify to assist state agencies. This is an opportunity for vendors to be added to the State's Information Technology Professional/Technical Services Master Roster. The State has identified four categories of service for which vendors may propose. They are technical support, application design and development, telecommunications and consulting.

For a complete copy of the Request for Proposal please contact via email:

Steve Gustafson
Planning Director
Office of Technology
332 Minnesota Street, Suite E1100
St. Paul, MN 55101-1322
Email: steve.gustafson@state.mn.us

This is the only person designated to receive RFP requests and answer questions regarding the RFP. The RFP will also be posted to the Office of Technology website under Forms and Instructions at www.ot.state.mn.us

Responses to the RFP are due no later than **2:00 p.m. CT on Monday, February 3, 2003. Late responses will not be considered.**

Department of Administration

State Designer Selection Board

Request for Proposals for Designer Selection for the St. Paul North Project, University of Minnesota, St. Paul Campus (Project 02-25)

To Minnesota Registered Design Professionals:

The State of Minnesota (State) through its State Designer Selection Board has been requested to select a design team for the above project. Proposals from interested firms must be received by, 11:00 a.m. Monday, January 6, 2003 to:

Terry Lewko, Executive Secretary
State Designer Selection Board
Department of Administration
c/o Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, Minnesota 55155
Phone: (651) 297-1545

PROPOSALS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

Questions concerning procedures, or schedule are to be referred to the Executive Secretary at (651) 297-1545. Questions relating to the project are to be referred to the project contact(s) in Item 1.h.

1. PROJECT 02-25

- a. PROJECT DESCRIPTION:** The University of Minnesota is developing a plan to improve the research and instructional facilities for the Department of Fisheries, Wildlife and Conservation Biology (College of Natural Resources) and the Department of Entomology (College of Agricultural, Food and Environmental Sciences). These departments currently occupy Hodson Hall, a building that is overcrowded and lacks the building systems and technology to adequately support their programs, as well as portions of other nearby buildings. The plan will define the improvements needed for a two-phased capital project that will create additional space and renovate existing space for these departments. Analysis of space needs and programmatic requirements of each department is currently in progress and a preliminary space program will be completed by late December 2002.

The first phase of the project will be the creation of additional space for one of the departments. The plan will determine if this is to be accomplished through the renovation of other underutilized space in the north area of the St. Paul Campus, construction of an addition to another building, or construction of an entirely new building. The plan will also determine which department can most effectively use Hodson Hall after renovation and which department will better fit into alternative space. The second phase of the project will be the renovation of Hodson Hall.

The renovated and new facilities will consist of research laboratories (both wet and dry), aquariums, an insectory, instructional labs, classrooms, offices, and space for the Entomology, Fisheries and Wildlife Library. Based on preliminary program analysis, approximately 30,000 assignable square feet of new space is needed, and 82,300 gross square feet in Hodson Hall will be renovated.

Funds for the design and construction of Phase I will be requested from the state in 2004.

Descriptions of the primary programs are available at the following websites:

Fisheries, Wildlife, and Conservation Biology www.fw.umn.edu

Entomology www.entomology.umn.edu

Entomology, Fisheries and Wildlife Library www.efw.lib.umn.edu

- b. REQUIRED CONSULTANT SERVICES: A consultant is needed immediately to:**

1. Evaluate the physical characteristics of Hodson Hall and the programmatic needs of the Fisheries, Wildlife and Conservation Biology and the Entomology departments and the Entomology, Fish and Wildlife Library to determine which of the programs can most effectively use the building after its renovation.
2. Analyze alternatives for creating additional space (renovation of other underutilized space, construction of an addition to another building, or construction of an entirely new building) for the program that will be moved out of Hodson Hall.
3. Prepare a detailed facility program and predesign study for both phases of the project in accordance with the University of Minnesota's predesign outline (available at www.budget.umn.edu under the heading "Instructions for FY2003 All-Funds Capital Budget".)

If the University is successful in obtaining a capital appropriation for the project from the state (Phase I to be requested in 2004 and Phase II in 2006), the University may direct the selected consultant to proceed with design, preparation of contract drawings, and construction administration services. The University will reserve the right to make a new designer selection prior to proceeding with Schematic Design work.

- c. PROJECT BUDGET/FEES:** The construction budget for the St. Paul North Project will be determined by the predesign process, but is anticipated to be approximately \$22,000,000 for each phase. The maximum designer fee available for the predesign is 0.5% of the estimated construction costs plus reimbursable expenses. Actual fees will be negotiated with the selected consultant.
- d. SPECIAL CONSIDERATIONS:** The designer shall have applicable prior experience in the design and construction of similar projects, preferably in a University setting. Experience with highly sophisticated scientific research laboratories, both wet and dry, and with technology-rich instructional environments will be essential. The firm shall have proven experience in working with and directing the efforts of a University building advisory committee.

The consultant shall provide examples of recently completed projects for review by the selection committee. The consultant shall provide a list of clients for similar projects worked on within the last five years along with the names, phone numbers and addresses of contact persons.

State Contracts

- e. **PROJECT SCHEDULE:** A draft of the predesign report, establishing the facility program and budget for the project, must be completed by April 15, 2003. The final predesign report must be completed by June 15, 2003.
- f. **PROJECT INFORMATIONAL MEETING (S) /SITE VISIT (S):** There shall be a mandatory site visit/informational meeting for firms short-listed for interviews by the State Designer Selection Board. The meeting shall be held on the University of Minnesota, Minneapolis Campus prior to the required interview date. Short-listed firms shall be contacted directly by the University with confirmed building tour starting location, date, and time information.
- g. **STATE DESIGNER SELECTION BOARD SCHEDULE:**
- | | |
|---|--|
| <i>Project Information Meeting and/or Site Visit:</i> | None |
| <i>Project Proposals Due:</i> | Monday, January 6, 2003, by 11:00 a.m. |
| <i>Project Shortlist:</i> | Tuesday, January 14, 2003 |
| <i>Project Information Meeting for Shortlisted firms:</i> | To be Set by user agency |
| <i>Project Interviews and Award:</i> | Tuesday, January 28, 2003 |
- h. **PROJECT CONTACT (S):**
- Orlyn Miller, Assistant Director for University Planning
Phone: (612) 624-7501
Email: om@umn.edu
- i. **SAMPLE CONTRACT (if DSBC project) NOT REQUIRED FOR THIS PROJECT**
- The successful responder will be required to execute the State's Basic Services Agreement which contains the State's standard contract terms and conditions, include insurance requirements and compliance with Designer Procedures Manual, Design Guidelines and Computer Aided Drafting (CAD) Guidelines. A copy is available on **Website:** <http://www.dsbc.admin.st.mn.us>

NOTE TO RESPONDERS: CHANGES MAY HAVE BEEN MADE IN THE FOLLOWING AS OF 11 JUNE 2002.

2. PROPOSAL REQUIREMENTS

- a. 12 copies
- b. 8-1/2 x 11, soft bound, portrait format
- c. Maximum 20 faces (excluding front and back covers, blank dividers, affidavit of non-collusion, and affirmative action data page)
- d. All pages numbered

3. PROPOSAL CONTENTS

a. COVER

- Project name and number
- Prime firm name, address, telephone number, fax number
- Contact person, telephone number, fax number, and email address

b. COVER LETTER

Single face letter with original signature (on at least one copy) of principal of prime firm, including:

- Brief overview of proposal
- Statement that proposal contents are accurate to the best knowledge of signatory

c. INFORMATION ON FIRM (S)

For prime firm and each consultant firm provide brief description including:

- Name and location
- Year established
- Legal status
- Ownership
- Staffing by discipline
- For firms with multiple offices briefly summarize for each office

d. PROJECT TEAM

- Brief statement of team's past or present working relationships

For each team member provide:

- Name and position in firm, include name of firm
- Home base (if in multi-office firm)
- Responsibility on this project
- Years of experience
- Relevant recent experience (if in another firm, so note)
- Registration (including specialty if engineer)

e. TEAM ORGANIZATION

If planning or design consultants are a part of the team explain how they will be utilized (e.g. major role during design, absent during construction, etc). Matrix or chart *may* be used.

f. PROJECT EXPERIENCE

For architectural, planning, and/or landscape architecture firms, provide examples of relevant projects recently completed or in progress including:

- Photographs, sketches and/or plans
- Name and location
- Brief description (e.g. size, cost, relevance)
- Firm of record
- Involvement of proposed project team members (*may* be separate matrix; if in another firm so note)
- Completion date or current status

For engineering or technical firms provide examples of relevant projects recently completed or in progress including the above except that photographs, sketches and/or plans are to be for only that portion of the work for which firm was responsible.

g. APPROACH/METHODOLOGY

Describe your understanding of the project, significant issues to be addressed and your *specific* approach to the planning, design and construction process for *this* project.

h. UNIQUE QUALIFICATIONS

Briefly summarize your team's unique qualifications for this project.

i. OTHER REQUIREMENTS

- A statement of commitment to enter into the work promptly, if selected, by engaging the consultants and assigning the persons named in the proposal along with adequate staff to meet requirements of the work.
- A statement indicating that consultants listed have been contacted and have agreed to be a part of the team.
- A complete Affidavit of Non-collusion. (Not counted as part of the 20 faces)
- If appropriate, provide a list of all entities that create a conflict of interest (see 5.b.)
- A completed Affirmative Action Data Page regarding compliance with Minnesota Human Rights Requirements. A copy of the form is available on **Website:** <http://www.dsb.admin.state.mn.us>, click on forms. (Not counted as part of the 20 faces)
- 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.

State Contracts

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. SELECTION CRITERIA

Criteria for selection shall be as stated in the project description. Technical and aesthetic experience and capabilities are paramount. In addition, the Board seeks equitable distribution of fees among qualified firms and gives consideration to geographical location of firms with respect to project site.

5. CONTRACT REQUIREMENTS

a. AFFIDAVIT OF NONCOLLUSION

Each responder must attach a completed Affidavit of Noncollusion. A copy of the form is available on **Website:** <http://www.dsbcc.admin.state.mn.us>, click on forms.

b. CONFLICTS OF INTEREST

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

c. DISPOSITION OF RESPONSES

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with *Minnesota Statutes* 13.591 after the evaluation process is completed. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, *Minnesota Statutes* § 13.37, the responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the responder to be proprietary or trade secret materials.

Responses to this RFP will not be open for public review until the State decides to pursue a contract and that contract is awarded.

d. CONTINGENCY FEES PROHIBITED

Pursuant to *Minnesota Statutes* Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

e. ORGANIZATIONAL CONFLICTS OF INTEREST

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, the responder is unable or potentially unable to render impartial assistance or advice to the State, or the responder's objectivity in performing the

contract work is or might be otherwise impaired, or the responder has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division, 112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the contracting officer, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor (consultant), and the terms "contract," "contractor (consultant)," and "contracting officer" modified appropriately to preserve the State's rights.

f. STATE EMPLOYEES

In compliance with *Minnesota Statutes* § 16C.07, the availability of this work is being offered to State employees. The State will evaluate the responses of any State employee, along with other responses to this Request for Proposals.

g. PREFERENCE TO TARGETED GROUP AND ECONOMICALLY DISADVANTAGED BUSINESS AND INDIVIDUALS

In accordance with *Minnesota Rules* 1230.1810, subpart B and *Minnesota Rules* 1230.1830, certified Targeted Group Businesses or individuals and certified Economically Disadvantaged Businesses or individuals submitting proposals as prime contractors (consultants) will receive up to six percent preference in the evaluation of their proposals. For information regarding certification, contact the Department of Administration, Materials Management Helpline at (651) 296-2600, **TTY:** (651) 282-5799.

h. HUMAN RIGHTS REQUIREMENTS

For all contracts estimated to be in excess of \$100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by *Minnesota Rules* 5000.3600, "It is hereby agreed between the parties that *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it". A copy of *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are available on **Website:** <http://www.dsb.admin.state.mn.us>

- i. Any changes in team members for the project requires approval by the State.
- j. All costs incurred in responding to this RFP will be borne by the responder. This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Administration State Designer Selection Board

Request for Proposals for Designer Selection for Minnesota Department of Transportation, Windom Maintenance Headquarters Vehicle Storage Addition, Windom, MN. (Project 02-26)

To Minnesota Registered Design Professionals:

The State of Minnesota (State) through its State Designer Selection Board has been requested to select a design team for the above project. Proposals from interested firms must be received by, 11:00 a.m. Tuesday, January 21, 2003 to:

Terry Lewko, Executive Secretary
State Designer Selection Board
Department of Administration
c/o Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, Minnesota 55155
Phone: (651) 297-1545

State Contracts

PROPOSALS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

Questions concerning procedures, or schedule are to be referred to the Executive Secretary at (651) 297-1545. Questions relating to the project are to be referred to the project contact(s) in Item 1.h.

1. PROJECT 02-26

- a. PROJECT DESCRIPTION:** The Minnesota Department of Transportation intends to retain architectural and engineering consultant services for the design of the vehicle storage addition to the Windom Maintenance Headquarters.

Project Scope

The addition will be a one story 14,280 square foot addition to the south of the existing vehicle storage garage. The addition will provide for the sign shop and office, sign vehicle storage, bridge office and crew room, bridge vehicle storage, vehicle maintenance area and truck wash bay.

b. REQUIRED CONSULTANT SERVICES:

1. Provide the update to the schematic design plans done by MnDOT in 1997, design Development (DD), Construction Document (CD), Bidding and Construction Administration.
2. The selected design firm and their associated firms shall each demonstrate experience in successfully completing projects of a similar type, size and complexity.
3. The consultant will be required to provide architectural, civil, structural, mechanical and electrical services.
4. The construction documents shall be done using Computer Aided Design and Drafting (CADD) in a system compatible with Bentley System Microstations J. Files created using Autodesk, AutoCAD 14 or later are acceptable. MnDOT Facilities Management Services will provide the consultant with a copy of their Consultant Procedures for Construction Projects to aid in completing their work.

c. SERVICES PROVIDED BY OTHERS:

1. Copies of the schematic design and existing building plans will be provide to the consultants.
2. Geotechnical investigations and recommendations.
3. Asbestos survey, design and abatement to the existing building as required.

d. PROJECT BUDGET / FEES:

The estimated construction budget for the project is \$1,000,000.00.

The proposed consultant fee will be a fixed fee of \$74,000 which included updating the schematic design (fee is for 50% of SD), design development, construction documents, bidding and construction administration.

MnDOT current has funding available to complete schematic design and design development phases. The funds for construction documents through construction administration will be requesting from the 2003 Legislative session.

- e. PROJECT SCHEDULE:** The following is a preliminary schedule, actual schedule will be determined with the consultant.

<i>Schematic Design Phase:</i>	Beginning January 2003, completed by February 2003
<i>Design Development Phase:</i>	Beginning March 2003, completed June 2003
<i>Construction Document Phase:</i>	Beginning July 2003, completed September 1,2003
<i>Anticipated Bid Date:</i>	Bids received late September, or early October 2003
<i>Construction Phase:</i>	October 2003, completed by May 2004

- f. PROJECT INFORMATION MEETING / SITE VISIT:** An informational meeting has been scheduled for Wednesday, January 15, at 11:00 a.m. (weather permitting) at the Windom Maintenance Headquarters, South County Road 26, Windom, Minnesota 56101, **phone:** (507) 831-1200. To visit the building at any time other than this meeting, the visit must be scheduled in advance by contacting Jim Englehorn at (507) 831-1228.

g. STATE DESIGNER SELECTION BOARD SCHEDULE:

<i>Project Proposals Due:</i>	Tuesday, January 21, 2003, by 11:00 a.m.
<i>Project Shortlist:</i>	Tuesday, February 4, 2003
<i>Informational Meeting for short list firms:</i>	None
<i>Project Interviews and Award:</i>	Tuesday, February 18, 2003

h. PROJECT CONTACTS:

Questions concerning the project should be referred to:

Ronald Lagerquist, Architect, Facilities Management Services, **phone:** (651) 297-4742, **fax:** (651) 282-9904, **email:** *ron.lagerquist@dot.state.mn.us* Mailing address: Mail Stop 715, Transportation Building, 395 John Ireland Boulevard, St Paul, Minnesota 55155.

i. SAMPLE CONTRACT:

The successful responder will be required to execute a MnDOT Professional and Technical Services Contract which contains the State's standard contract terms and conditions, including insurance requirements and compliance with Consultant Procedures for Construction Projects. A copy will be available for review at the informational meeting.

NOTE TO RESPONDERS: CHANGES MAY HAVE BEEN MADE IN THE FOLLOWING AS OF 11 JUNE 2002.

2. PROPOSAL REQUIREMENTS

- a. 10 copies
- b. 8-1/2 x 11, soft bound, portrait format
- c. Maximum 20 faces (excluding front and back covers, blank dividers, affidavit of non-collusion, and affirmative action data page)
- d. All pages numbered

3. PROPOSAL CONTENTS**a. COVER**

- Project name and number
- Prime firm name, address, telephone number, fax number
- Contact person, telephone number, fax number, and email address

b. COVER LETTER

Single face letter with original signature (on at least one copy) of principal of prime firm, including:

- Brief overview of proposal
- Statement that proposal contents are accurate to the best knowledge of signatory

c. INFORMATION ON FIRM (S)

For prime firm and each consultant firm provide brief description including:

- Name and location
- Year established
- Legal status
- Ownership
- Staffing by discipline
- For firms with multiple offices briefly summarize for each office

d. PROJECT TEAM

- Brief statement of team's past or present working relationships

For each team member provide:

- Name and position in firm, include name of firm
- Home base (if in multi-office firm)
- Responsibility on this project
- Years of experience
- Relevant recent experience (if in another firm, so note)
- Registration (including specialty if engineer)

State Contracts

e. TEAM ORGANIZATION

If planning or design consultants are a part of the team explain how they will be utilized (e.g. major role during design, absent during construction, etc). Matrix or chart *may* be used.

f. PROJECT EXPERIENCE

For architectural, planning, and/or landscape architecture firms, provide examples of relevant projects recently completed or in progress including:

- Photographs, sketches and/or plans
- Name and location
- Brief description (e.g. size, cost, relevance)
- Firm of record
- Involvement of proposed project team members (*may* be separate matrix; if in another firm so note)
- Completion date or current status

For engineering or technical firms provide examples of relevant projects recently completed or in progress including the above except that photographs, sketches and/or plans are to be for only that portion of the work for which firm was responsible.

g. APPROACH/METHODOLOGY

Describe your understanding of the project, significant issues to be addressed and your *specific* approach to the planning, design and construction process for *this* project.

h. UNIQUE QUALIFICATIONS

Briefly summarize your team's unique qualifications for this project.

i. OTHER REQUIREMENTS

- A statement of commitment to enter into the work promptly, if selected, by engaging the consultants and assigning the persons named in the proposal along with adequate staff to meet requirements of the work.
- A statement indicating that consultants listed have been contacted and have agreed to be a part of the team.
- A complete Affidavit of Non-collusion. (Not counted as part of the 20 faces)
- If appropriate, provide a list of all entities that create a conflict of interest (see 5.b.)
- A completed Affirmative Action Data Page regarding compliance with Minnesota Human Rights Requirements. A copy of the form is available on **Website:** <http://www.dsb.admin.state.mn.us>, click on forms. (Not counted as part of the 20 faces)
- A list of all State and Minnesota State Colleges and Universities 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 Minnesota State Colleges and Universities operating funds, or by funding raised from the private sector or individuals by state/user agencies or the Minnesota State Colleges and Universities; (2) awarded as a result of the State Designer Selection Board process or awarded directly by state/user agencies or the Minnesota State Colleges and Universities 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. SELECTION CRITERIA

Criteria for selection shall be as stated in the project description. Technical and aesthetic experience and capabilities are paramount. In addition, the Board seeks equitable distribution of fees among qualified firms and gives consideration to geographical location of firms with respect to project site.

5. CONTRACT REQUIREMENTS

a. AFFIDAVIT OF NONCOLLUSION

Each responder must attach a completed Affidavit of Noncollusion. A copy of the form is available on **Website:** <http://www.dsbcb.admin.state.mn.us>, click on forms.

b. CONFLICTS OF INTEREST

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

c. DISPOSITION OF RESPONSES

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with *Minnesota Statutes* 13.591 after the evaluation process is completed. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, *Minnesota Statutes* § 13.37, the responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State’s award of a contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the responder to be proprietary or trade secret materials.

Responses to this RFP will not be open for public review until the State decides to pursue a contract and that contract is awarded.

d. CONTINGENCY FEES PROHIBITED

Pursuant to *Minnesota Statutes* Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

e. ORGANIZATIONAL CONFLICTS OF INTEREST

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, the responder is unable or potentially unable to render impartial assistance or advice to the State, or the responder’s objectivity in performing the contract work is or might be otherwise impaired, or the responder has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration’s Materials Management Division, 112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an orga-

State Contracts

nizational conflict of interest prior to the award of the contract and did not disclose the conflict to the contracting officer, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor (consultant), and the terms “contract,” “contractor (consultant),” and “contracting officer” modified appropriately to preserve the State’s rights.

f. STATE EMPLOYEES

In compliance with *Minnesota Statutes* § 16C.07, the availability of this work is being offered to State employees. The State will evaluate the responses of any State employee, along with other responses to this Request for Proposals.

g. PREFERENCE TO TARGETED GROUP AND ECONOMICALLY DISADVANTAGED BUSINESS AND INDIVIDUALS

In accordance with *Minnesota Rules* 1230.1810, subpart B and *Minnesota Rules* 1230.1830, certified Targeted Group Businesses or individuals and certified Economically Disadvantaged Businesses or individuals submitting proposals as prime contractors (consultants) will receive up to six percent preference in the evaluation of their proposals. For information regarding certification, contact the Department of Administration, Materials Management Helpline at (651) 296-2600, **TTY:** (651) 282-5799.

h. HUMAN RIGHTS REQUIREMENTS

For all contracts estimated to be in excess of \$100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by *Minnesota Rules* 5000.3600, “It is hereby agreed between the parties that *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it”. A copy of *Minnesota Statutes* § 363.073 and *Minnesota Rules* 5000.3400 - 5000.3600 are available on **Website:** <http://www.dsbcc.admin.state.mn.us>

- i. Any changes in team members for the project requires approval by the State.
- j. All costs incurred in responding to this RFP will be borne by the responder. This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Commerce

Unclaimed Property Division

Request for Proposals for Appraiser

The Minnesota Department of Commerce, Unclaimed Property Division, is seeking proposals from individuals or organizations qualified to appraise items of commercial value to sell at public auction. The services consist of appraising items currently being held in 5,000+ safe deposit boxes at the Minnesota Department of Commerce. The inventory of personal property to be appraised is composed primarily of coins, jewelry, stamps, silver and collectible items. Appraisal and disposition of items by public sale is required by *Minnesota Statutes* § 345.47

For a copy of the complete Request for Proposal or more information contact:

Sandy Mackenthun, Director
Minnesota Department of Commerce
Unclaimed Property Division
85 7th Place East, Suite 600
St. Paul, MN 55101-3165
Voice: (651) 297-4630
Fax: (651) 284-4108
Email: Sandy.Mackenthun@state.mn.us

The deadline for proposal submittal is **January 8, 2003 2:30 p.m. CST.**

Department of Commerce Unclaimed Property Division

Request for Proposal for Auctioneer

The Minnesota Department of Commerce, Unclaimed Property Division, is seeking proposals from individuals or organizations qualified to sell items of commercial value at public sale. The services consist of auctioning items currently being held in 5,000+ safe deposit boxes at a centralized location leased by the contractor. The inventory of personal property to be auctioned is composed primarily of coins, jewelry, stamps, silver and collectible items. Disposition of items by public sale is required by *Minnesota Statutes* § 345.47. For a copy of the complete Request for Proposal or more information contact:

Sandy Mackenthun, Director
Minnesota Department of Commerce
Unclaimed Property Division
85 7th Place East, Suite 600
St. Paul, MN 55101-3165
Phone: (651) 297-4630
Fax: (651) 284-4108
Email: Sandy.Mackenthun@state.mn.us

The deadline for proposal submittal is **January 8, 2003, 2:30 p.m. CST.**

Legislative Coordinating Commission Minnesota Legislature

Contract Available for Technical and Business Analyst Services for Electronic Real Estate Recording Task Force (ERERTF) Project

The Legislative Coordinating Commission (LCC) is soliciting proposals from qualified individuals and organizations interested in providing technical and business analyst services that meet the needs of the Electronic Real Estate Recording Task Force (ERERTF).

All proposals must satisfy the criteria as outlined in the full text of the Request For Proposal.

For a copy of the full text of the Request For Proposal, please contact:

Greg Hubinger, Director
Legislative Coordinating Commission
85 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155
Phone: (651) 296-2963

The full text of the Request For Proposal may also be viewed at this **Website:** www.commissions.leg.state.mn.us/lcc/analyst2.pdf

Proposals must be received by **January 2, at 1:00 p.m. No late proposal will be accepted.** All expenses incurred in responding to this notice shall be borne by the responder.

State Contracts

Department of Natural Resources

Request for Proposals for Construction Plans and Specifications for a New Electrical Service and Accessible Lift in the Soudan Underground Mine

Project

Soudan Underground Mine State Park - Accessible Lift
File No.: SPK00274.00.90.26/P-01-64

Project Overview

The Minnesota Department of Natural Resources, Facilities and Operations Support Bureau and the Division of Parks and Recreation request proposals from interested consulting engineering firms for professional services to prepare construction plans and specifications and provide construction inspection and contract administration services for a new electrical service and accessible lift in the Soudan Underground Mine.

The Minnesota Department of Natural Resources conducts daily tours of the historic underground workings of the Soudan Mine. The tours consist of persons traveling underground to the 27th level of the mine, exiting into the shaft station and boarding a specialized passenger railcar and traveling through a haulage drift approximately 2700 feet to the Montana Stope. Visitors enter and exit the stope via a pair of circular staircases. These staircases prohibit stope access by the physically disabled and also hinder the removal of a stretcher bound person. The lift will be installed in an existing raise in the Soudan Mine and shall be a two stop lift with the lower stop at the haulage level and the upper stop at the stope level, approximately twenty-three feet above.

The existing electrical service to the Montana Stope is in poor condition has no additional capacity for future services. The new electrical service will need to be installed from the shaft station to the Montana Stope.

A study to determine the best type of lift system to use in this application was completed for the Department of Natural Resources by CNA Consulting Engineers. That study recommended using a rack and pinion lift to best meet the performance and code criteria needed for this project.

To obtain a "Request for Proposal", contact:

Toni Funnell, DNR, Facilities and Operations Support Bureau
1201 East Highway 2, Grand Rapids, MN 55744
Phone: (218) 327-4180
Fax: (218) 327-4263
Email: toni.funnell@dnr.state.mn.us

All proposals must be received not later than **4:00 p.m., Central Time, January 16, 2003**, as indicated by a notation made by the Receptionist. **Late proposals will not be considered.**

Pollution Control Agency

Request for Proposals for Multi Site Contracts at Superfund and Petroleum Storage Tank Sites

REQUEST FOR PROPOSALS: Multi Site Contracts to conduct research, site assessment, remedial investigations/feasibility studies, removal and remedial actions, remedial design/remedial action plans, response action oversight, and long-term response action/operation and maintenance activities at or related to Superfund and Petroleum Underground and Aboveground Storage Tank Sites located in Minnesota

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Agriculture (MDA) is seeking proposals from consultants/contractors qualified to conduct research, site assessment, remedial investigations/feasibility studies, removal and remedial actions, remedial design/remedial action plans, response action oversight, and long-term response action/operation and maintenance activities at or related to Superfund and Petroleum Underground and Aboveground Storage Tank Sites located in Minnesota where there has been a release or threatened release of hazardous substances or pollutants or contaminants, including petroleum.

The MPCA and the MDA desires to contract with these qualified consultants/contractors for services from July 1, 2003 through June 30, 2005. With the option of three (3) one (1) year contract extensions. No actual work or payment is guaranteed pursuant to the contract.

In compliance with *Minnesota Statutes* 16C.07, the availability of this contract opportunity is being offered to state employees. We will evaluate the responses of any state employee along with other responses to this notice.

The MPCA and the MDA may contract with multiple consultants/contractors and the MPCA and the MDA reserves the right to limit the number of parties to the contract.

A complete Request for Proposal (RFP) describing the requirements necessary for the contract has been prepared. Requests for the complete RFP document should be directed to:

Jayne Stilwell Lamb
Minnesota Pollution Control Agency
Majors and Remediation Division
520 Lafayette Road
St. Paul, Minnesota 55155
Phone: (651) 297-8584
Fax: (651) 296-9707
Email: jayne.stilwell-lamb@pca.state.mn.us

Proposers should submit in writing a list of questions they would like addressed. Questions must be mailed, e-mailed or faxed to Jayne Stilwell Lamb and received by 4:00 p.m. on January 3, 2003.

The deadline for receipt of completed proposals is **2:00 p.m. February 13, 2003**. Proposals should be submitted to the attention of the above MPCA contact person. **Late submittals will not be considered.**

Dated: 16 December 2002

James L. Warner, P.E.
Director
Majors and Remediation Division

Department of Transportation Program Support Group

Notice Concerning Professional/Technical Contract Opportunities

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services **website** at: www.dot.state.mn.us/consult

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

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.

University of Minnesota

Purchasing Services

Notice of Intent to Solicit Proposals for University of Minnesota License of Space for Automatic Teller Machines (ATMs)

The University of Minnesota is seeking proposals for respondents to provide Automatic Teller Machines at various University sites.

Interested bidders may contact Sonja Sheriff at: s-sher@cafe.tc.umn.edu to request a copy. Other department personnel are NOT allowed to discuss the Request for Proposal with anyone including bidders, before the proposal submission deadline.

Deadline for submitting proposals to University of Minnesota Purchasing Services is **February 18, 2003, 3:00 p.m.**

Available at Minnesota Bookstore

Order form on back page

Craig Blacklock – Horizons

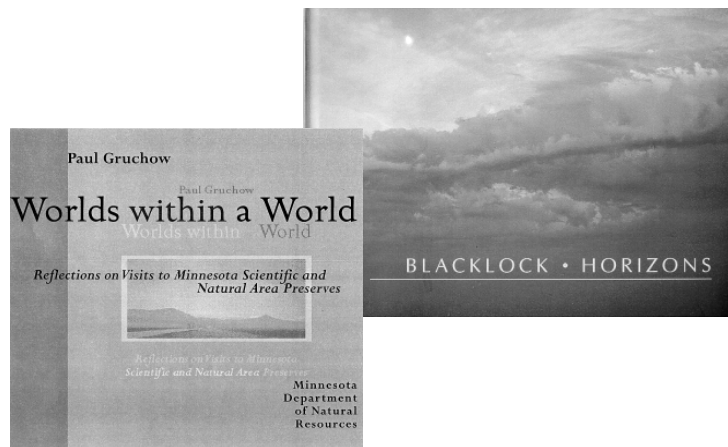
Sixty-five stunning photographs by acclaimed nature photographer Craig Blacklock. Blacklock sets up his 4 x 5 view camera on cliff tops at dawn and dusk. The resulting photographs emphasize luminosity, hue and texture... more akin space from cliff tops at dawn and dusk and the evanescent magic of light and weather over Lake Superior. Hardcover, 96pp.

Stock No. 19-18 \$35.00

Worlds within a World: Reflections on Visits to Minnesota Scientific and Natural Area Preserves

This elegant book is a feast for the eyes and the soul. Beautiful color photographs accompany a collection of reflective essays by renowned author Paul Gruchow on the many wonders experienced at 12 scientific and natural areas. Includes field notes by Richel Burkey-Harris. Sure to please both the nature lover and devotee of Paul Gruchow, alike. Hardcover, 112pp.

Stock No. 9-33 \$24.95

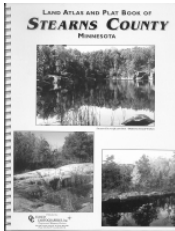
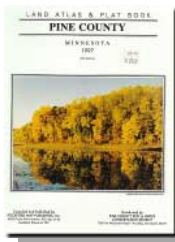


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**PLAT
Map Books**



Minnesota's Bookstore offers the **most comprehensive selection of Minnesota plat map books currently available.**

From Rockford Publishing, Cloud Cartographics, and Farm/Home Publishers, these county plat map books are great for the hunter/adventurer or the prospective land owner seeking property sites. Features vary between publishers, but generally include: key county government offices, city maps and an index to owners directory.

Prices shown do NOT include shipping or applicable sales tax.

County	Stock No.	Price	County	Stock No.	Price
Aitkin (1999)	12-66	\$35.00	McLeod (2001)	12-64	\$28.00
Becker (2001)	12-79	\$30.00	Meeker (2001)	12-29	\$30.00
Beltrami (1997)	12-67	\$30.00	Mille Lacs (2001)	12-30	\$30.00
Benton (2002)	12-4	\$28.00	Morrison (1999)	12-31	\$30.00
Big Stone (2002)	12-5	\$28.00	Mower (2002)	12-65	\$28.00
Blue Earth (1996) *	12-20	\$25.00	Murray (2002)	12-69	\$28.00
Brown (2002)	12-6	\$28.00	Nicollet (2001)	12-95	\$28.00
Carlton (2001) *	12-8	\$40.00	Nobles (2002)	12-133	\$28.00
Carver (2001)	12-21	\$30.00	Norman (2001)	12-157	\$28.00
Cass (1999)	12-22	\$30.00	Olmsted (2001)	12-84	\$28.00
Chippewa (2002)	12-9	\$28.00	Otter Tail (2000)	12-33	\$30.00
Chisago (2002)	12-23	\$30.00	Pennington (2001)	12-87	\$28.00
Clay (2002)	12-15	\$28.00	Pine (2000)	12-73	\$40.00
Cook (1996)	12-24	\$25.00	Pipestone (2002)	12-88	\$28.00
Cottonwood (2002)	12-17	\$28.00	Polk (2001)	12-89	\$28.00
Crow Wing (2001)	12-70	\$40.00	Pope (2002)	12-90	\$28.00
Dakota (2000)	12-80	\$35.00	Red Lake (2001)	12-91	\$28.00
Dodge (2001)	12-18	\$28.00	Redwood (2002)	12-92	\$28.00
Douglas (2000)	12-81	\$30.00	Renville (2002)	12-93	\$28.00
Faribault (2002)	12-19	\$28.00	Rice (2002)	12-158	\$30.00
Fillmore (1998)	12-25	\$30.00	Rock (2002)	12-94	\$28.00
Freeborn (2001)	12-78	\$28.00	St. Louis, North (2002)	12-74	\$30.00
Goodhue (1999)	12-86	\$30.00	St. Louis, South (2002)	12-75	\$30.00
Grant (2002)	12-37	\$28.00	Scott (2002)	12-40	\$28.00
Houston (2002)	12-38	\$28.00	Sherburne (2000)	12-41	\$30.00
Hubbard (2001)	12-71	\$30.00	Sibley (2002)	12-96	\$28.00
Isanti (1999)	12-26	\$30.00	Stearns (2002)	12-42	\$28.00
Itasca (1998)	12-76	\$35.00	Steele (2002)	12-43	\$28.00
Jackson (2002)	12-39	\$28.00	Stevens (2002)	12-97	\$28.00
Kanabec (1999)	12-27	\$30.00	Swift (2002)	12-98	\$28.00
Kandiyohi (2002)	12-45	\$28.00	Todd (1999)	12-44	\$30.00
Koochiching (2000)	12-72	\$35.00	Traverse (2002)	12-99	\$28.00
Lac Qui Parle (2002)	12-49	\$28.00	Wabasha (1999)	12-82	\$40.00
Lake (2001)	12-28	\$30.00	Wadena (1999)	12-46	\$30.00
LeSeuer (2002)	12-52	\$28.00	Waseca (2002)	12-100	\$28.00
Lincoln (2002)	12-53	\$28.00	Washington (1997)	12-85	\$25.00
Lyon (2001)	12-58	\$28.00	Watsonwan (2002)	12-154	\$28.00
Mahnomen (2001)	12-59	\$28.00	Wilkin (2002)	12-155	\$28.00
Marshall (2001)	12-60	\$28.00	Winona (1996)	12-77	\$30.00
Martin (2002)	12-61	\$28.00	Wright (2001)	12-83	\$30.00
			Yellow Medicine (2002)	12-156	\$28.00

* Blue Earth 2002 map book due mid-Nov. * Carlton 2002 map book due mid-Dec.

